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Public Records of
St. Johns County, FL
Clerk # 2006002717,
O.R. 2622 PG 1344-1349
01/12/2006 at 02:43 PM,
REC. \$25.00 SUR. \$27.50

RESOLUTION NO. 2005- 400

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 PABLO DRIVE, CLAIMING A VESTED INTEREST IN THE ROAD DESCRIBED IN THE SURVEY MAP, AND/OR ESTABLISHING A PRESCRIPTIVE EASEMENT IN THE SAME RIGHTS-OF-WAY, IN ACCORDANCE 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 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, Pablo Drive, as described in attached and incorporated Exhibit A, which is the Survey Map, and which is a road that County staff has documented as warranting continued County maintenance; and

WHEREAS, Section 95.361, Florida Statutes details the procedure for a local government to claim a vested interest in a road not constructed by the local government; and

WHEREAS, the procedure set forth in Section 95.361, Florida Statutes, is as follows:

- 1) the road has been constructed by a non-governmental entity, or not constructed by the entity currently maintaining or repairing the road;
- 2) the road has been maintained and/or repaired for the immediate past twenty five (25) years by the County; and

WHEREAS, under the criteria set forth in Section 95.361, Florida Statutes, such road shall be deemed dedicated to the County, to the extent of the width of the road being varying in width and being part of Lot B, Block 50 Ponte Vedra Subdivision, as recorded in Map Book 5 Pages 24, and 25 as shown in the survey that actually has been maintained or repaired for the prescribed period, whether or not such road has been formally established as a public highway; and

WHEREAS, the filing of the Survey Map with the Clerk of the Courts of St. Johns County, pursuant to Section 95.361, Florida Statutes, by St. Johns County serves as

Mark P. DeGrande
BCC Jcty

prima facie evidence of ownership of , as shown in the survey that is included as **Exhibit A**, attached hereto, and incorporated herein; and

WHEREAS, in Downing v. Bird, 100 So.2d 57 (Fla. 1958), the Florida Supreme Court set forth separate criteria in which a public entity (such as the County), may establish, claim, and maintain a prescriptive easement on certain property; 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 **Pablo Drive**, meets each of the criteria, set forth in Downing v. Bird, supra; and

WHEREAS, the public entity has been continuously using **Pablo Drive** without permission of the underlying land owners for in excess of twenty five (25) years; and

WHEREAS, County Road and Bridge Supervisor, Billy Tedder, has stated in an affidavit (attached and incorporated as **Exhibit B**) that the County has been responsible for maintaining **Pablo Drive**, for the last twenty (25) years; and

WHEREAS, St. Johns County can demonstrate that St. Johns County's actions meet the criteria set forth in both/either Section 95.361, Florida Statutes, and/or Downing v. Bird, 100 So.2d 57 (Fla. 1958), with respect to establishing either statutory dedication, or a prescriptive easement over the above-noted, and described **Pablo Drive**; and

WHEREAS, it is in the best interest of St. Johns County to establish its existing ownership of **Pablo Drive**, under either statutory dedication or prescriptive easement, 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 Clerk of the Courts are hereby authorized to file the attached **Survey Map of Pablo Drive**, 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 27 day of ~~December~~, 2005.

