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RESOLUTION NO. 2007- 94

**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 WOODLAWN ROAD, 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**, **Woodlawn Road**, 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 (20) 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 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 prima facie evidence of ownership of **Woodlawn Road**, 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 **Woodlawn Road**, meets each of the criteria, set forth in Downing v. Bird, supra; and

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

**WHEREAS**, it is in the best interest of St. Johns County to establish its existing ownership of **Woodlawn Road**, 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 Woodlawn 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 3<sup>rd</sup> day of April, 2007.**

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

By:   
**Ben Rich, Chair**

**ATTEST:** Cheryl Strickland, Clerk

  
Deputy Clerk

**RENDITION DATE 4/5/07**

MAP SHOWING A SPECIFIC PURPOSE SURVEY OF A PART OF  
 WOODLAWN ROAD LYING IN SECTION 2, TOWNSHIP 7 SOUTH,  
 RANGE 29 EAST OF ST. JOHNS COUNTY, FLORIDA.  
 FOR: THE ST. JOHNS COUNTY REAL ESTATE DIVISION

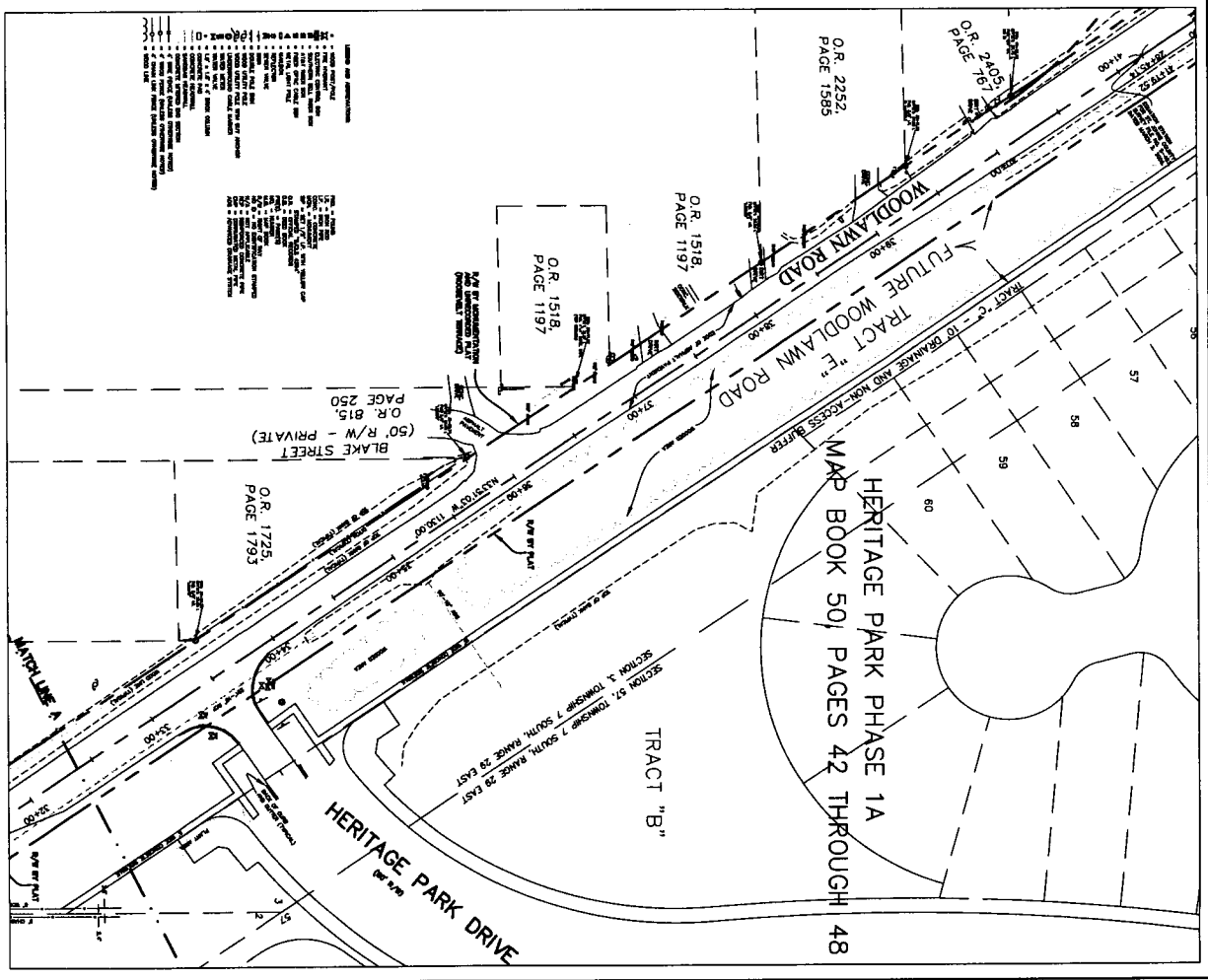
IT IS HEREBY CERTIFIED THAT:  
 THE RIGHT OF WAY SHOWN HEREON IS VESTED IN ST. JOHNS  
 COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA,  
 RIGHT OF THE PUBLIC,  
 DOMINION V. BIRD, SR., 2d DZ  
 (FLA. DIST. CT. APP. 3RD DIST. 1998)  
 ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

