

TRANSFER ENTERED

September 15, 2020
(Year)

CAROL SCHMALTZ
OTTER TAIL COUNTY
RECORDER/REGISTRAR OF TITLES
FERGUS FALLS, MN
RECORDED ON
09/15/2020 01:42 PM
FEE: 46.00
PAGES 9
WELL CERTIFICATE REC'D: N

Wayne Stein, County Auditor/Treasurer

By: Uaj
Deputy

DUNN TOWNSHIP
OTTER TAIL COUNTY, MINNESOTA
Resolution No. 2020- 09

ORDER VACATING A PORTION OF OTTOSON TRAIL

WHEREAS, the board of supervisors ("Town Board") of Dunn Township, Otter Tail County, Minnesota, ("Town") received a petition requesting the vacation of a portion of Ottoson Trail ("Road") pursuant to the procedure set out in Minnesota Statute, section 164.07;

WHEREAS, the portion of the Road to be vacated is legally described in the attached Exhibit A and is depicted in the survey attached hereto as Exhibit B;

WHEREAS, the proposed vacation of a portion of the Road, without further action, would cause a certain property to be landlocked, and therefore, the vacation petition was filed to be considered by the Town concurrently with an application by the petitioners to dedicate portions of their land to the Town for a public road under Minnesota Statutes, section 164.15, subdivision 1;

WHEREAS, the owners of property directly abutting the Road and who are affected by the proposed vacation are as follows ("Affected Owners"):

Owner Name(s) and Mailing Address	Property Address (if different)	PID Number
Michael G. and Deborah B. Evenson 3643 Fairway Road North Fargo, ND 58102	26021 Ottoson Trail Detroit Lakes, MN 56501	17000020019001 17000020023000
Mark B. and Carol A. Bement 26035 Ottoson Trail Detroit Lakes, MN 56501		17000020019906

WHEREAS, the portion of the Road proposed to be vacated does not abut public water and does 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;

1244404
09/15/2020

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 public hearing was continued from January 13 to April 13, 2020 due to concerns raised by the Affected Owners and by a representative of Otter Tail County ("County") with regard to improvements that had been constructed in the area and to allow the Town to gather additional information and to coordinate with the County;

WHEREAS, the public hearing was continued from April 13 to July 14, 2020 due to indoor gathering restrictions imposed by the State of Minnesota as a result of the COVID-19 pandemic;

WHEREAS, the concerns raised by the Affected Owners and the County were further addressed at the continued public hearing on July 14, 2020, and the Town received additional information from the Town's maintenance personnel. Specifically, Affected Owners Mark and Carol Bement expressed concerns about the vacation of the Road and the concurrent dedication of land and whether it would include sufficient right-of-way to allow maintenance and emergency vehicles to turn around without traveling onto their property adjacent to the Road. The County's concerns with regard to the location of road improvements were resolved in the event the improvements necessary to construct a sufficient turnaround area were located entirely within the Town's right-of-way;

WHEREAS, petitioners Michael and Deborah Evenson confirmed at the July 14, 2020 continued public hearing that they would be responsible for constructing improvements in the area of the turnaround, including the construction of a retaining wall that would be located entirely within the Town's right-of-way;

WHEREAS, the public hearing was continued from July 14 to August 10, 2020 to allow the Town and the Town's maintenance personnel to confirm the area of the proposed dedication would be sufficient to allow maintenance and emergency vehicles to turn around without having to travel on adjacent property or out of the right-of-way. The public hearing was concluded onsite on August 10, 2020;

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

- a. The proposed vacation of a portion of the Road, without further action, would cause a certain property to be landlocked, and therefore, any approval of the petition to vacate would be contingent upon the concurrent dedication of a portion of the property owned by Michael G. Evenson and Deborah B. Evenson (PID 17000020019001) as a public road pursuant to Minnesota Statutes, section 164.15;
- b. Michael G. Evenson and Deborah B. Evenson concurrently submitted an application, attached hereto as Exhibit C, to dedicate portions of their property to the Town for a

public road (collectively the “Dedicated Road”), and the application was considered by the Town Board at its regular board meeting on January 13, 2020 and during the public hearing upon the proposed vacation;

