

DUNN TOWNSHIP
OTTER TAIL COUNTY, MINNESOTA
Resolution No. 2020- 02

**RESOLUTION ISSUING AN ORDER VACATING CERTAIN PORTIONS OF
PLATTED FISH LAKE ROAD ON PROVAN BEACH AND AWARDDING DAMAGES**

WHEREAS, the board of supervisors (“Town Board”) of Dunn Township, Otter Tail County, Minnesota, (“Town”) received a petition requesting the vacation of certain portions of the platted right-of-way of Fish Lake Road (“Road”), as described in the attached Exhibit A and depicted in the attached Exhibit B (“Dedicated Segments”), pursuant to the procedure set out in Minnesota Statute, section 164.07;

WHEREAS, the portion of the Road proposed to be vacated passes over the following described tracts of land in Otter Tail County, Minnesota, owned by the following named owners (“Affected Owners”):

Owner Name(s) and Mailing Address	Property Address (if different)	PID Number
LePetomane Properties, LLC P.O. Box 14 Horace, ND 58047-0014	50139 Fish Lake Road Detroit Lakes, MN 56501	17000990976000
LePetomane Properties, LLC P.O. Box 14 Horace, ND 58047-0014	50147 Fish Lake Road Detroit Lakes, MN 56501	17000990974000
LePetomane Properties, LLC P.O. Box 14 Horace, ND 58047-0014	50155 Fish Lake Road Detroit Lakes, MN 56501	17000990973000
LePetomane Properties, LLC P.O. Box 14 Horace, ND 58047-0014	50152 Fish Lake Road Detroit Lakes, MN 56501	17000090107009
David and S. Hendrickson Trust 570 Prairie Circle East Eagan, MN 55123-1631	50157 Fish Lake Road Detroit Lakes, MN 56501	17000990970000

David M. and Kay L. Larson 50161 Fish Lake Road Detroit Lakes, MN 56501		17000990969000
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WHEREAS, the Dedicated Segments are portions of the platted right-of-way originally dedicated in the plat and are not needed for the current alignment of the Road;

WHEREAS, the Dedicated Segments do not abut public water and do not affect access to public water, and so notice to the Minnesota Department of Natural Resources is not required under Minnesota Statutes, section 164.07, subdivision 2;

WHEREAS, the Town Board conducted a public hearing on the petition, including an examination of the Road, on the 13th day of January, 2020, after having provided at least 10 days notice to the Affected Owners and to the public in accordance with Minnesota Statutes, section 164.07, subdivision 2

WHEREAS, the Town Board heard from the Affected Owners, interested parties and the public, considered the matter and hereby finds and determines as follows:

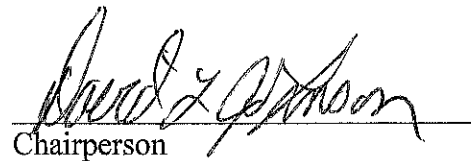
- a. The Dedicated Segments are not needed for the current alignment of the Road;
- b. Vacating the Dedicated Segments is consistent with the described right-of-way of the Road the Town Board recorded for the Road and does not limit access to any properties;
- c. The vacation is consistent with the public interest as the Town Board determines the Town has no present or future need for the Dedicated Segments to be part of the right-of-way for the Road;
- d. The Town Board determines it is not necessary to preserve an easement for ditches through the area covered by the Dedicated Segments;
- e. The Town Board is aware of utilities in the area and in order to avoid leaving any existing utilities within the vacated area without the support of an easement the Town Board determines it is in the best interests of the public and those receiving utility services in the area to preserve an easement for public utilities over the area being vacated to support any public utilities that may currently exist within such area; and
- f. The Town Board has considered whether any damages need to be paid for the vacation of the right-of-way and find no damages will result from the vacation for one or more of the following reasons: (1) the Affected Owners have waived their rights to damages; or (2) any damages are offset by the benefits received from the reversion of the land to the Affected Owners as provided in law or the transfer of other land.

