

Ordinance 2023-03

An Ordinance Authorizing Rezoning of "S 710' of Block 1 Hanson Addition, located in N1/2 NW1/4 and in Govt Lots 1, 2, and 3 and in Lots 9A and 10A of Camara Beach Addition, all in Section 15, T112N, R47W of the 5<sup>th</sup> P.M., Brookings County, South Dakota. (Lake Hendricks Township)".

WHEREAS, James A. and Jeanie Ness made an application to the Brookings County Planning and Zoning Commission to rezone property from Agricultural District to a Lake Park District.

WHEREAS, the Brookings County Planning and Zoning Commission recommended approval of the application to rezone the property on October 3, 2023;

WHEREAS SDCL 11-2-30 requires the Brookings County Commission to adopt or reject the change.

THEREFORE BE IT ORDAINED, BY BROOKINGS COUNTY, SOUTH DAKOTA that the following property be rezoned from Agricultural District to a Lake Park District:

"S 710' of Block 1 Hanson Addition, located in N1/2 NW1/4 and in Govt Lots 1, 2, and 3 and in Lots 9A and 10A of Camara Beach Addition, all in Section 15, T112N, R47W of the 5<sup>th</sup> P.M., Brookings County, South Dakota. (Lake Hendricks Township)".

Dated this 7<sup>th</sup> day of November, 2023.

  
\_\_\_\_\_  
Ryan Krogman, Chairman  
Brookings County Commission

ATTEST:  
  
\_\_\_\_\_  
Lori Schultz, Finance Officer  
Brookings County



First Reading: October 24, 2023  
Second Reading: November 7, 2023  
Adopted: November 7, 2023  
Publication Date: November 16, 2023  
Effective Date: December 7, 2023

**BROOKINGS COUNTY DEVELOPMENT**  
Planning, Zoning and Drainage / Emergency Management  
Brookings City & County Government Center  
520 3<sup>rd</sup> Street, Suite 200  
Brookings, SD 57006  
(605) 696-8350  
E-Mail: [countydevelopment@brookingscountysd.gov](mailto:countydevelopment@brookingscountysd.gov)

Brookings County Commission  
October 24, 2023, and November 7, 2023, County Commission meeting

October 4, 2023: The Brookings County Planning and Zoning Commission recommends approval of rezoning 2023rz001 from "Agriculture Zoning District" to "LP Lake-Park Zoning District" with a unanimous vote of 7-ayes and 0-nays at their October 3, 2023, meeting.

This action is for the "Rezoning" of the property from "Agricultural District" to "Lake Park District". The applicant will need to present preliminary and final plats of the proposed development to the Brookings County Planning and Zoning Commission for final plat approval, if the rezoning of the property is approved, for it to proceed.

Brookings County Planning and Zoning Commission  
October 3, 2023 – 8:00 PM meeting

## 2023rz001 – October 3, 2023

Updated photos – September 28, 2023

Prepared by Richard Haugen

Applicant: James and Jeanie Ness, 19821 487B Ave, Hendricks, MN 56136

Legal Description: "S 710' of Block 1 Hanson Addition, located in N1/2 NW1/4 and in Govt Lots 1, 2, and 3 and in Lots 9A and 10A of Camara Beach Addition, all in Section 15, T112N, R47W of the 5<sup>th</sup> P.M., Brookings County, South Dakota. (Lake Hendricks Township)".

2023rz001: James and Jeanie Ness have applied for rezoning of the southern 710' of their property from "Agriculture Zoning District" to "LP Lake-Park Zoning District" for a non-lake front housing subdivision development. A preliminary housing subdivision layout is included in this report. The property currently is described as: "Block 1 Hanson Addition, located in N1/2 NW1/4 and in Govt Lots 1, 2, and 3 and in Lots 9A and 10A of Camara Beach Addition, all in Section 15, T112N, R47W of the 5<sup>th</sup>

P.M., Brookings County, South Dakota. (Lake Hendricks Township)" was platted on November 14, 2000, and contains 60.44 acres.

