

RESOLUTION NO. 2002- 211

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CLERK OF THE COURTS TO FILE THE SURVEY MAP FOR YELVINGTON ROAD CLAIMING A VESTED INTEREST IN ST. JOHNS COUNTY IN THE RIGHTS-OF-WAY DESCRIBED IN THIS SURVEY BY PRESCRIPTIVE RIGHTS OF THE PUBLIC IN ACCORD WITH THE PRINCIPLES SET FORTH IN DOWNING V. BIRD, 100 SO.2D 57 (FLA. 1958)**

**WHEREAS**, the Board of County Commissioners, have instructed County Staff to obtain documentation in order to justify continued County maintenance of roads that are not dedicated to St. Johns County or are owned by St. Johns County; and

**WHEREAS**, Yelvington Road, as described in **Exhibit A**, attached hereto, and incorporated herein, is a road that County staff has documented as warranting continued County maintenance; and

**WHEREAS**, in Downing v. Bird, 100 So.2d 57 (Fla. 1958), the Florida Supreme Court set forth criteria for the public to establish a prescriptive easement; and

**WHEREAS**, the criteria set forth in Downing v. Bird, supra, is as follows:

- 1) actual, continuous uninterrupted use by the public entity for the full prescriptive period of twenty (20) years;
- 2) that the use be adverse under a claim of right, and either be with the actual knowledge of the owner, or so open, notorious, and visible that knowledge of the use is imputed to the owner;
- 3) that such use be inconsistent with the owner's use and enjoyment of his land and must not be a permissive use; and
- 4) that such use be related to a certain limited and defined area of land, or if for a right-of-way, the use be of a definite route with a reasonably certain line, width, and termini; and

**WHEREAS**, St. Johns County can demonstrate that Yelvington Road meets each of the criteria, set forth in Downing v. Bird, supra; and

**WHEREAS**, the public has been continuously using Yelvington Road without permission of the underlying land owners for in excess of twenty (20) years; and

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**WHEREAS**, County Road and Bridge Supervisor, Johnny Newsome, has stated in a memo (**Exhibit B**, attached hereto, and incorporated herein), that the County has been responsible for maintaining Yelvington Road for the last twenty eight (28) years; and

**WHEREAS**, by filing the survey map with the Clerk of the Courts of St. Johns County, the County acquires a vested interest in the right-of-way as shown in the survey that is included as Exhibit C, attached hereto, and incorporated herein; and

**WHEREAS**, it is in the best interest of St. John's County to acquire ownership of Yelvington Road, and that such acquisition will benefit the citizens of St. Johns County.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA**, as follows:

Section 1. The above recitals are incorporated by reference into the body of this Resolution, and such recitals are adopted as findings of fact.

Section 2. The Chair of the Board of County Commissioners, and the Clerk of the Courts are hereby authorized to file the attached survey map of Yelvington Road in the Public Records of St. Johns County, Florida.

Section 3. The Clerk is instructed to record this Resolution in the Public Records of St. Johns County, Florida.

