



Metro

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PLANNING AND PROGRAMMING COMMITTEE
APRIL 14, 2004

**SUBJECT: WESTLAKE/MACARTHUR PARK METRO RED LINE
STATION JOINT DEVELOPMENT**

**ACTION: AUTHORIZE THE EXECUTION OF A JOINT DEVELOPMENT
AGREEMENT AND GROUND LEASE WITH MACARTHUR PARK, LLC**

RECOMMENDATION

Authorize the Chief Executive Officer to enter into a Joint Development Agreement (“JDA”) and Ground Lease with MacArthur Park, LLC covering 2.75 acres of METRO-owned property at the Westlake/MacArthur Park METRO Red Line Station site (the “Site”) for development of a mixed-use, apartment/retail complex, having key terms and conditions as set forth on Attachment “A” (the “Development”).

ISSUE

In February 2003, the Board approved an Exclusive Negotiation Agreement (ENA) with MacArthur Park, LLC, for development of the Site. Staff has reviewed 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 2.75 acres bounded by Wilshire Boulevard, Alvarado Boulevard, Bonnie Brae Street and Seventh Street, which form the western portion of the 3.65-acre station site. Execution of the JDA, and the Ground Lease upon MacArthur Park, LLC’s compliance with the terms of the JDA, will allow joint development of the westerly 2.75-acre portion of the block fronting on Alvarado Street. The proposed Development, depicted in Attachment “B”, consists of approximately 199 apartment units over approximately 50,400 square feet of ground floor retail inclusive of a public plaza containing the current METRO Rail subway portal and 276 parking spaces (200 which are specifically for transit users).

Completion of the Development is dependant on MacArthur Park, LLC securing state directed low-income housing tax credits. The entire housing component of the Development will be an affordable housing development.

POLICY IMPLICATIONS

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 proposal and elect to solicit the METRO property to other potential developers. Staff is not recommending this option because it would unnecessarily delay development of the station site. The Development is consistent with the Board approved Conceptual Development Guidelines for the site. The proposed terms and conditions are fair and reasonable.

FINANCIAL IMPACT

The recommended actions will have no impact on the FY '04 budget. The proposal to be paid an "up-front one time lease payment" (see Attachment "A") equal to the property value will result in a onetime addition of funds to METRO in the 2005 and 2006 budgets.

DISCUSSION

The Site is comprised of two, irregular parcels separated by Westlake Avenue. A third METRO parcel located on the corner of Bonnie Brae and 7th Streets is leased to the City of Los Angeles Fire Department and is not included in this Development. The main parcel fronting on Alvarado Street contains the existing subway portal, a kiss and ride area, and a large pedestrian plaza connecting these elements with one another and the surrounding streets. The METRO Site has numerous vertical intrusions including: elevator shafts and structure, power vaults, emergency exit passages and panels, light well-art piece for the station, two station portals, blast relief shafts, air intakes/exits and landscaping. It additionally includes a large emergency power generator for the subway station. The station box underlies the Site cutting diagonally from northwest to southeast.

MacArthur Park, LLC is a single-purpose, limited liability company formed by McCormack-Baron-Salazar, The Related Companies of California and Polis Builders, Ltd. specifically for this Development. The three partners have demonstrated a high level of experience developing projects similar in complexity and environment as the proposed Development. The principals of MacArthur Park LLC, are the principals of McCormack-Baron-Salazar, the Related Companies of California and Nick Patsaouras of Polis Builders.

Construction of the Development is expected to take two years. It will require demolition and excavation of the area adjacent to the station and some of the main public plaza fronting on the subway portal. During this time, access to the subway portal will be maintained.

Development of the Site will require the elimination of the existing kiss and ride facility. Kiss and ride will still be available through a reconfiguration of Westlake Avenue and an active parking management program in the parking facilities. The project includes a \$4,000,000 “Call for Projects” grant awarded to the City of Los Angeles for the development of 200 on-site structured transit parking. Non-transit parking revenue receipts will be used to off set the parking structure maintenance and operating costs. Transit user parking revenues will be returned directly to METRO.

