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REVISED

**PLANNING AND PROGRAMMING COMMITTEE**
**AUGUST 17, 2005**

**SUBJECT: SANTA FE YARDS (DIVISION 20) JOINT DEVELOPMENT**

**ACTION: AUTHORIZE THE EXECUTION OF A JOINT DEVELOPMENT AGREEMENT (JDA) AND GROUND LEASE WITH SANTA FE YARDS, LLC.**

## RECOMMENDATION

Authorize the Chief Executive Officer to enter into a Joint Development Agreement ("JDA") and Ground Lease with Polis/McGregor Santa Fe Yards, LLC covering approximately 2.7 acres of Los Angeles County Metropolitan Transportation Authority (Metro)-owned properties located at the Metro Redline/Santa Fe Yards Maintenance of Way facility (the "Site") for development of a mixed-use, apartment/retail complex, having key terms and conditions as set forth on Attachment "A" (the "Development").

This approval is subject to acceptance by LA Facilities LLC of the development and the terms of this agreement.

## ISSUE

In September 2004, the Board approved entering into an Exclusive Negotiation Agreement (ENA) with Santa Fe Yards, LLC, for development of the Site. The ENA was executed in March 2005. In addition the Board directed staff to review the feasibility of developing an additional Metro Red Line Station near this development site and as a condition of the potential development. Staff has preserved access through this development for a potential station, but has not recommended going forward with a station at this time. Review of the potential to operate a Metro Red Line station at this location and/or as a condition of this development is attached. (Attachment B)

Staff negotiated terms and conditions for the proposed JDA and Ground Lease, and is recommending acceptance of the terms and conditions described in Attachment "A". The proposed Development consists of approximately 2.7 acres bounded by Santa Fe Avenue on the west, the 1st and 4th Street Bridges on the north and south and by freight and Metrolink service tracks adjacent to the Los Angeles River to the west (Attachment C). Execution of the JDA, and the Ground Lease will allow development of the approximately 2.7-acre portion of the Metro property. The proposed Development, depicted in Attachment "D" is more intense than initially proposed. The revised project consists of approximately ~~400-420~~ 420-

480 apartment units over approximately 10,000-60,000 square feet of ground floor retail inclusive of a public plaza area, and approximately 700 units of parking (200 which are specifically to expand and replace Metro's employee parking at this location). The variation in the commercial space is to accommodate a potential grocery operator.

This property is also subject to terms and conditions per a Lease/Lease Back agreement dated August 9, 2001 between LA Facilities LLC and Metro. Sub-leasing by Metro to allow this agreement requires approval of the Lease/Lease Back parties. Since modifications to the Lease/Lease Back agreement can potentially impact the tax advantages of the Lease/Lease Back, approvals from the IRS or acceptance by LA Facilities may be difficult to secure.

## BACKGROUND

The Metro Red Line/Santa Fe Yards (Division 20) is an approximately fifty acre Metro Red Line train storage and maintenance-of-way facility located primarily between the 1st and 4th street bridges, running parallel to the Los Angeles River Channel and east of Santa Fe Avenue (Attachment C). Immediately across the street from Division 20 is the Southern California Institute of Architecture (SCI-Arch), recently housed in an old Santa Fe railroad freight warehouse. The unique location and configuration of the school has resulted in demand for student housing and additional parking in close proximity to the school. The surrounding community is referred to as the Little Tokyo/Loft District and has experienced significant increased demands to develop vacant land and convert older buildings to housing lofts. SCI-Arch will be given a preference to rent to their students consistent with federal and state housing laws.

The proposed development would provide replacement parking as well as additional Metro staff parking for Division 20 (Santa Fe Yards). Metro has a need to increase the number of Metro parking spaces as a result of consolidating additional Metro services at this location. In July 2004 Metro received a proposal from Santa Fe Yards (LLC) to develop 270-414 student-housing units and 400 student parking spaces plus Metro staff parking in their new structure. Santa Fe Yards (LLC) is a partnership of Polis Builders Ltd. and the McGregor Company. The developer, working with Staff, increased the number of housing and parking units, as well as adding additional commercial space. The reconfigured project reduced the development area from the originally proposed 4.0 acres to 2.7 acres of the approximately 50 acre Metro facility.

## POLICY IMPLICATIONS

The recommended action is consistent with the goals of the Joint Development Policies and Procedures approved by the Board at its April, 2002 meeting. The goals of Metro's joint development program are to promote and enhance transit ridership, enhance and protect the transportation corridor and its environs, enhance the land use and economic development goals of surrounding communities, conform to local and regional development plans, and generate value to Metro based on a fair market return on public investment. Metro staff has concluded that the proposal meets the goals contained in the policies and procedures.

