

RESOLUTION NO. 2008-342

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 PORTION OF PINE ISLAND 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 road that are neither dedicated to St. Johns County, nor are owned by St. Johns County; and

WHEREAS, a portion of Pine Island Road, as described in attached and incorporated **Exhibit "A"**, which is the **Survey Map**, and 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-nine (29) 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 that actually has been maintained or repaired for the proscribed 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 a portion of Pine Island Road; 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 a portion of Pine Island Road meets each of the criteria, set forth in Downing v. Bird, supra; and

WHEREAS, the public entity has been continuously using a portion of Pine Island Road without permission of the underlying land owners for in excess of twenty (20) years; and

WHEREAS, County Road and Bridge Supervisor, Hiram W. Tedder, has stated in an affidavit (attached and incorporated as **Exhibit B**) that the County has been responsible for maintaining a portion of Pine Island Road for the last twenty-nine (29) 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 a portion of Pine Island Road; and

WHEREAS, it is in the best interest of St. Johns County to acquire ownership of this portion of Pine Island Road under either statutory dedication or prescriptive easement, and that such acquisition will benefit the citizens of St. Johns County.

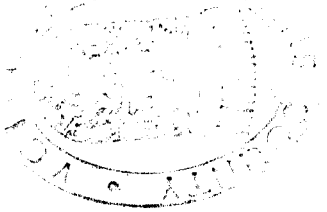
NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

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 Chair of the Board of County Commissioners, and Clerk of the Courts are hereby authorized to file the attached **Survey Map** of Pine Island 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 2nd day of Dec, 2008.



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

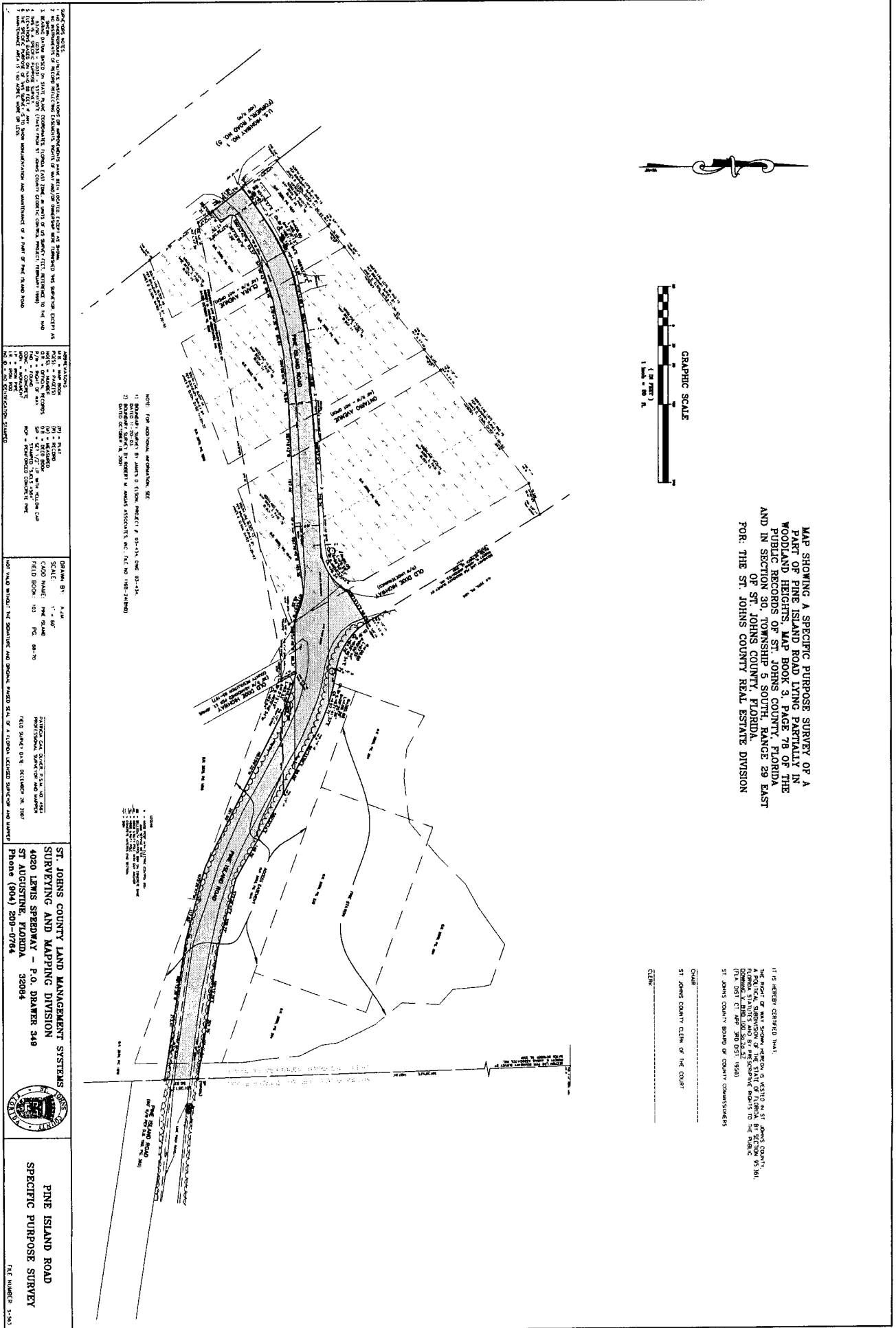
By: Cyndi Stevenson
Cyndi Stevenson, Chair