- c. In the event the application attached hereto as Exhibit C is approved by the Town Board and the Dedicated Road is accepted by the Town, no properties would be landlocked as a result of the vacation;
- d. The proposed vacation of a portion of the Road, in conjunction with the dedication of land as set forth in Exhibit C, will vacate a small portion of the Road and will serve only properties owned by Michael G. Evenson and Deborah B. Evenson, and therefore, the continued maintenance of the vacated portion of the Road by the Town is not in the best interests of the Town;
- e. The proposed vacation is consistent with the public interest;
- f. The ditches lateral to the vacated portion of the Road are not essential or necessary for surface drainage of adjacent properties and are not essential or necessary for the drainage of public highways in the area of the Road;
- g. It is not necessary to reserve a right of entry for utility companies as the Town Board is not aware of any utility companies that have relied on the area of the Road to be vacated to place their facilities;
- h. 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 will continue to have access onto, and the right to use, a public road, (2) the Affected Owners have waived their rights to damages; or (3) 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.

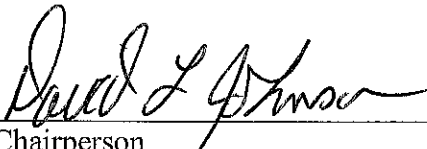
NOW, THEREFORE, IT IS ORDERED, by the Town Board of Dunn Township, Otter Tail County, Minnesota, as follows:

- 1. The portion of the Road described in the attached Exhibit A and depicted in the attached Exhibit B is hereby vacated pursuant to the Town Board’s authority under Minnesota Statutes, section 164.07, subject to and contingent upon the following
 - (a) the concurrent acceptance of the Dedicated Road as described and depicted in the attached Exhibit C; and
 - (b) the satisfaction of any and all conditions placed upon the acceptance of the Dedicated Road by the Town.

2. No damages shall be awarded for the vacation of the portion of the Road for the reasons stated above;
3. 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
4. Upon the satisfaction of the conditions set forth in paragraph 1 above, 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 26th day of August, 2020.

BY THE TOWN BOARD


Chairperson

Attest: 
Clerk

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

Exhibit A
Legal Description of Vacated Portion of Ottoson Trail

Part of Government Lot 10, Section 2, Township 137 North, Range 42 West of the 5th Principal Meridian, Otter Tail County, Minnesota, more particularly described as follows:

