

RESOLUTION NO. 2016- 320

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A LICENSE TO USE/HOLD HARMLESS AGREEMENT ALLOWING USE OF AN UNOPENED PORTION OF FIRST STREET IN NORTH BEACH SUBDIVISION, ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, Stone Poney, Inc., a Florida corporation ("Stone Poney") is the owner of Cap's on the Water restaurant adjacent to an unopened portion of First Street in North Beach Subdivision (County right-of-way); and

WHEREAS, Stone Poney has requested a License to Use/Hold Harmless Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, to use a portion of the County right-of-way that will allow for a small portion of an existing deck to remain and server's walkway that connects the deck to the kitchen area together with an emergency egress path required by Fire Services all in connection with upgrades to the restaurant; and

WHEREAS, approval of the License to Use/Hold Harmless Agreement does not negatively impact the interest of the County; and

WHEREAS, said Agreement includes indemnification language and allows for removal of any improvements if determined the right-of-way is needed by the 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 into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms of and authorizes the County Administrator, or designee, to execute the License to Use/Hold Harmless Agreement, on behalf of the County.

Section 3. The Clerk is instructed to record the original License to Use/Hold Harmless Agreement in the public records of St. Johns County, Florida.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners this 18 day of October, 2016.

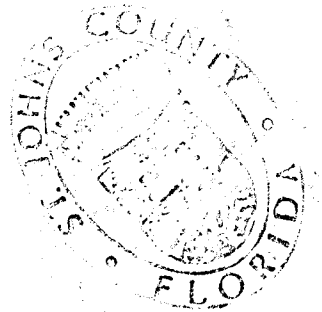
**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

By: [Signature]
Jeb S. Smith, Chair

ATTEST: Hunter S. Conrad, Clerk

By: [Signature]
Deputy Clerk

RENDITION DATE 10/21/16



LICENSE TO USE/HOLD HARMLESS AGREEMENT

This Agreement is made and entered into this ____ day of _____, 2016, by and between:

St. Johns County, Florida, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, ("County"); and

Stone Poney, Inc., a Florida corporation, whose address is 203 Third Street, St. Augustine, Florida 32095, ("Stone Poney")

Recitals

WHEREAS, Stone Poney is the owner of Cap's on the Water restaurant and has requested use of an unopened portion of a certain County right-of-way known as First Street ("County right-of-way"), being more fully described on attached Exhibit "A, incorporated by reference and made a part hereof, in connection with improvements to said restaurant; and

WHEREAS, the County has agreed to allow Stone Poney to use the County right-of-way only if Stone Poney agrees to indemnify and hold the County harmless, to the extent permitted by Florida law, from damages and expenses which may be incurred as a direct or indirect result of such use of the County right-of-way and certain other conditions.

NOW, THEREFORE, based upon good and valuable consideration and mutual covenants of the parties, the receipt of which and sufficiency of which is hereby acknowledged, the County and Stone Poney agree as follows:

Section 1. Recitals. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Agreement.

Section 2. Right-of-Way Utilization. Stone Poney may use the County right-of-way for a small portion of an existing deck and server's walkway that connects from the deck to the kitchen area together with a required emergency egress path, all as shown on site plan attached hereto as Exhibit "B", incorporated by reference and made a part hereof.

Section 3. Indemnification. To the extent permitted by Florida law, the Stone Poney agrees to protect, defend, indemnify and hold the County, its tenants, elected officials, officers, employees and agents, free and unharmed from and against any, and all, third party (including employees of Stone Poney and its contractors and subcontractors) claims, liability, losses and /or cause of action, which may arise from any negligent act or omission of Stone Poney staff, employees or agents (including court

costs and reasonable attorneys' fees) associated with or connected with the use of the County right-of-way by the use herein allowed.

Section 4. Covenant with Land. This Agreement shall touch and concern the land and shall be a covenant running with the fee interest underlying the County right-of-way, whether in existence on the date hereto or constructed in the future.

Section 5. Severability. If any word, phrase, sentence, part, subsection, section or other portion of this Agreement, or any application thereof, to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion or the proscribed application thereof, shall be severable, and the remaining portion of this Agreement, and all applications thereof, not having been declared void, unconstitutional or invalid shall remain in full force and effect.

Section 6. Governing Law and Venue. This Agreement shall be constructed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be in St. Johns County, Florida.