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

By: James E. Bryant
James E. Bryant, Chair

ATTEST: Cheryl Strickland, Clerk

Patricia DeGrande
Deputy Clerk

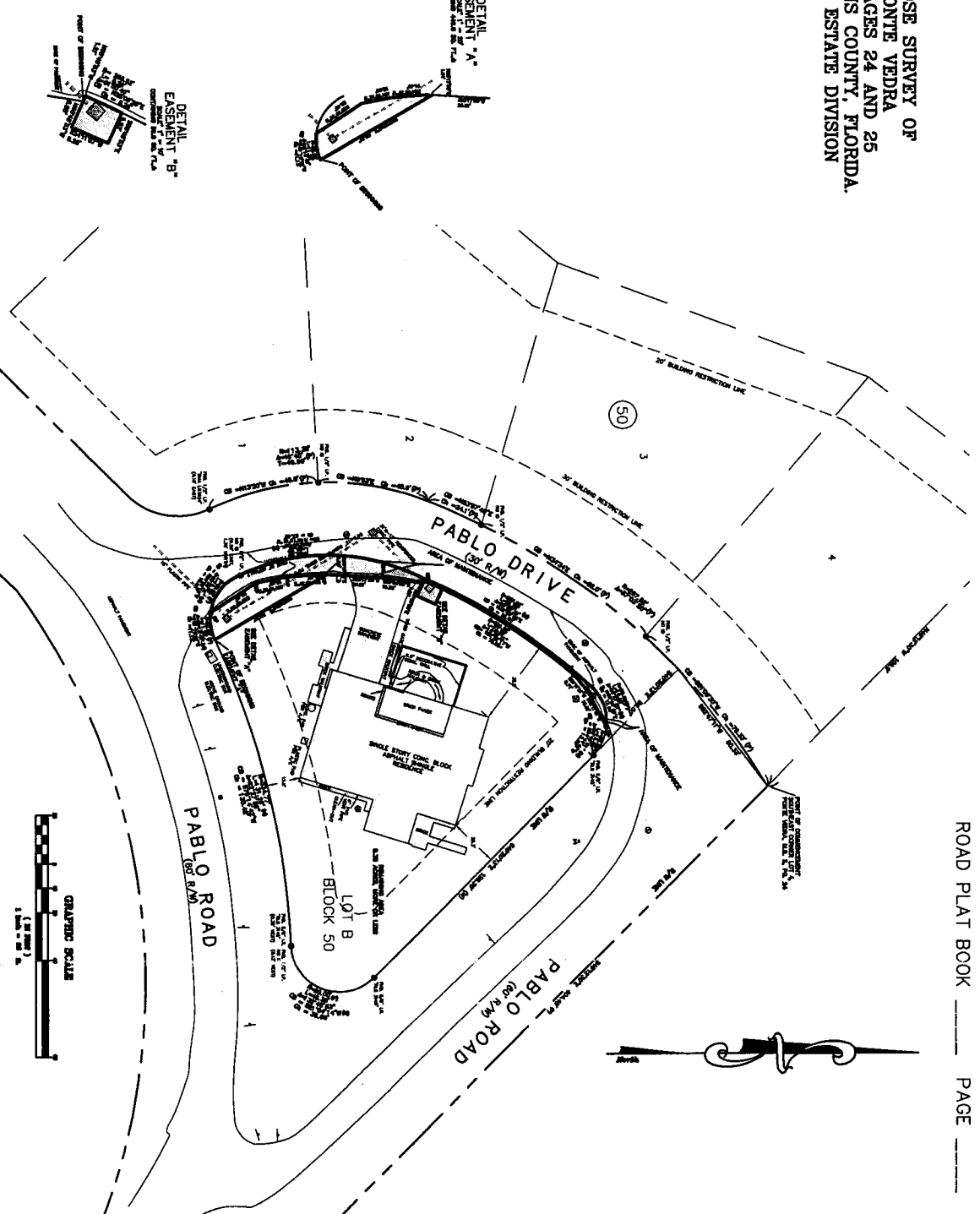
MAP SHOWING A SPECIFIC PURPOSE SURVEY OF LOT B, BLOCK 50 LYING IN PONTE VEDRA AS RECORDED IN MAP BOOK 5, PAGES 24 AND 25 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA. FOR THE ST. JOHNS COUNTY REAL ESTATE DIVISION

EXHIBIT A

THE SURVEY OF THIS LOT B, BLOCK 50, IS SUBJECT TO A PLANNED DEVELOPMENT AND SHALL BE AT THE DISCRETION OF THE LAND MANAGEMENT SYSTEMS DIVISION OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION. THIS SURVEY IS SUBJECT TO THE PLANNED DEVELOPMENT AND SHALL BE AT THE DISCRETION OF THE LAND MANAGEMENT SYSTEMS DIVISION OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION. THIS SURVEY IS SUBJECT TO THE PLANNED DEVELOPMENT AND SHALL BE AT THE DISCRETION OF THE LAND MANAGEMENT SYSTEMS DIVISION OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION.

