

**DUNN TOWNSHIP
OTTER TAIL COUNTY, MINNESOTA
RESOLUTION NO. 2021-02**

**RESOLUTION ISSUING AN ORDER SETTING FORTH
INITIAL DESCRIPTIONS AND SETTING A HEARING DATE**

WHEREAS, the Dunn Township (“Town”) board of supervisors (“Town Board”) received a petition, which is attached hereto as Exhibit A, (“Petition”) from Monty E. Scherer, Jr. and Mae Lone Scherer (“Petitioners”) requesting the establishment of a cartway pursuant to Minnesota Statutes, section 164.08, subdivision 2 to provide access to Petitioners’ property (PID 17000210286001), which contains approximately 8.51 acres and is legally described as set forth in the attached Exhibit B (“Property”):

WHEREAS, the route for the cartway requested by the Petitioner, which is described in the Petition, would be established over the following property:

A 33-foot-wide cartway over and across the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) in Section 16, Township 137, Range 42, Otter Tail County, Minnesota. The centerline of said cartway is described as follows: Beginning at the Southeast Corner of the Southeast Quarter (SE1/4) of Section 16; thence northerly along the East line of Said Section 16 approximately 46 feet to the point of beginning; thence westerly parallel to the South line of said Section 16 approximately 96 feet; thence curving southerly until parallel to the East line of said Section 16 approximately 46 feet to the South line of said Section 16 then terminating. (“Requested Route”);

WHEREAS, the Requested Route crosses property owned by the following persons (collectively, the “Affected Owners”):

Owner and Mailing Address	Property Location	PID
Valerie M. and Peter M. Bushaw 1630 1 st Street N Fargo, ND 58102-2321	Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section 16, Township 137, Range 42	17000160195010

WHEREAS, the Petitioners indicate the Property is landlocked because it does not abut a public road over which the Petitioners have been able to gain access;

WHEREAS, the petition appears to contain sufficient information to be considered complete under the statute;

WHEREAS, the Petitioners provided the Town the required financial security related to the Petition as required by a Town Board resolution adopted on May 10, 2021 pursuant to its authority under Minnesota Statutes, section 164.08, subdivision 2; and

WHEREAS, Minnesota Statutes, section 164.07, subdivision 2 requires the Town Board to make an order describing as nearly as practicable the cartway to be established, describing the several tracts of land through which the cartway passes, and fixing a time and place when and where the Town Board will meet and act upon the petition.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

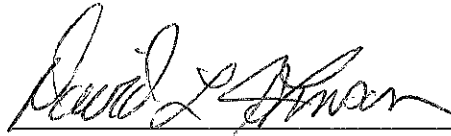
1. The tracts of land through which the proposed cartway passes and the owners are as identified above as Affected Owners.
2. The Town Board will conduct a public hearing at 6:00 p.m. on Friday July 16, 2021 at the site of the proposed cartway to examine the Requested Route and to hear from the Petitioners, the Affected Owners, and any other interested parties as to any physical features they would like to point out as well as any proposed alternative routes. Then, immediately following the inspection, the Town Board will continue the hearing to the Dunn Town Hall located at 47979 East Lake Lizzie Road, Pelican Rapids, Minnesota to receive additional public comment, consider the proposed cartway, and to possibly act preliminarily on the petition.
3. The Petitioners shall be responsible for serving this Order on the Affected Owners, and on each person whose land would reasonably be expected to be affected by the establishment of the proposed cartway given the fact that the Town Board may select an alternative route, at least 10 days before the date of the hearing and must provide the Town Board an affidavit of service as proof of having provided the required notice. In this case, the additional owners to be notified include, but are not limited to, those owning property adjacent to the Petitioners' Property and those owning property adjacent to the Affected Owners' property, and any other owners of property that could reasonably be crossed by a cartway to provide access to the Property. Failure to provide notice to the Affected Owners or others that may be affected if an alternative route is selected will delay the process until notice is provided and may require portions of the process to be repeated.
4. The Town Clerk is hereby authorized and directed to, at least 10 days prior to the date of the hearing, publish notice of the hearing once in the Town's official newspaper, and post this Order at the Town's posting places.

