

MEMORANDUM

To: Mayor and City Council

From: Mindy Sanders, Capital Projects Manager

Date: December 8, 2014

Subject: **Discussion of Tilly Mill at North Peachtree Right of Way Acquisition, Parcel 3**

ITEM DESCRIPTION

Discussion of Tilly Mill Road at North Peachtree Road right of way acquisition at Parcel 5 (4962 Tilly Mill Road).

BACKGROUND

In 2011 the Mayor and Council approved a contract with Gresham, Smith and Partners for design improvements for the Tilly Mill Road and North Peachtree Intersection. Public meetings were held in early 2012 and the roadway design reached substantial completion at the end of 2012 whereupon the City began its right of way acquisition activities.

The city contracted with Diana Hunt and Associates to perform right of way acquisition services for this project. This effort consisted of the negotiation for right of way, as well as temporary, permanent, and driveway easements on a total of 22 parcels. The city has reached an agreement with, or has eliminated through design adjustments 15 of these parcels. Five of the remaining parcels are affected by the stormwater management design, which has been undergoing revision to reduce impacts and reduce construction costs. It is anticipated that each of these parcels will close with the city within the next few months. The city has been unable to reach an agreement with the other two parcels, despite continued negotiation efforts over the last 18 months.

DISCUSSION

This capital project will be locally funded. A total of \$300,000 has been budgeted for the purposes of right of way acquisition. As of November 30, 2014, the City has spent \$220,000 towards this phase of the project. Upon completion of all negotiations, it is anticipated that the City will have paid out a total of approximately \$285,000 for the necessary easements and right of way for this capital project.

The subject property at 4962 Tilly Mill Road is a corner lot of approximately 0.65 acres (28,314 square feet), which is currently undeveloped. The acquisition of 1,735 square feet of fee simple right of way, 2,941 square feet of temporary easement, and a driveway easement is required for the construction of the intersection improvement project. An independent fair market value appraisal, which considers the cost of the acquired right of way as well as the diminution in value of the property remaining, values this acquisition to be \$19,000.00. This total is based on \$7,600 for the fee simple right of way, \$7,500 for diminution of the remaining property, and \$3,900 for the temporary easement. The

property owner, through their attorney, Nardone & Crecelius LLC, has been provided a best and final offer of \$25,000.00 in a letter written September 29, 2014; however, the city has not received a favorable response from either the property owner or their attorney. The last counter offer from the property owner was received on November 6, 2013 in the amount of \$38,000.

RECOMMENDED ACTION

The Assistant City Attorney and Public Works staff recommend that the Mayor and City Council approve the use of Eminent Domain and begin the condemnation process for right of way and easement areas located along 4962 Tilly Mill Road, lying within Land Lot 359 of the 18th District, in connection with the Tilly Mill at North Peachtree Intersection Improvement Project in order to meet scheduled construction dates.

**STATE OF GEORGIA
CITY OF DUNWOODY**

RESOLUTION 2014-12-XX

**A RESOLUTION TO AUTHORIZE THE USE OF EMINENT DOMAIN
TO ACQUIRE PROPERTY AT 4962 TILLY MILL ROAD, DUNWOODY, GEORGIA
FOR ROAD PROJECT**

WHEREAS, the City has determined that it is necessary to conduct an intersection improvement project on North Peachtree Road on and near its intersection with Tilly Mill Road (the "Project"); and

WHEREAS, in order to conduct the Project, certain rights are required over, under, and through the property of Gustavo Real, located at 4962 Tilly Mill Road within the City of Dunwoody (reference: Project No. 350 4200.541400.00 301 / P-5); and

WHEREAS, the Mayor and Council has considered the Project and determined that it is necessary and must be carried out expediently to insure the timely completion of the City's intersection improvement project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Dunwoody, Georgia while in regular session on December 8, 2014, at 7:00 p.m. as follows:

In order to insure the timely completion of the City's intersection improvement project the Mayor and Council authorize the City Attorney's Office to acquire through the use of Eminent Domain by any method allowed by law the necessary property rights over, under, and across the property located at 4962 Tilly Mill Road in order to insure the timely completion of the City's intersection improvement project on North Peachtree Road at or near its intersection with Tilly Mill Road. Further the Mayor is specifically authorized to execute any documents necessary to further the filing of any Petition related to the same.

