



Metro

**MTA BOARD
FEBRUARY 26, 2004**

44

SUBJECT: PUBLIC HEARING RE: RESOLUTION OF NECESSITY FOR THE ACQUISITION OF PARCEL ES-562 FOR THE EASTSIDE GOLD LINE EXTENSION PROJECT

ACTION: ADOPT RESOLUTION OF NECESSITY

RECOMMENDATION

- A. Hold a public hearing on the proposed resolution of necessity.
- B. Adopt the attached Resolution of Necessity authorizing the commencement of an eminent domain action to acquire the subject property.

RATIONALE

Acquisition of MTA Parcel ES-562 is required for the construction and operation of a traction power substation for the Eastside Gold Line Extension Project (“Project”). A written offer has been presented to the owner of record, as required by California Government Code Section 7267.2. To date, the offer has not been accepted because of the owner’s disagreement with the amount of the offer. Because this site is needed to proceed with construction of the Project, staff recommends the acquisition through eminent domain.

In accordance with the provisions of the California Eminent Domain law and Sections 30503, 30600 and 130220.5 of the California Public Utilities Code (which authorize the MTA to acquire property by eminent domain), the MTA has prepared and mailed notice of this hearing to the record owner and the City Clerk of the City of Los Angeles, informing them of their right to appear at this hearing and be heard on the following issues: (1) Whether the public interest and necessity require the proposed Project; (2) Whether the proposed Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; (3) Whether the subject parcel is necessary for the proposed Project; and (4) Whether an offer was made in compliance with Government Code Section 7267.2. After all of the testimony and other evidence has been received by the MTA from all interested parties, the MTA must make a determination as to whether to adopt the proposed resolution of necessity to acquire the subject parcel by eminent domain. In order to adopt the resolution, the MTA must, based upon all the evidence before it, find and determine that the conditions stated above exist. Attached is evidence (Attachment 1) submitted by staff that supports adoption of the attached Resolution that has been approved by counsel, and which sets forth the required findings.

FINANCIAL IMPACT

The acquisition of MTA Parcel ES-562 is included in the approved Eastside Gold Line Extension Project Budget, and funds are available to proceed with this acquisition.

ALTERNATIVE CONSIDERED

The Board has the option to withhold adoption of the Resolution of Necessity. This would result in an additional delay in obtaining possession of the required property, and thereby potentially cause delays and increased costs to the Project.

ATTACHMENTS

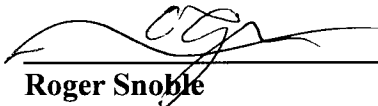
Attachment 1 - Staff Report

Attachment 2 - Resolution of Necessity (ES-562)

Prepared by: Velma C. Marshall
Director of Real Estate



Don Ott
Executive Officer
Administration



Roger Snoble
Chief Executive Officer

STAFF'S REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF PARCEL ES-562 FOR THE EASTSIDE GOLD LINE EXTENSION PROJECT.

BACKGROUND

The subject parcel is required for the construction and operation of a traction power substation site in connection with the Eastside Project. The parcel number, address, record owner (as indicated by a title report issued by Orange Coast Title Company), purpose for taking, and nature of the property interest sought to be acquired (based upon the Final Environmental Impact Report and Study for the Eastside Light Rail Transit Project), for the parcel are as follows:

Parcel Number	Parcel Address	Owner	Purpose for Acquisition	Interest Sought
ES-562	4027 E 3 rd Street, Los Angeles	Thai Group LLC, a Limited Liability Company	Traction Power Substation Site	Fee Simple

The initial written offer to acquire the full fee interest of the property was made to the property owner on August 12, 2003. Staff engaged in subsequent telephone conversations with the owner and the owner's attorney in an attempt to resolve several issues related to the existing outdoor advertising signs located on the property and to reach a mutually acceptable agreement regarding the property's value. An acceptable settlement could not be reached.

Following is an analysis as to why the attached Resolution of Necessity should be adopted. Additional information justifying the adoption of the Resolution is contained in the Final Environmental Impact Report and Environmental Impact Study for this Project, which was certified by the Board on February 28, 2002, the Major Investment Study, approved by the Board on February 24, 2000 and the other environmental documents and analysis referenced therein.