**Joint Development Policy**

The recommended action is consistent with Metro's Joint Development Policy to:

1. Promote and enhance transit ridership.
2. Enhance and protect the transportation corridor and its environs.
3. Enhance the land use and economic development goals of surrounding communities and conform to local and regional development plans.
4. Generate value to Metro based on fair market return on the public investment.

## OPTIONS

The Board could choose not to authorize execution of the JDA and Ground Lease, reject the current terms and conditions and elect to solicit the Metro property to other potential developers. Staff is not recommending this option because it would delay development of the site. The terms and conditions as listed provide a fair and reasonable financial return to Metro.

## FINANCIAL IMPACT

The recommended actions will have no significant impact on the FY '05-06 budget. The proposal is for a long-term lease and participation payments to be made to Metro over the life of the lease.

Development of the Site will require the removal and replacement of Metro employee parking. The development will increase of the number of Metro staff parking by a minimum of sixty new parking spaces.

## NEXT STEPS

Upon approval of the recommended actions, the Chief Executive Officer will negotiate the detailed terms and execute the JDA and Ground Lease in accordance with the terms and conditions of Attachment "A". Staff will also work with counsel to secure approval from the Lease/Lease Back parties to allow the development of the project. The development team will commence the process to secure zone changes and entitlements from the City of Los Angeles required to construct the project.

## ATTACHMENTS

A. Summary of Terms and Conditions of Joint Development Agreement and Ground Lease
B. Review of a potential Metro Red Line Station on this site.
C. 1-2 Metro Properties at Santa Fe Yards (Division 20)
D. 1-2 Conceptual Site Plan for the Proposed Apartment/Retail Development
E. 1-2 Conceptual Design

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## ATTACHMENT A

Summary of Terms and Conditions of Joint Development Agreement and Ground Lease

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| Premises: | The premises to be leased (the "Premises") will be the METRO owned parcels Parcels 2 and 4 (120,951.36 square feet) per Exhibit "A" attached hereto (the "Property") located mid-block between 1st and 4th Street and between Santa Fe Avenue and the Los Angeles River. |
| Key issues of the Ground Lease (Ground Lease) | The agreement covering the use of the Premises shall be an unsubordinated ground lease agreement (the "**Ground Lease**")<br><br>This development is subject to the terms, conditions and acceptance by LA Facilities LLC or their assignees per the agreement between LACMTA and LA Facilities LLC dated August 9, 2001. |

***SANTA FE RAIL YARDS DEVELOPMENT SITE***

**DESCRIPTION:**

**Lessor:** Los Angeles County Metropolitan Transportation Authority

**Lessee:** Polis/McGregor Santa Fe, LLC or assignee of which Polis/McGregor Santa Fe, LLC is a member.

**Subject Property:** Parcels 2 and 4 (120,951.36 square feet) per Exhibit "A" attached hereto (the "Property").

**Project:** **420 to 480 housing units**, 10,000 to 60,000 square feet of retail/commercial space and approximately 700 parking spaces approximately 200 of which will be for exclusive MTA use (consisting of 120 structured spaces and 80 surface spaces. (This description and parking space counts are estimated based upon conceptual design)

**Retained Rights:** Lessor will retain rights of access for Lessor and the public within and across defined areas of the Subject Property to and from Lessor's adjacent parcels. Lessor will forego this right for a period of five years commencing on the Effective Date of the JDA.

**JOINT DEVELOPMENT AGREEMENT (JDA):**

**Predevelopment Period:** The JDA will cover the Predevelopment Period, the period during which the parties will open an escrow and Lessee will complete conditions precedent to the Ground Lease. Major pre-conditions to the close of escrow, among others, are the obtaining of all necessary entitlements, completion of financing, completion of the design of the Project improvements, and meeting of all regulatory requirements.

This Agreement covers all of the detailed issues listed below and includes activities in the period that normally takes place during an escrow; up to the point that Developer is ready to construct (the "JDA/Pre-Construction Period") and METRO is assured that the development will go forward. At that point the Developer and METRO will enter into the **Ground Lease** (pre-negotiated with draft attached to the JDA, subject to the completion of the conditions of the JDA.).

