

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Proposed Vacate and Abandon Right-of-Way Resolution

**DEPARTMENT:** County Attorney **DIVISION:** \_\_\_\_\_

**AUTHORIZED BY:** Robert A. McMillan *for R.A.M.* **CONTACT:** Robert McMillan **EXT.** 7250

<b>Agenda Date</b> <u>12.20.05</u>	<b>Regular</b> <input type="checkbox"/>	<b>Consent</b> <input type="checkbox"/>	<b>Work Session</b> <input type="checkbox"/>	<b>Briefing</b> <input type="checkbox"/>
	<b>Public Hearing – 1:30</b> <input checked="" type="checkbox"/>		<b>Public Hearing – 7:00</b> <input type="checkbox"/>	

**MOTION/RECOMMENDATION:**

Adopt the proposed Resolution to Vacate and Abandon Right-of-Way.

**BACKGROUND:**

The attached memorandum discusses the background and the need to vacate and abandon a portion of platted, unimproved right-of-way within the Country Creek subdivision common area relating to the settlement of the eminent domain litigation with Country Creek, Altamonte Springs.

<b>Reviewed by:</b>	_____
<b>Co Atty:</b>	_____
<b>DFS:</b>	_____
<b>Other:</b>	_____
<b>DCM:</b>	_____
<b>CM:</b>	<i>JLB</i>
<b>File No:</b>	<u>PCA01</u>



**COUNTY ATTORNEY'S OFFICE  
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Robert A. McMillan, County Attorney *RA McMillan*

FROM: Lynn Vouis, Assistant County Attorney *L Vouis*

CONCUR: David V. Nichols, P.E., Principal Engineer/Engineering *DVN*

DATE: November 23, 2005

RE: Resolution to Vacate Right-Of-Way  
Bunnell Road  
Country Creek Master Association, Inc.

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This Memorandum requests authorization by the Seminole County Board of County Commissioners (BCC) and execution by the Chairman of a Resolution to vacate and abandon a portion of platted, unimproved right-of-way within the Country Creek subdivision in Altamonte Springs, Florida. The settlement of the eminent domain litigation with Country Creek is contingent upon approval of this vacate by the BCC.

**I LOCATION**

The property proposed to be vacated traverses the front portion of Country Creek Parkway.

That portion of right-of-way lying between Lots 60 and 61, McNEIL's ORANGE VILLA, filed in Plat Book 2, Page 99, extending easterly from a 50 ft. right-of-way as depicted on the plat of BEAR LAKE ROADS, filed in Plat Book 4, Page 12, to the plat of NORTHBRIDGE AT COUNTRY CREEK, filed in Plat Book 36, Page 90, all in the public records of Seminole County, Florida.

Less: That portion lying within the right-of-way of Bunnell Road as depicted on the Seminole County Right-Of-Way map of said roads as prepared by Southeastern Survey, dated February, 2003.

1. Location Map – Exhibit A
2. Sketch of 40' Right-Of-Way  
(Bunnell Road Right-Of-Way Map) – Exhibit B

## **II ANALYSIS**

The property proposed to be vacated is an unused platted right-of-way that was included on the original plat for McNeil's Orange Villa, platted in 1917. The right-of-way, although never vacated, was never utilized and appears now as a cloud on the Country Creek Homeowners Association's title. Rights to the property were recently transferred from the City of Altamonte Springs to Seminole County so that the County could vacate it if the County settled its eminent domain lawsuit with Country Creek. The settlement of the lawsuit was approved by the BCC at its meeting held on September 27, 2005, and the Stipulated Order of Taking can be entered anytime after the property is vacated. Country Creek has agreed, as part of the settlement, to grant the County a temporary construction easement over a portion of the vacated property so that the County can connect Country Creek Parkway to the new right-of-way. If the BCC chooses not to vacate the right-of-way, the settlement with Country Creek Masters Association will have to be renegotiated at significant additional costs. The platted right-of-way is surrounded on all sides by Country Creek Homeowners Association's property, therefore, there are no adjacent property owners to object to the vacate. Progress Energy was notified of the vacate request because the property to be vacated is located within a transmission line easement, and has provided a letter of no objection to the vacate, attached hereto as Exhibit C.