In the spring of 2001 a Draft Environmental Impact Report and Environmental Impact Study (DIER/EIS) was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. Public hearings were held to solicit citizen and agency comments. A No-Build Alternative and three Locally Preferred Alternatives ("LPA") were presented in the DEIR/EIS. On May 24, 2001 the MTA Board formally adopted the LPA for the East Side Corridor to be the Light Rail Transit Project after review and consideration of the comments received from circulation of the DEIR/EIS. In October 2001, a Final Environmental Impact Report and Environmental Impact Study (FEIR/EIS) was circulated to present the Locally Preferred Alternative for the Eastside Corridor Project.

The Eastside Gold Line Extension Project is a six-mile easterly extension of the Pasadena Gold Line that terminates at Union Station. The Eastside Light Rail project will begin at Union Station and cross over US 101 on an aerial structure and then gradually become an at-grade segment near the intersection of Alameda Street and Ducommon Street. The alignment continues south along the east side of Alameda Street and turns east at the center of 1st Street and continues at grade to Clarence Street in Boyle Heights and then becomes a subway segment. The subway segment traverses underneath or adjacent to 1st Street for about 1.7 miles east to just west of Lorena Street in Boyle Heights. The alignment continues as an at-grade segment traversing 1st Street east from Lorena Street to Indiana Street where it turns south and continues along the east side of Indiana Street to 3rd Street. At 3rd Street, the alignment turns eastward and continues at grade to Pomona Boulevard where it terminates at Atlantic Boulevard. The proposed eight stations of the LPA are located at 1st/Alameda, 1st/Utah, 1st/Boyle, 1st Soto, Indiana Street (off street location), 3rd/Ford, 3RD/Mednik and Pomona/Atlantic.

The parcel included in this action is required for the construction and operation of a traction power substation.

A. The public interest and necessity require the Project.

1. The Eastside Corridor communities of Boyle Heights and East Los Angeles are characterized by a large and growing population (over 212,000 according to the 1990 census, 275,000 expected by 2020) of predominately Latino ethnic origin, a high percentage of low-income households and relatively high rates of transit use and transit dependence. In these communities, nearly 20 percent of workers use the bus system on their journey to work (as compared to 6.5 percent for Los Angeles County as a whole), and rates of carpooling and walking to work are also higher than the County average. Employment densities are six times higher within the Eastside Corridor than Los Angeles County as a whole. The corridor is growing (20 percent population and 30 percent employment growth between now and 2020), and a new transportation investment would make the Corridor attractive for other types of urban investment in the future. All major freeways serving the Eastside Corridor area are currently operating above their design capacities during peak period, and for significant durations during off-peak periods. No major improvements to existing freeways in the study area are identified in any adopted transportation plans. Residents of the Eastside Corridor have expressed their desire for improved transit service because many are transit dependent and need improved access to the region's educational, employment and cultural opportunities. This project will further these goals and contribute to an improved overall transportation system for the Los Angeles region and for the Eastside Corridor specifically.

2. Implementation of the Project will improve access and mobility for residents, employees and visitors to the Eastside Corridor and result in a reduction of vehicle miles per day and reduction of auto air pollutants.

3. The Project will support land use and development goals as stated in the City of Los Angeles and County of Los Angeles plans for joint development opportunities, and increased land

use intensity in transit station areas.

4. The Project will provide convenient access and improve connectivity to the regional transit system and will thereby provide alternative means of transportation during fuel crises.
5. The Project will meet the need for improved transit service of the many transit-dependent people within the Eastside Corridor area.

It is recommended that based on the above evidence, the MTA find and determine that the public interest and necessity require the Project.

- B. The proposed Project is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

Stations are located in corridors that have a high number of daily trips, high levels of congestions, high levels of transit usage, dense populations, densely located jobs and a high number of workers. Station are spaced about one mile apart from each other with the understanding that the average person will not walk more than a half-mile to get to a station. There is also an attempt to locate stations near land-uses that will provide active spaces i.e. destinations that people will want to travel to or from. There is also an attempt to locate stations on properties that will have the least amount of impact. The Major Investment Study for the Eastside reviewed over 47 different alternatives that resulted in the recommendation to move forward with a light rail project with stations, 3rd/Rowan, 3rd/Indiana, 3rd/Ford, 3rd and Indiana, and 3rd Mednik.