APPROVED AND ADOPTED this 8th day of December, 2014.

Approved by:

Michael G. Davis, Mayor

Attest:

Sharon Lowery, City Clerk
(Seal)

Curve* 5- North Peachtree Road
 PI Sta= 209+17.59
 N= 1432165.30
 E= 2257999.82
 DELTA= 04°09'04.7" (RT)
 D= 05°43'46.48"
 T= 36.24
 L= 72.45
 R= 1000.00
 E= 0.66

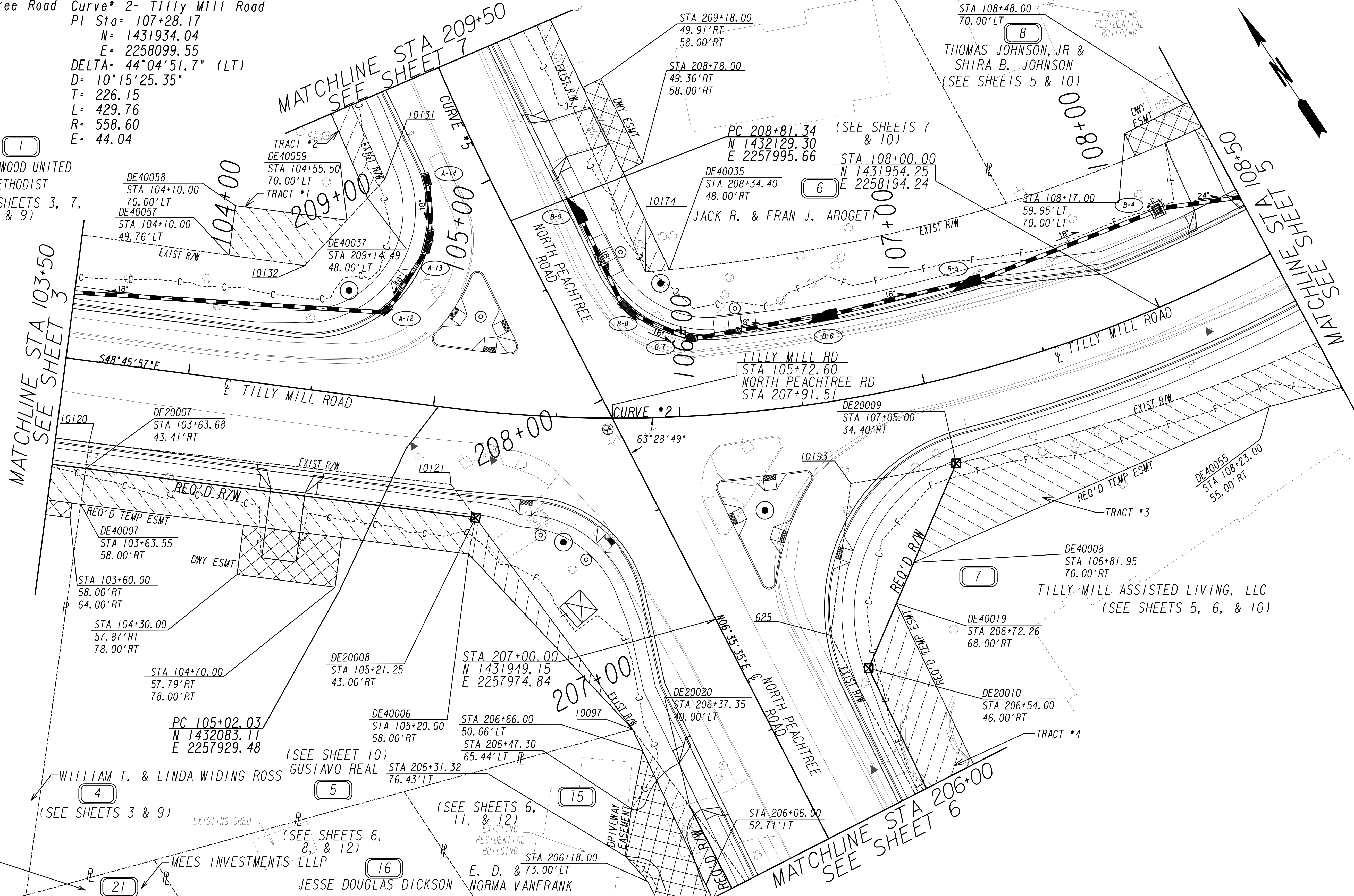
Curve* 2- Tilly Mill Road
 PI Sta= 107+28.17
 N= 1431934.04
 E= 2258099.55
 DELTA= 44°04'51.7" (LT)
 D= 10°15'25.35"
 T= 226.15
 L= 429.76
 R= 558.60
 E= 44.04

