

RESOLUTION NO. 2020- 191

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A TEMPORARY CONSTRUCTION AND ACCESS EASEMENT AGREEMENT TO CONSTRUCT AN ACCESS ROAD TO THE SCHOOL AND PARK SITES WITHIN ASHFORD MILLS (SHEARWATER) AND TO REBUILD THE DITCH ALONG THE EASTERN BOUNDARY OF THE SILVERLEAF 40 ACRE PARK SITE.

RECITALS

WHEREAS, WFC Ashford Mills Owner VII, LLC, (WFC Ashford) and Trout Creek Community Development District, (Trout Creek) are requesting a Temporary Construction and Access Easement Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, WFC Ashford and Trout Creek desire to modify, reconstruct and straighten a stormwater, drainage ditch and related improvements located on County property; and

WHEREAS, per the Ashford Mills Development Order the developer is required to construct an access road to the school and park sites that have been dedicated to the County and permitting this access road now so the commitment is fulfilled when the County is ready; and

WHEREAS, the Temporary Construction Easement is to rebuild the ditch along the eastern border of the park site. When the 40 acre park is developed, the County can use this ditch or abandon the ditch as part of the overall stormwater management plan for the site.

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 Board of County Commissioners hereby approves the terms and authorizes the County Administrator, or designee, to execute the Temporary Construction and Access Easement Agreement.

Section 3. To the extent that there are typographical 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.

Section 4. The Clerk is instructed to record the original Temporary Construction and Access Easement Agreement in the Clerk's Office.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 2nd day of June, 2020.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: _____

Jeb S. Smith, Chair

ATTEST: Brandon Patty, Clerk

By: _____

Sam Halterman
Deputy Clerk

RENDITION DATE 6/4/20



EXHIBIT "A" TO RESOLUTION

Prepared by and record and return to:
Ellen Avery-Smith, Esquire
Rogers Towers, P.A.
100 Whetstone Place, Suite 200
St. Augustine, Florida 32086

RT: W3979-63379
Parcel No.: 010340-0000
Consideration: \$10.00

TEMPORARY CONSTRUCTION AND ACCESS EASEMENT AGREEMENT

This **TEMPORARY CONSTRUCTION AND ACCESS EASEMENT AGREEMENT** (this "**Agreement**") is made as of this ___ day of _____, 2020, by and among **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084 (the "**County**"), in favor of **WFC ASHFORD MILLS OWNER VII, L.L.C.**, a Delaware limited liability company, whose address is 500 Boylston Street, Suite 2010, Boston, Massachusetts 02116 ("**WFC Ashford**") and the **TROUT CREEK COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special-purpose government created pursuant to Section 190, Florida Statutes, whose address is c/o Rizzetta & Company, 2806 N. Fifth Street, Unit 403, St. Augustine, Florida 32084 ("**Trout Creek**") (with the County, WFC Ashford and Trout Creek sometimes collectively referred to herein as the "**Parties**" or individually as a "**Party**").

RECITALS:

WHEREAS, the County is the owner of certain real property located in St. Johns County, Florida and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "**County Parcel**").

WHEREAS, WFC Ashford is the owner of certain real property located adjacent to the County Parcel in St. Johns County, Florida (the "**WFC Lands**").

WHEREAS, WFC Ashford and Trout Creek, the community development district in which the WFC Lands are located, desire to modify, reconstruct and straighten a stormwater, drainage ditch and related improvements located on the portion of the County Parcel (the "**Improvements**") more particularly described and depicted in Exhibit "B" attached hereto and incorporated herein by this reference (the "**Temporary Easement Parcel**").

WHEREAS, WFC Ashford and Trout Creek have requested that the County grant to Trout Creek, and the County has agreed to grant to Trout Creek, temporary access and construction easement rights over and across the County Parcel and the Temporary Easement Parcel for certain limited activities, subject to the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.

2. Grant of Temporary Access Easement. The County does hereby grant to Trout Creek for purposes of vehicular and pedestrian ingress and egress by Trout Creek and its successors, assigns, employees, agents, contractors, subcontractors, tenants, invitees and licensees (all of the foregoing persons and entities, including, without limitation, Trout Creek, are hereinafter referred to as the "**Permitted Parties**"), to and from the WFC Lands, a temporary, non-exclusive easement in, over, across and through the Temporary Easement Parcel and the County Parcel for the limited purpose of construction of the Improvements within the Temporary Easement Parcel. Trout Creek agrees that if the County opens a recreation area or facilities on the County Parcel during the term of this Agreement, Trout Creek shall provide to the County at least two (2) business days' written notice prior to entering the County Parcel.