Traction Power Substations (“TPSS”) are spaced approximately one mile apart and are required to provide the electrical energy needed to operate the system. The TPSS site at the subject location is necessary for the efficient operation of the Project.

It is recommended that, based upon the foregoing, the MTA find and determine that the project is planned in the manner that will be most compatible with the greatest public good and the least private injury.

- C. The subject property interest is necessary for the proposed Project.

Parcel ES-562 requires a full fee taking for the construction and operation of a traction power substation. The owner will be permitted to retain an existing lease with a major out door advertising company which occupies a portion of the property that is not impacted by the TPSS. The subject property complies with system specifications for the location of traction power substations. Parcel ES-562 is legally described more specifically in the attached Exhibit "A" and is generally depicted in the parcel plat map attached hereto as Exhibit "B", both of which are incorporated herein by this reference.

- D. An offer was made in compliance with Government Code Section 7267.2

California Code of Civil Procedures Section 1245.230 requires that a Resolution of Necessity contain a declaration that the governing body has found and determined that either the offer required by Section 7267.2 of the California Government Code has been made to the owner(s) of record, or the offer has not been made because the owner(s) cannot be located with reasonable diligence.

California Government Code Section 7267.2 requires that an offer be made to the owner(s) of record, in an amount which the agency believes to be just compensation. The amount must not be less than the agency's approved appraisal of the fair market value of the property. In addition, the agency is required to provide the owner(s) with a written statement of, and summary of the basis for, the amount it established as just compensation.

The MTA staff has taken the following actions as required by California law for the acquisition of the subject property interest:

1. Obtained an appraisal to determine the fair market value of the property interest.
2. Reviewed and approved the appraisal, and established just compensation,
3. Determined the owner of the subject property interest by examining the county assessor's records and title report, and
4. Made a written offer to the property owner for the established amount of just compensation, which was not less than the approved appraisal amount.

Staff recommends that the MTA Board find that the acquisition of the subject property interest is necessary.

ATTACHMENT

- 1 - Legal Description (Exhibit "A")
- 2 - Plat Map (Exhibit "B")

EXHIBIT " A "

THE LAND REFERRED TO IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

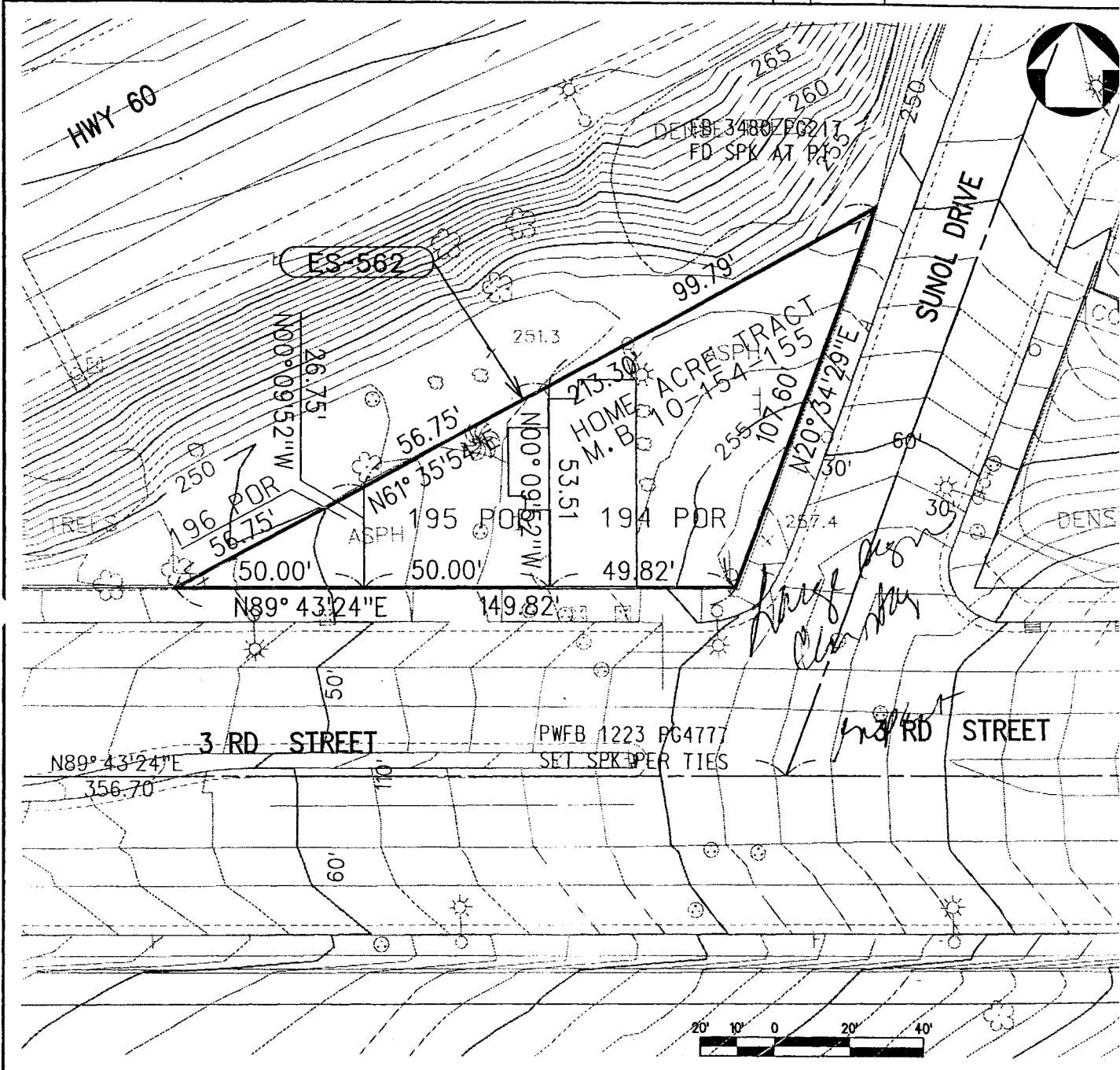
LOT 194 AND THOSE PORTIONS OF LOTS 195 AND 196 OF HOME ACRE TRACT, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 10, PAGE(S) 154 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID SOUTHERLY 40.00 FEET OF SAID LOT 196, THENCE NORTHEASTERLY IN A DIRECT LINE, TO THE SOUTHWESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND ACQUIRED BY DEED RECORDED IN BOOK D1371, PAGE 795 OF OFFICIAL RECORDS IN SAID OFFICE.