Section 7. Procedure for Achieving Assignment. In light of the scope and rationale for this Agreement, neither the County, nor Stone Poney may assign, transfer and/or sell any of the rights noted in this Agreement without the express written approval of the other party. Should either County or Stone Poney assign, transfer or sell any the rights of the Agreement without such prior express written approval of the other party, then such action on the part of either the County or Stone Poney shall result in the automatic termination of this Agreement, without further notice or action required on the part of the other party.

Section 8. Amendments to Agreement. Both the County and Stone Poney acknowledge that this Agreement constitutes the complete agreement and understating of both parties. Both the County and Stone Poney acknowledge that any amendments to this Agreement shall be in writing and shall be executed by duly authorized representatives of both the County and Stone Poney.

Section 9. Access to Records. The access to, disclosure, non-disclosure or exemption of records, data, documents and materials associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes).

Section 10. Removal of Improvements. The County reserves the right to remove the improvements if it is determined that the right-of-way is needed for County purposes.

IN WITNESS WHEREOF, the County and Stone Poney have caused these presents to be executed on the day and year first written above.

Signed, sealed and delivered
in our presence as Witnesses:

ST. JOHNS COUNTY, a political
subdivision of the State Florida

(sign) _____
(print) _____

By: _____
Michael C. Wanchick
County Administrator

(sign) _____
(print) _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Michael C. Wanchick, as County Administrator of St. Johns County, on behalf of the County, who is personally known to me or has produced _____ as identification.

Notary Public
My Commission Expires: _____

Signed, sealed and delivered
in our presence as Witnesses:

Stone Poney, Inc., a Florida
corporation

(sign) _____
(print) _____

By: _____
Bernard De Raab
Its: President

(sign) _____
(print) _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Bernard De Raab as President of Stone Poney, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me or has produced _____ as identification.

Notary Public
My Commission Expires: _____

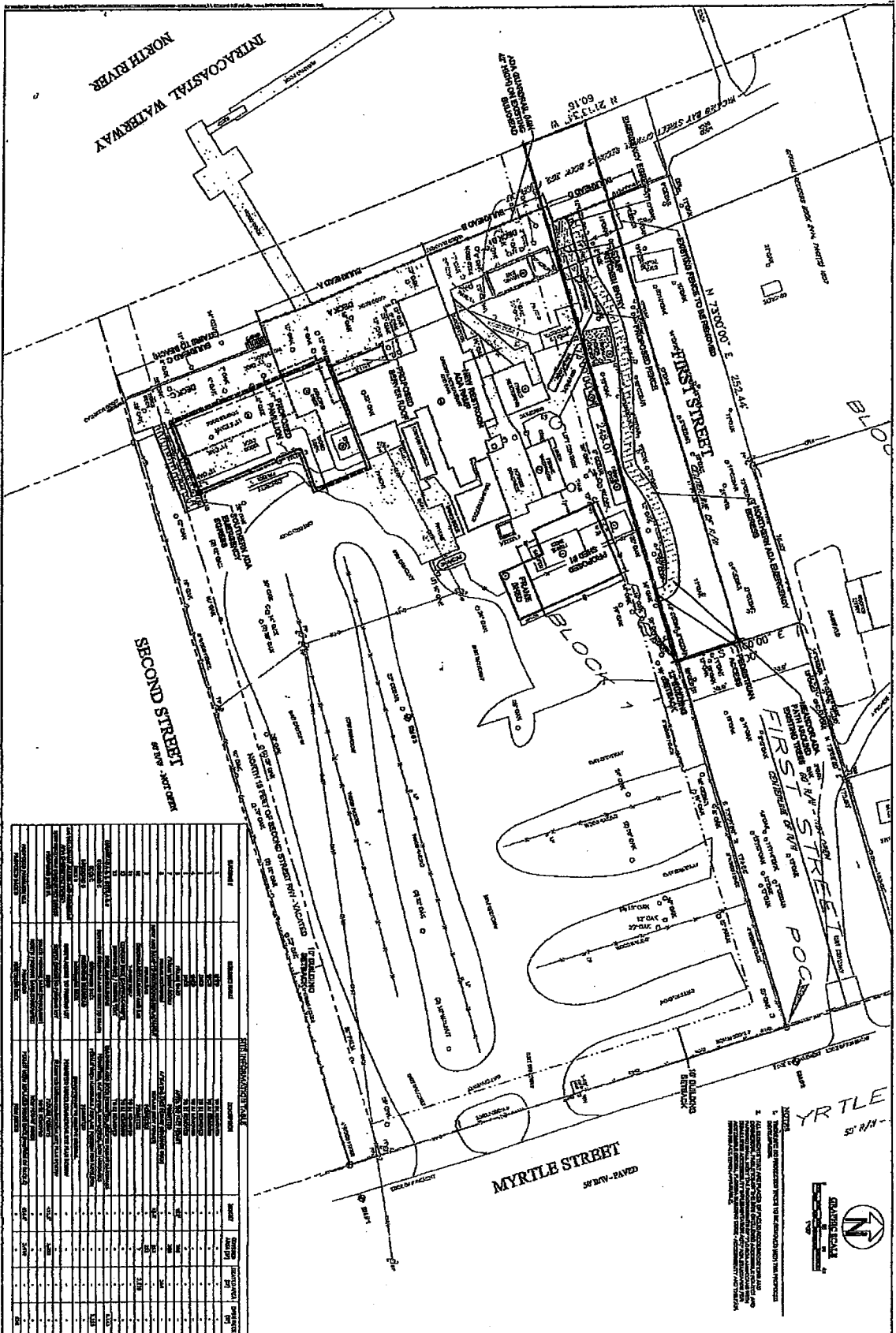
Exhibit "A"

