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2535

Public Records of  
St. Johns County, FL  
Clerk# 03-050621  
O.R. 2000 PG 764  
04:04PM 07/18/2003  
REC \$21.00 SUR \$3.00

**RESOLUTION NO. 2003- 130**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CLERK OF THE COURTS, UNDER SECTION 95.361, FLORIDA STATUTES, TO FILE THE SURVEY MAP FOR A PART OF WALKER ROAD AND A PART OF EAST STREET, 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 of St. Johns County, Florida have instructed County Staff to obtain documentation in order to justify continued County maintenance of roads that are neither dedicated to St. Johns County, nor are owned by St. Johns County; and

**WHEREAS**, a part of Walker Road and a part of East Street, 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, in order to establish a prescriptive easement; and

**WHEREAS**, the criteria set forth in Downing v. Bird, supra, are 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 a part of Walker Road and a part of East Street meets each of the criteria, set forth in Downing v. Bird, supra; and

*Di. Kel. P. Dejean*

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

**WHEREAS**, County Road and Bridge Supervisor, Frankie Hitchcock, has stated in an affidavit (**Exhibit B and Exhibit C**), attached hereto, and incorporated herein), that the County has been responsible for maintaining a part of Walker Road and a part of East Street for the last twenty (20) years; and

**WHEREAS**, by filing the survey map with the Clerk of the Courts of St. Johns County, pursuant to Section 95.361, Florida Statutes, the County acquires a vested interest in the rights-of-way, as shown in the survey that is included as **Exhibit D**, attached hereto, and incorporated herein; and

**WHEREAS**, it is in the best interest of St. Johns County to acquire ownership of a part of Walker Road and a part of East Street, 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 Chairman of the Board of County Commissioners, and the Clerk of the Courts are hereby authorized to file the attached survey map of a part of Walker Road and a part of East Street in the Public Records of St. Johns County, Florida.
- Section 3. The Clerk of the Courts 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 July, 2003.

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

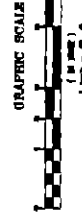
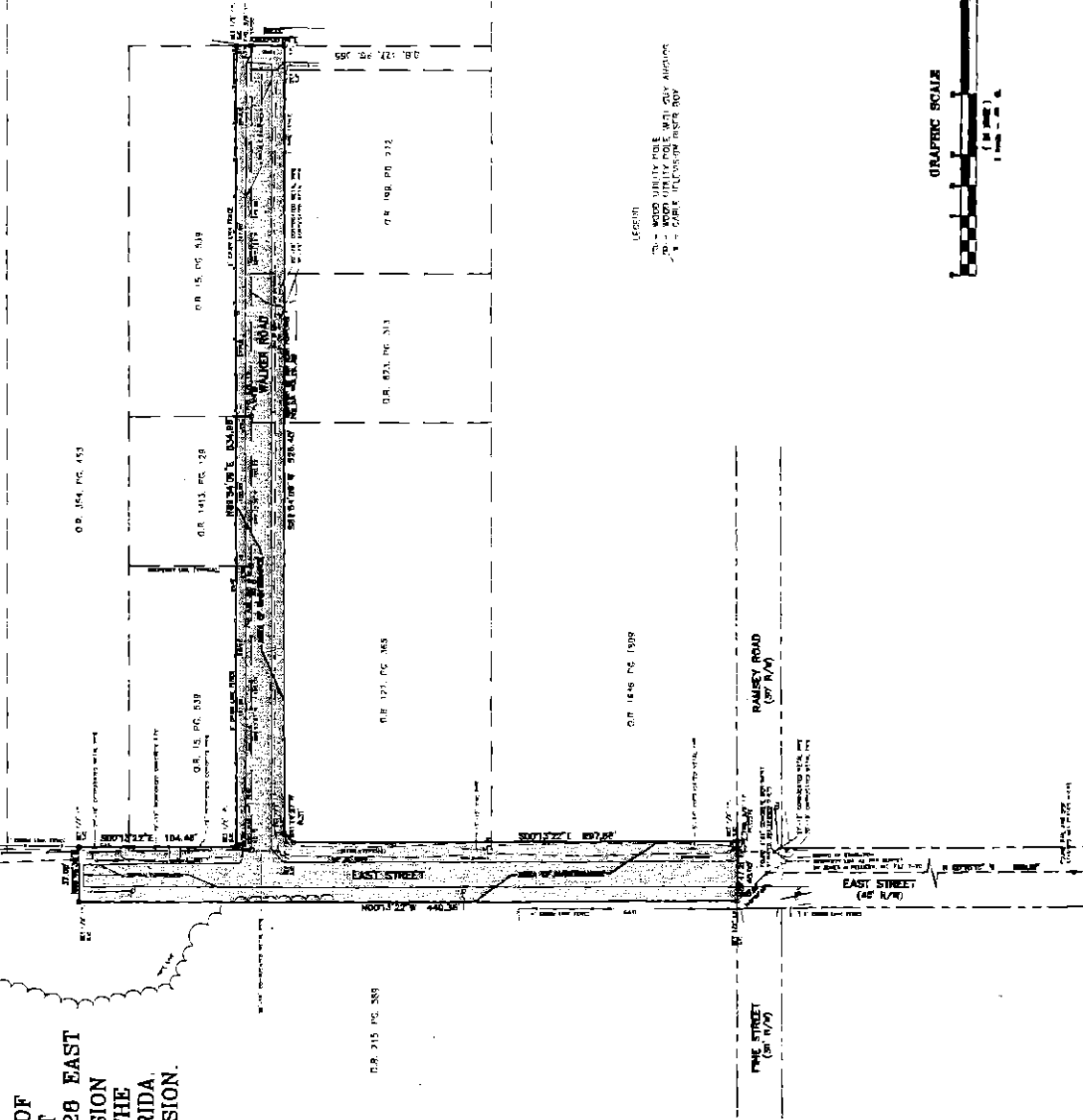
By: James E. Bryant  
**James E. Bryant, Chairman**