EXCEPTING AND RESERVING UNTO THE STATE OF CALIFORNIA ANY AND ALL RIGHTS OF INGRESS TO OR EGRESS FROM THE LAND HEREIN CONVEYED OVER AND ACROSS THE NORTHWESTERLY LINE THEREOF.

MTA PARCEL ES-562

GRANTOR : THAI GROUP		EXHIBIT " B "		The data shown on this map and/or plat are compiled from public sources and are subject to field verification. Bearings are based on North American Datum of 1983 (NAD 83).	
DESCRIPTION : PORTIONS OF LOT 194, 195 AND 196; HOME ACRE TRACT;					
M.B. 10-154/155					
BENCH MARK : N/A					
TITLE REPORT :			ADDRESS : 4027 E. 3RD STREET		
ASSESSORS REF. 5236-001-035			R.O.W. REFERENCE PI-009; ES-562		
NO.	DATE	REVISION DESCRIPTION			



PARCEL NO.	TOTAL PARCEL	ES-562 (FEET)		
NET AREA - SQUARE FEET	7,532	7,532		

M LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY EASTSIDE LRT PROJECT

EASTSIDE LRT PARTNERS
as a consortium of
 Parsons Brinckerhoff Quade & Douglas, Inc.
 Jenkins Gates Harbeck, Inc.
 Harlie Planners, Inc.

APPROVED BY: *[Signature]* 8/8/02

SUBMITTED BY: ELRT PROJECT MANAGER
 MTA PROJECT MANAGER
 DATE

PARCEL PLAT

ES-562

SHEET 1 OF 1

CONTRACT NO./DESIGN LN C0801
 SCALE 1"=40'
 DATE 3/08/02
 DRAWN BY S BASHIRI
 CHECKED BY L E RUSH
 REV. DATE REV. NO.

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR THE EASTSIDE GOLD
LINE EXTENSION PROJECT
(MTA PARCEL ES-562)**

THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

Section 1.

The Los Angeles County Metropolitan Transportation Authority ("MTA") is a public entity organized and existing pursuant to Chapter 2 of Division 12 of the California Public Utilities Code (commencing with Section 130050).