**PASSED AND ADOPTED**, this 15<sup>th</sup> day of October, 2002.

**BOARD OF COUNTY COMMISSIONERS,  
ST. JOHNS COUNTY, FLORIDA**

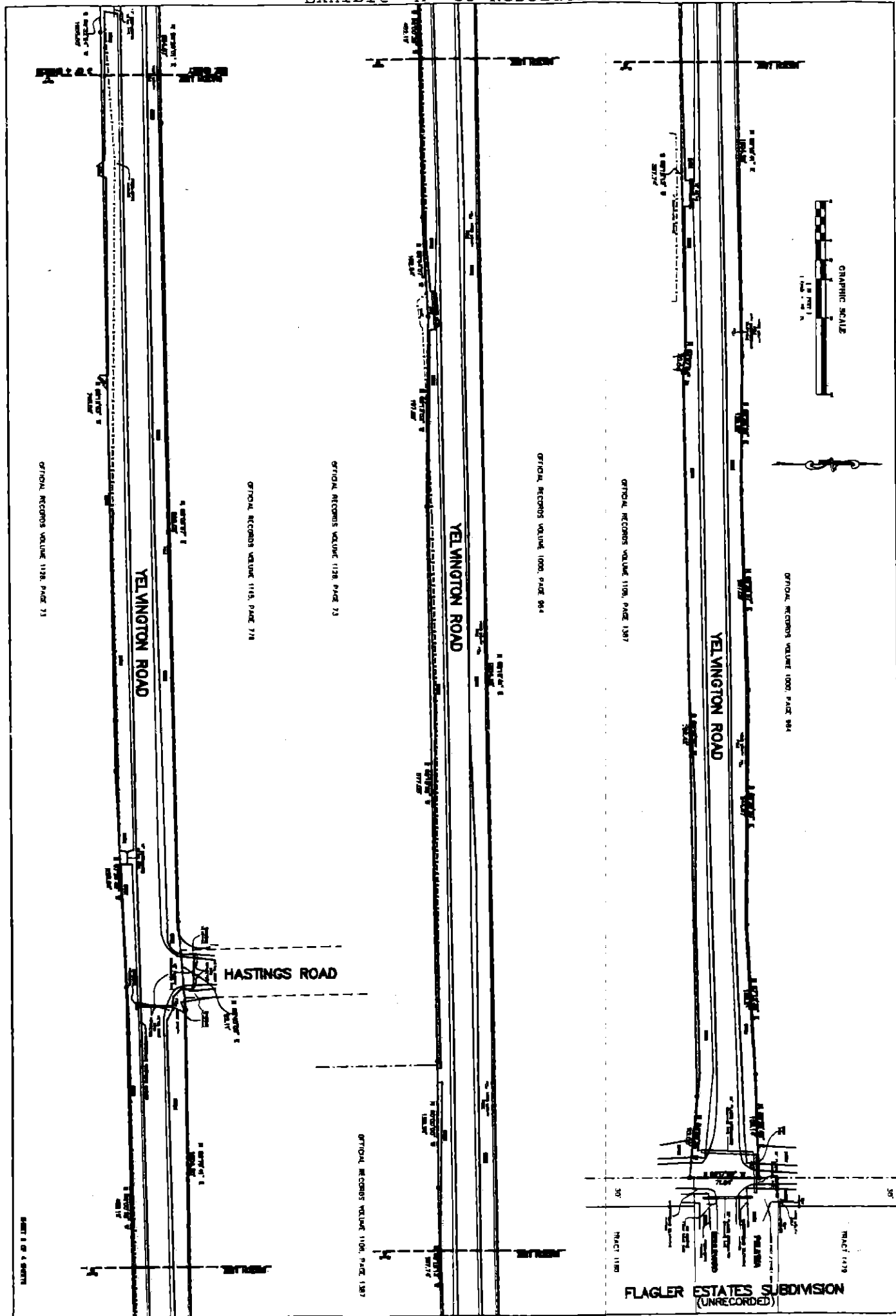
By: James E. Bryant  
**James E. Bryant, Chairman**