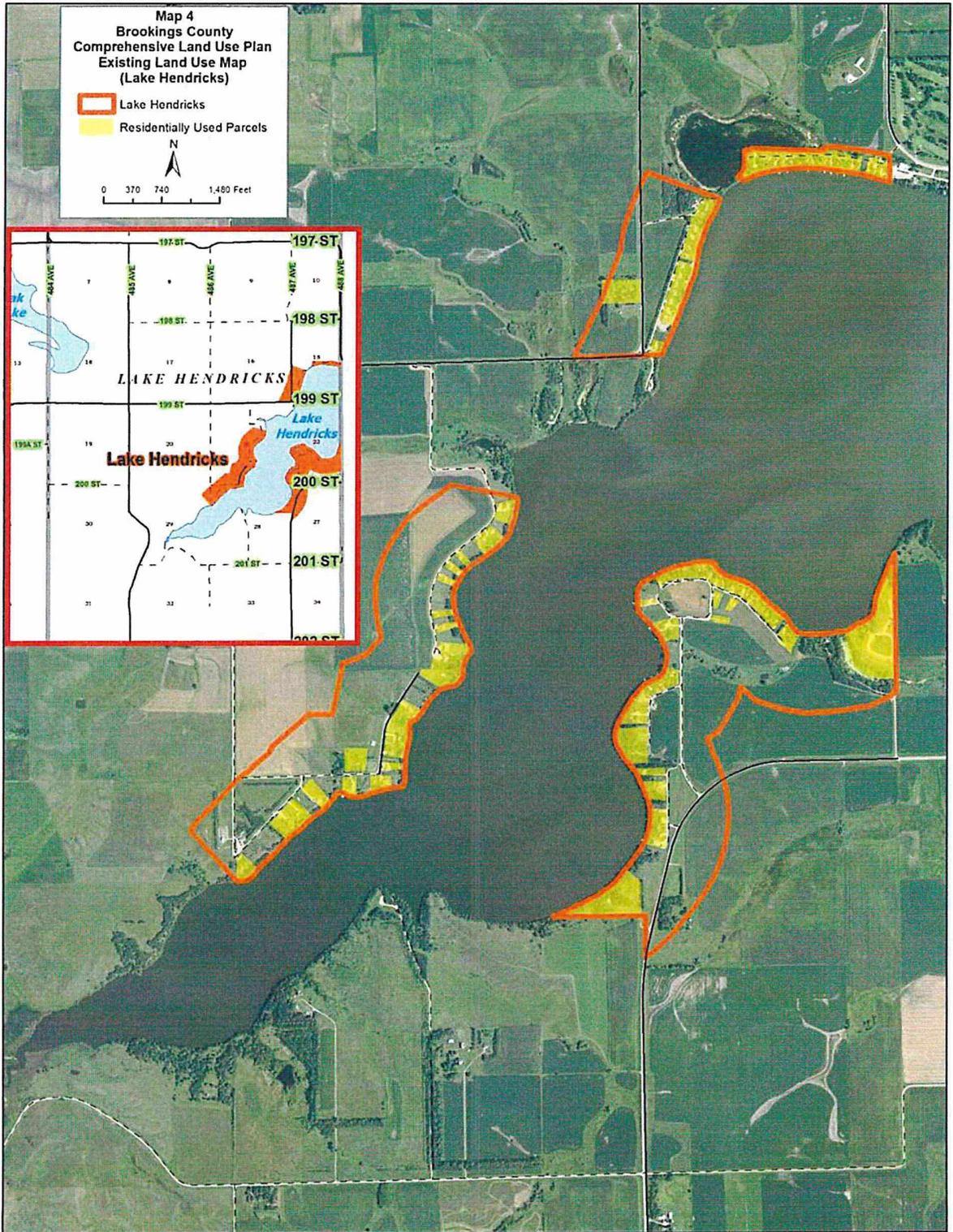
*Brookings County Zoning Ordinance ". Chapter 4.03. "LP" Lake/Park Districts: Area Contained in "LP" District: All land, unless otherwise zoned in the Brookings County Official Zoning Map adopted May 29, 2007, as amended October 1, 2013, and as amended thereafter, within one thousand (1,000) feet of the normal high-water line of a designated lake shall be zoned Lake-Park District and usage shall conform to the regulations for this District".*

The Brookings County Official Zoning Map for Lake Hendricks Township shows the property is in the "Agricultural Zoning District". The area to be re-zoned is located in the north 710 feet of the 1,000' Lake Park Zoning District. The property to the south proposed rezoning area is in the Lake Park Zoning District and would adjoin the proposed area.

The attached preliminary non-lake front subdivision layout is 11.79 acres, with 18 lots and designed to meet the requirements of the Brookings County Subdivision Ordinance and Brookings County Zoning Ordinance: Chapter 4.03. "LP" Lake/Park Districts: non-lake front setback requirements.

The 2016 Comprehensive Land Use Plan for Brookings County states for:

- *Developed Lakes Existing Land Use for Lake Hendricks on page 13 states:  
Lake Hendricks: Lake Hendricks is a large lake located in the northeast corner of Brookings County. Split by the South Dakota/Minnesota border, approximately 867 acres of the lake are located in Brookings County; with more located on the Minnesota side of the border. Considerable residential development is situated on this lake, with some residences in the northeast corner of the lake connected to the Hendricks, Minnesota Municipal sanitary sewer system and the rest served by septic tanks. Within the Lake Hendricks Lake Park Zoned Area, the specific land use survey identified 115 parcels with residential structures. Those parcels include nearly 97 acres, accounting for approximately 24% of the Lake Park Zoned area. In addition to the parcels with residences currently used, approximately 65 additional undeveloped parcels may be used for residential purposes in the future. The other land uses near Lake Hendricks are primarily agricultural, with a few building sites used for storage of personal and agricultural equipment. (See Map 4).*