NOTICE OF RIGHT TO APPEAL

Those affected by this process have a right of appeal as provided in Minnesota Statutes, section 164.07, subdivision 7 to seek judicial review of this matter if the Town Board does establish the cartway.

Adopted this 14th day of June, 2021.

BY THE TOWN BOARD



Town Board Chairperson

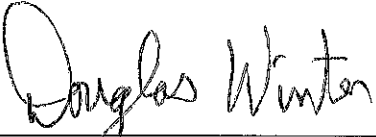
Attest: 
Town Clerk

EXHIBIT A
Cartway Petition

(attached hereto)

3. Petitioner hereby petitions the Town Board of Dunn Township to establish a cartway pursuant to Minn. Stat. 164.08, subd. 2 at a width of two (2) rods across the following properties, which are identified and described to the best of the Petitioner's knowledge:

Owner(s) and Mailing Address	Property Description
Valerie M. and Peter M. Bushaw 1630 1 st St. N, Fargo, ND 58102	SE1/4 SE1/4 S16, T137, R42 Parcel #17000160195010

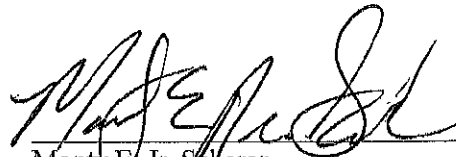
at the following described location:

A 33-foot-wide cartway over and across the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) in Section 16, Township 137, Range 42, Otter Tail County, Minnesota. The centerline of said cartway is described as follows: Beginning at the Southeast Corner of the Southeast Quarter (SE $\frac{1}{4}$) of Section 16; thence northerly along the East line of Said Section 16 approximately 46 feet to the point of beginning; thence westerly parallel to the South line of said Section 16 approximately 96 feet; thence curving southerly until parallel to the East line of said Section 16 approximately 46 feet to the South line of said Section 16 then terminating.

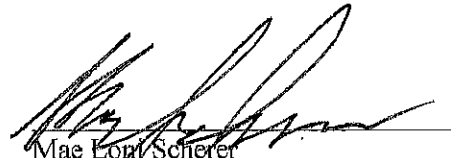
4. The purpose and necessity for this Petition is to seek the establishment of a legal access that is at least 33 feet wide to a tract of property that is landlocked. Access from 245th Avenue is necessary to enter the Property. Other attempts to secure a permanent access to the property have been unsuccessful. In order to gain access to and make use of the Property and increase its value, Petitioner asks the Township to establish a cartway connecting the tract of land to a public road.

WHEREFORE, Petitioner respectfully requests that the Town Board of Dunn Township, pursuant to Minn. Stat. § 164.08, subd. 2, establish a cartway as described above and designate it as a private driveway.

Date: May 9th, 2021.



Monty E. Jr. Scherer
23395 Marquart Way
Pelican Rapids, MN 56572



Mae Lou Scherer
23395 Marquart Way
Pelican Rapids, MN 56572

[Additional signatures to follow]

TOWN ROAD PETITION

To the Town Board of DUNN Township, OTTERTAIL County, Minnesota:

The undersigned legal voters of the Town who own real estate or occupy real estate under the homestead or preemption laws or under contract with the state within three miles of the road described below hereby petition you to **establish** the following described road (a petition to establish a road must include a specific description of the roadway to be established):

The purpose and necessity of the requested road establishment are:

The description of the several tracts of land over which the road passes and their owners are as follows:

Owners	Description of Land
_____	_____
_____	_____
_____	_____
_____	_____

We ask that you proceed with such establishment pursuant to Minn. Stat. § 164.07.

Dated this 9th day of May, 2021.

Petitioners	Address/Land Owned
OK <u>Vic Haugrud</u>	<u>23640 Sunset Beach Trail 56572</u>
OK <u>Jennifer Haugrud</u>	<u>23614 Edlynn Beachtrail</u>

(Note: Only legal voters of the Town who own real estate or who occupy real estate under the homestead or preemption laws or under contract with the state within three miles of the road may sign the petition. At least eight signatures are required. If a husband and wife are both on the title to their property, and are voters of the town, then each can sign separately.)