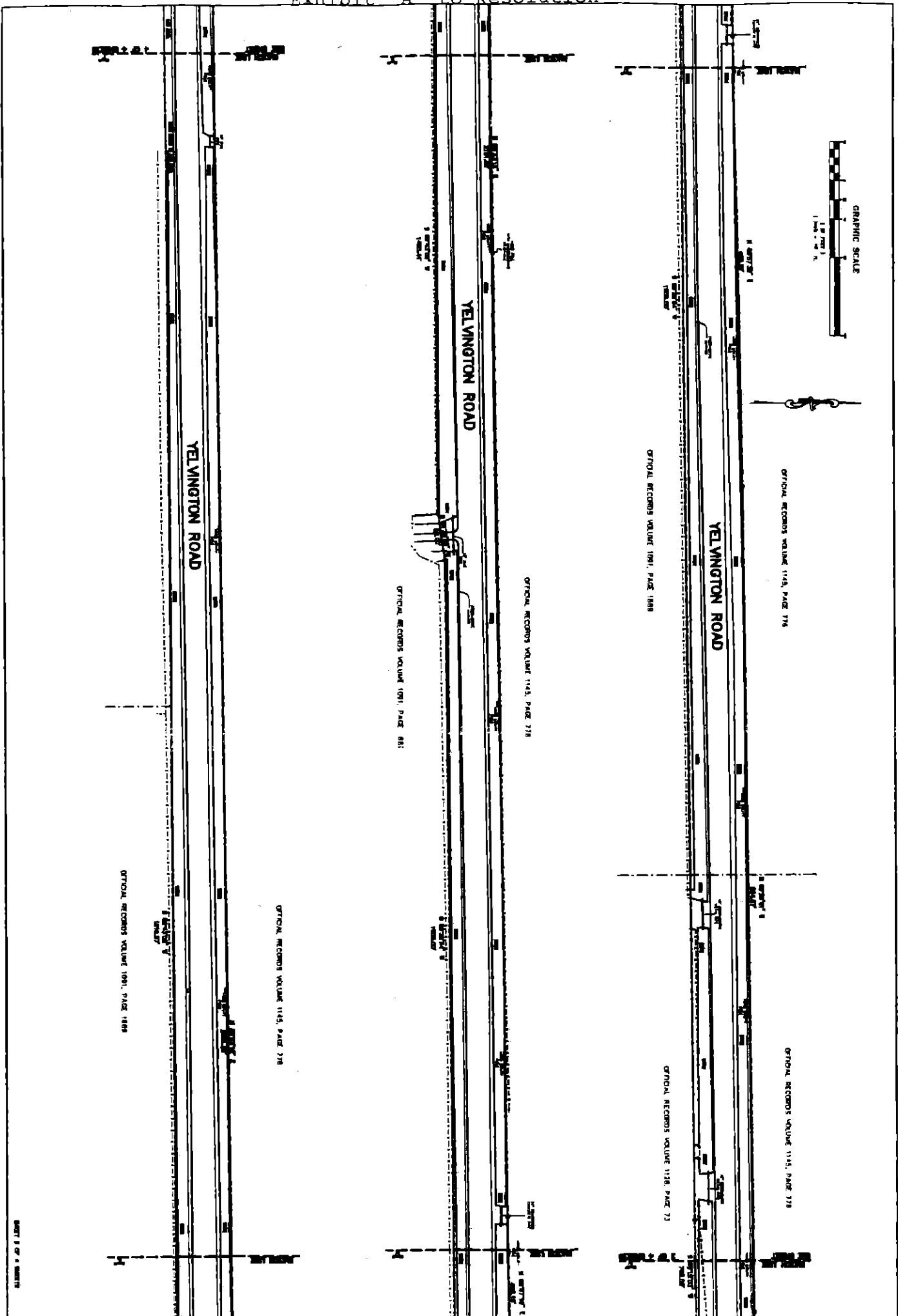
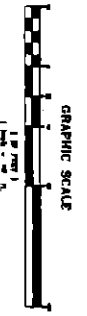
**ATTEST:** Cheryl Strickland, Clerk