Section 2.

The property interests described hereinafter are to be taken for public use, namely, for public transportation purposes and all uses necessary, incidental or convenient thereto, in connection with the development, construction, operation and maintenance of a traction power substation for the Eastside Gold Line Extension Project ("Project");

Section 3.

The MTA is authorized to acquire the property interests described hereinafter pursuant to the following:

- a. Article I, Section 19 of the Constitution of the State of California;
- b. California Public Utilities Code, Division 10, Part 3 (Sections 30000-33020, inclusive), and Sections 30503 and 30600 in particular;
- c. California Public Utilities Code, Division 12 (Sections 130000-130730, inclusive), and Section 130220.5 in particular; and
- d. California Code of Civil Procedure Sections 1240.010-1273.050, inclusive.

Section 4.

The property to be acquired is located in the City of Los Angeles, and is more particularly identified as follows:

- a. The fee simple title in and to Parcel No. ES-562, containing approximately 7,532 square feet consisting of a full property acquisition.

Parcel ES-562 is described more specifically in Exhibit "A", attached hereto, and is

generally depicted in the Parcel Plat Map attached hereto as Exhibit "B", both of which are incorporated herein by this reference.

Section 5.

(a) The environmental impacts of the Project were evaluated in the Eastside Light Rail Transit Project Final Environmental Impact Report ("FEIR") and the Eastside Light Rail Transit Project Final Environmental Impact Study ("FEIS") for this Project; and

(b) The Los Angeles County Metropolitan Transportation Authority has reviewed and considered the Eastside Light Rail Transit Project FEIR and FEIS, before and as part of the process of determining whether to acquire the above-referenced properties.

Section 6.

The Los Angeles County Metropolitan Transportation Authority hereby declares that it has found and determined each of the following:

(a) The public interest and necessity require the Project;

(b) The Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(c) The property sought to be acquired, which has been described herein, is necessary for the Project; and

(d) The offer required by Section 7267.2 of the Government Code has been made to the owner of record.

Section 7.

Legal counsel is hereby authorized and directed to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the property described above, by eminent domain. Counsel is also authorized to seek and obtain an Order of Immediate Possession of said property in accordance with the provisions of the eminent domain law and to deposit the total sum of probable just compensation fixed by the Superior Court in its order determining and establishing security for said immediate possession with the Clerk of said Superior Court in connection therewith.

Counsel is further authorized, pursuant to Section 30258 of the Public Utilities Code, to associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

I, MICHELLE JACKSON, Secretary of the Metropolitan Transportation Authority, do hereby certify that the foregoing Resolution was duly and regularly adopted by the Metropolitan Transportation Authority at a meeting held on the _____ day of ____, 2004.

MICHELLE JACKSON
MTA Secretary
Date: _____

APPROVED AS TO FORM:
Lloyd W. Pellman
County Counsel

BY: _____

EXHIBIT " A "

THE LAND REFERRED TO IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

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MTA PARCEL ES-562

GRANTOR : THAIGROUP

EXHIBIT " B "

The data shown on this map and/or plat are complete from public sources and are subject to field verification. Bearings are based on North American Datum of 1983 (NAD 83).

DESCRIPTION : PORTIONS OF LOTS 194, 195 AND 196; HOME ACRE TRACT;