## **III RECOMMENDATION**

County staff recommends adoption of the Resolution to vacate and abandon a portion of the platted, unimproved right-of-way within the Country Creek subdivision, attached hereto as Exhibit D.

LV:krc

### **Attachments:**

Location Map – Exhibit A

Sketch of 40' Right-Of-Way (Bunnell Road Right-Of-Way) – Exhibit B

Progress Energy Letter of No Objection – Exhibit C

Resolution to Vacate and Abandon Right-Of Way – Exhibit D

# AREA AND NEIGHBORHOOD DATA AND LOCATION MAPS

Area and neighborhood data and location maps were previously submitted in the General Data Book and are incorporated into this appraisal by reference.

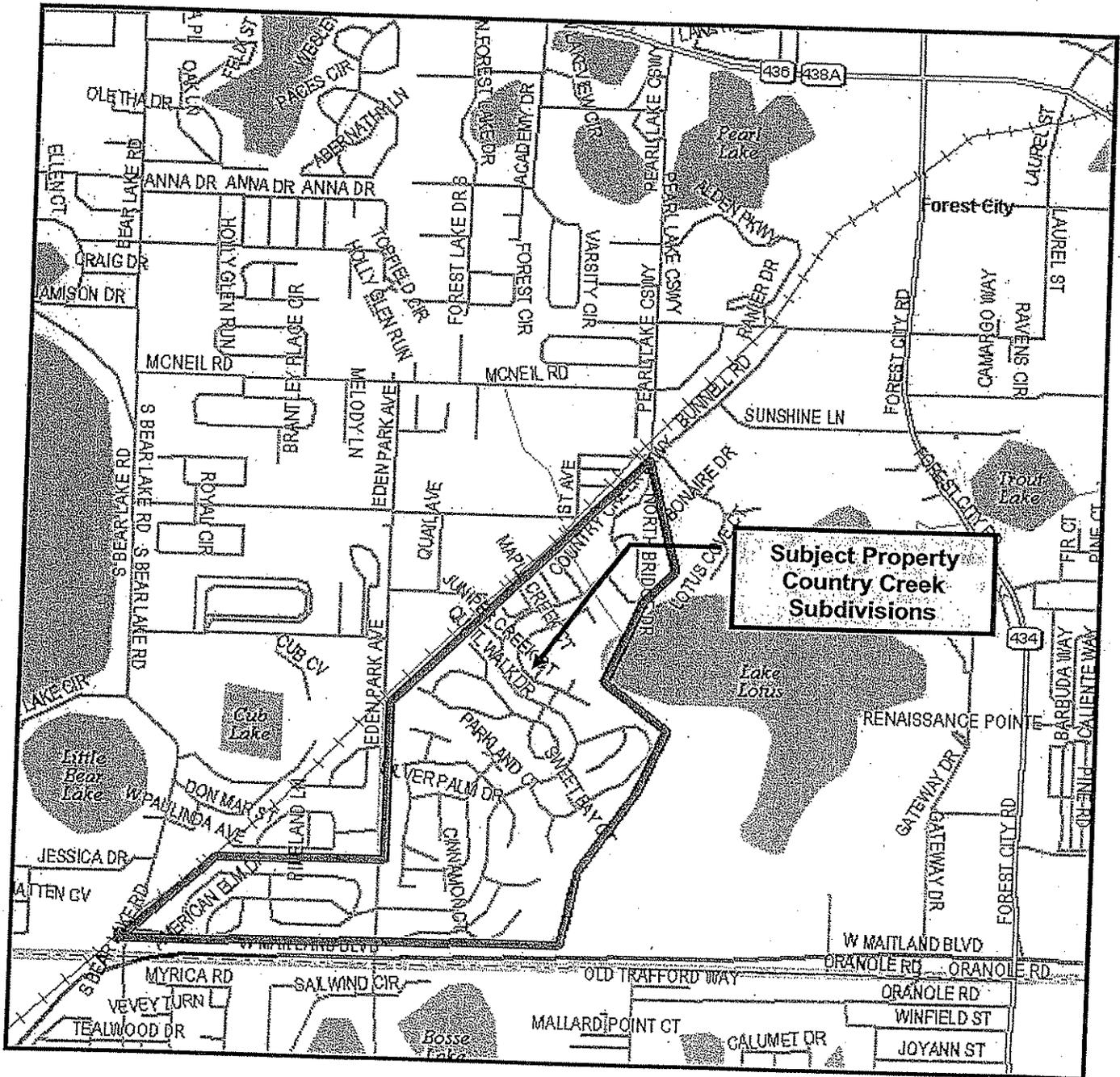
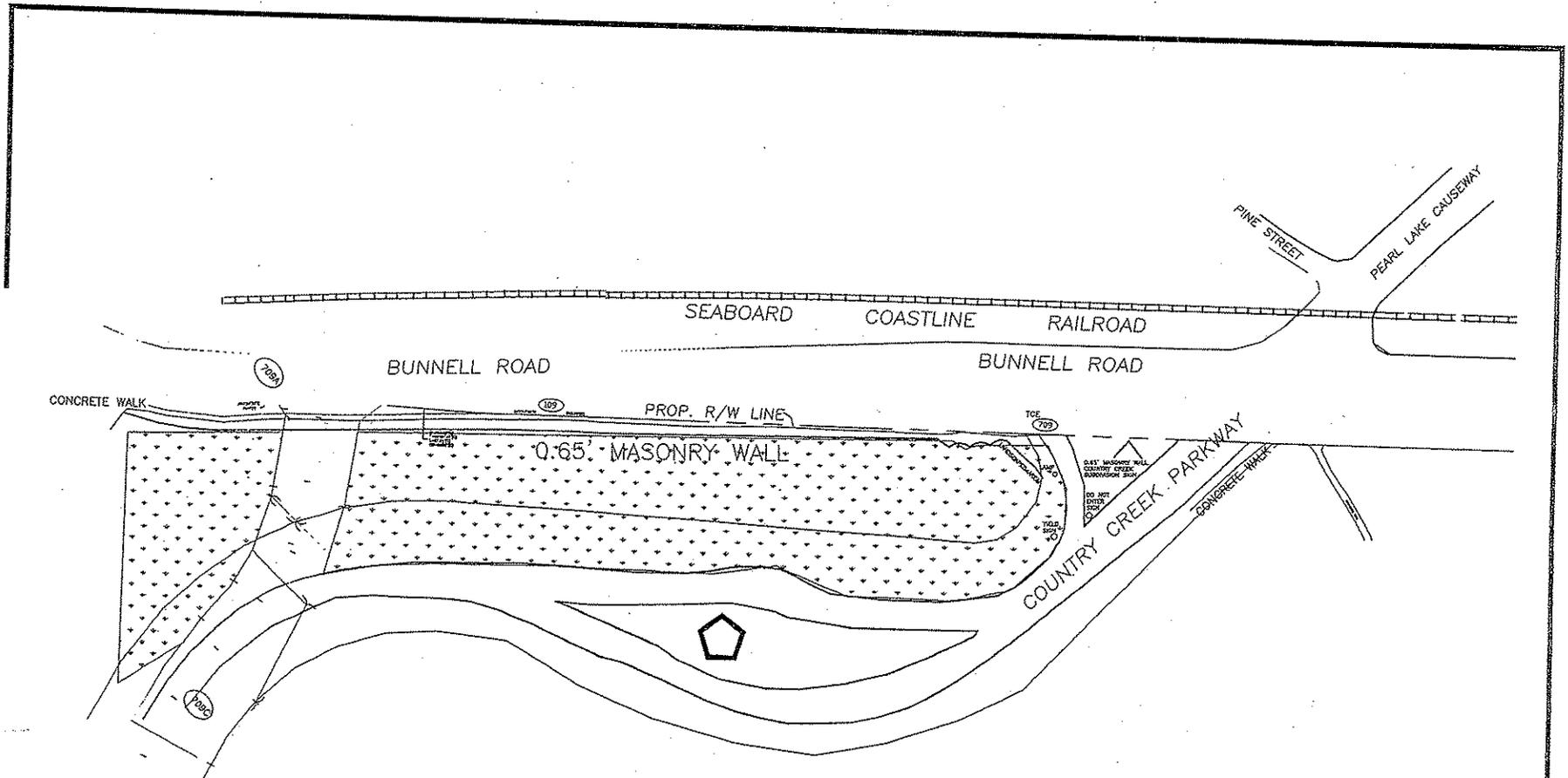