- *Residential Development In General* starting on page 43 states:  
*In order to maintain an agriculturally based community where conflicts with agricultural practices are reduced, and in order to maintain the quality of the lakes within the county so they are viable, it is the goal of Brookings County to encourage the expansion of residential development primarily in existing incorporated communities, sanitary sewer districts, and in certain instances within joint jurisdiction areas, and in those rural areas in which the residential development is supportive of agricultural operations.*

Policies

- *Encourage new residential construction to locate on previously platted lots and other parcels which already qualify as building sites.*
- *Non-farm residential development should take place at locations that minimize public infrastructure costs, potential agricultural/residential conflicts, and promote safety.*
- *Restrict the density of residential uses and encourage higher development densities to the municipalities, agreed upon joint jurisdiction areas, and sanitary sewer districts.*
- *Preserve and protect the agricultural productivity of rural land by restricting the development of non-farm residential sites.*
- *Scattered non-farm residential developments shall be discouraged.*
- *Discourage non-farm residential development which access township/county gravel roads.*
- *Discourage land splits which erode the integrity of agricultural use areas.*
- *Require a right-to-farm covenant prior to construction of residences.*
- *Require a concentrated animal feeding operation setback waiver for construction of residences within an established distance of an existing concentrated animal feeding operation.*
- *Pedestrian and traffic safety, infrastructure capacities, environmental impacts, and adjacent land uses should be considered in evaluating residential development proposals.*
- *Public services and facilities shall be provided at a level sufficient to meet the needs of a low-density agricultural population only.*
- *Within the framework of zoning, when small lot developments are proposed, every effort should be made to cluster residential uses and limit driveway approaches onto arterial and collector roads.*
- *Identify policies for certain types of residential land uses permitted in the unincorporated areas of Brookings County which protect agricultural land uses.*

➤ Discourage the rezoning of property to Lake Park (Residential) District unless the following general design criteria are met:

- Connection to an approved sanitary sewer treatment facility
- Connection to an approved public water supply
- The development and maintenance of interior streets should be the responsibility of the developer or homeowners association.
- Direct access for the development (not individual lots) to a federal/state highway or paved county road unless otherwise agreed upon by the applicable road authority.
- Controlled access onto major highways
- Adequate buffering from neighboring uses
- A piecemeal approach to the development of lake property is not encouraged. A comprehensive design and site review shall be required.
- Brookings County encourages the development of public and/or private parks/access areas adjacent to lakes after a comprehensive site review.

- FUTURE LAND USE starting on page 59

#### DEVELOPED LAKES FUTURE LAND USE

To accommodate growth, the land use plan will address both the Joint Jurisdictional Area and established, or appropriately zoned areas, of developed lakes. Those areas along with certain identified corridors near state and federal counties are identified as "Areas of Development Transition" on Map 18, the Future Land Use Map. Lakes expected to increase in residential development include Lake Campbell, Lake Hendricks, Lake Tetonkaha, and Lake Poinsett. These lakes already have a concentration of residential/commercial uses.

It is likely that the established developed areas of Lake Campbell, Lake Hendricks, Lake Tetonkaha, and Lake Poinsett will experience continued development in varying degrees. While non-lake front growth potential exists for all of the above lakes; significant lake front area is appropriately zoned, and subdivided in some cases, adjacent to Lake Tetonkaha, Lake Hendricks, and Lake Campbell. Despite the small portions of Oak Lake and Lake Goldsmith being zoned for Lake Park (residential) development, it has been, and continues to be contradictory to the goals of this and past Brookings County Land Use Plans dating back to 1972 to allow expansion of moderate to high density residential development without the establishment of public/quasi-public sanitary sewer collection systems operated and paid for exclusively by the residents utilizing it. For that

reason any action which would remove the zoning designation of "Natural Resources District" from any property already so designated is discouraged. The four lakes listed above were developed prior to the establishment of zoning in Brookings County and are encouraged to establish a sanitary sewer district rather than to use individual septic tanks. However, infill and future residential development may be allowed to continue while utilizing the present forms of sanitary services.

In selecting potential sites for future development, goals and objectives relating to general land use, residential land use, transportation and public utilities were considered. Locational factors used in determining these sites considered issues of compatible adjacent land uses, existing infrastructure, such as transportation (location of paved roads, traffic access and safety), public utilities (availability of water and sanitary sewer, topography and drainage), and cost efficiency.