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| **Design Review:** | During the Predevelopment Period Lessor will review the design of the Project improvements and must approve the final construction documents as a condition to the close of escrow. Said approval will not be unreasonably withheld. |
| **Financial Assurances:** | Lessee shall provide adequate financial assurances (yet to be determined form) prior to close of escrow and surviving into the Ground Lease term through the completion of construction ensuring completion of the Project improvements. The form and amounts of such assurances are in the sole reasonable discretion of Lessor. |
| **Holding Rent:** | During the Predevelopment Period Lessee will pay Holding Rent, which shall begin on the Effective Date of the JDA and extend up to the Commencement Date of the Ground Lease. Monthly Holding Rent during the Predevelopment Period will be 25% of the Ground Lease monthly Base Rent. |
| **Transfers:** | During the Predevelopment Period Lessee may Transfer its interest, or any portion of its interest, in the JDA only with the consent of Lessor, which consent may be withheld in Lessor's sole and absolute discretion. |

**GROUND LEASE:**

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| **Term:** | 55 years initial term with two 10-year options to extend (collectively the "Lease Term"). |
| **Lease Commencement:** | The Ground Lease shall commence upon the close of escrow after satisfaction of all of the conditions to closing in the JDA, and mutual execution of the lease document(s) ("Commencement Date"). |
| **Construction Period:** | The Ground Lease Construction Period will commence on the Commencement Date of the Ground Lease and extend to the earlier of (a) completion of construction of the Project by the receipt by Lessee of the final Certificate of Occupancy for the Project improvements, (b) thirty-six (36) months after the |

Commencement Date or (c) forty eight (48) months after the Effective Date of the JDA.

**Construction Review:** During the Construction Period Lessor will review and approve material changes to the design of the Project improvements and inspect and approve the construction of the Project improvements. Lessor will have similar design and construction approval rights for later improvements constructed during the Ground Lease term. Said approvals will not be unreasonably withheld.

**Construction Rent:** During the Construction Period Lessee will pay monthly Construction Rent at the rate of 50% of the Ground Lease monthly Base Rent. Said payments commence the earlier of the completion of the structured parking and its occupancy by the MTA or 12 months from Commencement Date.

**Lease-Up Period:** If construction of the Project improvements is completed in less than thirty-six (36) months after the Commencement Date, there will be a Lease-Up Period for the period commencing at completion of the construction and running eighteen (18) months thereafter.

**Lease-Up Rent:** During the Lease Up Period, Tenant will pay Lease-Up Rent. The initial Lease-Up Rent will be 50% of the Base Rent, and will step up every six (6) months by an amount equal to 33 1/3rd % of the difference between the initial Lease-Up Rent and the Base Rent.

**Base Rent:** Base Rent is $525,150 annually

**Base Rent Increases:** Base Rent shall be increased by an amount equivalent to the cumulative increase in the CPI plus two percent on the 5th anniversary of the end of the Construction Period. On the 10th anniversary of the end of the Construction period the Base Rent shall be increased by an amount equivalent to the increase in the CPI plus two percent during years six through ten. Thereafter rent shall increase every five years (on the anniversary date of the end of the Construction Period) by the cumulative increase in the CPI for the duration of the lease term. All CPI increases shall be subject to the following limitations.

| Rent Increase in Lease Year: | 5 | 10,15 | 20 – end |
|---|---|---|---|
| Maximum Increase (“Cap”) | 15% | 17.5% | 20% |
| Minimum Increase (“Floor”) | 7.5% | 8.75% | 10% |

**Percentage Rent:** As additional rent Lessee will pay to Lessor Percentage Rent that equals 4% of gross retail/commercial rent received by Lessee for the first eight (8) years following execution of the first retail/commercial sublease. On the eight anniversary of the first retail/commercial sublease the percentage rent rate shall increase to 6% thereafter.

**Market Adjustment:** The Base Rent shall be adjusted to a market rate on the 35th anniversary of the Lease Commencement, based on an appraisal of the subject 120,951 square foot site assuming the site was vacant, but that the premises could only be developed with the exact uses in place and assuming the Parking Lease.

**Parking Lease:** Lessee will lease back to Lessor approximately 120 parking spaces in the new parking structure to be constructed as part of the Project ("Parking Lease"). Lessee will additionally construct 80 surface spaces for use by MTA. The annual rent payable by Lessor for the Parking Lease (a) for the first thirty five (35) years shall be at a full service gross rent payment equal to fully amortize the pro rata allocated cost of construction (not to exceed $20,000 per space of Lessor's parking spaces at developer's average cost of capital of 6%), and (b) after the first thirty-five years the rent will be at the nominal annual rate of $1 plus pro rata share of operating expenses, as established prior to JDA with adjustments for annual CPI increases. Said Parking Lease term will be co-terminus with the Ground Lease term, including all of the exercised options to extend the term of the Ground Lease. The parking lease rent payable by Lessor to Lessee shall at no time exceed the Rent paid by Lessee to Lessor under the Lease.