ATTEST: Cheryl Strickland, Clerk

By: Pam Halteman
Deputy Clerk

RENDITION DATE 12/4/08

Exhibit "A" to Resolution



MAP SHOWING A SPECIFIC PURPOSE SURVEY OF A PART OF PINE ISLAND ROAD LYING PARTICULARLY IN PORTION 188788 AND 188789 OF THE PUBLIC RECORDS OF ST. JOHN'S COUNTY, FLORIDA AND IN SECTION 30, TOWNSHIP 5 SOUTH, RANGE 29 EAST OF ST. JOHN'S COUNTY, FLORIDA FOR THE ST. JOHN'S COUNTY REAL ESTATE DIVISION

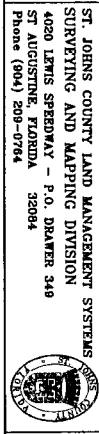


IT IS HEREBY CERTIFIED THAT
 I, JAMES COUNTY CLERK OF THE COURT
 ST. JOHN'S COUNTY, FLORIDA
 HAVE RECEIVED AND FILED FOR RECORD
 THE ABOVE DESCRIBED MAP AND SURVEYING PLANS TO THE PUBLIC
 RECORDS OF ST. JOHN'S COUNTY, FLORIDA
 THIS 15th DAY OF DECEMBER, 2007
 JAMES COUNTY CLERK OF THE COURT

NOTES:
 1. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT OF 2002, CHAPTER 349, F.S., AND THE RULES OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHN'S COUNTY, FLORIDA, AS APPLICABLE.
 2. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT OF 2002, CHAPTER 349, F.S., AND THE RULES OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHN'S COUNTY, FLORIDA, AS APPLICABLE.
 3. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT OF 2002, CHAPTER 349, F.S., AND THE RULES OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHN'S COUNTY, FLORIDA, AS APPLICABLE.
 4. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT OF 2002, CHAPTER 349, F.S., AND THE RULES OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHN'S COUNTY, FLORIDA, AS APPLICABLE.
 5. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT OF 2002, CHAPTER 349, F.S., AND THE RULES OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHN'S COUNTY, FLORIDA, AS APPLICABLE.

DATE: 12/15/07
 DRAWN BY: JLM
 SCALE: 1" = 20'
 CHECKED BY: JLM
 FIELD BOOK: 103 PG. 88-70
 FIELD SURVEY DATE: DECEMBER 15, 2007

ST. JOHN'S COUNTY LAND MANAGEMENT SYSTEMS
 SURVEYING AND MAPPING DIVISION
 4020 LEWIS SPEEDWAY - P.O. DRAWER 349
 ST. AUGUSTINE, FLORIDA 32084
 Phone (904) 209-0764



PINE ISLAND ROAD
 SPECIFIC PURPOSE SURVEY
 P.L.C. NUMBER: S-351

AFFIDAVIT

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

On this day before me, the undersigned authority, personally appeared Hiram W. Tedder, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining Pine Island Road for the last 29 years and the public has continuously used the road during this time. This maintenance includes digging ditches, road grading and stabilization.

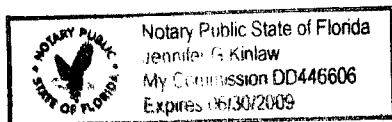
FURTHER AFFIANT SAYETH NAUGHT.