(1)
 KINGSWOOD UNITED
 METHODIST
 (SEE SHEETS 3, 7,
 & 9)

MATCHLINE STA 103+50
 SEE SHEET 3

MATCHLINE STA 209+50
 SEE SHEET 7

MATCHLINE STA 105+80
 SEE SHEETS 5 & 10



-11-

PROPERTY AND EXISTING R/W LINE
 REQUIRED R/W LINE
 CONSTRUCTION LIMITS
 EASEMENT FOR CONSTR
 & MAINTENANCE OF SLOPES
 EASEMENT FOR CONSTR OF SLOPES
 EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS.....BLA
 END LIMIT OF ACCESS.....ELA
 LIMIT OF ACCESS
 REQ'D R/W & LIMIT OF ACCESS

SCALE IN FEET
 0 20 40 80



DATE	REVISIONS	DATE	REVISIONS
4/30/13	CHANGE PARCEL OWNER PARCEL 8.		
5/13/13	ADD TRACT 1 TEMP. EASMT FOR PARCEL 1 ALONG TILLY MILL RD		
5/13/13	RENAME CURRENT PARCEL 1 TEMP. EASMT ALONG N. PEACHTREE ST. TO TRACT 2		
5/30/13	ADJUST PARCEL 15 DRIVEWAY AND DWT EASMT.		

DATE	REVISIONS

CITY OF DUNWOODY
 RIGHT OF WAY MAP
 PROJECT NO: 28535.00
 COUNTY: DEKALB
 LAND LOT NO: 354, 359
 LAND DISTRICT: 18
 GMD 686
 DATE 01/02/13 SH 4 OF 12

10/7/2013 USER:sar11nb	GPLOT-V8 gplotborder-V81-P0.tbl	0:\28535\1\2853500\DWG\2853500_60-009.dgn GWP.LIN	STATE GA	PROJECT NUMBER 28535.00	SHEET NO. 10	TOTAL SHEETS 12
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PARCEL 4 REQ'D TEMP. EASM'T. DE54

PNT	OFFSET/	STATION/	ALIGNMENT
DE20007	43.41 R	103+63.68	Tilly Mill Rd
DE40007	58.00 R	103+63.55	Tilly Mill Rd
DE40004	58.00 R	102+64.48	Tilly Mill Rd
DE20006	43.88 R	102+64.69	Tilly Mill Rd
DE20007	43.41 R	103+63.68	Tilly Mill Rd

REQD EASMT AREA = 1421.753 SF

PARCEL 4 REQ'D DRWY. EASM'T
DRIVEWAYS = 1

PARCEL 5 REQ'D R/W DE24

PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT
DE20007	43.41 R	103+63.68	Tilly Mill Rd
	10.54	N 41°44'44.1" E	
10120	32.86 R	103+63.77	Tilly Mill Rd
	147.40	S 49°37'26.2" E	
10121	30.73 R	105+10.68	Tilly Mill Rd
	16.66	S 2°45'20.2" E	
DE20008	43.00 R	105+21.25	Tilly Mill Rd
	159.05	N 49°02'24.8" W	
DE20007	43.41 R	103+63.7	Tilly Mill Rd

REQD R/W = 1734.592 SF
REQD R/W = 0.040 ACRES
REMAINDER = +/- 0.609 ACRES

PARCEL 5 REQ'D TEMP. EASM'T. DE55

PNT	OFFSET/	STATION/	ALIGNMENT
DE20007	43.41 R	103+63.68	Tilly Mill Rd
DE20008	43.00 R	105+21.25	Tilly Mill Rd
10097	125.96 R	105+79.60	Tilly Mill Rd
DE40006	58.00 R	105+20.00	Tilly Mill Rd
DE40007	58.00 R	103+63.55	Tilly Mill Rd
DE20007	43.41 R	103+63.68	Tilly Mill Rd