CHAIR \_\_\_\_\_  
 ST. JOHNS COUNTY CLERK OF THE COURT  
 CLERK \_\_\_\_\_



THIS MAP SHOWS THE LINES, INSTALLATIONS OF ADJACENTS HAVE BEEN LOCATED, EXCEPT AS SHOWN,  
 2. NO ADJACENTS OF RECORD OR RECORDS OF ANY KIND OR RECORDS HAVE BEEN RECORDED FOR  
 3. THE SURVEYOR HAS BEEN ADVISED BY THE COUNTY ENGINEER THAT THE RECORDS OF THE  
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DRAWN BY: A.L.K.  
 SCALE: 1" = 40'  
 FIELD BOOK: 644 P. 44-44-27-28



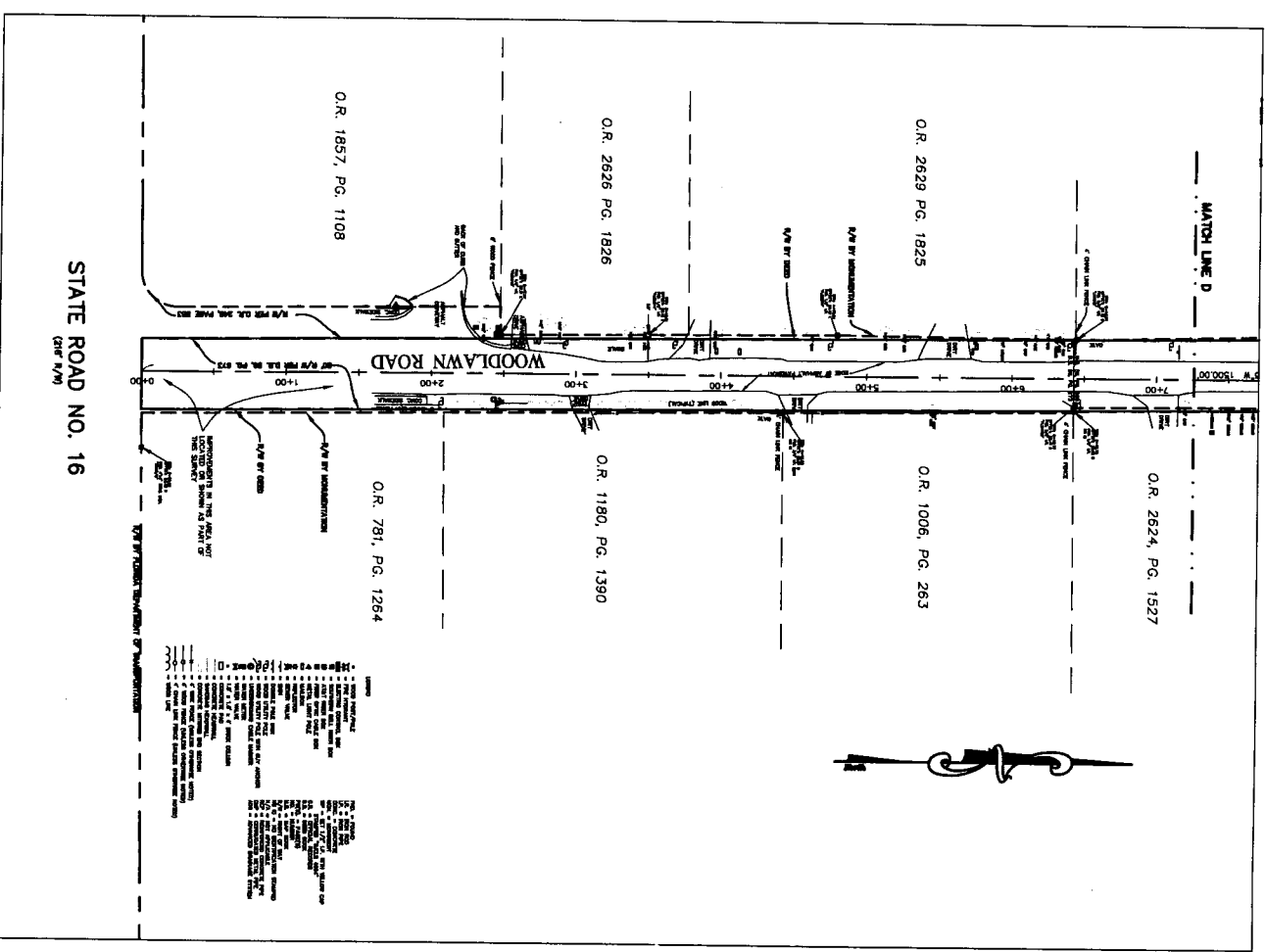
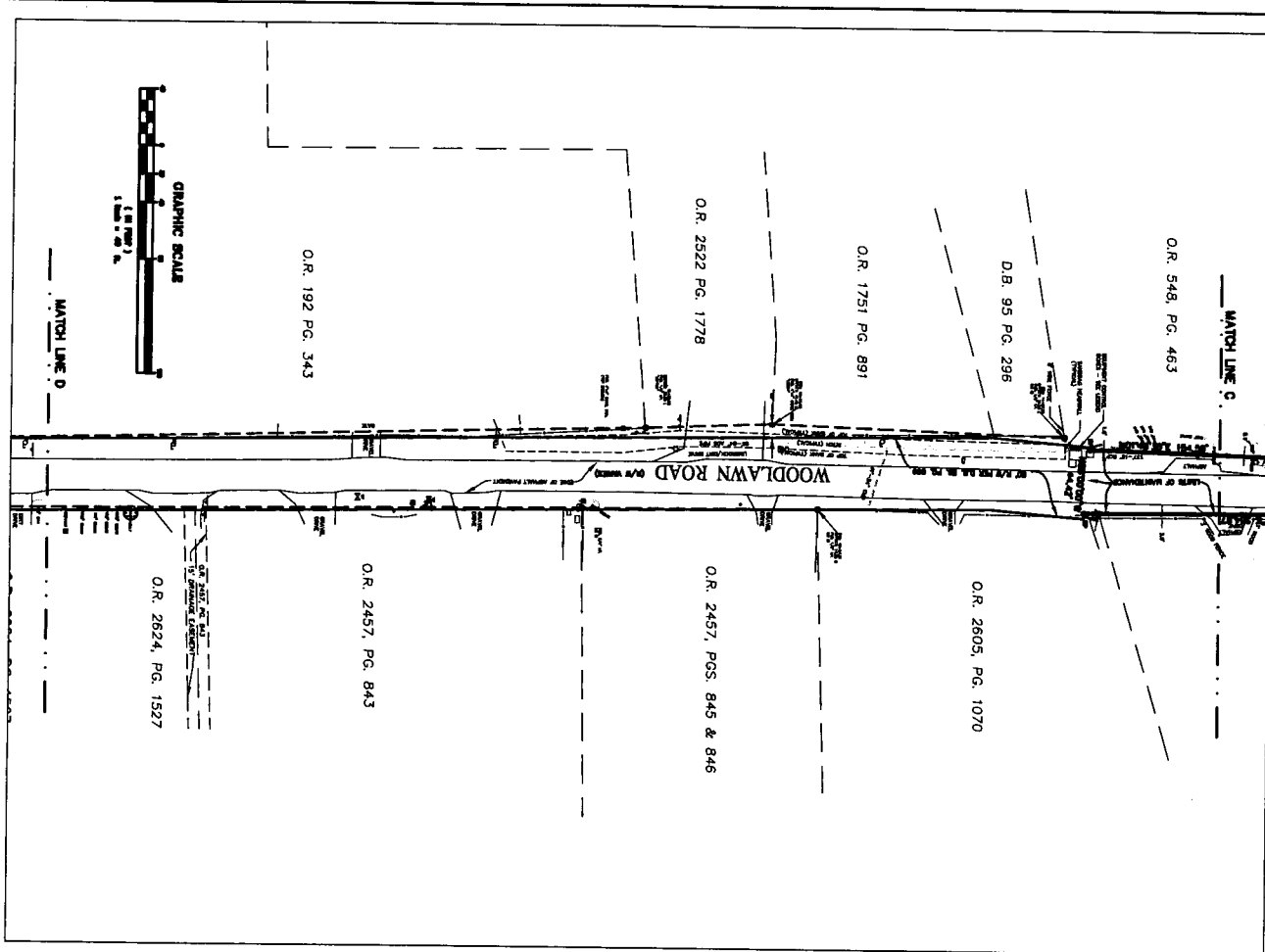
NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL GRADED SCALE OF A LICENSED SURVEYOR AND LAYERS

ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS  
 SURVEYING AND MAPPING DIVISION  
 4000 LEBUS FREEWAY - P.O. DRAWER 949  
 FT. AUBURNE, FLORIDA 32004  
 Phone (904) 896-0764



WOODLAWN ROAD  
 MAINTENANCE MAP  
 SPECIFIC PURPOSE SURVEY  
 SHEET 1 OF 3  
 FILE NUMBER: 1-48





STATE ROAD NO. 16  
(SEE MAP)

NOTES

1. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.
2. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE ROAD.
3. ALL PROPERTY LINES ARE SHOWN AS DASHED LINES.
4. ALL UTILITY LINES ARE SHOWN AS SOLID LINES.
5. ALL UTILITY LINES ARE TO BE DELETED UNLESS OTHERWISE NOTED.
6. ALL UTILITY LINES ARE TO BE RELOCATED UNLESS OTHERWISE NOTED.
7. ALL UTILITY LINES ARE TO BE PROTECTED UNLESS OTHERWISE NOTED.
8. ALL UTILITY LINES ARE TO BE MAINTAINED UNLESS OTHERWISE NOTED.
9. ALL UTILITY LINES ARE TO BE REPAIRED UNLESS OTHERWISE NOTED.
10. ALL UTILITY LINES ARE TO BE REPLACED UNLESS OTHERWISE NOTED.
11. ALL UTILITY LINES ARE TO BE REMOVED UNLESS OTHERWISE NOTED.
12. ALL UTILITY LINES ARE TO BE INSTALLED UNLESS OTHERWISE NOTED.
13. ALL UTILITY LINES ARE TO BE ADJUSTED UNLESS OTHERWISE NOTED.
14. ALL UTILITY LINES ARE TO BE ALIGNED UNLESS OTHERWISE NOTED.
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16. ALL UTILITY LINES ARE TO BE GRADED UNLESS OTHERWISE NOTED.
17. ALL UTILITY LINES ARE TO BE FINISHED UNLESS OTHERWISE NOTED.
18. ALL UTILITY LINES ARE TO BE OPENED UNLESS OTHERWISE NOTED.
19. ALL UTILITY LINES ARE TO BE CLOSED UNLESS OTHERWISE NOTED.
20. ALL UTILITY LINES ARE TO BE LOCKED UNLESS OTHERWISE NOTED.
21. ALL UTILITY LINES ARE TO BE UNLOCKED UNLESS OTHERWISE NOTED.
22. ALL UTILITY LINES ARE TO BE KEPT UNLESS OTHERWISE NOTED.
23. ALL UTILITY LINES ARE TO BE TAKEN DOWN UNLESS OTHERWISE NOTED.
24. ALL UTILITY LINES ARE TO BE PUT UP UNLESS OTHERWISE NOTED.
25. ALL UTILITY LINES ARE TO BE REWOUND UNLESS OTHERWISE NOTED.
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30. ALL UTILITY LINES ARE TO BE REWIND UNLESS OTHERWISE NOTED.

SEE SHEET 1 OF 3 FOR NOTES, LEGEND AND CONVENTIONS

SHEET 3 OF 3


FILE NUMBER: 3-444

**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 the County has been maintaining **Woodlawn Road** as shown on the attached map for the last 20 years and the public has continuously used the road during this time. This maintenance includes digging ditches, mowing, road and right-of-way repairs and preventative maintenance as needed.

FURTHER AFFIANT SAYEITH NAUGHT.

  
**Billy Tedder**

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

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of March, 2007 by Billy Tedder Road and Bridge Supervisor, who is personally known to me.

  
Notary Public