- Zoning Techniques starting on page 61

Density Zoning

Since 1974, Brookings County has enforced a 35-acre minimum lot size and maximum of one residence per quarter-quarter section in the Agriculture District. This requirement of large lot zoning was put into effect for a number of reasons which include the following:

- Pollution of groundwater/aquifers from septic tanks;
  - Brookings County has instituted an aquifer protection ordinance. There are many shallow aquifers dispersed throughout the county. Concentrated, small lot developments have the potential to pollute the aquifer directly or from run-off situations.
  - Communities have invested millions of dollars in sewage treatment facilities. These facilities generally have excess capacity which could be utilized, not only in the community of Brookings, but also in the smaller communities in the county.
- Demand for increased services – road improvements, snow removal – beyond what farmers and township officials need or want to pay for;
  - Rural subdivisions, or strip developments, often demand improvements or increased services over and above what is normally required by the farming community. These requirements often come in the form of improved road surfacing or maintenance and snow removal requirements.
- Conflict between non-farm residential development and farming operations;
  - Farming operations continue to change over time. Farming today needs to be classified as heavy industry. Heavy industry and residential uses are

*generally not compatible. It used to be that a livestock operation would be comprised of 100 head of stock cows. Today many feedlots must include a thousand head of cattle to be economically viable. Crop farming is not generally compatible with residential development. Potential conflicts here include herbicide drift, blowing dirt, and noise. Obviously, the spreading of animal waste as fertilizer and odors from livestock operations has been, and will continue to be, a major issue.*

- *Problems relating to strip development along county and state highways; and*
  - *Small lot developments along county and state highways pose a different type of problem. A strip development along these highways, with multiple driveways, reduces the function of the highway and also causes traffic issues. School bus stops along these strip developments not only cause potential for accidents, but also reduce the flow of traffic.*
- *Removal of farmland from agricultural use.*
  - *The end result of small lot development in the established rural agricultural area is the removal of prime farmland from its "highest and best" use.*

*Large lot zoning has been both effective and controversial in Brookings County. It has aided in reducing potential conflict between Ag and non-ag uses. It has also reduced the need of an increased level of services and has preserved farmland for agricultural uses. Obviously, at this time, there is a demand for small lot development in rural areas. However, this demand for rural-type living should be encouraged to develop in, and adjacent, to communities which have the ability to provide the necessary services.*

The Brookings County Planning and Zoning Commission will need to decide, does it meet the requirements of the Comprehensive Land Use Plan for Brookings County; what is the best use of the land; would a centralized-on site sanitary sewer system or hook up to the existing municipal sanitary sewer system verses individual septic systems for each lot be a consideration?

The Brookings County Planning and Zoning Commission will make a recommendation on the rezoning request. The rezoning request will go to the Brookings County Commission for final consideration at a future date, with the date and time of the meeting date published on the Brookings County Commission meeting agenda.

The public notices were published in the Brookings Register on September 19 and 26, 2023, White Tri-City Star on September 21 and 28, 2023 and Hendricks Pioneer on September 20 and 27, 2023. The applicant notified abutting landowners by certified mail of the proposed rezoning request at least 14 days prior to the public hearing.

Letters were sent to the adjoining landowner's, Lincoln County, Minnesota Auditor, Lake Henricks Township Chairman and Clerk and Brookings County Highway Department.

PETITION FOR REZONING

2023RZ001

RECEIVED AUG 23 2023

To the Brookings County Commissioners  
And County Planning Commissioners

Gentlemen:

We (I), the undersigned, owner (s) of the property described in paragraph 1 below, do hereby respectfully petition your Honorable Body to amend the present Brookings County Zoning Ordinance as hereinafter designated, and in support thereof, the following facts are presented:

1. That the area to be rezoned is contained in the following legal description:

Southern portion of Block 1, Hanson addition located in the  
11/2NW1/4 and in gov't Lots 1, 2 + 3 and in Lots 9a and 10a of  
Camora Beach addition, Section 15, T112N, R47W of 5<sup>th</sup> P.M. Brookings County,  
SD

2. That it is requested and desired that the foregoing property be rezoned from the Agriculture District to the Lake Park District.

3. That the reasons for requesting the change are as follows:

House Development - NO LAKE FRONT by LAKE HENDRICKS

4. That the undersigned below own (s) property within the area which is requested to be rezoned.

5. That the undersigned have been fully appraised and acquainted with the uses to which the area to be rezoned may be put if the rezoning takes place.

6. That in addition to the name (s) given below, there is also attached a plat and the names and mailing addresses of abutting landowners. (Property shall be considered as abutting even though it may be separated from the property of the petitioner by a public road or highway.)

7. That the undersigned shall notify all abutting landowners by registered or certified mail of the petitioned zoning change at least **14 days** prior to any public hearing held thereon by the County Commissioners or County Planning Commission.