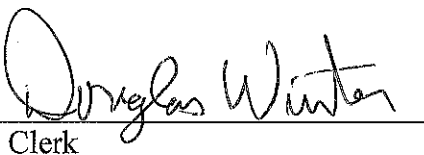
NOW, THEREFORE, IT IS ORDERED, by the Town Board of Dunn Township, Otter Tail County, Minnesota, as follows:

1. The Dedicated Segments described in the attached Exhibit A and depicted in the attached Exhibit B are hereby vacated pursuant to the Town Board's authority under Minnesota Statutes, section 164.07;
2. An easement is hereby reserved for any public utilities that may be located within the portion of right-of-way being vacated by this Order. This reserved easement for public utilities shall expire if it is determined that no public utilities actually exist within the vacated area, or, if public utilities do exist within the vacated area, upon the removal of such utilities from the vacated area.
3. No damages shall be awarded for the vacation of the road for the reasons stated above;
4. The Town Clerk is hereby authorized and directed to provide to the Affected Owners notice of the award of damages, together with a copy of this Order, within 7 days after the award of damages is filed in the Town Clerk's office; and
5. The Town Clerk is hereby authorized and directed to present this Order to the Otter Tail County Auditor to enter it in the transfer records and to note on the order that it has been "entered in the transfer record" as provided in Minnesota Statutes, section 164.07, subd. 11(a) and to then record this Order in the office of the Otter Tail County Recorder.

Adopted this 13th day of January, 2020.

BY THE TOWN BOARD


Chairperson

Attest: 
Clerk

This Document was Drafted By:
Kennedy and Graven, Chartered (JMHI)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
612-337-9300

Exhibit A
Legal Description of Vacated Dedicated Segments

Parcel A

That part of vacated South Street 33 Ft. Wide, formerly dedicated in PROVAN BEACH, said plat is on file in the office of the Recorder, Otter Tail County, Minnesota, described as follows:

Beginning at the most easterly corner of Lot 42, said PROVAN BEACH; thence South 21 degrees 21 minutes 01 second East (bearing is based on the Otter Tail County Harn Network) along the southeasterly extension of the northeasterly line of said Lot 42, a distance of 6.35 feet to the westerly right-of-way line of Fish Lake Road, per Dunn Township Resolution No. 2017-02, described in Document No. 1193804, according to the recorded files thereof; thence southwesterly, along said westerly right-of-way line, on a non-tangential curve concave to the southeast, having a radius of 433.00 feet, a delta angle of 09 degrees 04 minutes 03 seconds and a chord bearing of South 52 degrees 21 minutes 55 seconds West, for an arc distance of 68.52 feet to the southeasterly extension of the southwesterly line of said Lot 42; thence North 21 degrees 24 minutes 07 seconds West along last said southeasterly extension, a distance of 22.06 feet to the most southerly corner of said Lot 42; thence North 65 degrees 37 minutes 13 seconds East along the southerly line of said Lot 42, a distance of 65.82 feet to the point of beginning.

Containing 872 square feet more or less.

Parcel B1

That part of vacated South Street 33 Ft. Wide, formerly dedicated in PROVAN BEACH, said plat is on file in the office of the Recorder, Otter Tail County, Minnesota, described as follows:

Beginning at the most easterly corner of Lot 43, said PROVAN BEACH; thence South 21 degrees 24 minutes 07 seconds East (bearing is based on the Otter Tail County Harn Network) along the southeasterly extension of the northeasterly line of said Lot 43, a distance of 22.06 feet to the westerly right-of-way line of Fish Lake Road, per Dunn Township Resolution No. 2017-02, described in Document No. 1193804, according to the recorded files thereof; thence southwesterly, along said westerly right-of-way line, on a non-tangential curve concave to the southeast, having a radius of 433.00 feet, a delta angle of 04 degrees 15 minutes 37 seconds and a chord bearing of South 45 degrees 42 minutes 05 seconds West, for an arc distance of 32.20 feet to the southerly line of said vacated South Street 33 Ft. Wide; thence South 65 degrees 37 minutes 13 seconds West along said southerly line, a distance of 27.58 feet to an angle point in said southerly line; thence South 41 degrees 38 minutes 38 seconds West along the southeasterly line of said South Street 33 Ft. Wide, a distance of 8.21 feet to the southeasterly extension of the southwesterly line of that certain tract of land described in Quit Claim Deed Document No. 1158067, according to the recorded files thereof; thence North 23 degrees 35 minutes 43 seconds West along last said southeasterly extension, a distance of 36.34 feet to the most southerly corner of said Lot 43; thence North 65 degrees 37 minutes 13 seconds East along the southerly line of said Lot 43, a distance of 66.00 feet to the point of beginning.

Containing 2,000 square feet more or less.

Parcel C1

That part of vacated South Street 33 Ft. Wide, formerly dedicated in PROVAN BEACH, said plat is on file in the office of the Recorder, Otter Tail County, Minnesota, described as follows:

Beginning at the most easterly corner of Lot 44, said PROVAN BEACH; thence South 23 degrees 35 minutes 43 seconds East (bearing is based on the Otter Tail County Harn Network) along the southeasterly extension of the northeasterly line of that certain tract of land described in Warranty Deed Document No. 1190652, according to the recorded files thereof, a distance of 36.34 feet to the southeasterly line of said vacated South Street 33 Ft. Wide; thence South 41 degrees 38 minutes 38 seconds West along last said southeasterly line, a distance of 40.67 feet to an angle point in last said southeasterly line; thence South 20 degrees 57 minutes 23 seconds West along the easterly line of said vacated South Street 33 Ft. Wide, a distance of 12.41 feet to an angle point in said easterly line; thence South 05 degrees 25 minutes 38 seconds West along said easterly line, a distance of 0.16 feet to the southeasterly extension of the southwesterly line of said tract of land described in Warranty Deed Document No. 1190652; thence North 46 degrees 06 minutes 09 seconds West along last said southeasterly extension, a distance of 35.88 feet to the most southerly corner of said tract of land; thence North 20 degrees 57 minutes 23 seconds East along the easterly line of Lot 45, said PROVAN BEACH, a distance of 4.61 feet to the most southerly corner of said Lot 44; thence North 41 degrees 38 minutes 38 seconds East along the southeasterly line of said Lot 44, a distance of 61.91 feet to the point of beginning.

Containing 1,976 square feet more or less.

Parcel D1

That part of vacated South Street 33 Ft. Wide, formerly dedicated in PROVAN BEACH, said plat is on file in the office of the Recorder, Otter Tail County, Minnesota, described as follows:

Beginning at the southeasterly corner of Lot 45, said PROVAN BEACH; thence North 20 degrees 57 minutes 23 seconds East (bearing is based on the Otter Tail County Harn Network) along the easterly line of said Lot 45, a distance of 18.33 feet to the most easterly corner of that certain tract of land described in Warranty Deed Document No. 1117028, according to the recorded files thereof; thence South 46 degrees 06 minutes 09 seconds East along the southeasterly extension of the northeasterly line of said tract of land, a distance of 35.88 feet to the easterly line of vacated South Street 33 Ft. Wide; thence South 05 degrees 25 minutes 38 seconds West along last said easterly line, a distance of 28.57 feet to the westerly right-of-way line of Fish Lake Road, per Dunn Township Resolution No. 2017-02, described in Document No. 1193804, according to the recorded files thereof; thence southwesterly, on a non-tangential curve concave to the southeast, parallel with and lying 33.00 feet northwesterly of, as measured perpendicular to, the centerline of said Fish Lake Road described in said Document No. 1193804, having a radius of 433.00 feet, a delta angle of 02 degrees 09 minutes 15 seconds and a chord bearing of South 27 degrees 59 minutes 11 seconds West, for an arc distance of 16.28 feet to the easterly extension of the southerly line of said tract of land described in Warranty Deed Document No. 1117028; thence North 76 degrees 23 minutes 54 seconds West along said easterly extension, a distance of 27.03 feet to the most southerly corner of said tract of land; thence North 05 degrees 25 minutes 38 seconds East along the easterly line of Lot 46, said PROVAN BEACH, a distance of 44.42 feet to the point of beginning.