REQD EASMT AREA = 2940.901 SF

PARCEL 5 REQ'D DRWY. EASM'T
DRIVEWAYS = 1

PARCEL 6 REQ'D TEMP. EASM'T. DE56

PNT	OFFSET/	STATION/	ALIGNMENT
10175	42.91 R	209+80.91	North Peachtree Rd
DE40034	48.00 R	209+80.55	North Peachtree Rd
DE40035	48.00 R	208+34.40	North Peachtree Rd

ARC LENGTH = 9.69
CHORD BEAR = N 61°34'31.2" W
LNTH CHORD = 9.69
RADIUS = 737.04
DEGREE = 7°46'25.6"

PNT	OFFSET/	STATION/	ALIGNMENT
10174	39.00 R	208+38.01	North Peachtree Rd
10175	42.91 R	209+80.91	North Peachtree Rd

REQD EASMT AREA = 1005.259 SF

PARCEL 6 REQ'D DRWY. EASM'T
DRIVEWAYS = 1

PARCEL 7 REQ'D R/W DE25

PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT
DE20009	34.40 R	107+05.00	Tilly Mill Rd
	90.21	S 56°54'15.7" W	
DE20010	46.00 R	206+54.00	North Peachtree Rd
	108.04	S 8°11'08.8" W	
DE20011	43.00 R	205+46.00	North Peachtree Rd
	9.00	S 83°24'25.4" E	
DE20012	52.00 R	205+46.00	North Peachtree Rd
	21.00	S 6°34'45.7" W	
DE20013	52.00 R	205+25.00	North Peachtree Rd
	3.00	N 83°24'25.4" W	
DE20014	49.00 R	205+25.00	North Peachtree Rd
	32.43	S 11°57'32.9" W	
DE20015	47.08 R	204+96.11	North Peachtree Rd
	5.13	N 89°37'36.8" W	
10192	42.03 R	204+95.28	North Peachtree Rd
	180.68	N 5°49'48.0" E	
625	38.47 R	206+72.82	North Peachtree Rd
	62.05	N 41°15'34.1" E	
10193	73.76 R	207+23.86	North Peachtree Rd

ARC LENGTH = 43.43
CHORD BEAR = S 67°01'04.8" E
LNTH CHORD = 43.42
RADIUS = 737.04
DEGREE = 7°46'25.6"

PNT	OFFSET/	STATION/	ALIGNMENT
DE20009	34.40 R	107+05.00	Tilly Mill Rd

REQD R/W = 3223.557 SF
REQD R/W = 0.074 ACRES
REMAINDER = +/- 1.574 ACRES

PARCEL 7 TRACT 1 REQ'D PERM. EASM'T. DE42

PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT
DE30010	50.16 R	109+72.00	Tilly Mill Rd

ARC LENGTH = 25.86
CHORD BEAR = N 88°14'59.7" E
LNTH CHORD = 25.86
RADIUS = 737.04
DEGREE = 7°46'25.6"

PNT	OFFSET/	STATION/	ALIGNMENT
10195	50.65 R	109+97.85	Tilly Mill Rd
	9.74	S 0°19'49.7" W	
DE30011	60.38 R	109+97.31	Tilly Mill Rd
	96.66	S 12°20'02.8" W	
DE30012	153.66 R	109+72.00	Tilly Mill Rd
	103.50	N 2°50'48.9" W	
DE30010	50.16 R	109+72.00	Tilly Mill Rd