THE SURVEY OF THIS LOT B, BLOCK 50, IS SUBJECT TO A PLANNED DEVELOPMENT AND SHALL BE AT THE DISCRETION OF THE LAND MANAGEMENT SYSTEMS DIVISION OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION. THIS SURVEY IS SUBJECT TO THE PLANNED DEVELOPMENT AND SHALL BE AT THE DISCRETION OF THE LAND MANAGEMENT SYSTEMS DIVISION OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION. THIS SURVEY IS SUBJECT TO THE PLANNED DEVELOPMENT AND SHALL BE AT THE DISCRETION OF THE LAND MANAGEMENT SYSTEMS DIVISION OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION.

ST. JOHNS COUNTY, FLORIDA
ST. JOHNS COUNTY CLERK OF THE COURT
ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS



ADJUSTMENTS AND LEGEND

ST. JOHNS COUNTY REAL ESTATE DIVISION	1/8" = 40'
ST. JOHNS COUNTY REAL ESTATE DIVISION	1/4" = 80'
ST. JOHNS COUNTY REAL ESTATE DIVISION	1/2" = 160'
ST. JOHNS COUNTY REAL ESTATE DIVISION	3/4" = 240'
ST. JOHNS COUNTY REAL ESTATE DIVISION	1" = 320'
ST. JOHNS COUNTY REAL ESTATE DIVISION	1 1/4" = 400'
ST. JOHNS COUNTY REAL ESTATE DIVISION	1 1/2" = 480'
ST. JOHNS COUNTY REAL ESTATE DIVISION	1 3/4" = 560'
ST. JOHNS COUNTY REAL ESTATE DIVISION	2" = 640'
ST. JOHNS COUNTY REAL ESTATE DIVISION	2 1/4" = 720'
ST. JOHNS COUNTY REAL ESTATE DIVISION	2 1/2" = 760'
ST. JOHNS COUNTY REAL ESTATE DIVISION	2 3/4" = 800'
ST. JOHNS COUNTY REAL ESTATE DIVISION	3" = 840'
ST. JOHNS COUNTY REAL ESTATE DIVISION	3 1/4" = 880'
ST. JOHNS COUNTY REAL ESTATE DIVISION	3 1/2" = 920'
ST. JOHNS COUNTY REAL ESTATE DIVISION	3 3/4" = 960'
ST. JOHNS COUNTY REAL ESTATE DIVISION	4" = 1000'

SCALE
FIELD BOOK: 46
P.L. 01-43
FIELD SURVEY DATE: AUGUST 13, 2003
ST. JOHNS COUNTY REAL ESTATE DIVISION

ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS
SURVEYING AND MAPPING DIVISION
4800 LEVIE SPREWAY - P.O. DRAWER 348
ST. AUGUSTINE, FLORIDA 32084
Phone: (904) 280-4784

1" = 40' (GRAPHIC SCALE)
1" = 80'
1" = 160'
1" = 320'
1" = 640'

PONTE VEDRA
LOT B, BLOCK 50
SPECIFIC PURPOSE SURVEY
PL NUMBER: S-448

EXHIBIT "B" TO RESOLUTION

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF ST. JOHNS

On this day before me, the undersigned authority, personally appeared BILLY TEDDER, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that St. Johns County has been maintaining Pablo Drive being part of Ponte Vedra Subdivision recorded in Map Book 5, pages 24 and 25, of the public records of St. Johns County, Florida, for the last 25 years and the public has continuously used the road during this time.

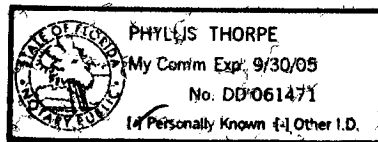
FURTHER AFFIANT SAYETH NAUGHT.

Billy Tedder

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 26 day of JULY, 2005, by BILLY TEDDER, Road and Bridge Supervisor, who is personally known to me.

Phyllis Thorpe
Notary



PABLO DRIVE



Disclaimer: This map is provided by the St. Johns County Real Estate Division and is for estimate purposes only. The Real Estate Division disclaims all responsibility for the accuracy or completeness of data shown herein. Data are from multiple sources with varying degrees of accuracy. This map should not be used for final site-specific land use decisions.



PREPARED BY:
ST. JOHNS COUNTY
REAL ESTATE DIVISION