Containing 1,719 square feet more or less.

Parcel E

That part of vacated South Street 33 Ft. Wide, formerly dedicated in PROVAN BEACH, said plat is on file in the office of the Recorder, Otter Tail County, Minnesota, described as follows:

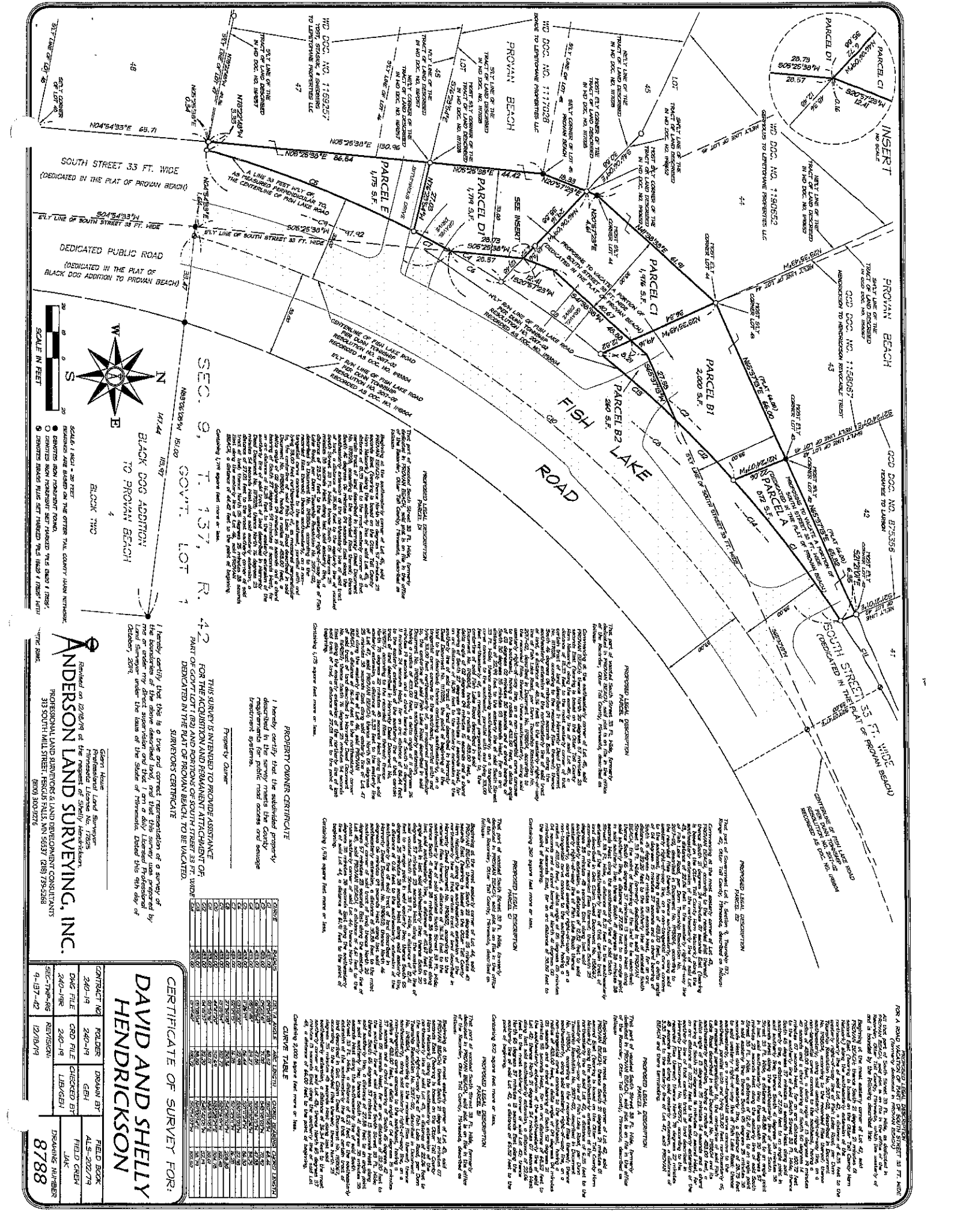
Commencing at the southeasterly corner of Lot 45, said PROVAN BEACH; thence North 20 degrees 57 minutes 23 seconds East (bearing is based on the Otter Tail County Harn Network) along the easterly line of said Lot 45, a distance of 18.33 feet to the most easterly corner of that certain tract of land described in Warranty Deed Document No. 1117028, according to the recorded files thereof; thence South 46 degrees 06 minutes 09 seconds East along the southeasterly extension of the northeasterly line of said tract of land, a distance of 48.36 feet to the westerly right-of-way line of Fish Lake Road, per Dunn Township Resolution No. 2017-02, described in Document No. 1193804, according to the recorded files thereof; thence southwesterly, along said westerly right-of-way line, on a non-tangential curve concave to the southeast, having a radius of 433.00 feet, a delta angle of 03 degrees 02 minutes 30 seconds and a chord bearing of South 30 degrees 35 minutes 03 seconds West, for an arc distance of 22.99 feet to the easterly line of said South Street 33 Ft. Wide; thence continuing southwesterly, on a tangential curve concave to the southeast, parallel with and lying 33.00 feet northwesterly of, as measured perpendicular to, the centerline of said Fish Lake Road described in said Document No. 1193804, having a radius of 433.00 feet, a