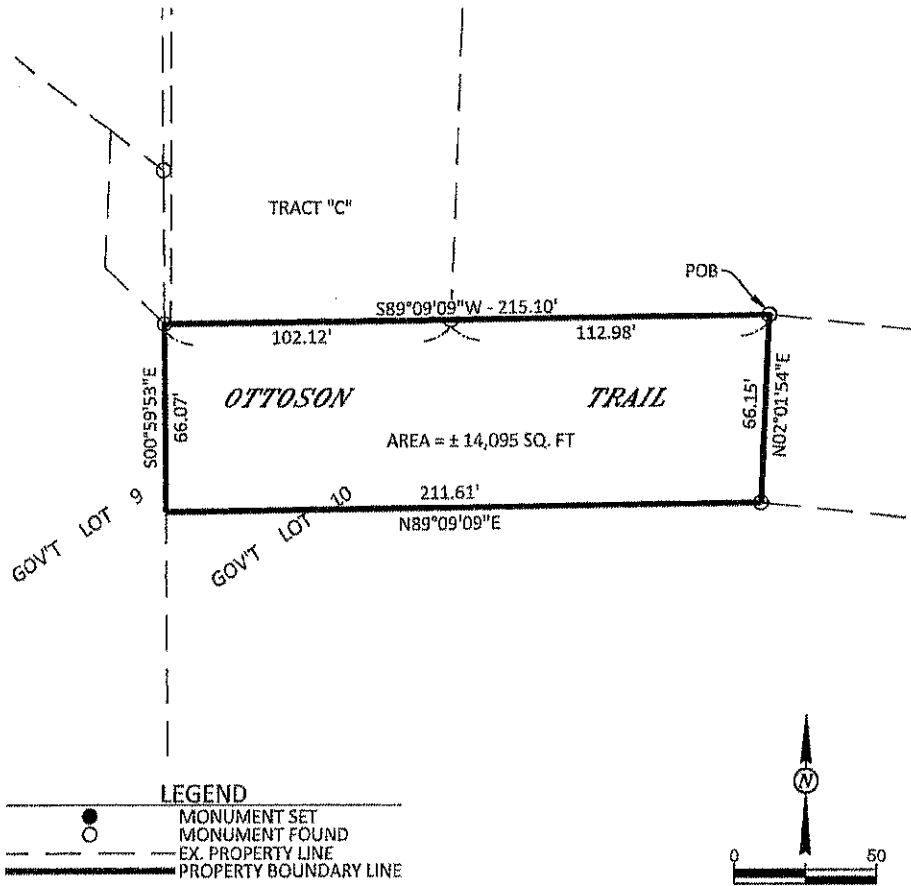
Beginning at the Southwest corner of Lot 6 of Maple Lane Beach; thence S89°09'09"W a distance of 215.10 feet; thence S00°59'53"E a distance of 66.07 feet; thence N89°09'09"E a distance of 211.61 feet; thence N02°01'54"E a distance of 66.15 feet to the point of beginning.

Said tract of land contains approximately 14,095 square feet more or less and is subject to easements and rights of way of record.

Exhibit B
Depiction of Vacated Portion of Ottoson Trail

(attached hereto)

VACATION EXHIBIT
 PART OF GOVERNMENT LOT 10, SEC. 2, T137N, R42W,
 OTTER TAIL COUNTY, MINNESOTA.



DESCRIPTION

PART OF GOVERNMENT LOT 10, SECTION 2, TOWNSHIP 137 NORTH, RANGE 42 WEST OF THE 5TH PRINCIPAL MERIDIAN, OTTER TAIL COUNTY, MINNESOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 6 OF MAPLE LANE BEACH; THENCE S89°09'09"W A DISTANCE OF 215.10 FEET; THENCE S00°59'53"E A DISTANCE OF 66.07 FEET; THENCE N89°09'09"E A DISTANCE OF 211.61 FEET; THENCE N02°01'54"E A DISTANCE OF 66.15 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS ± 14,095 SQUARE FEET MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

SURVEYORS CERTIFICATE

I COLE A. NESET HEREBY CERTIFY THAT THIS SURVEY, PLAN, AND/OR REPORT WAS PREPARED UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

 COLE A. NESET
 PROFESSIONAL LAND SURVEYOR
 MINNESOTA LICENSE No. 49984

 DATE:



DRAWN BY: DAT
 CHECKED BY: CAN
 DATE: 9-30-19

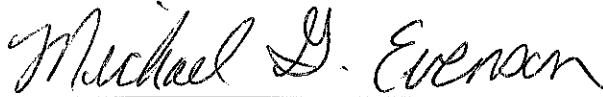
Exhibit C
Copy of Dedication Application

(attached hereto)

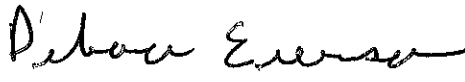
DEDICATION APPLICATION

Michael G. and Deborah B. Evenson hereby submit this dedication application pursuant to Minnesota Statutes, section 164.15.

Michael G. and Deborah B. Evenson hereby dedicate a portion of their property (PID 17000020019001) as a road for purpose of allowing the snowplow operator turnaround locations to properly remove the snow from the roadway. The specific legal description are attached as exhibits.



Michael G. Evenson
Michael G. Evenson



Deborah B. Evenson
Deborah B. Evenson