Respectfully,

Signed	(Date)	(Name)	(Address)	(Phone)	Description of Property
Jeanie Ness	8/23/23		19821 487 <sup>th</sup> Ave	605-695-2307	'
JAMES A. NESS	8/23/23		"	605-695-5678	

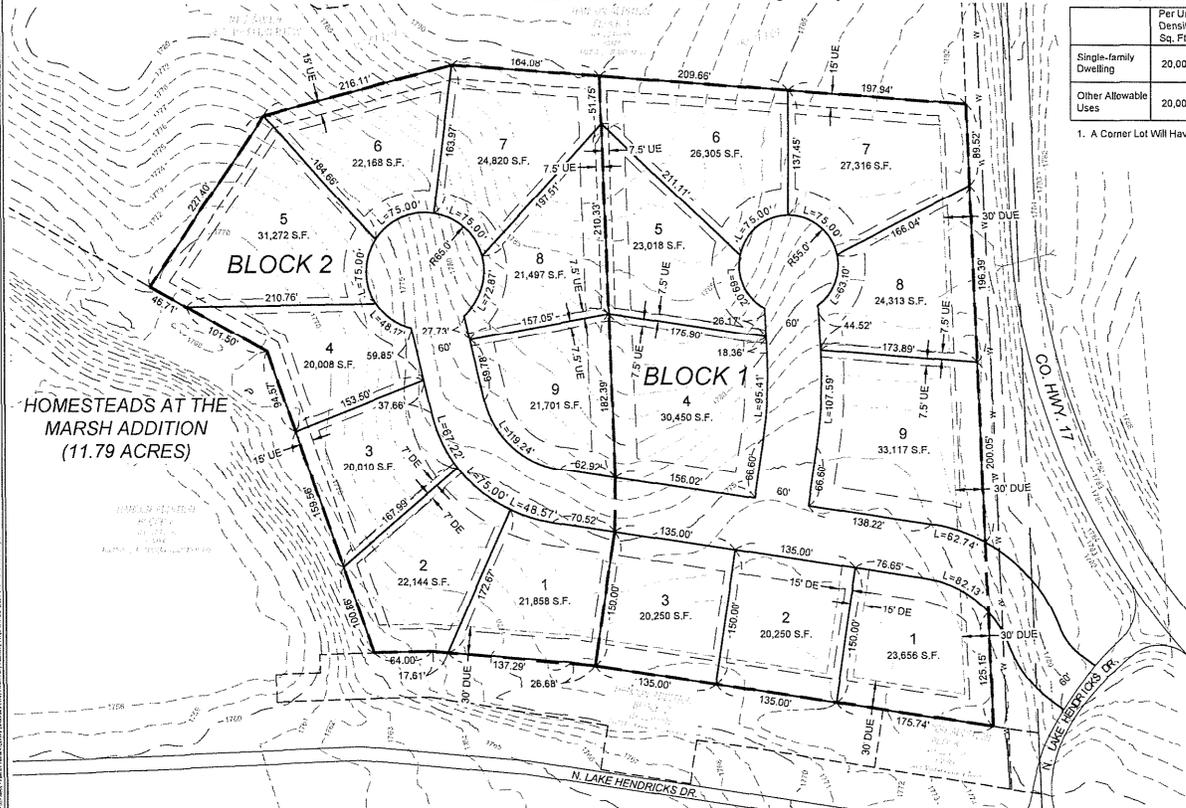
**Preliminary Plat**  
 Homesteads at the Marsh Addition in Government Lots 2 and 3 in  
 Section 15-T112N-R47W, of Brookings County, South Dakota

**Density, Area And Yard Regulations (non-lake front)**

The Lake Park (non-lakefront) District Regulations Shall Be As Follows:

	Per Unit Density Sq. Ft.	Min. Lot Area Sq. Ft.	Min. Lot Width	Min. Front Yard	Min. Side Yard	Min. Rear Yard
Single-Family Dwelling	20,000	20,000	75 Feet	25 Feet	8 Feet	25 Feet
Other Allowable Uses	20,000	20,000	75 Feet	25 Feet	8 Feet	25 Feet