REQD EASMT = 1433.734 SF
REQD EASMT = 0.033 ACRES

PARCEL 7 TRACT 2 REQ'D PERM. EASM'T. DE43

PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT
DE30013	124.21 R	109+93.77	Tilly Mill Rd
	53.87	S 0°19'49.7" W	
DE30014	178.00 R	109+90.78	Tilly Mill Rd
	10.78	S 87°09'11.1" W	
DE30015	178.00 R	109+80.00	Tilly Mill Rd
	41.12	S 51°56'13.0" W	
DE30016	201.71 R	109+46.40	Tilly Mill Rd
	24.22	N 38°03'33.0" W	
DE30017	181.93 R	109+32.44	Tilly Mill Rd
	47.39	N 52°50'16.0" E	
DE30018	155.21 R	109+71.58	Tilly Mill Rd
	4.60	S 12°20'12.9" W	
DE30019	159.66 R	109+70.37	Tilly Mill Rd
	16.90	S 51°21'15.8" W	
DE30020	169.54 R	109+56.67	Tilly Mill Rd
	13.99	S 38°38'44.2" E	
DE30021	180.88 R	109+64.85	Tilly Mill Rd
	20.76	N 51°21'15.8" E	
DE30022	168.74 R	109+81.69	Tilly Mill Rd
	46.14	N 12°20'02.8" E	
DE30013	124.21 R	109+93.8	Tilly Mill Rd

REQD EASMT = 1128.981 SF
REQD EASMT = 0.026 ACRES

REQ'D TEMP. EASM'T PARCEL 7 TRACT 3 = 0.161 AC
REQ'D TEMP. EASM'T PARCEL 7 TRACT 4 = 0.075 AC
TOTAL REQ'D TEMP. EASM'T PARCEL 7 TRACTS 1 & 2 = 0.236 AC

PARCEL 7 REQ'D DRWY. EASM'T
DRIVEWAYS = 1

PARCEL 8 REQ'D DRWY. EASM'T
DRIVEWAYS = 1

REQ'D PERM. EASM'T PARCEL 7 TRACT 1 = 0.033 AC
REQ'D PERM. EASM'T PARCEL 7 TRACT 2 = 0.026 AC
TOTAL REQ'D PERM. EASM'T PARCEL 7 TRACTS 1 & 2 = 0.059 AC

PARCEL 7 TRACT 3 REQ'D TEMP. EASM'T. DE57

PNT	OFFSET/	STATION/	ALIGNMENT
DE40008	70.00 R	106+81.95	Tilly Mill Rd
DE20009	34.40 R	107+05.00	Tilly Mill Rd

ARC LENGTH = 283.51
CHORD BEAR = S 79°43'31.8" E
LNTH CHORD = 281.76
RADIUS = 737.04
DEGREE = 7°46'25.6"


PNT	OFFSET/	STATION/	ALIGNMENT
DE30010	50.16 R	109+72.00	Tilly Mill Rd
DE40009	54.00 R	109+72.00	Tilly Mill Rd
DE40010	85.00 R	109+19.00	Tilly Mill Rd
DE40055	55.00 R	108+23.00	Tilly Mill Rd
DE40008	70.00 R	106+81.95	Tilly Mill Rd

REQD EASMT AREA = 6991.66 SF

PARCEL 7 TRACT 4 REQ'D TEMP. EASM'T. DE58

PNT	OFFSET/	STATION/	ALIGNMENT
DE20010	46.00 R	206+54.00	North Peachtree Rd
DE40019	68.00 R	206+72.26	North Peachtree Rd
DE40020	64.00 R	204+98.76	North Peachtree Rd
DE20015	47.08 R	204+96.11	North Peachtree Rd
DE20014	49.00 R	205+25.00	North Peachtree Rd
DE20013	52.00 R	205+25.00	North Peachtree Rd
DE20012	52.00 R	205+46.00	North Peachtree Rd
DE20011	43.00 R	205+46.00	North Peachtree Rd
DE20010	46.00 R	206+54.00	North Peachtree Rd

REQD EASMT AREA = 3273.703 SF

 G R E S H A M S M I T H A N D P A R T N E R S	DATE	REVISIONS	DATE	REVISIONS	CITY OF DUNWOODY RIGHT OF WAY TABLES PROJECT NO: 28535.00 COUNTY: DEKALB LAND LOT NO: 354, 359 LAND DISTRICT: 18 GMD: 686 DATE 01/02/13 SH 10 OF 12
	5/13/13	MOVE PARCEL 9 DWY. EASM'T TABLE TO PAGE 11			
	5/30/13	ELIMINATE PARCEL 9 TEMP. EASM'T TABLE			
	6/24/13	ADJUST PARCEL 7 TRACT 3 TEMP. EASM'T TABLE			