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Public Records of
St. Johns County, FL
Clerk# 03-061789
O.R. 2030 PG 1512
11:07AM 08/26/2003
REC \$17.00 SUR \$2.50

RESOLUTION NO. 2003- 152

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 A PART OF CLAY STREET, FROM KING STREET EXTENSION AND BRUEN 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, 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, a part of Clay Street, from King Street Extension to Bruen 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 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 a part of Clay Street, from King Street Extension to Bruen Street, meets each of the criteria, set forth in Downing v. Bird, supra; and

WHEREAS, the public has been continuously using a part of Clay Street, from King Street Extension to Bruen Street, without permission of the underlying land owners for in excess of twenty (20) years; and

Washed ...

WHEREAS, County Road and Bridge Supervisor, Frankie Hitchcock, has stated in a memo (**Exhibit B**, attached hereto, and incorporated herein), that the County has been responsible for maintaining a part of Clay Street, from King Street Extension to Bruen Street, for the last twenty 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; and

WHEREAS, it is in the best interest of St. John's County to acquire ownership of a part of Clay Street, from King Street Extension to Bruen 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 Chair of the Board of County Commissioners, and the Clerk of the Courts are hereby authorized to file the survey map of a part of Clay Street, from King Street Extension to Bruen Street 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 19th day of August, 2003.

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

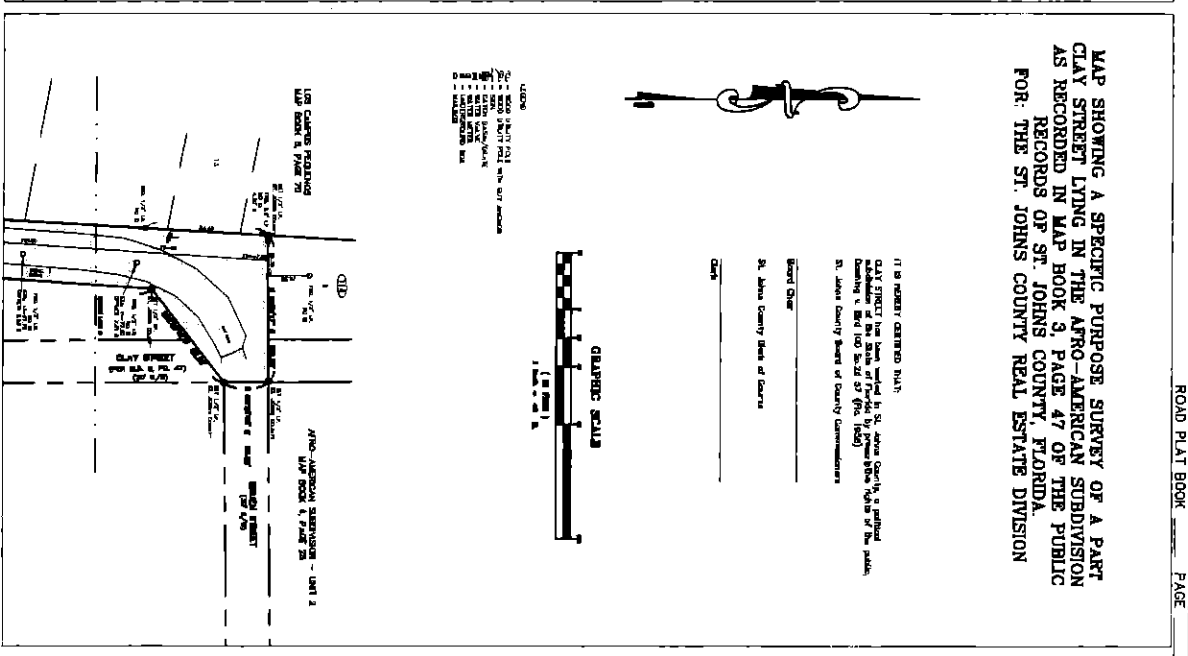
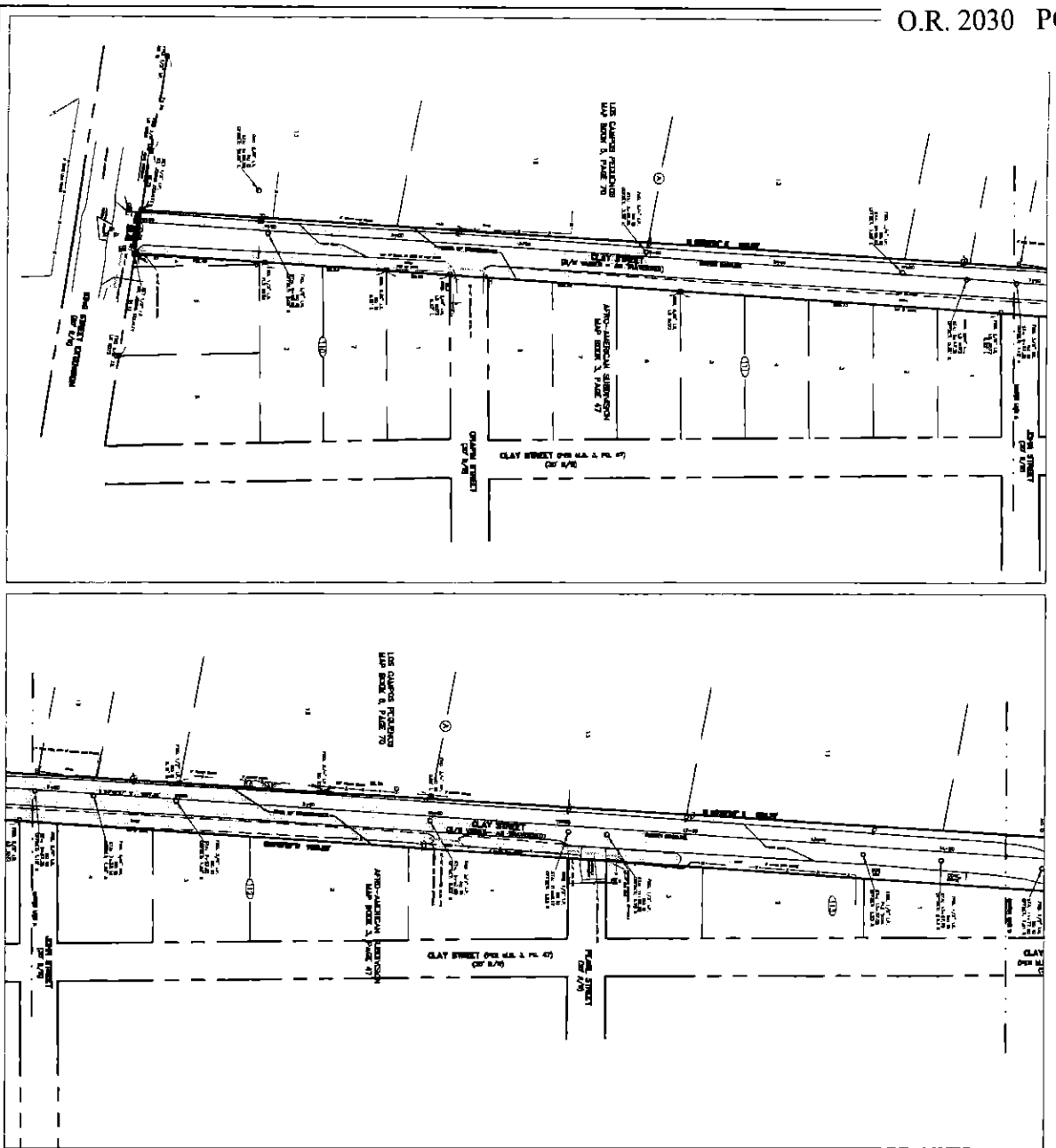
By: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