A PORTION OF FIRST STREET

COMMENCE AT THE NORTHEAST CORNER OF BLOCK 1, NORTH BEACH, AS RECORDED IN MAP BOOK 3, PAGE 28 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY FLORIDA; THENCE S 73°00'00" W, ALONG THE SOUTH RIGHT OF WAY LINE OF FIRST STREET AS DEPICTED ON THE PLAT OF SAID NORTH BEACH, A DISTANCE OF 174.86 FEET TO THE POINT OF BEGINNING FOR THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE S 73°00'00" W, ALONG SAID SOUTH RIGHT OF WAY LINE OF FIRST STREET AND ITS WESTERLY PROJECTION THEREOF, A DISTANCE OF 248.01 FEET TO THE WEST RIGHT OF WAY LINE OF VACATED BAY STREET AS DEPICTED ON SAID PLAT OF NORTH BEACH; THENCE N 21°13'34" W, ALONG SAID WEST RIGHT OF WAY LINE OF SAID VACATED BAY STREET, A DISTANCE OF 30.08 FEET TO THE POINT OF INTERSECTION WITH THE WESTERLY PROJECTION OF THE CENTERLINE OF THE RIGHT OF WAY LINE OF SAID FIRST STREET; THENCE N 73°00'00" E, ALONG SAID CENTERLINE OF FIRST STREET, A DISTANCE OF 250.23 FEET; THENCE S 17°00'00" E, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

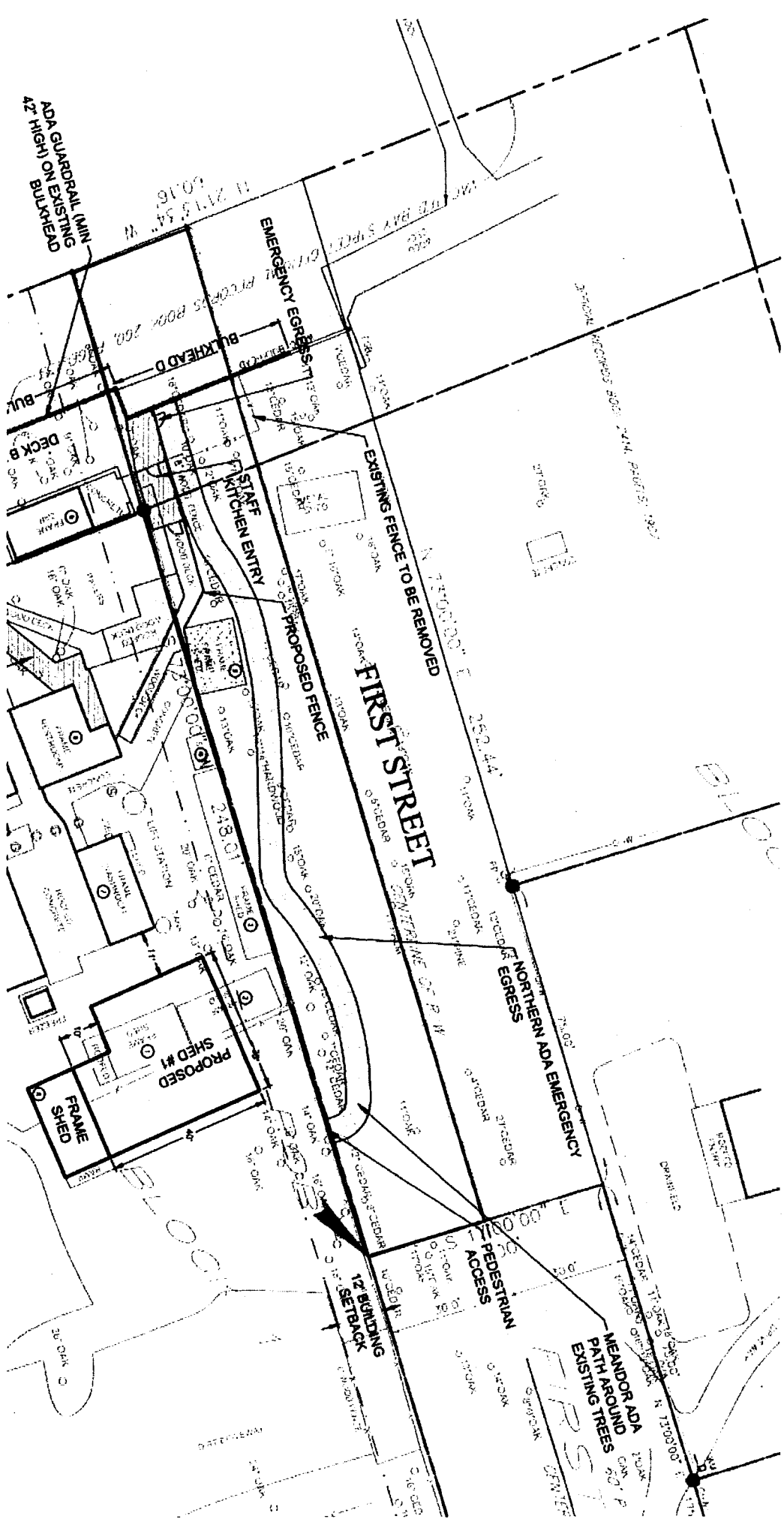
THE AFOREDESCRIBED PARCEL CONTAINS 0.172 ACRES MORE OR LESS.