NEXT STEPS

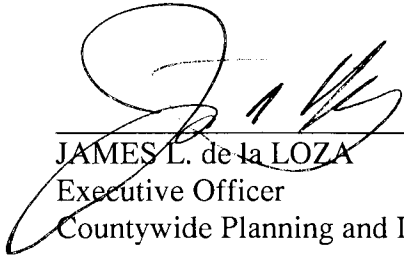
Upon approval of the recommended actions, the Chief Executive Officer will negotiate the detailed terms and execute the JDA and ground lease in accordance with the terms and conditions of Attachment “A”.

ATTACHMENTS

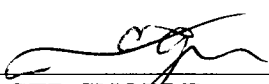
- A. Summary of Terms and Conditions of Joint Development Agreement and Ground Lease
- B. Conceptual Site Plan for the Proposed Apartment/Retail Development
- C. METRO Properties at Westlake/MacArthur Park Metro Station

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JAMES L. de la LOZA
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ROGER SNOBLE
Chief Executive Officer

Attachment A

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

Key issues of Joint Development Agreement (JDA)

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.).

The Project design to be developed during the JDA/Pre-Construction Period will be consistent with the development concept in Attachment B to this summary.

The final design will come back to the MTA for approval of building appearance and elevations.

Premises:

The premises to be leased (the “Premises”) will be the METRO owned parcels located mid-block between Wilshire and Seventh Street adjacent to Alvarado Street on the west, across Westlake Avenue to Bonnie Brae Street to the east. The approximately 2.75-acre portion of the property excludes 16,400 square feet of plaza along Alvarado Street inclusive of the METRO Redline portal. Some frontage on 7th Street is included.

METRO reserves the right to construct additional retail pads within the non-leased plaza area, MacArthur Park LLC. will have the first right of offer to lease the pads.

Parties:

METRO as Landlord, and MacArthur Park, LLC, as “Developer” under the JDA and as “Tenant” under the Ground Lease.

JDA Commencement

The JDA shall commence upon mutual execution of the agreement. The schedule dates set forth in this summary are based upon a JDA Commencement Date of May 15, 2004 and may be adjusted for any delay in this date.

Pre-Construction Option Payments

MacArthur Park Development shall make option payments to METRO totaling \$ 75,000 to cover their holding rent for the Premises. This amount shall be paid in two payments: (a) \$30,000 by May 15, 2004, non-refundable after JDA Commencement (i.e. becomes an executed and binding agreement) for Phase 1 and a non-refundable \$45,000 upon commencement of the Ground Lease Phase I.

JDA/Pre-Construction Period:

The “**JDA/Pre-Construction Period**” will start upon JDA Commencement and end upon commencement of the Ground Lease term or termination of the JDA.

The JDA/Pre-Construction Period includes the time required to complete environmental review and approval, design review and approval and the appropriate time to receive building permits from the City of Los Angeles. Improvements will be constructed in two phases. The projected completion date of the JDA/Pre-Construction Period is October 15, 2005, which is the projected commencement date of the Ground Lease term and start date of construction of Phase I of the improvements. The construction of the Phase II improvements is projected to start on October 15, 2006.

Proposed Improvements:

Approximately **199** apartment units and **50,400** square feet (s.f.) ground floor commercial space, and several levels of (subterranean/above ground) parking, including 200 spaces for transit users (276 spaces total supporting the apartments and the commercial space) (collectively, the “**Apartment/Retail Improvements**”), as well as a public plaza of approximately 16,400 s.f., and assorted other public transit improvements (collectively, with the Apartment/Retail Improvements, the “**Development Improvements**”).

The Proposed Improvements will take place in two phases. Any additional phases shall be completed without inclusion of METRO property.

A METRO “Call for Projects” grant (\$4,000,000), previously awarded to the City of Los Angeles, will fund a transit patron parking structure. The two hundred transit parking spaces will be made available during normal commute hours with METRO anticipating shared use with the residential and commercial users during non-commute hours.