Hiram W. Tedder

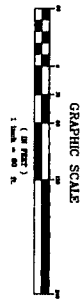
**STATE OF FLORIDA
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me this 5th day of November, 2008 by Hiram W. Tedder, Road and Bridge Supervisor, who is personally known to me.

Jennifer A. Kinlaw
Notary Public



MAP SHOWING A SPECIFIC PURPOSE SURVEY OF A PART OF PINE ISLAND ROAD LYING PARTIALLY IN WOODLAND HEIGHTS, MAP BOOK 3, PAGE 78 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA AND IN SECTION 30, TOWNSHIP 3 SOUTH, RANGE 29 EAST FOR THE ST. JOHNS COUNTY REAL ESTATE DIVISION

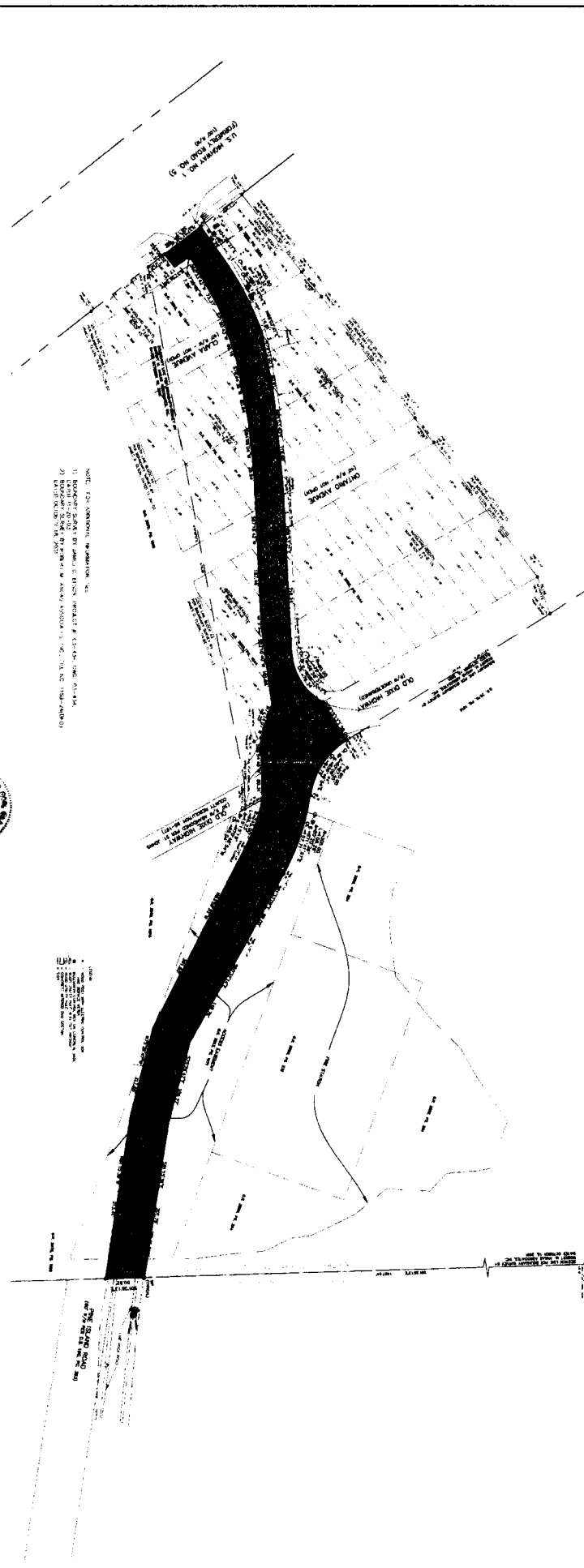


IT IS HEREBY CERTIFIED THAT THE PART OF PINE ISLAND ROAD SHOWN AS AVOIDING IN THIS SURVEY IS A CORRECT AND ACCURATE REPRODUCTION OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, MAP BOOK 3, PAGE 78 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AND IN SECTION 30, TOWNSHIP 3 SOUTH, RANGE 29 EAST FOR THE ST. JOHNS COUNTY REAL ESTATE DIVISION.

1998

Gregory S. ... 1998
Don H. ... 1998

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS



ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS
SOVERTING AND MAPPING DIVISION
 4020 LEWIS SPEEDWAY - P.O. DRAWER 349
 ST AUGUSTINE, FLORIDA 32084
 Phone (904) 209-0794

PINE ISLAND ROAD
SPECIFIC PURPOSE SURVEY

FILE NUMBER: 1998