Patricia DeGrande
Deputy Clerk



RENDITION DATE 8-19-03



MAP SHOWING A SPECIFIC PURPOSE SURVEY OF A PART
 CLAY STREET LYING IN THE AFRO-AMERICAN SUBDIVISION
 AS RECORDED IN MAP BOOK 3, PAGE 47 OF THE PUBLIC
 RECORDS OF ST. JOHNS COUNTY, FLORIDA.
 FOR THE ST. JOHNS COUNTY REAL ESTATE DIVISION

(IT IS HEREBY CERTIFIED THAT
 CLAY STREET has been located by St. Johns County's official
 geographer at the date of this report by means of a
 bearing of 160° 52' 51" (P.M. 1983)
 St. Johns County Board of County Commissioners

Survey Date: _____
 St. Johns County Board of County Commissioners



<p>SECTION 16 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 17 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 18 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 19 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>
<p>SECTION 20 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 21 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 22 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 23 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>
<p>SECTION 24 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 25 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 26 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>	<p>SECTION 27 THIS MAP IS A PART OF A SURVEY OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IS SUBJECT TO THE PROVISIONS OF CHAPTER 170, F.S., AND CHAPTER 171, F.S., AND TO THE PROVISIONS OF THE REAL ESTATE DIVISION OF ST. JOHNS COUNTY, FLORIDA.</p>

ST. JOHNS COUNTY PUBLIC WORKS DEPARTMENT
 SURVEYING AND MAPPING/GIS DIVISION
 4050 LYNCH AVE. - P.O. BOX 1440
 ST. AUGUSTINE, FLORIDA 32084
 Phone (904) 328-5440



CLAY STREET
 SPECIFIC PURPOSE SURVEY
 112 MARSH 1-24

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 Clay Street from King Street Extension to Bruen Street 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

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

The foregoing instrument was acknowledged before me this 4th day of August, 2003 by Frankie Hitchcock, Road and Bridge Supervisor, who is personally known to me.



Notary Public



Debbie Taylor
Commission # CC 913963
Expires April 14, 2004
Bonded Thru
Atlantic Bonding Co., Inc.