**Right of First Offer:** Sale of Property: If Lessor elects to offer the Property for sale at any time during the Lease Term, Lessee shall have a first right to make a purchase offer. If Lessee's offer is not accepted, Lessor shall have the right to sell its fee interest to a 3rd party without further rights of Lessee, as long as the sale price meets or exceeds 98% of that proposed in Lessee's offer.

**Reversion:** At the expiration of the lease term and any exercised option periods, the Lessee shall be responsible for demolition of the improvements and return the site to Lessor in the original condition.

**Reserves:** Lessee shall provide an improvement and demolition reserve (with the funding schedule and amounts included in the Ground Lease) adequate to remove the Project, and any subsequent, improvements at the end of the lease term.

**Encumbrances:** Lessee shall have the right to encumber its leasehold estate with mortgages, trust deeds or other financing mechanisms. The Ground Lease shall provide for lender notice rights, cure rights, estoppels, landlord consent to amendments, and other customary provisions required to support such financing. In no event will Lessor's fee title or Rent payable to Lessor, or any portion thereof, be subordinated to Lessee's financing.

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| **Assignment and Subletting:** | With limited "Permitted Exceptions" (which will be described in detail in the Ground Lease), Lessee's right to assign the Ground Lease will be subject to Lessor's approval. Such approval shall not be unreasonably withheld. Lessee's subtenants will be entitled to non-disturbance protection. |
| **Special Adjacency Issues:** | The Subject Property is adjacent to Lessor's rail yard and there is therefore the potential for claims by Lessee's subtenants asserting harmful or offensive impacts arising from the proximity of the sublease premises to Lessor's rail yard and its industrial usage (including from noise, vibrations, lighting, odors, shipping, materials, electromagnetic fields, work hours, traffic, etc.). Lessee shall (a) obtain waivers from its subtenants, and (b) indemnify, hold harmless and defend Lessor, at Lessee's sole cost, against all related claims, actions and liabilities. Lessee shall demonstrate to the reasonable satisfaction of Lessor that the construction type, material and fixtures are adequate to dampen noise and minimize impacts potentially arising from proximity to Lessor's rail operations. |
| **Preferred Rental To SCI-Arc** | The Subject Property is adjacent to the Southern California Institute of Architecture (SCI-Arc) and is being constructed to support the preservation or expansion of SCI-Arc. SCI-Arc shall have preferential access for renting available housing units. The Method or Program to insure this access shall be determined during the development of the Lease Agreement and shall include consultation with a representative of SCI-Arc. The terms and conditions for preferential access to housing shall not be in conflict with federal, state or local laws regulating fair housing and housing access. |
| **Other:** | Other customary provisions typical of commercial ground leases will be included in the Lease. |

# ATTACHMENT B

## EVALUTION OF THE OPERATIONS IMPACT OF A STATION AT THIS LOCATION

**APPROVED AS AMENDED BY DIRECTORS HAHN AND YAROSLAVSKY TO INCLUDE A STUDY TO REVIEW THE FEASIBILITY OF DESIGNING AND CONSTRUCTING A RED LINE STATION ADJACENT TO DIVISION 20 AND THE 4TH STREET BRIDGE AS PART OF THE EXCLUSIVE NEGOTIATION AGREEMENT. STAFF MUST REQUIRE THE DEVELOPER TO FUND THE FEASIBILITY STUDY AS WELL AS THE CONSTRUCTION OF THE STATION.**

Per the Board action above, Metro Staff reviewed the feasibility of operating a Metro Red Line Station within the Metro Red Line Maintenance Yard (Division 20) and as part of this development. For purposes of the Board Report Division 20 is referred to as the Santa Fe Yards. Staff also compared station costs and locations against potential revenues from the development and the feasibility of those revenues to modify the track work, Car Wash and other facilities, as well as fund the cost of constructing a feasible station. Staff costs related to this effort are eligible charges against the developer's good faith deposit.

<ins>SUMMARY:</ins> The Metro operating criteria precludes the operation of an at-grade rail station at this location without major track re-work and re-location/re-working of related facilities as well as a resolution of station locations and access issues. The estimated cost to resolve the track and station issues far exceeds any potential revenue from this development. The costs associated with sub-surface and aerial station structures as an alternative also far exceed any potential revenues from this development.

Continued development in the area, and specifically future development of the 20-30 acres of Metro air-rights above the yards may create both the population density and opportunity to construct a station removed from other Metro operational concerns. Aerial and subsurface alignments remain feasible but obviously expensive.