delta angle of 02 degrees 09 minutes 15 seconds and a chord bearing of South 27 degrees 59 minutes 11 seconds West, for an arc distance of 16.28 feet to the easterly extension of the southerly line of said tract of land described in Warranty Deed Document No. 1117028, the point of beginning of the land to be described; thence continuing southwesterly, on a tangential curve concave to the southeast, parallel with and lying 33.00 feet northwesterly of, as measured perpendicular to, the centerline of said Fish Lake Road described in said Document No. 1193804 and its southwesterly extension, having a radius of 433.00 feet, a delta angle of 11 degrees 26 minutes 19 seconds and a chord bearing of South 21 degrees 11 minutes 24 seconds West, for an arc distance of 86.44 feet to the easterly extension of the southerly line of that certain tract of land described in Warranty Deed Document No. 1169257, according to the recorded files thereof; thence North 78 degrees 22 minutes 48 seconds West along last said easterly extension, a distance of 3.33 feet to the easterly line of Lot 47, said PROVAN BEACH; thence North 05 degrees 25 minutes 38 seconds East along said easterly line of Lot 47 and along the easterly line of Lot 46, said PROVAN BEACH, a distance of 86.54 feet to the northeasterly corner of said tract of land described in Warranty Deed Document No. 1169257; thence South 76 degrees 23 minutes 54 seconds East along the easterly extension of the northerly line of last said tract of land, a distance of 27.03 feet to the point of beginning.

Containing 1,175 square feet more or less.

Exhibit B
Depiction of Vacated Dedicated Segments

(attached hereto)



PROPOSED LEGAL DESCRIPTION

That part of unadvised South Street 33 ft. wide, formerly designated as PROVAAN BEACH, and part of the Fish Lake Road, as shown on the plat of Fish Lake Road, recorded as Plat No. 12345, in the office of the Register of Deeds for the County of Hennepin, Minnesota, containing 1.75 square feet more or less.