3. Temporary Construction Easement. The County hereby grants to Trout Creek and the Permitted Parties, a temporary, non-exclusive construction easement over, under, through and across the County Parcel in connection with and for the purpose of the construction by Trout Creek of the Improvements to be located within the Temporary Easement Parcel in the location generally shown on the site plan attached hereto as Exhibit "C" and incorporated herein by this reference (the "**Site Plan**"). Such easement shall allow for the access of construction vehicles over such portions of the County Parcel as reasonably necessary to construct the Improvements; provided, Trout Creek and any Permitted Parties or governmental authorities performing the work contemplated hereunder shall use commercially reasonable efforts to minimize interference with the development and operation of the County Parcel and after completion of their work, shall regrade, grass and stabilize any access roads used within the County Parcel.

4. Term. The term of the Agreement and the foregoing temporary access and construction easements ("**Term**") shall commence on the Effective Date and automatically expire and terminate upon the completion of the Improvements, without the need for further action on the part of either Party. Notwithstanding the foregoing, within fifteen (15) days of any written request delivered, the Parties agree to execute and record an instrument terminating this Agreement if so requested by either Party.

5. Maintenance and Use. Throughout the duration of construction of the Improvements, Trout Creek, in accordance with their respective work, shall keep the Temporary Easement Parcel in good condition and repair, excluding ordinary wear and tear and damage by the elements or by the County, or the County's employees, contractors, agents and/or invitees. Trout Creek will repair any damage to the Temporary Easement Parcel, in accordance with its work, to the extent that such damage is caused by Trout Creek or the Permitted Parties, respectively. Trout Creek shall not allow the Temporary Easement Parcel or County Parcel to be used for any unlawful purpose. Trout Creek shall comply with all applicable governmental laws, ordinances, rules and regulations while using the Temporary Easement Parcel and County Parcel for the purposes granted herein.

6. Indemnification. Trout Creek hereby agrees to indemnify, defend and hold harmless the County and its respective officers, directors and members, and its respective heirs, successors and assigns, from and against any and all claims, actions, demands, losses, costs (including, without limitation, court costs), expenses (including, without limitation, attorney's fees), liability (joint or several), penalties or other damages, arising out of or in connection with its construction of the Improvements, use of the temporary easements or any breach of Trout Creek's obligations contained in this Agreement.

7. County Indemnification. The County hereby agrees to indemnify, defend and hold harmless WFC Ashford, Trout Creek and their respective officers, directors and members, managers, agents and representatives, and their respective heirs, successors and assigns, from and against any and all claims, actions, demands, losses, costs (including, without limitation, court costs), expenses (including, without limitation, attorney's fees), liability (joint or several), penalties or other damages, arising out of or in connection with any breach of the County's obligations contained in this Agreement

8. Modification. The Parties hereto agree that this Agreement constitutes the entire agreement between the Parties with respect to the temporary easements and obligations established herein, and any oral agreements or understandings are hereby merged into this Agreement. This Agreement may be amended or terminated only by an instrument in writing and signed by the Parties or their respective successors or assigns.

9. Covenant Running with the Land. The Agreement and all conditions, obligations and covenants set forth herein are intended to be and shall be construed as covenants running with the land, binding upon the County Parcel and binding upon and inuring to the benefit of the WFC Lands.

10. Waiver. No waiver of any of the provisions hereof shall be effective unless it is in writing and signed by the party against whom the waiver is asserted. Any such written waiver shall be applicable only to the specific instance to which it relates and shall not be deemed to be a continuing waiver or waiver of any future matter.

11. Complete Agreement. This Agreement represents the complete and integrated agreement of the Parties with respect to the subject matter herein and supersedes all prior oral or written agreements.

12. Governing Law. This Agreement shall be interpreted under and governed by the laws of the State of Florida.

13. Counterparts. This instrument may be executed in counterparts, each of which shall constitute an original and together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Signed, sealed and delivered
in the presence of:

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

_____ By: _____

Printed: _____ Name: _____

_____ Its: _____

Printed: _____

STATE OF FLORIDA

COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this _____ day of _____, 2020 by _____, as ___ of the County of St. Johns County, Florida on behalf of the County. He/She is personally known to me or has produced _____ as identification.