Staff has preserved public access to a potential station mid-way through the development and in the center of Division 20. Access for other potential station locations near the Fourth Street Bridge are not impacted by this development. There remains 20-30 acres of potential air-right development at the Division 20. While the constraints to development of this property today make usage of these rights difficult and expensive to take advantage of, the rise in real estate values do suggest that development of the air-rights are possible in the future and new populations/developments in the Loft District will provide additional area population. The possible additional population density from 20-30 acres of development along with the potential financial return to Metro from that development may offset the cost of re-working the tracks and constructing a station.

The primary constraints to operating an at-grade station are as follows:

1. Fire life safety access required to parallel the operating tracks would require relocation or removal of existing storage tracks, reducing the storage capacity of the yard. If a train stopped running midway through the yards, emergency exiting of the cars would not comply with Metro fire/life/safety standards without relocation of existing tracking.

2. The current population in this area (approximately 1700-2000 persons) is not particularly large or dense enough to effectively extend the current system and operate full or modified heavy rail service to this area. The cost of operating services for an additional mile for the benefit of a few hundred riders a day is cost prohibitive. More significant and more intense development of the area would be required to justify the operational expense of providing service to this area. The proximity of the Little Tokyo/Loft District Metro Gold Line Station along Alameda will provide direct train access to this general area.

3. An at-grade operation requires using the existing service tunnel at the north end of the yards. The tunnel speed coming from Union Station, under the 101 Freeway and rising to surface in the north end of the yards is between 5-10 mph. As the trains would exit the tunnel they will enter a complicated set of switches in the main yard. The switch area has an operating speed of approximately 5 mph. A separate set of existing switches would need to be dedicated to the station uses. This would require a reconfiguration of the existing trackage, Car Wash and roadway.

4. The potential station locations of mid-Division 20 near the main service building, at the Fourth Street Bridge or south of the Fourth Street Bridge all require costly and logistically difficult track and security access improvements. While some of these issues are resolvable, combined with the operations conflicts created by running a revenue train through the storage tracks results in a currently cost prohibitive and operationally constraint system.

ISSUES:

A. Location of a Station: Three locations

   a. Midway adjacent to the Metro Main operating and maintenance facility.
   b. North of the 4th Street Bridge
   c. South of the 4th Street Bridge

B. Operational Constraints

   a. Throat (north of the 1st Street Bridge)
   b. Re-location of Car Wash
   c. Start of main switching area south of the 1st Street Bridge.
   d. Mid-Yards (dedicated track and switching)
   e. Safety (lack of fire life safety exiting ability)

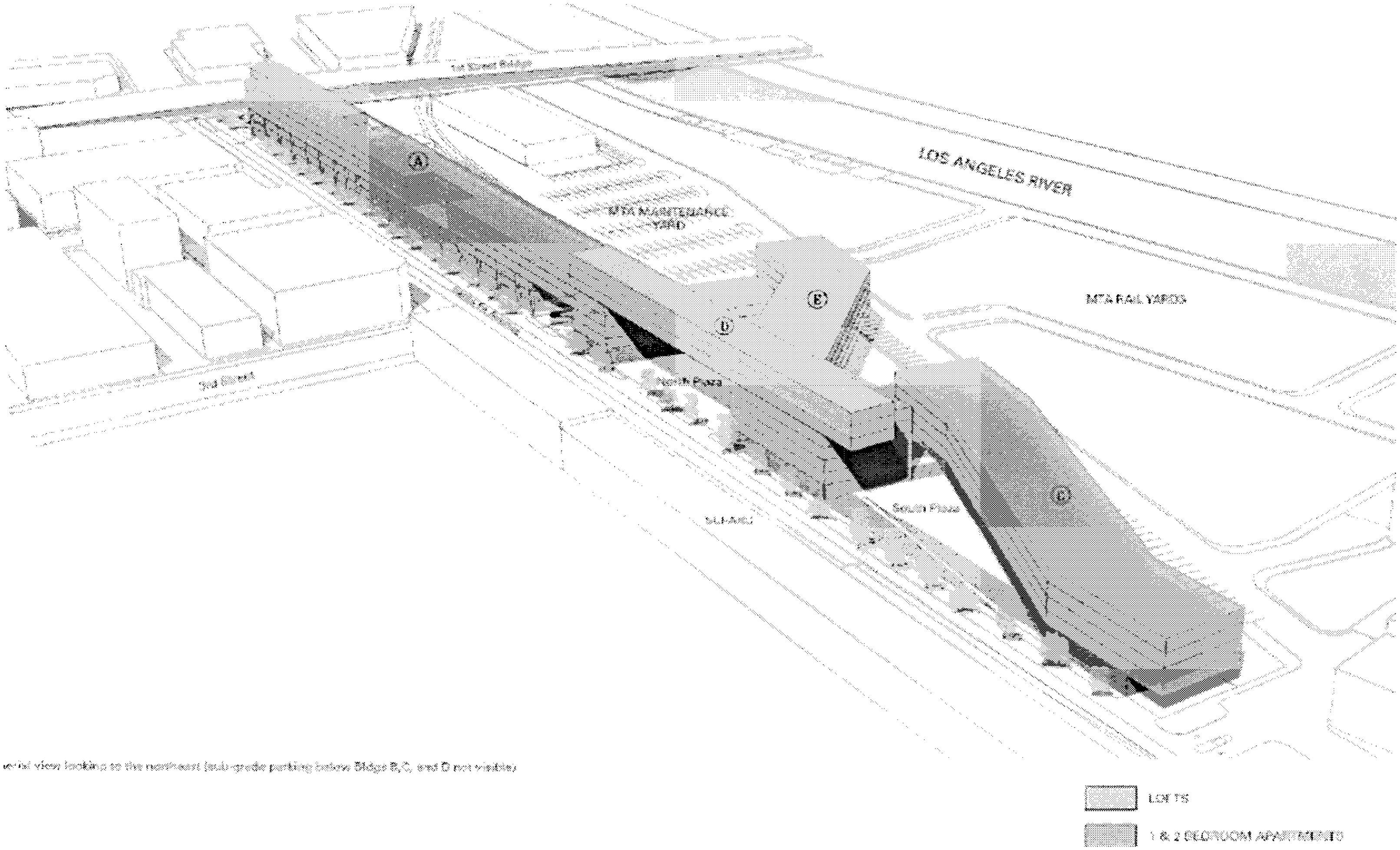
f. Public Access (Public would enter secure areas in order to access station)
g. Relocation or Metro Roadway Access and relocation of Roadway