EXHIBIT A

EXHIBIT A



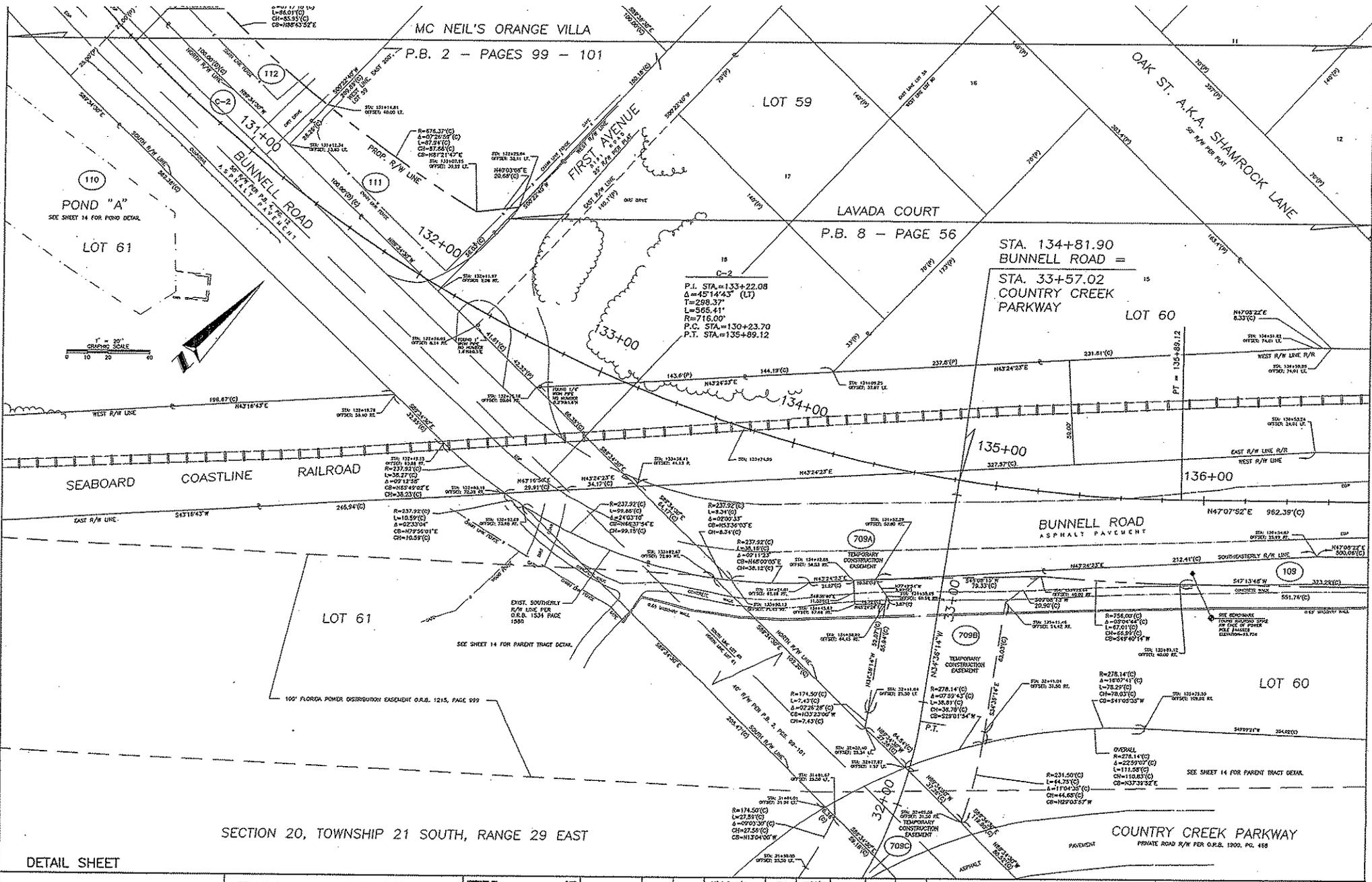
BEFORE TAKING: 205,702 SF±  
 AREA TAKEN: 14,042 SF±  
 AREA REMAINDER: 191,660 SF±

Mr/Bld Folder/2004/Seminole/  
 Bunnell Rd &Eden Park  
 Ave./Bunnell/109\_709/PARCEL 109\_709.dwg