Printed _____
Notary Public, State and county aforesaid
Commission no.: _____
My commission expires: _____
(Notarial Seal)

Signed, sealed and delivered
in the presence of:

**WFC ASHFORD MILLS OWNER VII,
L.L.C., a Delaware limited liability company**

_____ By: _____

Printed: _____ Name: _____

_____ Its: _____

Printed: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ___ physical presence
or ___ online notarization, this _____ day of _____, 2020 by, _____
_____, as _____ of WFC Ashford Mills Owner VII, L.L.C., a Delaware
limited liability company, on behalf of the company. He/She is personally known to me or
has produced _____ as identification.

Printed _____
Notary Public, State and county aforesaid
Commission no.: _____
My commission expires: _____
(Notarial Seal)

Signed, sealed and delivered
in the presence of:

**TROUT CREEK COMMUNITY
DEVELOPMENT DISTRICT**

_____ By: _____

Printed: _____ Name: _____

_____ Its: _____

Printed: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this _____ day of _____, 2020 by, _____, as _____ of Trout Creek Community Development District, a local unit of special-purpose government created pursuant to Chapter 190, Florida Statutes, on behalf of the district. He/She is personally known to me or has produced _____ as identification.

Printed _____
Notary Public, State and county aforesaid
Commission no.: _____
My commission expires: _____
(Notarial Seal)

EXHIBIT "A"

County Parcel

County Road 16-A Recreation Parcel

A portion of Section 34, Township 5 South, Range 27 East, St. Johns County, Florida, also being a portion of those lands described and recorded in Official Records Book 4262, Page 788, of the Public Records of said County, being more particularly described as follows:

For a Point of Reference, commence at the Southwest corner of said Section 34; thence North $01^{\circ}18'21''$ West, along the Westerly line of said Section 34, a distance of 40.00 feet to a point lying on the Northerly right of way line of County Road 16-A, an 80 foot right of way as presently established and the Point of Beginning.

From said Point of Beginning, thence continue North $01^{\circ}18'21''$ West, departing said Northerly right of way line of County Road 16-A, along the Easterly line of those lands described and recorded in Official Records Book 642, Page 31, said Public Records, and its Northerly projection, said line also being the Westerly line of said Section 34, a distance of 1295.39 feet to a point lying on the Northerly line of said lands described and recorded in Official Records Book 4262, Page 788; thence North $88^{\circ}33'54''$ East, along said Northerly line, 1341.80 feet; thence South $01^{\circ}08'31''$ East, along the Easterly line of said lands described and recorded in Official Records Book 4262, Page 788, a distance of 1302.89 feet to a point lying on said Northerly right of way line of County Road 16-A; thence South $88^{\circ}53'08''$ West, along said Northerly right of way line, 1338.08 feet to the Point of Beginning.

Containing 39.96 acres, more or less.

EXHIBIT "B"