C. Desirability/Viability

a. Limited number of potential users in the near future
b. Slow operational speeds/high costs
c. Little connecting transit services
d. Limited public access
e. Operating an additional mile of service at slow speeds.

# ATTACHMENT C-1

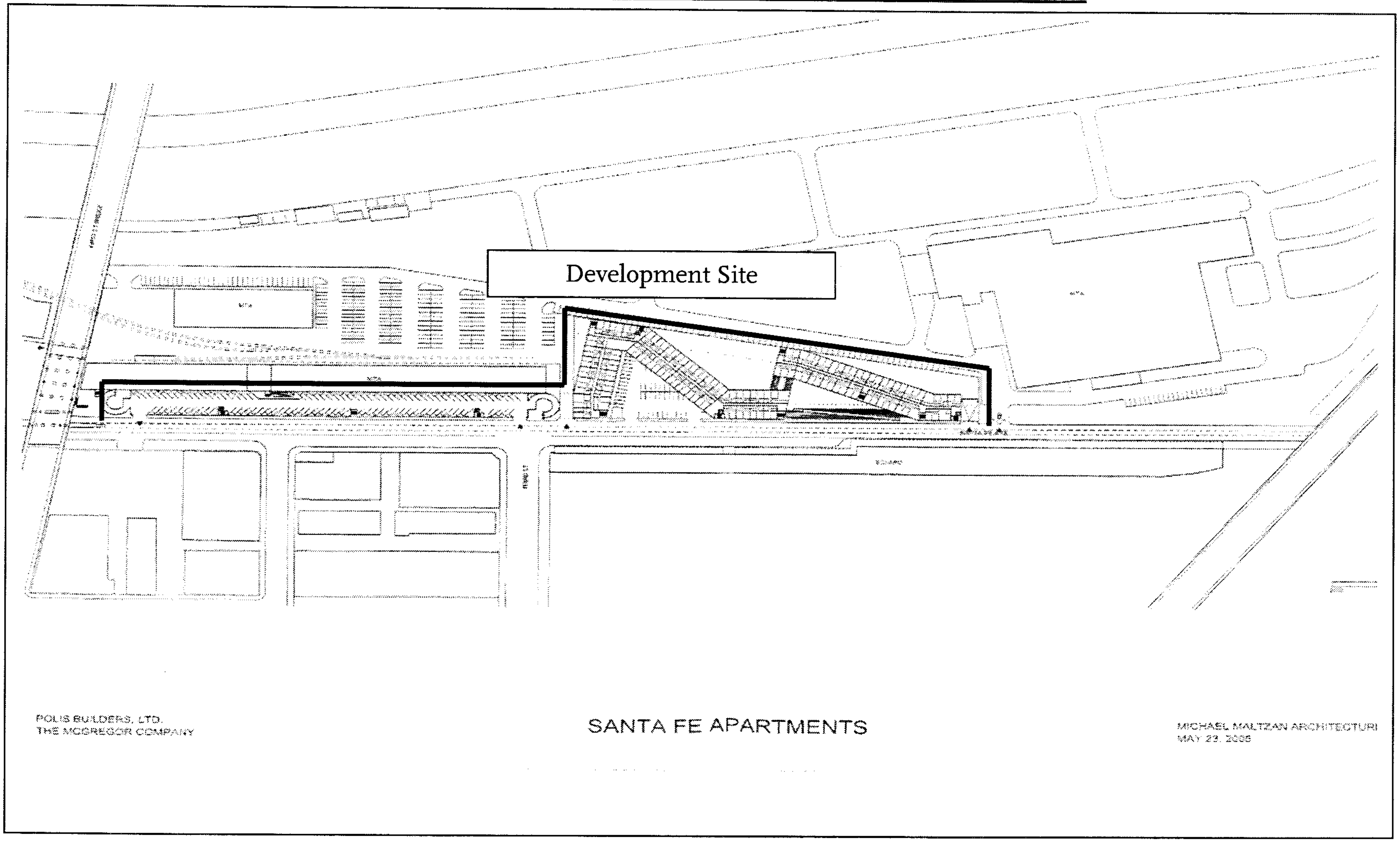
## Conceptual Site Plan for the Proposed Apartment/Retail Development



