

**RESOLUTION NUMBER 16-03**

At the regular meeting of the Board of County Road Commissioners of Leelanau County held on June 7, 2016, the following Resolution Number 16-03 was offered John Popa:

WHEREAS, within Leelanau County there exist highway right-of-ways that are located in platted subdivisions, that were never developed as highways, are not certified to the State of Michigan for road funding purposes, and are not open to the public for travel, and

WHEREAS, the State of Michigan has altered the Plat Act several times since its first codification in 1839 and the requirements as it relates to the dedications and acceptances of highways, and

WHEREAS, many of these platted subdivisions contained highway right-of-ways that were properly dedicated to and accepted by the Leelanau County Road Commission, and

WHEREAS, a dedicated and accepted highway need not be opened to public travel until such a time as the Leelanau County Road Commission exercises its discretion to do so, and

WHEREAS, a platted highway that has been dedicated and accepted remains under the jurisdiction of the Leelanau County Road Commission until it is vacated, abandoned, corrected or revised in accordance with the Land Division Act, MCL 560.101, et seq., or other applicable Plat Act, and

WHEREAS, Upon petition to modify the plat, the Leelanau County Road Commission can vacate or abandon the platted, but undeveloped right-of-way within the plat which would allow the property owners to establish a private road, and

NOW, THEREFORE, BE IT RESOLVED, that the Leelanau County Road Commission, by adoption of this resolution, may issue permits for the construction of driveways at appropriate points of intersection between platted, undeveloped right-of-ways and improved public highways that are open for public travel once the following conditions have been met and are acknowledged by the permittee:

- 1) The Leelanau County Road Commission's issuance of the permit is based on the private rights of the lot owners within the plat to use the platted streets regardless of whether they have been improved and opened to public travel, and issuance is expressly not based on any purported public rights to use the platted streets, and
- 2) The permittee acknowledges that by issuing a permit, the Leelanau County Road Commission is not opening the street to public travel and disclaims any obligation to open the street to public travel, and
- 3) The Leelanau County Road Commission will not improve, maintain or repair the driveway or unimproved right-of-way unless the Road Commission deems it to be in its interest to do so, and
- 4) Should the Leelanau County Road Commission decide to make alterations in the right-of-way, the permittee shall make any alterations to their driveway at no expense to the Road Commission to accommodate the changes, and
- 5) Should the Leelanau County Road Commission be successfully petitioned to make improvements to the right-of-way, any improvements shall not be at its expense unless the Road Commission deems such expenses to be in its best interest, and
- 6) The permittee shall conform to any published driveway standards or special permit requirements, and
- 7) The use of the driveway is not exclusive to the permittee, and is expressly subject to the property rights of all landowners within the plat, and
- 8) In granting the permit, the Road Commission makes no determination whatsoever concerning the legal rights of landowners within the plat, and
- 9) The permittee shall enlist the services of a Professional Surveyor licensed by the State of Michigan who shall identify and mark the location of the undeveloped right-of-way as well as the location of the proposed driveway at the intersection with an improved and open public highway at the permittee's sole expense, and

Commissioners

Jim Calhoun - Chairman
 Robert Joyce – Vice Chairman
 John Popa – Member

Staff

Managing Director – Dan Wagner, P.E.
 Engineer – James C. Johnson, P.E.
 Superintendent – David Priest
 Finance Manager – Joel Nedow

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- 10) The permittee shall place and maintain a sign at the driveway's intersection with an improved and open public highway reading "PRIVATE DRIVE" to indicate that platted right-of-way is not maintained or repaired by the Leelanau County Road Commission, and has not been opened for public travel, and
- 11) It shall be the permittee's sole responsibility to ensure that any driveway improvements are performed entirely within the platted but undeveloped right-of-way and in a manner that does not violate the legal rights of other landowners within the plat, and
- 12) Issuance of the permit does not affect or diminish the Leelanau County Road Commission's authority to designate the right-of-way as a seasonal road and certify it to the State of Michigan as such, and
- 13) The driveway permit is in the nature of a license that can be revoked at any point, for any reason, in the sole discretion of the Leelanau County Road Commission, and

Therefore be it further resolved that a driveway permit will only be issued once these conditions have been acknowledged by the execution of a deed restriction placed on the subject property and recorded in a manner acceptable to the Leelanau County Register of Deeds to ensure that they will run with the land in perpetuity.

Ayes: Chairman Jim Calhoun, Vice-chairman Robert Joyce, Member John Popa. Nays: None.

Resolution is hereby adopted.

I hereby certify that the foregoing is a true copy of a resolution made and adopted at a regular meeting of the Board of County Road Commissioners of Leelanau County on the 7th day of June, 2016.

Joel T. Nedow-Finance Manager/Secretary to the Board