Temporary Easement Parcel

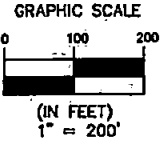
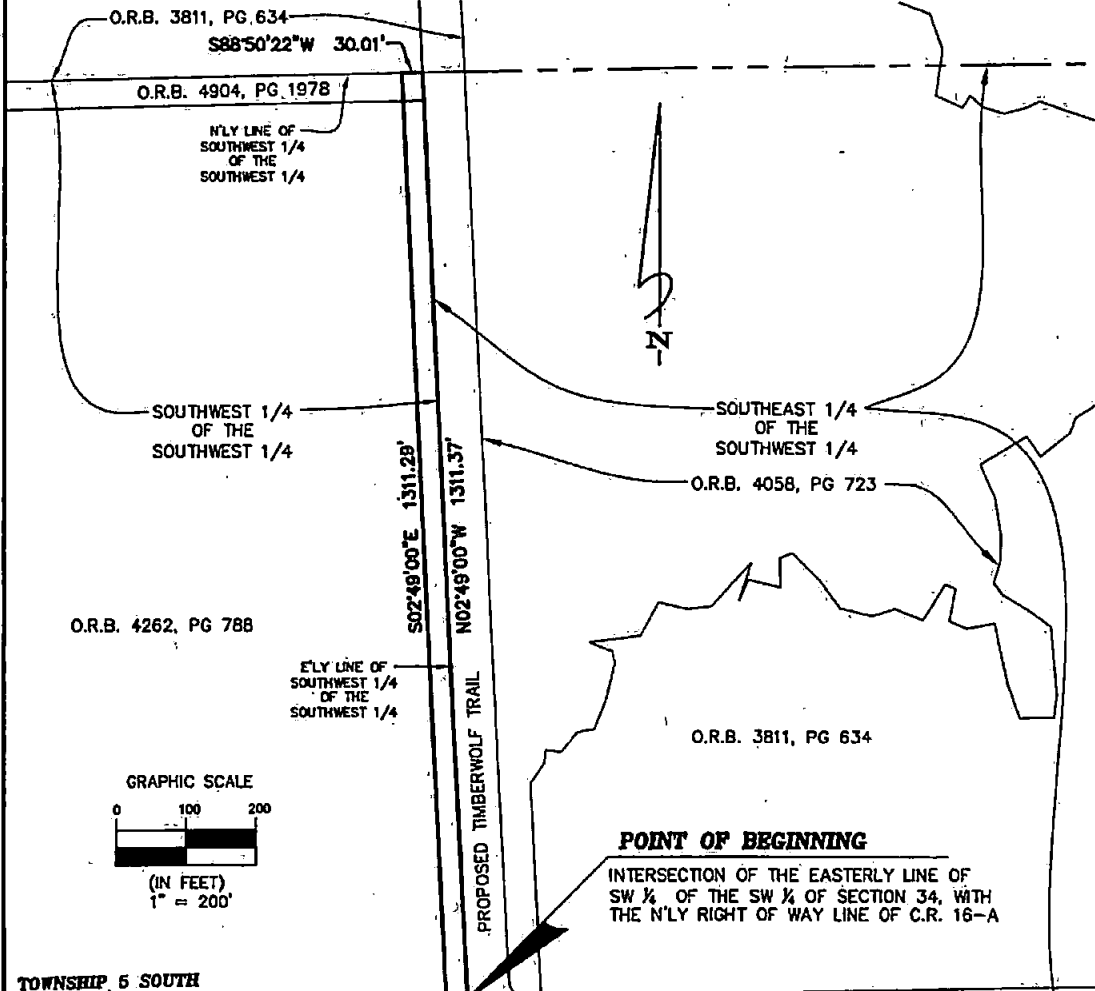
A PORTION OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 27 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE EASTERLY LINE OF SAID SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 34, WITH THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD 16-A (A VARIABLE WIDTH RIGHT OF WAY, AS NOW ESTABLISHED); THENCE NORTH 02°49'00" WEST, ALONG SAID EASTERLY LINE OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 34, A DISTANCE OF 1311.37 FEET, TO THE NORTHERLY LINE OF SAID SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 34; THENCE SOUTH 88°50'22" WEST, ALONG LAST SAID LINE, 30.01 FEET; THENCE SOUTH 02°49'00" EAST, 1311.29 FEET, TO AFORESAID NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD 16-A; THENCE NORTH 88°59'37" EAST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, 30.01 FEET, TO THE POINT OF BEGINNING.

CONTAINING 0.90 ACRES, MORE OR LESS.

MAP SHOWING

A PORTION OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 27 EAST, ST. JOHNS COUNTY, FLORIDA



TOWNSHIP 5 SOUTH
 RANGE 27 EAST
 SECTION 34
 SECTION 3
 RANGE 27 EAST
 TOWNSHIP 6 SOUTH

NLY R/W LINE N88°59'37"E 30.01'

COUNTY ROAD NO. 16-A (VARIABLE WIDTH R/W)

SHEET 1 OF 2
 REVISED 4/13/20 PER COMMENTS

JOB NO. 2020-222
 DRAFTER SPB
 DATE 3/30/2020
 SCALE 1"=200'

THIS MAP OR SURVEY MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, IN CHAPTER 34-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, UNLESS OTHERWISE SHOWN AND STATED HEREON.

THIS DRAWING, SKETCH, PLAN OR MAP IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER (CHAPTER 34-17, FLORIDA ADMINISTRATIVE CODE).

THIS MAP OR SURVEY IS FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON. THE CERTIFICATION SHOWN HEREON DOES NOT EXTEND TO ANY UNNAMED PARTY.