Patricia A. Grande  
Deputy Clerk

RENDITION DATE 10-16-02







OFFICIAL RECORDS VOLUME 1143, PAGE 316

OFFICIAL RECORDS VOLUME 1091, PAGE 1888

YELINGTON ROAD

OFFICIAL RECORDS VOLUME 1143, PAGE 378

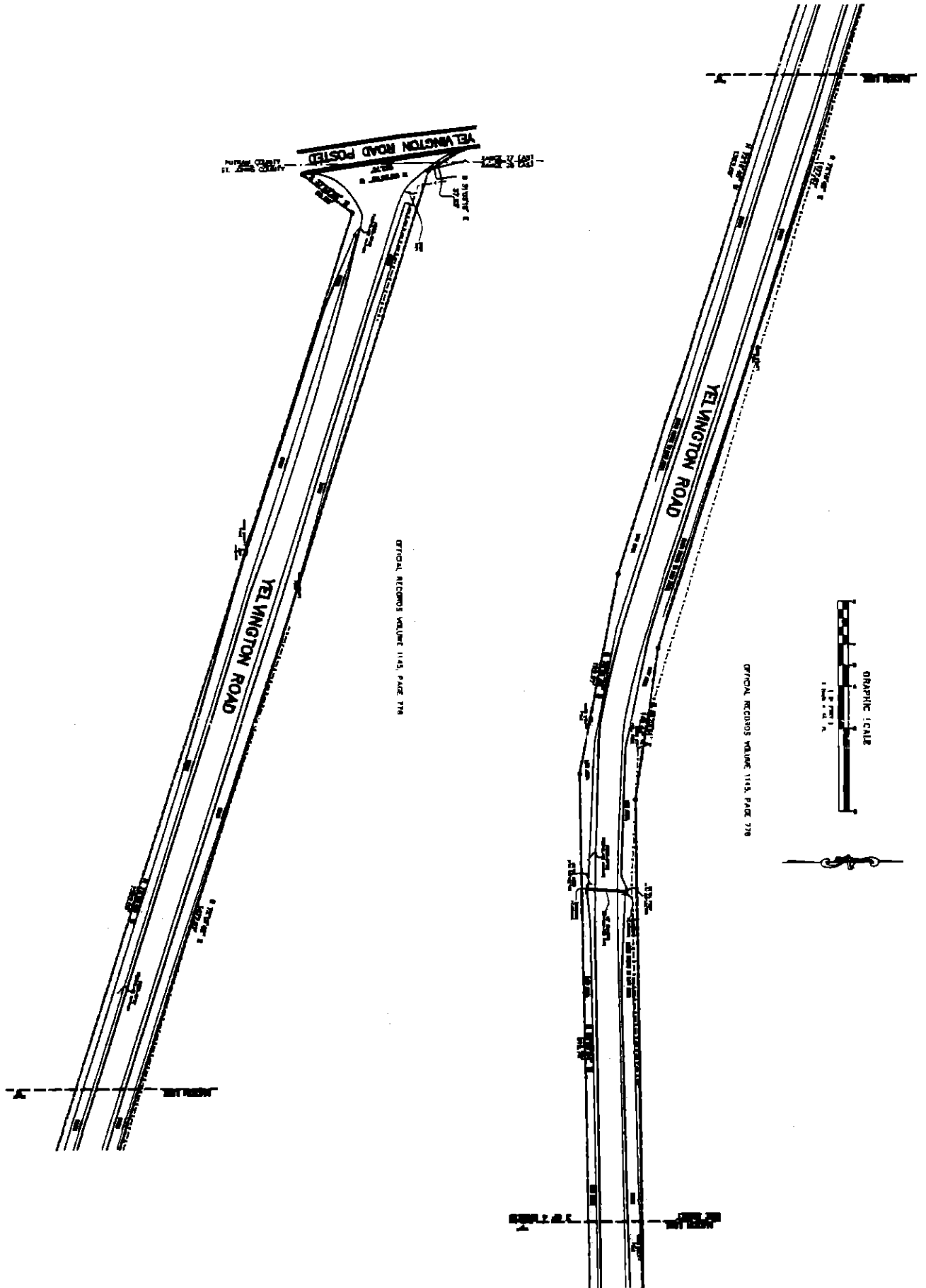
YELINGTON ROAD

OFFICIAL RECORDS VOLUME 1091, PAGE 861

OFFICIAL RECORDS VOLUME 1143, PAGE 378

YELINGTON ROAD

OFFICIAL RECORDS VOLUME 1091, PAGE 1888

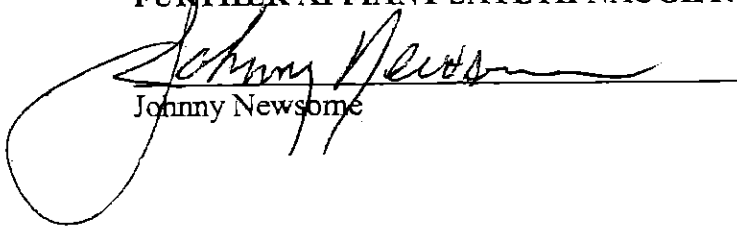


AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

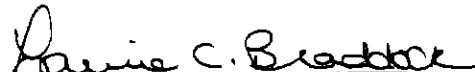
On this day before me, the undersigned authority, personally appeared Johnny Newsome, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining Yelvington Road for the last 28 years and the public has continuously used the road during this time. This maintenance includes digging ditches, road grading and stabilization.