Exhibit "B"



NO.	DESCRIPTION	DATE	BY	CHKD.
1	PRELIMINARY PLAN	11/15/00	JM	MM
2	REVISION	11/15/00	JM	MM
3	REVISION	11/15/00	JM	MM
4	REVISION	11/15/00	JM	MM
5	REVISION	11/15/00	JM	MM
6	REVISION	11/15/00	JM	MM
7	REVISION	11/15/00	JM	MM
8	REVISION	11/15/00	JM	MM
9	REVISION	11/15/00	JM	MM
10	REVISION	11/15/00	JM	MM
11	REVISION	11/15/00	JM	MM
12	REVISION	11/15/00	JM	MM
13	REVISION	11/15/00	JM	MM
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47	REVISION	11/15/00	JM	MM
48	REVISION	11/15/00	JM	MM
49	REVISION	11/15/00	JM	MM
50	REVISION	11/15/00	JM	MM

<p>SITE PLAN CAP'S ON THE WATER ST. JOHNS COUNTY, FLORIDA PREPARED FOR: CAPS</p>	<p>MATTHEWS DESIGN GROUP, INC. P.O. BOX 3184, 9 WALDO STREET ST. AUGUSTINE, FLORIDA 32084 PHONE: 904.826.1334 FAX: 904.826.4847 INFO@MATTHEWSDBG.COM</p>	<p>DATE: 11/15/00</p>	<p>SCALE: AS SHOWN</p>	<p>REVISED:</p>
		<p>BY: JM</p>	<p>CHKD: MM</p>	<p>DATE: 11/15/00</p>



ADA COMPLIANT BRAILING
42" HIGH ON EXISTING
BULKHEAD

PROPOSED ROOM 200
BULKHEAD D

EMERGENCY EGRESS
STAFF ENTRY

EXISTING FENCE TO BE REMOVED
FIRST STREET

NORTHERN ADA EMERGENCY
EGRESS

PEDESTRIAN
ACCESS

NEAR AND ADA
COMPLIANT
PATH AND
EXISTING TREES

0016 11 211334 W

PROPOSED ROOM 200 - 214, 2107 S. 1927

2100

2100

2100

2100



Subject Area



2013 Aerial Imagery
0 50 100
Feet
September 21, 2016

License to Use/Hold Harmless Agreement Caps on the Water

First Street - North Beach

Land Management Systems
Real Estate Division
(904) 209-0790

Disclaimer:
This map is for reference use only. Data provided are derived from multiple sources with varying levels of accuracy. The St. Johns County Real Estate Division disclaims all responsibility for the accuracy or completeness of the data shown hereon.