Clary & Associates
 PROFESSIONAL SURVEYORS & MAPPERS
 LB NO. 3731
 3830 DOWNS POINT ROAD
 JACKSONVILLE, FLORIDA 32257
 (904) 260-2703
 WWW.CLARYASSOC.COM

CHECKED BY: *Michael J. Coligan*
 MICHAEL J. COLIGAN, P.S.M. CERT. NO. 6788

MAP SHOWING

A PORTION OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 27 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 0.90 ACRES, MORE OR LESS.

GENERAL NOTES

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTHERLY R/W LINE OF COUNTY ROAD NO. 16A, AS N 88°59'37" E, PER STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE, NORTH AMERICAN DATUM 1983/1990 NGS ADJUSTMENT.
2. THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY.
3. THIS DRAWING MAY HAVE BEEN ENLARGED OR REDUCED FROM THE ORIGINAL. UTILIZE THE GRAPHIC SCALE AS SHOWN.
4. THIS MAP WAS MADE WITHOUT THE BENEFIT OF AN ABSTRACT TITLE, THEREFORE, THERE COULD BE ADDITIONAL EASEMENTS, COVENANTS AND RESTRICTIONS OR OTHER MATTERS OF PUBLIC RECORD THAT MAY OR MAY NOT AFFECT THIS PARCEL.
5. CROSS REFERENCE SURVEY BY CLARY & ASSOCIATES, FILE NO. T5S-814

LEGEND

R/W = RIGHT OF WAY
 FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
 FP&L = FLORIDA POWER & LIGHT
 ORB. = OFFICIAL RECORDS BOOK
 M.B. = MAP BOOK
 PG. = PAGE

SHEET 2 OF 2
 REVISED 4/13/20 PER COMMENTS

JOB NO. 2020-222
 DRAFTER SPB
 DATE 3/30/2020
 SCALE 1"=200'

THIS MAP OR SURVEY MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, UNLESS OTHERWISE SHOWN AND STATED HEREON.

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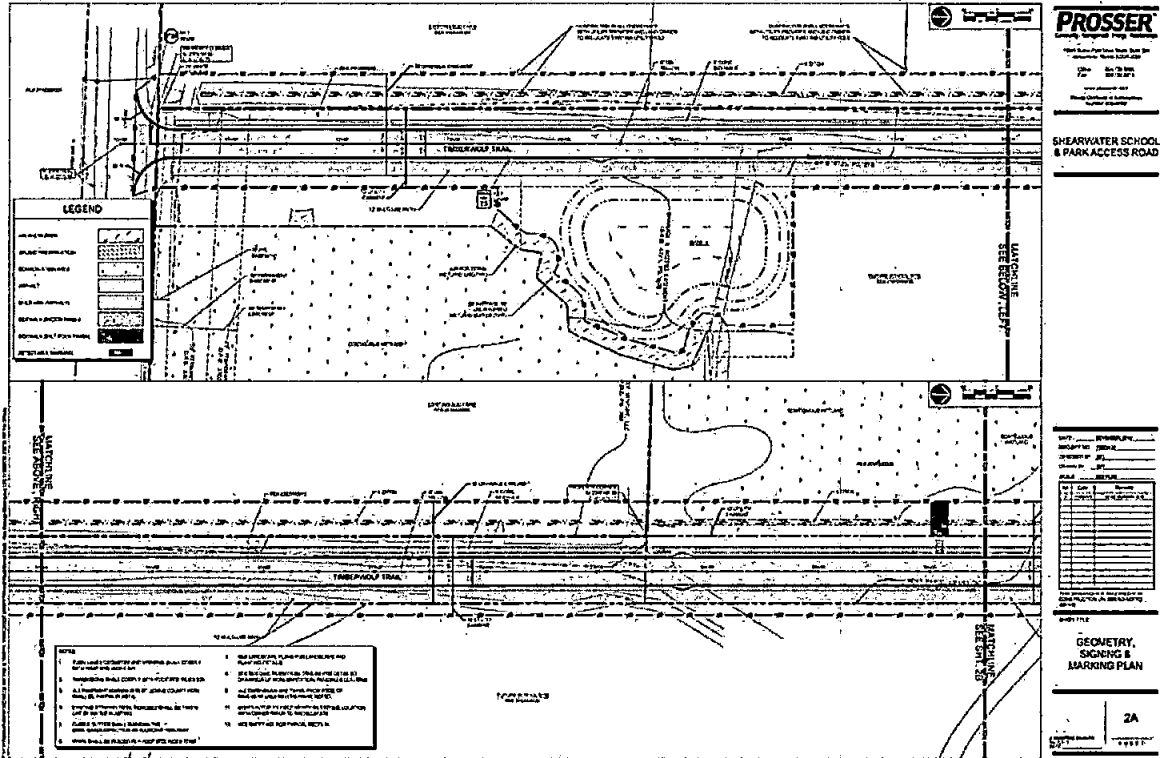
Michael J. Colligan