FURTHER AFFIANT SAYETH NAUGHT.

  
Johnny Newsome

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

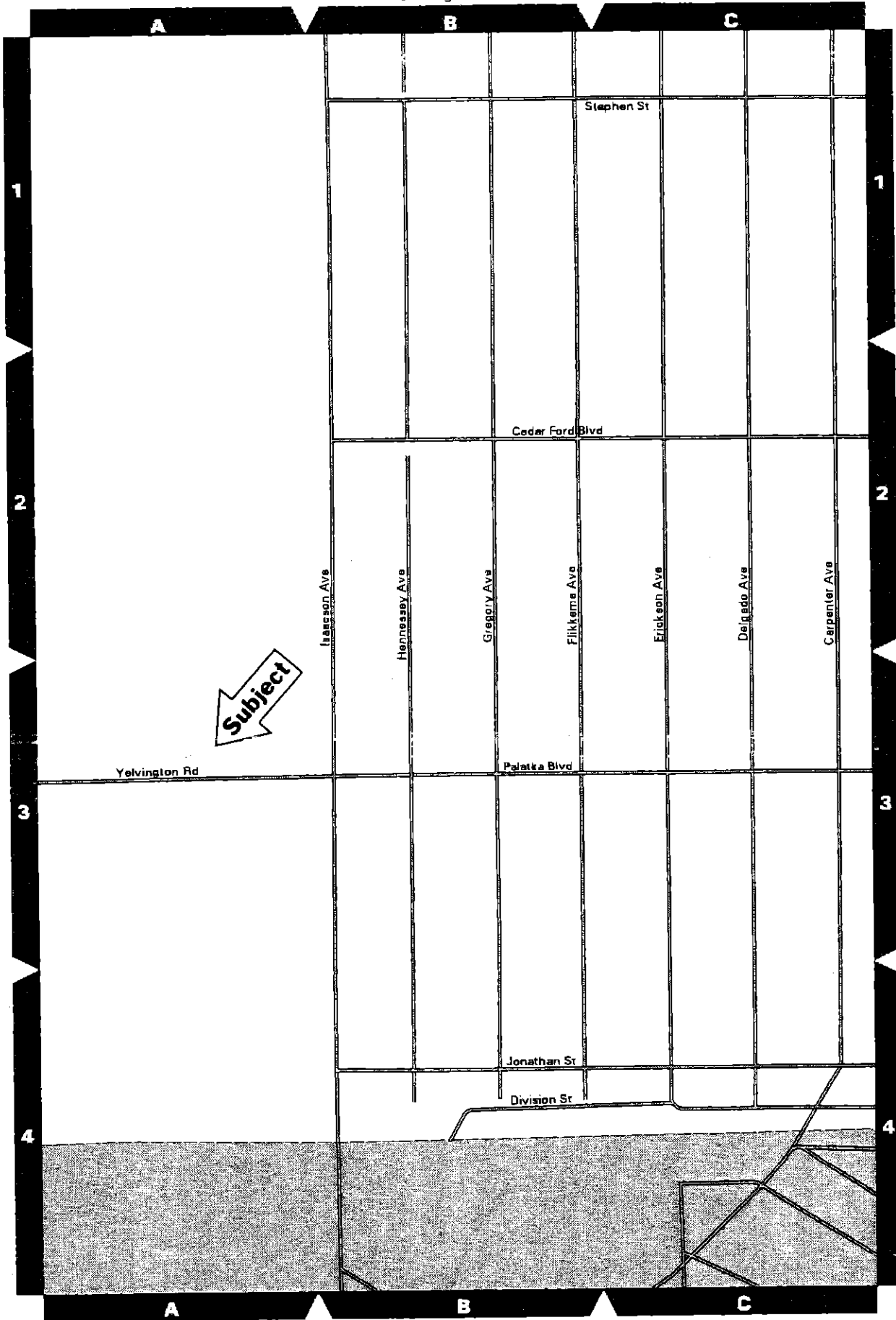
The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of August, 2002 by Johnny Newsome, Road and Bridge Supervisor, who is personally known to me.