**MAGNOLIA ENGINEERING & LAND PLANNING, INC.**  
 246 N. WESTMONTE DRIVE,  
 ALTAMONTE SPRINGS, FL 32714  
 PHONE: 407-772-1329 FAX: 407-772-1340

BUNNELL ROAD  
 PARCEL 109/709 - UNCURED REMAINDER  
 SEMINOLE COUNTY  
 FLORIDA

SHEET  
 3

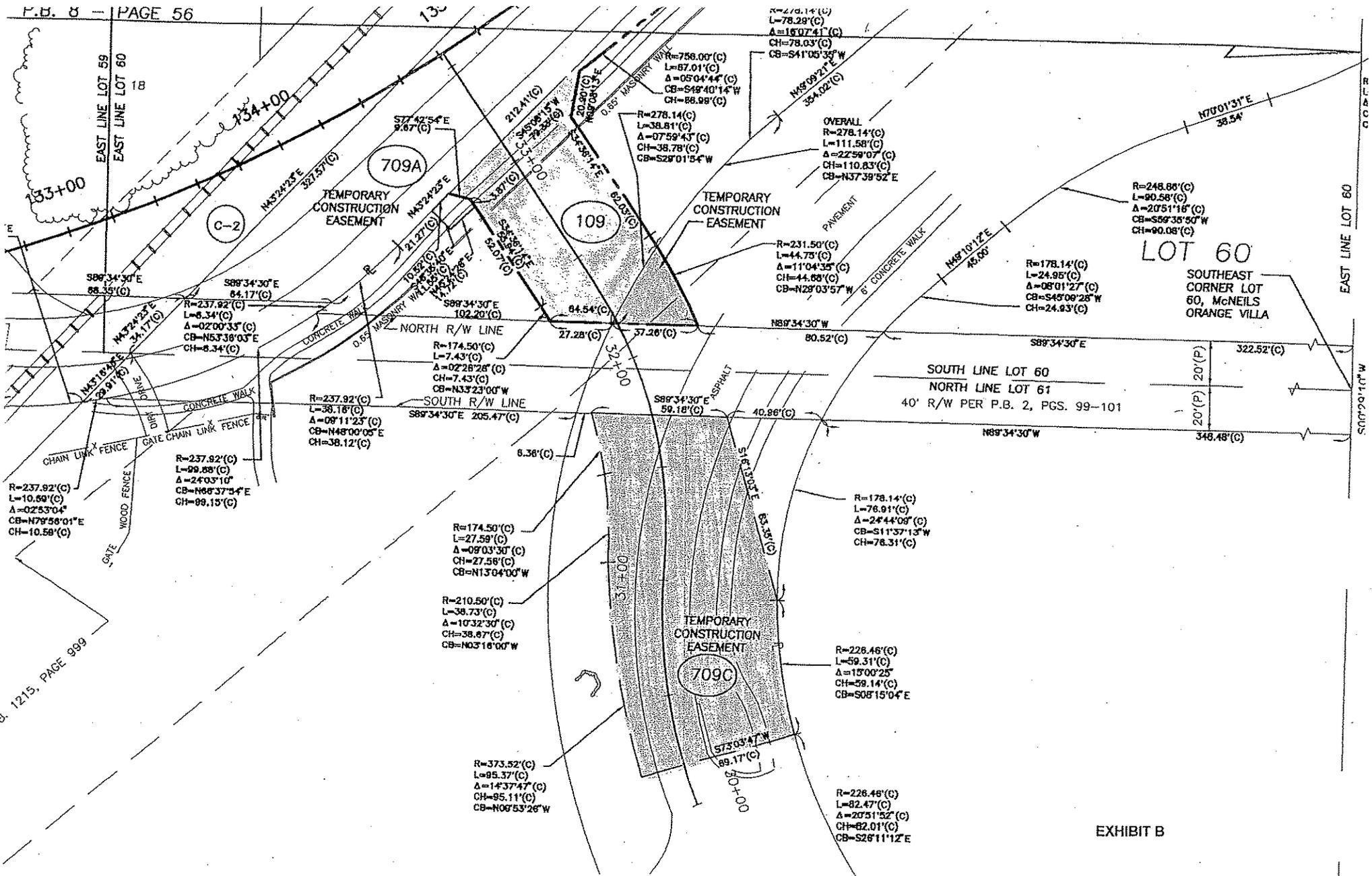


SECTION 20, TOWNSHIP 21 SOUTH, RANGE 29 EAST

DETAIL SHEET

RIGHT OF WAY MAP	SEMINOLE COUNTY ENGINEERING DEPARTMENT RIGHT OF WAY MAPPING	APPROVED BY	DATE	DATE	DATE	DATE	DATE	DATE	DATE	PROJECT NO.	PS-567-00	MAPS PREPARED BY	FIELD BOOK NO'S
		REVISIONS	BY	DATE	DESCRIPTION	BY	DATE	DESCRIPTION	BY	DATE	DESCRIPTION	DATE	WFLA NO. N/A
Bunnell Road											SEMINOLE COUNTY	SECTION N/A	SHEET 8 OF 17

EXHIBIT B



8. 1215, PAGE 999

EXHIBIT B



**Progress Energy**

RECEIVED  
COUNTY ATTORNEY'S OFFICE  
2005 NOV 18 AM 10:21

Lynn M. Vouis  
Assistant County Attorney  
Seminole County Attorney's Office  
1101 East First Street  
Sanford, FL 32771-1468

RE: *Vacation and Abandonment of Right-of-Way Easement  
Case #05-CA-1610-13K, 20-21S-29E, Seminole County*

Dear Ms. Vouis:

Please be advised that Florida Power Corporation d/b/a Progress Energy Florida Inc. (PEF) does have valid, enforceable transmission rights within the subject area. Transmission Engineering has **NO OBJECTION** to the vacation and abandonment of **40 foot right-of-way easement per Plat Book 2, Pages 99 through 101 of the public records of Seminole County, Florida**, as highlighted and depicted on the attached Exhibit "A", provided that nothing herein shall diminish, alter or adversely affect PEF's existing easement rights over this right-of-way as set forth in the documents *recorded in Official Records Book 1031 at Page 2, dated August 16, 1974, and Official Records Book 1215 at Page 999, dated March 1, 1979, of the public records of Seminole County, Florida.*

This vacation and abandonment is contingent upon receipt of a separate letter of approval from PEF's Distribution Department. Should you have any questions concerning the letter from the Distribution department, please contact Lori Herring at (407) 942-9463.