PROPOSED LEGAL DESCRIPTION

That part of unadvised South Street 33 ft. wide, formerly designated as PROVAAN BEACH, and part of the Fish Lake Road, as shown on the plat of Fish Lake Road, recorded as Plat No. 12345, in the office of the Register of Deeds for the County of Hennepin, Minnesota, containing 1.75 square feet more or less.

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PROPERTY OWNER CERTIFICATE

I, hereby certify that the subdivided property described herein is the property of the owner named herein and that the same is not subject to any lien or other claim of any person other than the owner named herein.

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CERTIFICATE OF SURVEY FOR:

DAVID AND SHELLY HENDRICKSON

CONTRACT NO. 240-14
 DWS FILE 240-14R
 CSD FILE 240-14
 CHECKED BY LIB/GEH
 REVISION 12/18/19

FIELD BOOK AL-5-202/79
 FIELD CREW JAK
 DRAWING NUMBER 8788

STATE OF MINNESOTA)
COUNTY OF OTTER TAIL) ss.
TOWNSHIP OF DUNN)

**NOTICE OF AWARD OF
DAMAGES**

David and S. Hendrickson Trust

RE: VACATION OF CERTAIN PLATTED PORTIONS OF FISH LAKE ROAD

PLEASE TAKE NOTICE that on January 13, 2020, the Town Board of Dunn Township, Otter Tail County, Minnesota adopted the enclosed Resolution Issuing an Order Vacating Certain Portions of Platted Fish Lake Road on Provan Beach and Awarding Damages Pursuant to Minnesota Statutes, section 164.07 ("Order") to vacate certain platted portions of Fish Lake Road (the "Road"). The Order was adopted pursuant to the Town Board's authority under Minnesota Statutes, section 164.07.

As shown in the attached order, the Dunn Town Board has determined that you are not entitled to any damages as a result of the vacation of the portion of Fish Lake Road across your property (PID No. 17000990970000).

The award of damages was filed with the Town Clerk on January 13, 2020 and the Town Clerk is required to notify the owners affected by the vacation in writing of the award within seven days, together with a copy of the Order.

NOTICE OF RIGHT TO APPEAL

PLEASE TAKE NOTICE that you have an opportunity under Minnesota Statutes, section 164.07 to appeal this award of damages and the road alteration. In order to bring an appeal, notice of the appeal must be filed with the court administrator of the District Court of Otter Tail County **within 40 days of January 13, 2020** (the day the Town Board filed the award of damages with the Town Clerk). The notice of appeal must specify: (1) the award of damages or failure to award damages being appealed from; (2) the land to which the appeal relates; (3) the nature and amount of the damages you are claiming; and (4) the grounds of the appeal. The notice of appeal must also be accompanied by a bond of at least \$250, with sufficient surety approved by the judge or the county auditor conditioned to pay all costs arising from the appeal in case the award is sustained. A copy of the notice of appeal must be mailed by registered or certified mail to the Dunn Town Clerk or other member of the Town Board.

Dated this 13th day of January, 2020

DUNN TOWNSHIP



Douglas Winter, Clerk

STATE OF MINNESOTA)
COUNTY OF OTTER TAIL) ss.
TOWNSHIP OF DUNN)

**NOTICE OF AWARD OF
DAMAGES**

LePetomane Properties, LLC

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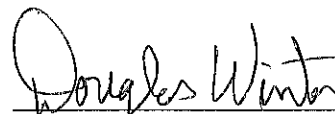
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**NOTICE OF AWARD OF
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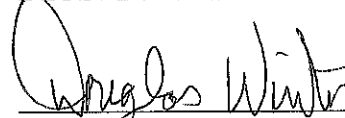
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DUNN TOWNSHIP



Douglas Winter, Clerk