1. A Corner Lot Will Have Two Front Yards.



**SITE LEGEND**

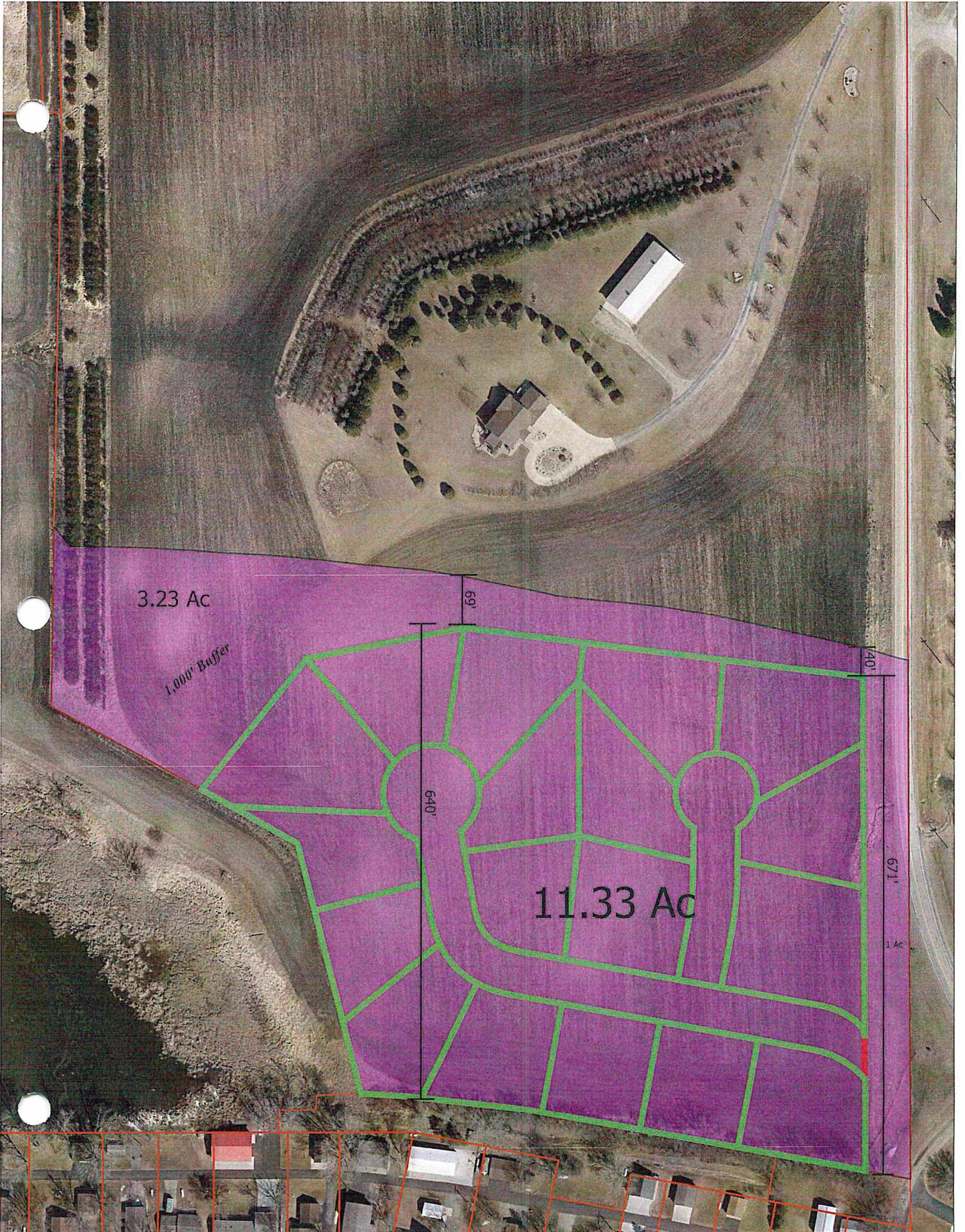
- - - Existing Contours
- UE Utility Easement
- DE Drainage Easement
- DUE Drainage/Utility Easement
- w- Proposed Water Line
- - - Addition Boundary
- - - Easement Line
- - - Setback Line
- Buildable Area



Scale: 1"=100'

Horizontal Datum:  
 - NAD 83  
 - Coord. System: US State Plane 1983  
 South Dakota North Zone (4001)

Vertical Datum:  
 - NAVD 88  
 - Geoid 03



3.23 Ac

1,000' Buffer

69'

640'

140'

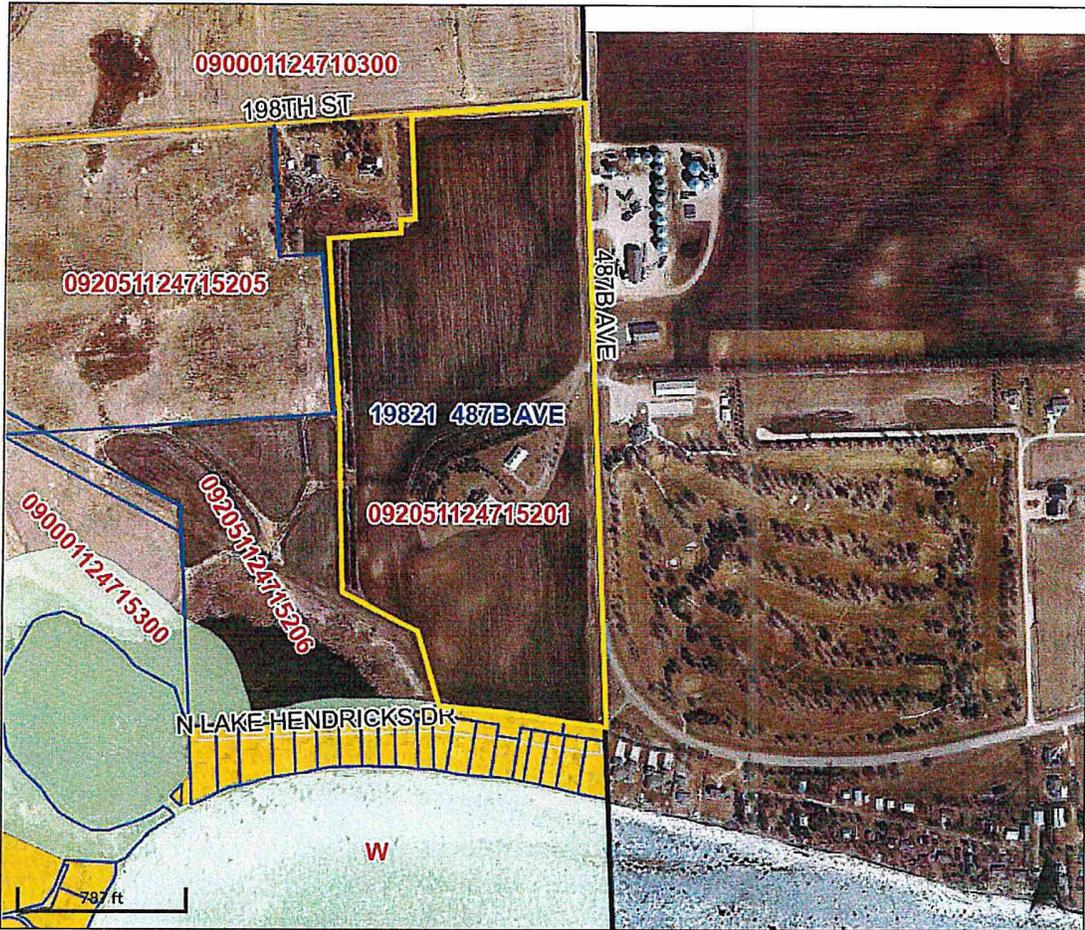
671'