**ATTEST: Cheryl Strickland, Clerk**

Patricia McGrade  
Deputy Clerk

**RENDITION DATE** 7-16-03

OR2000PG 766



MAP SHOWING A SPECIFIC PURPOSE SURVEY OF WALKER ROAD AND A PART OF EAST STREET LYING IN SECTION 8, TOWNSHIP 9 SOUTH, RANGE 28 EAST AND BEING A PART OF G.W. WALLER'S SUBDIVISION AS RECORDED IN MAP BOOK 3, PAGE 18 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA. FOR: THE ST. JOHNS COUNTY REAL ESTATE DIVISION.

D.R. 219 PG 389

IT IS HEREBY CERTIFIED THAT: THE RIGHT OF WAY SHOWN HEREON IS VESTED IN ST. JOHNS COUNTY, FLORIDA, BY DEED OF DONATION TO THE PUBLIC RECORDS OF THE STATE OF FLORIDA, BY PRESCRIPTIVE ACQUISITION, IN RECORD BOOK 3, PAGE 18, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, DATED OCT. 15, 1958.

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

CLERK

DRAWN BY

	<b>ST. JOHNS COUNTY PUBLIC WORKS DEPARTMENT SURVEYING AND MAPPING/GIS DIVISION 4020 LAWS SPEEDWAY - P.O. DRAWER 348 ST AUGUSTINE, FLORIDA 32084 Phone (904) 885 - 2480</b>	<b>WALKER ROAD AND EAST STREET SPECIFIC PURPOSE SURVEY</b>
DRAWN BY: A.K.B. SCALE: 1"=40' CARD MADE: WALKER PROJECT NO.: 02-10 FIELD BOOK: PG. 17-48 TDS FILE NAME: WALKER PG.	DATE: 11-18-09 BY: A.K.B. CHECKED BY: A.K.B. APPROVED BY: A.K.B. DATE: 11-18-09	THIS PLAN IS A PART OF THE PUBLIC RECORDS OF THE STATE OF FLORIDA, BY DEED OF DONATION TO THE PUBLIC RECORDS OF THE STATE OF FLORIDA, BY PRESCRIPTIVE ACQUISITION, IN RECORD BOOK 3, PAGE 18, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, DATED OCT. 15, 1958.

AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

On this day before me, the undersigned authority, personally appeared Frankie Hitchcock, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining East Street 440 feet North of Ramsey Road for the last 20 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.

Frankie Hitchcock  
Frankie Hitchcock

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of June, 2003 by Frankie Hitchcock, Road and Bridge Supervisor, who is personally known to me.

Laurie C. Braddock  
Notary Public



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

**AFFIDAVIT****STATE OF FLORIDA  
COUNTY OF ST. JOHNS**

On this day before me, the undersigned authority, personally appeared Frankie Hitchcock, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining Walker Road from East Street 526.40 feet for the last 20 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.**

Frankie Hitchcock  
Frankie Hitchcock

**STATE OF FLORIDA  
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of June, 2003 by Frankie Hitchcock, Road and Bridge Supervisor, who is personally known to me.

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