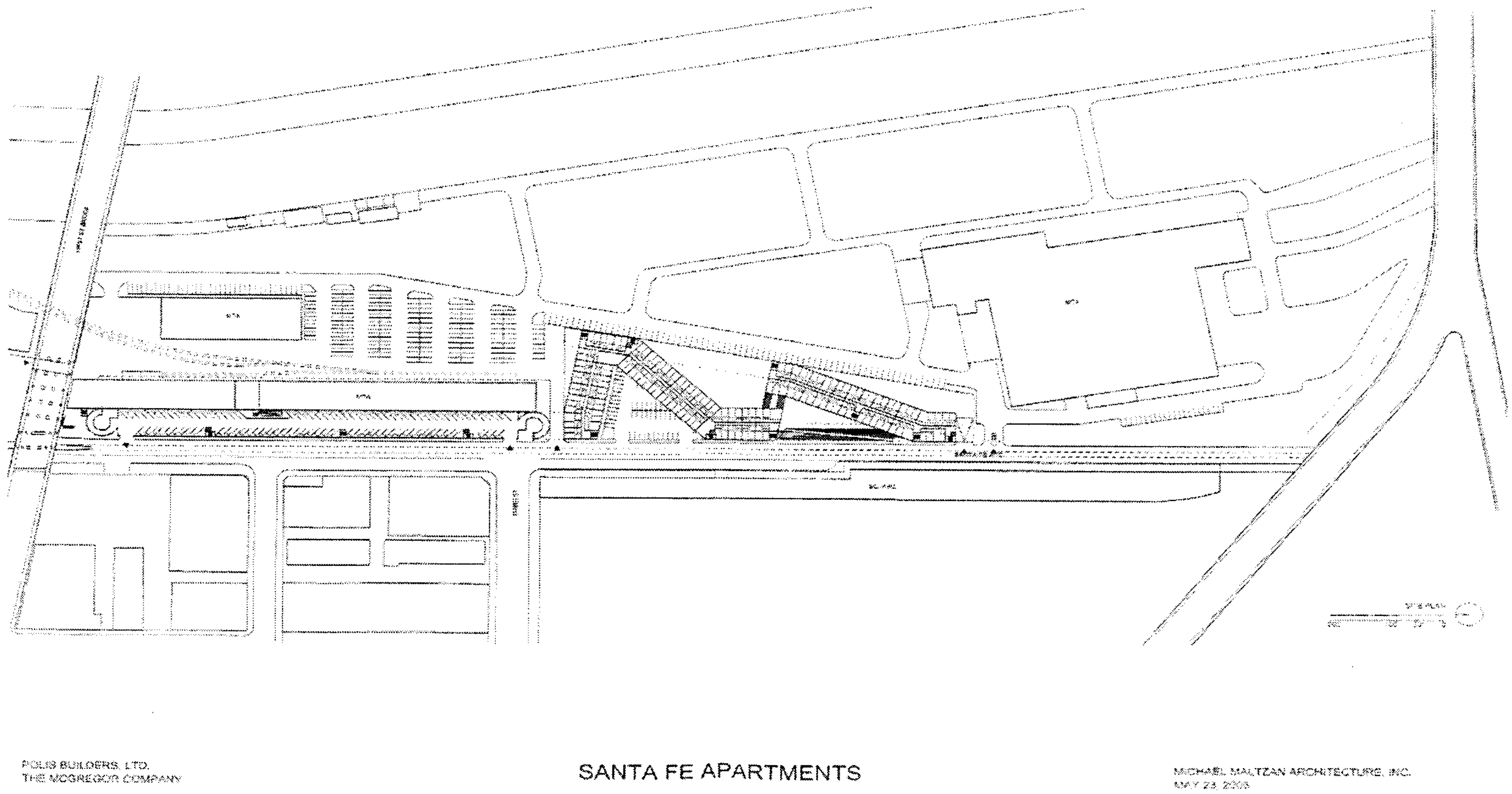

…rial view looking to the northeast (sub-grade parking below Bldgs B, C, and D not visible)