1 Ac

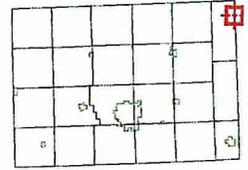
11.33 Ac



2023R2001



Overview



Legend

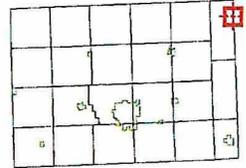
- Brookings City Limits
- City Limits
- Township Boundary
- Sections
- Zoning Districts**
- Commercial/Industrial
- Lake/Park District
- Natural Resource District
- Parcels
- Roads

Parcel ID	092051124715201	Alternate ID	n/a	Owner Address	NESS, JEANIE LIVING TRUST
Sec/Twp/Rng	15-112-47	Class	AGA		19821 487B AVE
Property Address	19821 487B AVE	Acreage	60.44		HENDRICKS MN 56136
	HENDRICKS				
District	091025				
Brief Tax Description	HANSON ADD BLK 1 LOCATED IN N 1/2 NW 1/4 SEC 15-112-47 60.44 ACRES				
	(Note: Not to be used on legal documents)				

Date created: 8/30/2023  
 Last Data Uploaded: 8/30/2023 1:04:13 AM



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundary
- Sections
- Aquifer Materials**
- Alluvium
- Outwash
- Sand and Gravel 0-50
- Sand and Gravel 100+
- Sand and Gravel 50-100
- Parcels
- Roads**
- Floodplain 2008**
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- X



Parcel ID	092051124715201	Alternate ID	n/a	Owner Address	NESS, JEANIE LIVING TRUST
Sec/Twp/Rng	15-112-47	Class	AGA		19821 487B AVE
Property Address	19821 487B AVE HENDRICKS	Acreage	60.44		HENDRICKS MN 56136
District	091025 - LAKE HENDRICKS TP/DEUBROOK SCH/SA				
Brief Tax Description	HANSON ADD BLK 1 LOCATED IN N 1/2 NW 1/4 SEC 15-112-47 60.44 ACRES <i>(Note: Not to be used on legal documents)</i>				

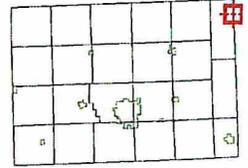
Date created: 9/22/2023  
Last Data Uploaded: 9/22/2023 1:02:42 AM

Developed by Schneider  
GEOSPATIAL

2023R2001



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundary
- Sections
- Parcels
- Roads

Parcel ID	092051124715201	Alternate ID	n/a	Owner Address	NESS, JEANIE LIVING TRUST
Sec/Twp/Rng	15-112-47	Class	AGA		19821 487B AVE
Property Address	19821 487B AVE	Acreage	60.44		HENDRICKS MN 56136
	HENDRICKS				
District	091025				
Brief Tax Description	HANSON ADD BLK 1 LOCATED IN N 1/2 NW 1/4 SEC 15-112-47 60.44 ACRES				
	<b>(Note: Not to be used on legal documents)</b>				

Date created: 8/30/2023  
 Last Data Uploaded: 8/30/2023 1:04:13 AM

Developed by Schneider  
 GEOSPATIAL

Looking east from field towards proposed entrance.