Petitioners

Address/Land Owned

OK	LARRY HOWLAND	48860 Hwy 59	
NO	MARSHALL HOWLAND	48860 Hwy 59	
OK	Randy Palmer	24559 Franklin Lake Rd	
NO	Michael Dalman	24645 Franklin Lake Road	
OK	Quilla Johnson	49968 Fish Creek Rd.	
NO	Marty Backer	48978 Fish Lake Rd	
NO	Wesley + Spence Schulte Pace	49026-245 th Ave	
NO	Charlotte Blumer	23407 Sunset Beach Trl Pr.	
NO	Charlotte Blumer	23407 Sunset Beach Trl	
OK	Shirley French	47849 Sunset Beach Lane	
OK	Michael Fish	47849 Sunset Beach Lane	
OK	Debra J. G.	48097 E. Lake Lizzie Ct	
NO	Gregory B. G.	East Yk Zigzag Lane	
OK	Susan Repetzak	48097 E Lake Lizzie Ct	Pelican Rapids

EXHIBIT B
Legal Description of the Property

That part of the Northeast 1/4 of Northeast 1/4 Section 21, Township 137, Range 42, Otter Tail County, Minnesota lying northerly of the right-of-way of State Trunk Highway Number 59-30 as monumented, containing 6.63 acres more or less.

AND

That part of the right-of-way of State Trunk Highway No. 59-30 of the Northeast 1/4 of Northeast 1/4 of Section 21, Township 137, Range 42, Otter Tail County, Minnesota lying westerly of the following described line:

Commencing at the Northeast corner of said Section 21; thence N 89 degrees 26 minutes 11 seconds W 1316.25 feet to the westerly line of said Northeast 1/4 of the Northeast 1/4; thence S 0 degrees, 35 minutes, 26 seconds E on last said line 664.34 feet to the southerly right-of-way line of State Trunk Highway 59-30 as monumented, thence N 62 degrees 01 minute 09 Seconds E on said right-of-way line a distance of 67.28 feet: thence continuing on said right-of-way line and on a curve having a radius of 2764.79 feet, for an arc distance of 440.81 feet to point of beginning of line to be described: thence N 26 degrees 07 minutes 28 seconds W 201.82 feet to the northerly line of said right-of-way and there terminating, containing 2.11 acres more or less, subject to the rights of the public in said Trunk Highway.

STATE OF MINNESOTA

COUNTY OF OTTER TAIL

TOWNSHIP OF DUNN

In the Matter of the Petition of:

Monty E. Jr. Scherer and Mae Loni Scherer

PETITION

For the Establishment of a Cartway

To the Town Board of Dunn Township, Otter Tail County, Minnesota.

1. Petitioner is the owner of the real property located in Dunn Township, Otter Tail County, legally described as follows:

That part of the Northeast 1/4 of Northeast 1/4 Section 21, Township 137, Range 42, Otter Tail County, Minnesota lying northerly of the right-of-way of State Trunk Highway Number 59-30 as monumented, containing 6.63 acres more or less.

AND

That part of the right-of-way of State Trunk Highway No. 59=30 of the Northeast 1/4 of Northeast 1/4 of Section 21, Township 137, Range 42, Otter Tail County, Minnesota lying westerly of the following described line:

Commencing at the Northeast corner of said Section 21; thence N 89 degrees 26 minutes 11 seconds W 1316.25 feet to the westerly line of said Northeast 1/4 of the Northeast 1/4 ; thence S 0 degrees, 35 minutes, 26 seconds E on last said line 664.34 feet to the southerly right-of-way line of State Trunk Highway 59-30 as monumented, thence N 62 degrees 01 minute 09 Seconds E on said right-of-way line a distance of 67.28 feet: thence continuing on said right-of-way line and on a curve having a radius of 2764.79 feet, for an arc distance of 440.81 feet to point of beginning of line to be described: thence N 26 degrees 07 minutes 28 seconds W 201.82 feet to the northerly line of said right-of-way and there terminating, containing 2.11 acres more or less, subject to the rights of the public in said Trunk Highway

PID: 17000210286001

(the Property")

2. The Property contains at least five acres of land and has no established access to it except over a navigable waterway, over the lands of others, or whose only access is less than two rods wide.