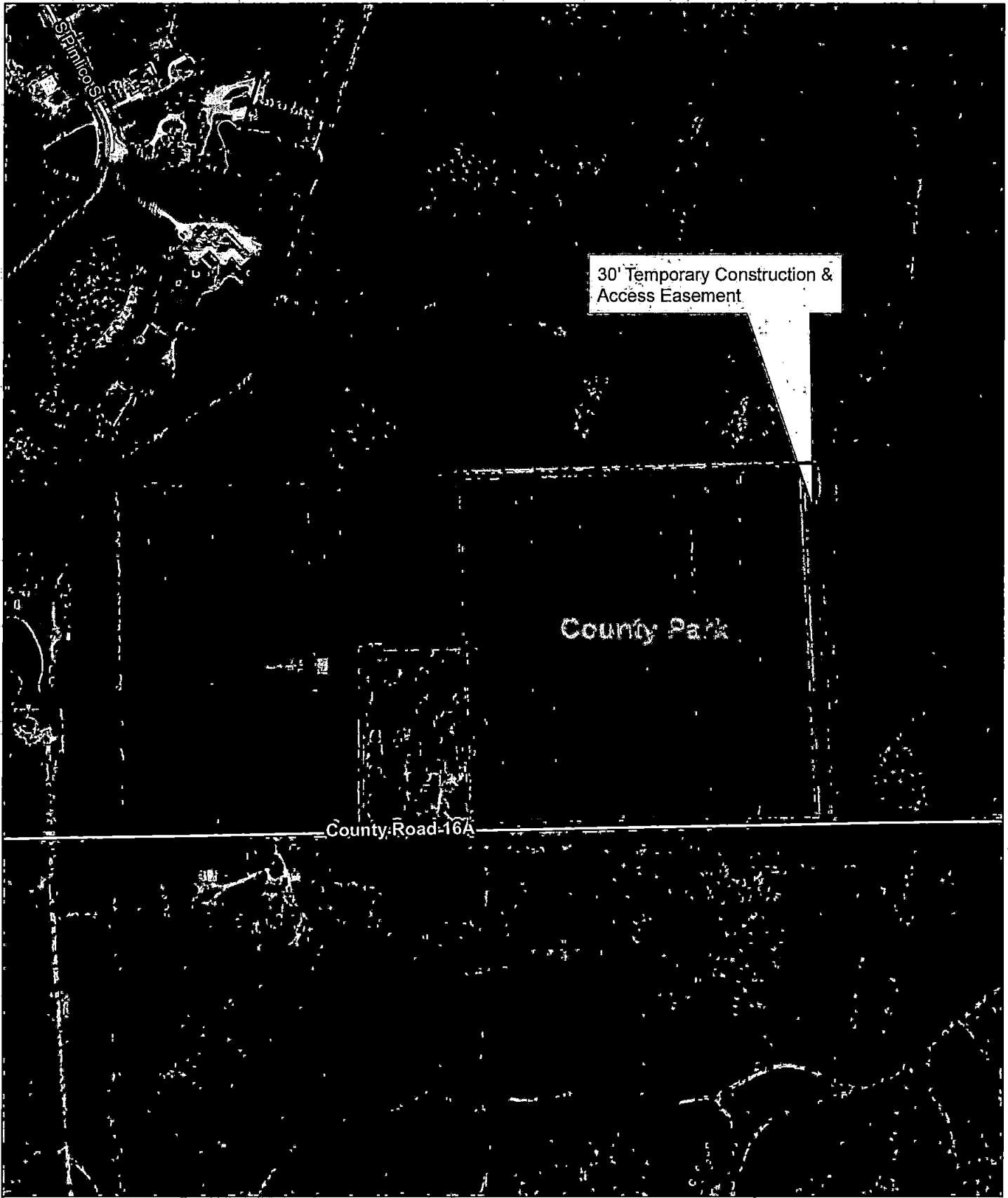
CHECKED BY: MICHAEL J. COLLIGAN, P.S.M. CERT. NO. 6788



EXHIBIT "C"

Site Plan





30' Temporary Construction & Access Easement

County Park

County Road 16A

St. Johns St.