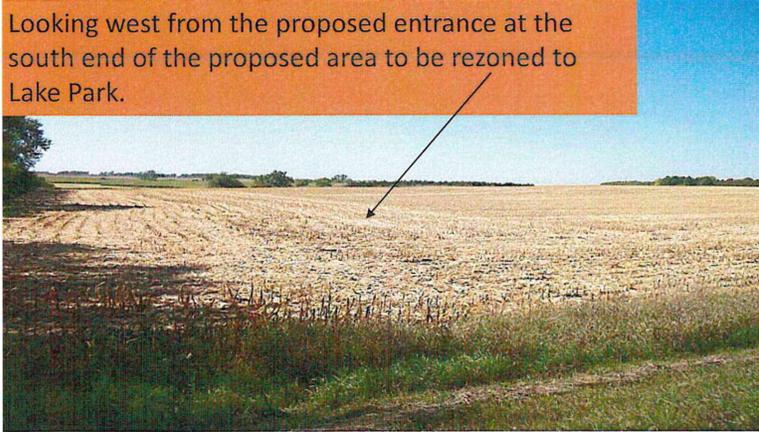


Looking west from proposed entrance.

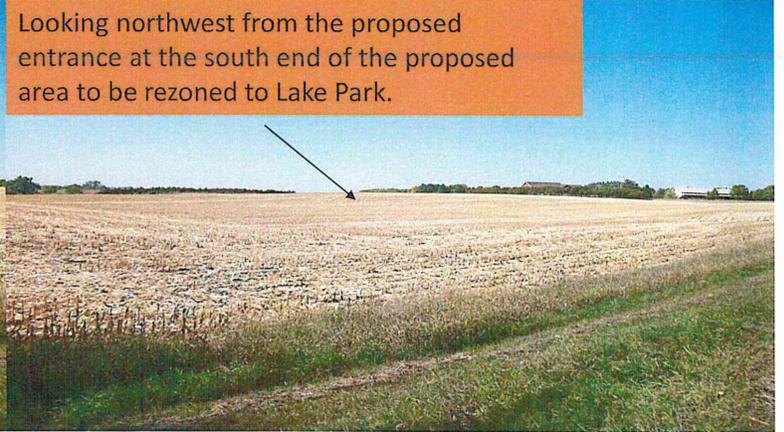


2023rz001: James and Jeanie Ness

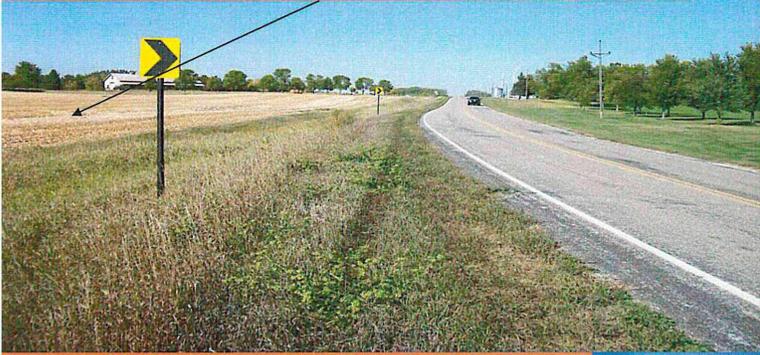
Looking west from the proposed entrance at the south end of the proposed area to be rezoned to Lake Park.



Looking northwest from the proposed entrance at the south end of the proposed area to be rezoned to Lake Park.



Looking north along 487<sup>th</sup> Ave from proposed entrance. Area to be rezoned from agricultural to Lake Park.



Looking southeast from intersection of Lincoln Cnty Hwy 17 and N Lake Hendricks Dr.



Looking northwest from intersection of Lincoln Cnty Hwy 17 and N Lake Hendricks Dr.



Looking south down N Lake Hendricks Dr from Lincoln County Hwy 17.



Looking north on N Lake Hendricks Dr.



N Lake Hendricks Dr. – Proposed entrance.



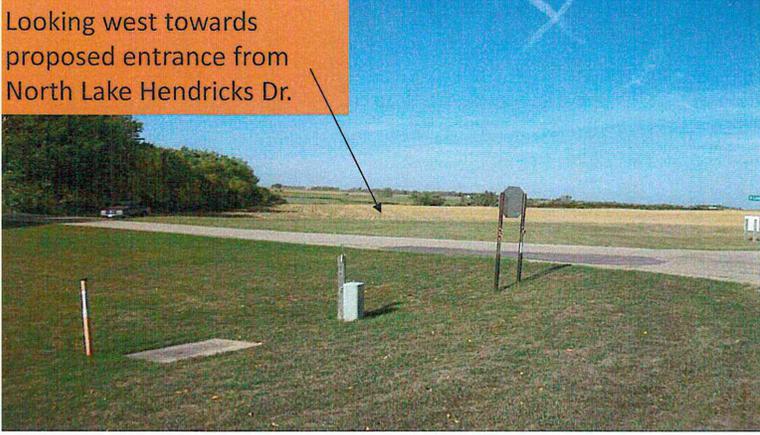
Looking west from Lincoln Cnty road 17 towards proposed entrance.



Looking southeast towards Lake Hendricks from intersection of Lincoln Cnty 17 and N Lake Hendricks Dr.



Looking west towards  
proposed entrance from  
North Lake Hendricks Dr.



Updated power point September 28, 2023