M.B. 10-154/155

BENCH MARK : N/A

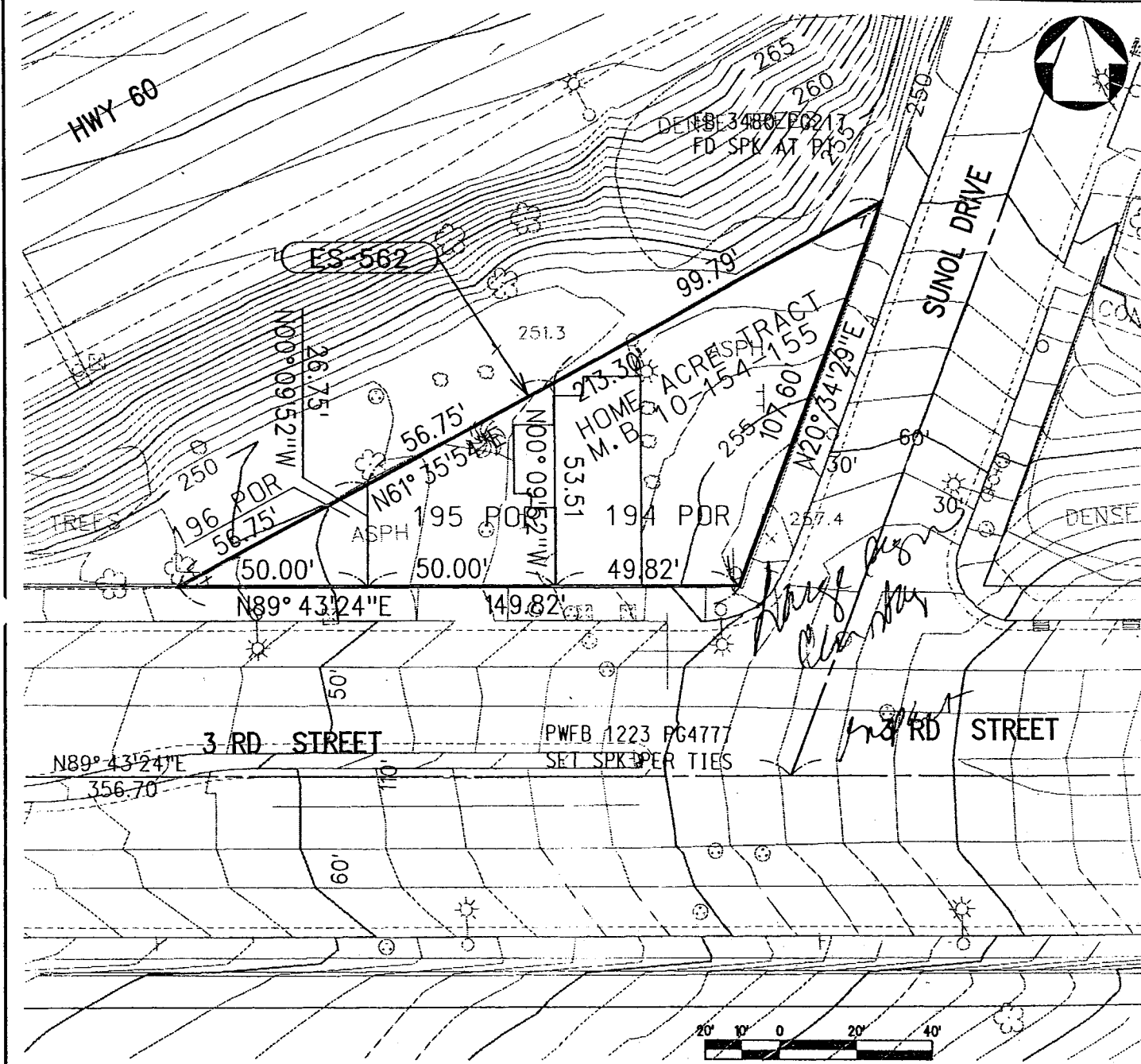
TITLE REPORT :

ADDRESS : 4027 E. 3RD STREET

ASSESSORS REF. 5236-001-035

R.O.W. REFERENCE PI-009; ES-562

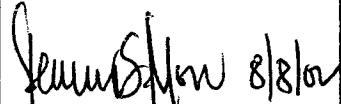
NO.	DATE	REVISION DESCRIPTION



PARCEL NO.	TOTAL PARCEL	ES-562 (FEET)
NET AREA - SQUARE FEET	7,532	7,532

M METRO
 LOS ANGELES COUNTY
 METROPOLITAN TRANSPORTATION AUTHORITY
 EASTSIDE LRT PROJECT

EASTSIDE LRT PARTNERS
 an affiliate of
 Parsons Brinckerhoff Dodge & Douglas, Inc.
 Jacobs Group, Inc.
 Bartle Flannery, Inc.

APPROVED BY:

 MTA PROJECT MANAGER DATE

PARCEL PLAT

ES-562

SHEET 1 OF 1

CONTRACT NO./DESIGN UNIT C0801	
SCALE 1" = 40'	
DATE 3/08/02	
DRAWN BY S BASHIRI	
CHECKED BY L E RUSH	
REV. DATE 5	REV. NO.

SUBMITTED BY: ELRT PROJECT MANAGER