If further assistance is needed from Transmission Line Engineering, please call Elise Camuso at (407) 942-9276.

Sincerely,

PROGRESS ENERGY FLORIDA, INC.

Gary Furman  
Manager  
Transmission Line Engineering

Date: 11/15/05

Progress Energy Florida, Inc.  
3300 Exchange Place  
Lake Mary, FL 32746

**EXHIBIT C**

RESOLUTION NO. 2005-R-\_\_\_\_\_

SEMINOLE COUNTY, FLORIDA

**RESOLUTION TO VACATE AND ABANDON RIGHT-OF-WAY**

**THE FOLLOWING RESOLUTION WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, AT ITS REGULARLY SCHEDULED MEETING OF \_\_\_\_\_, 2005.**

**WHEREAS**, a Petition was presented on behalf of Country Creek Master Association, Inc., to the Board of County Commissioners of Seminole County, Florida, requesting the closing, vacating and abandoning of the following described right-of-way; to wit:

That portion of right-of-way lying between Lots 60 and 61, MCNEIL'S ORANGE VILLA, filed in Plat Book 2, Page 99, extending easterly from a 50 ft. right-of-way as depicted on the plat of BEAR LAKE ROADS, filed in Plat Book 4, Page 12, to the plat of NORTHBRIDGE AT COUNTRY CREEK, filed in Plat Book 36, Page 90, all in the public records of Seminole County, Florida.

Less: That portion lying within the right-of-way of Bunnell Road as depicted on the Seminole County Right-Of-Way map of said roads as prepared by Southeastern Survey, dated February, 2003.

**WHEREAS**, after due consideration the Board of County Commissioners of Seminole County, Florida having determined that the abandonment of the above-described right-of-way is in the best interest of the county and public.

**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Seminole County, Florida, that the above-described right-of-way be, and the same is hereby abandoned, closed and vacated, and that all right in and to the same on behalf of the County and the public be, and the same is hereby disclaimed.

**EXHIBIT D**

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA**

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By: \_\_\_\_\_, Chairman

Date: \_\_\_\_\_

\_\_\_\_\_  
County Attorney

LV/krc  
10/18/05