# ATTACHMENT C-2

**Conceptual Site Plan for the Proposed Apartment/Retail Development**

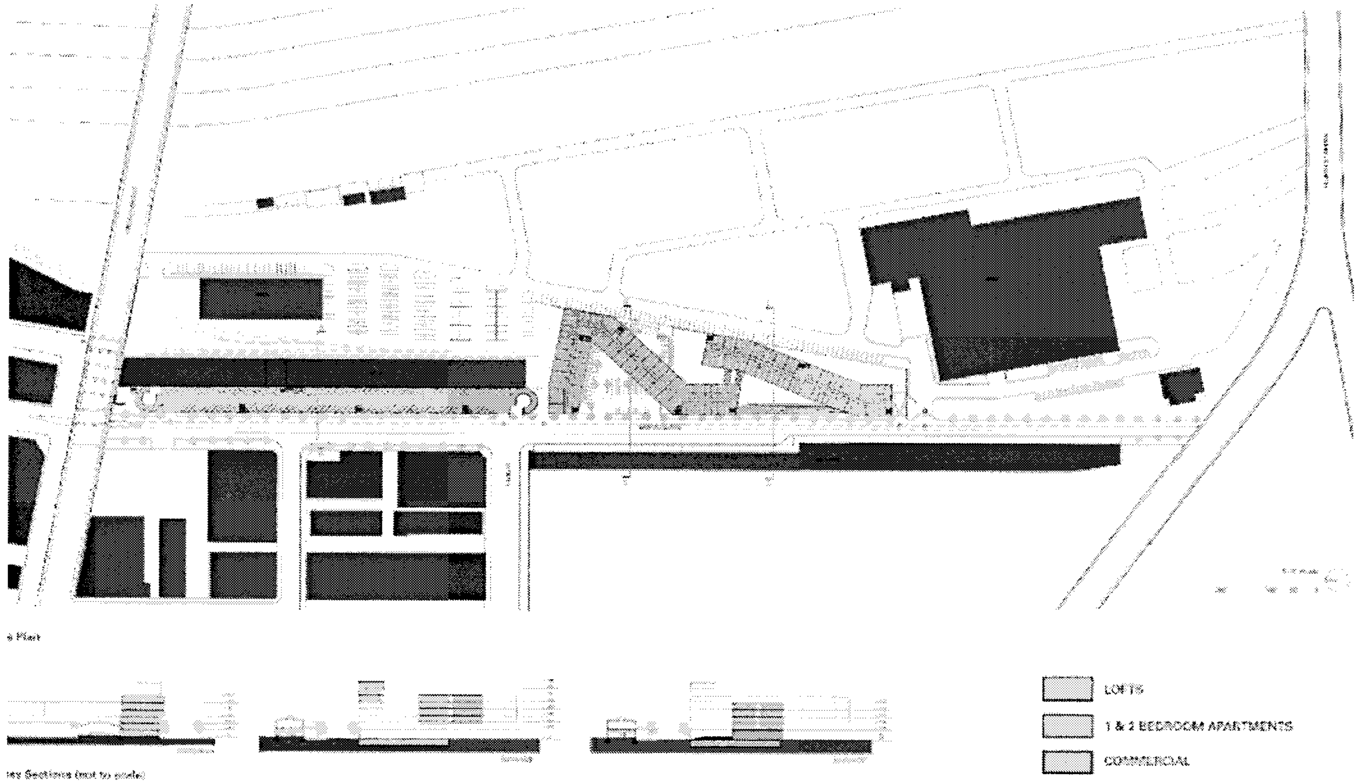


# ATTACHMENT D-1
## Metro Properties at Santa Fe Yards (Division 20)



# ATTACHMENT D-2

## METRO Properties at Santa Fe Yards (Division 20)



# ATTACHMENT E-1
## CONCEPTUAL DESIGN


iew looking south along Santa Fe Avenue and into One Santa Fe North Plaza

# ATTACHMENT E-2
## CONCEPTUAL DESIGN

View looking North along Santa Fe Avenue and into One Santa Fe South Plaza