  
Notary Public



Laurie C. Braddock  
Commission # CC 928860  
Expires April 17, 2004  
Bonded Thru  
Atlantic Bonding Co., Inc.

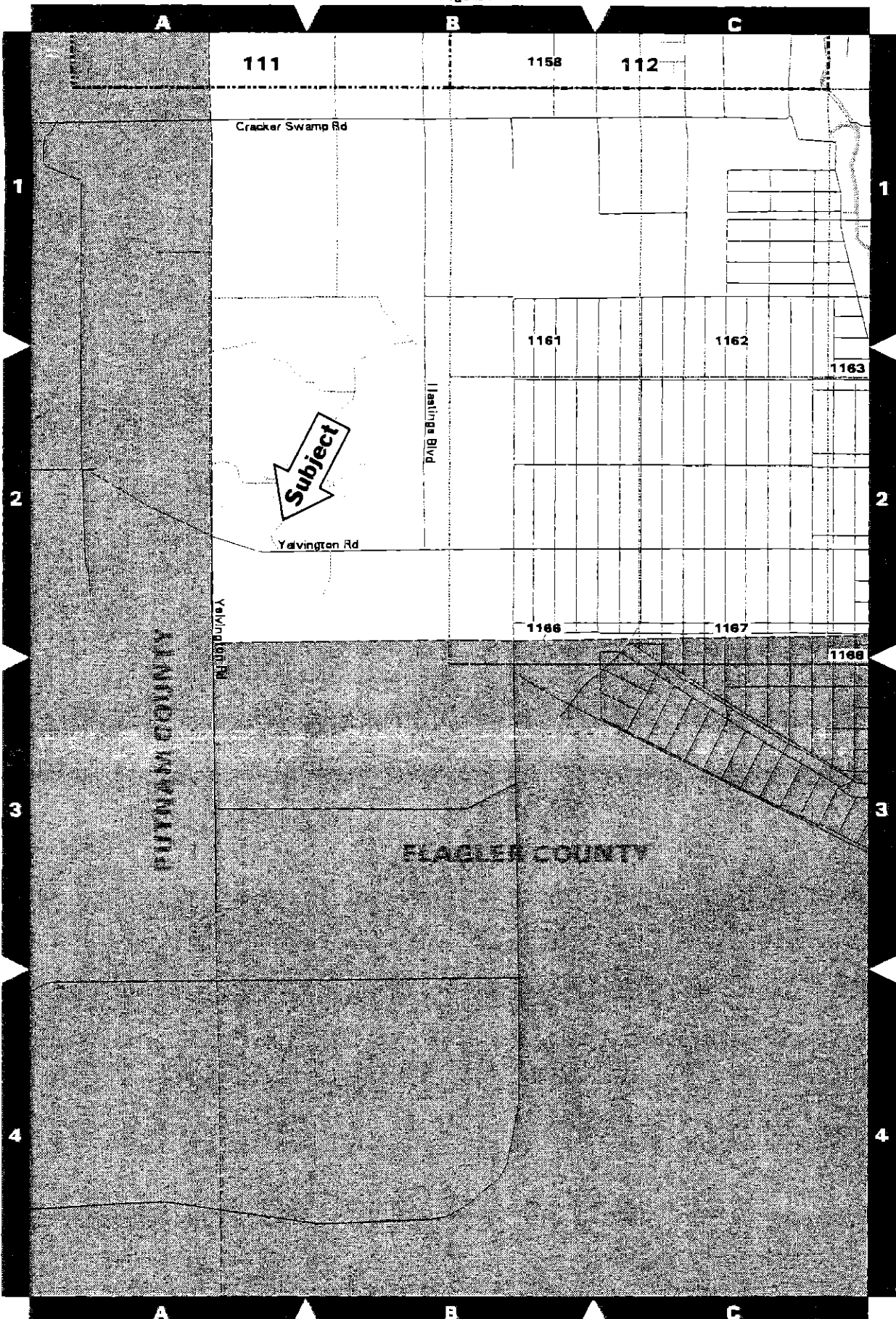
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