2019 Aerial Imagery

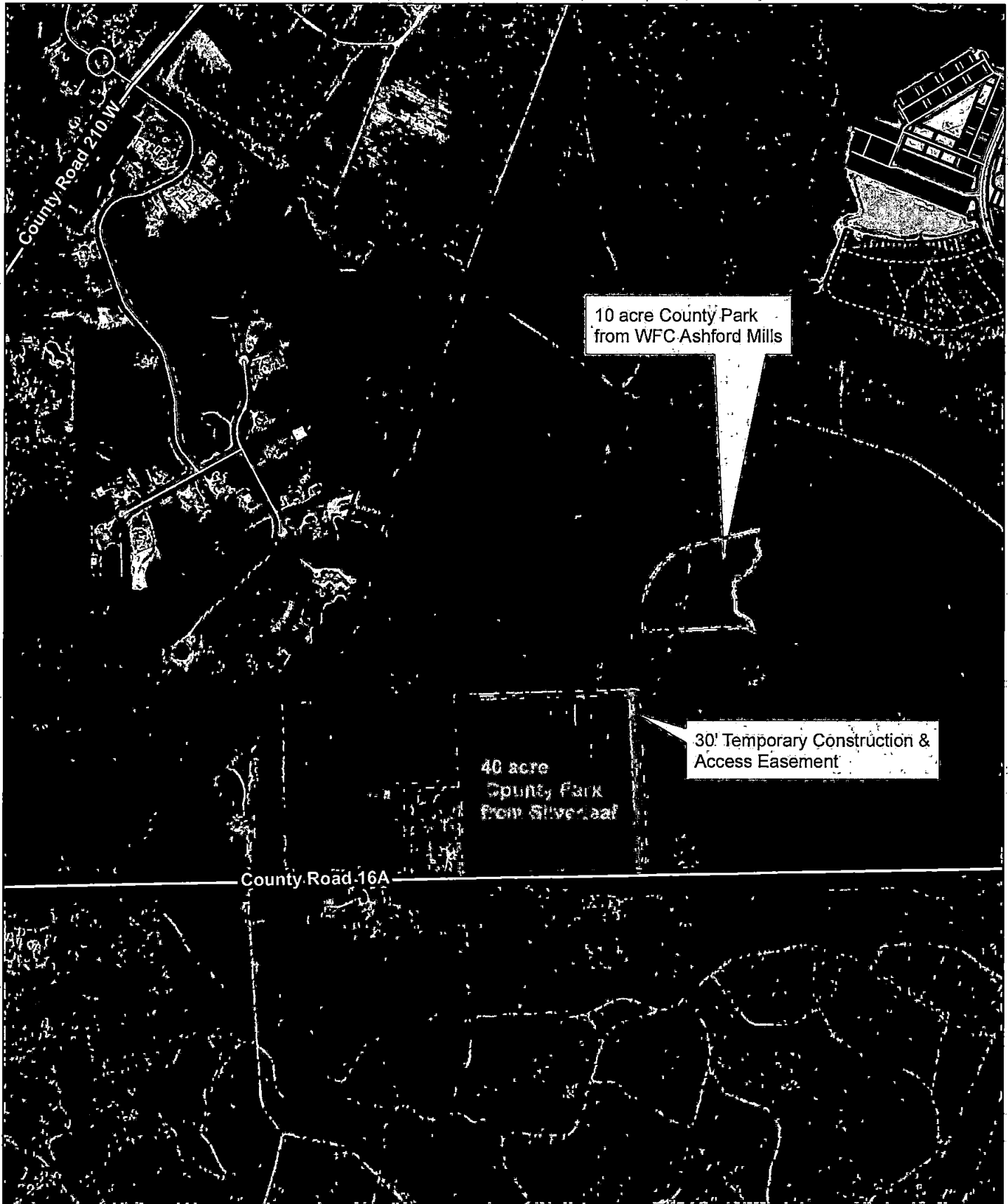


County 40 acre Park Temporary Construction & Access Easement

Land Mgmt. Systems
Real Estate Division
209-0796

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 herein.





2019 Aerial Imagery



County 40 acre Park Temporary Construction & Access Easement

Land Mngt. Systems
Real Estate Division
209-0796

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