The design of the Phase 1 improvements will be reviewed and approved by METRO under the terms of the JDA and the Phase 2 improvements will be reviewed and approved by METRO under the terms of both the JDA and the Ground Lease. The improvements will be built and occupied under the conditions of the Ground Lease. Maintenance of all common areas including the METRO Plaza will be the responsibility of MacArthur Park LLC. Maintenance is normal maintenance and does not include replacement, repairs or capital improvements. Liability on the plaza to third parties is limited to injuries and damages arising out of the negligence of MacArthur Park LLC.

Scope of
Development:

Phase I will consist of:
88 Apartment Units
27,200 Square feet of retail
276 Parking units

Phase II will consist of:
111 Apartment Units
23,200 Square feet of retail

Extensions Due to
Delays in Completion
of JDA Conditions

If Developer does not satisfy the JDA terms and conditions in time to enter into the Ground Lease by October 15, 2005, then, in consideration of the payment to METRO of \$15,000, METRO may in its reasonable discretion (based upon Developer's progress in completing the JDA Conditions) grant MacArthur Park LLC a sixty day extension of the term of the JDA. METRO may in its reasonable discretion grant additional sixty day extensions for the following additional consideration:

Second sixty day extension: \$ 20,000
Third sixty day extension: \$ 25,000
Fourth sixty day extension: \$ 30,000
Fifth sixty day extension: \$ 35,000

Consideration for any additional sixty-day extensions will be \$35,000 per 60-day period for up to 24 months past the original performance date. However, such extensions will be in METRO's sole and absolute discretion

Financial Assurances

MacArthur Park LLC. shall provide adequate financial assurances in the form of Letters of Credit, bonds or equity or other METRO approved methods prior to construction to insure completion of all improvements on METRO properties. Form, amounts and method of assurances are in the sole discretion of the METRO and shall be determined prior to completion of the JDA terms.

**Key issues of the
Ground Lease
(Ground Lease)**

The agreement covering the use of the Premises by MacArthur Park Development, LLC shall be an unsubordinated ground lease agreement (the "Ground Lease")

Lease
Commencement:

The Lease shall commence upon timely completion of the terms and conditions of the JDA and the developer is fully ready to construct, but not later than 10/15/06.

- Term: There will be a 55-year initial term, with four 11-year options to extend (the “Option Periods”) at MacArthur Park Development’s option, for a total of 99 years (collectively, the “Term”). The JDA time period is not a part of the Lease term.
- Rent: The Proposed Improvements shall take place in two phases. The Rent will therefore be charged as follows:
- Phase I:
Capitalized lease payment for 55 years of \$1,100,000 at the earlier of the Construction Loan closing or upon execution of the Lease, but not later than October 15, 2005.
- Phase II:
Capitalized lease payment for 54 years of \$1,500,000 at the earlier of the Construction Loan closing for Phase II, but not later than October 15, 2006.
- Market Adjustments: The Rent for the eleven-year extensions of the lease (the Option Periods) will be adjusted at the Market Adjustment Date (as defined below), and the adjusted rent will be 9.00% of the then-current market land value, to be determined by an appraisal of the property at highest and best use as if vacant.
- “Market Adjustment Dates” shall occur at the commencement of the Option Period beginning in Lease year 55.
- Right of First Offer: If METRO elects to offer the property underlying the Premises for sale at any time during the Lease Term, MacArthur Park LLC. will have an ongoing first right to make a purchase offer. If MacArthur Park Development’s offer is not accepted, METRO will have the right to sell its interest in the Premises to a 3rd party, so long as the sales price is equal to or greater than 95% of that proposed in MacArthur Park Development’s offer.
- METRO Right to Terminate: In addition to other termination rights in the Ground Lease, METRO will have the right to terminate the Ground Lease and keep the option prepaid rent, prior to completion of construction in the event that any of the following occurs:
- (a) Construction of the Development Improvements has not commenced within six (6) months after the Lease Commencement Date;
 - (b) Construction of the Apartment/Retail Improvements has not commenced within nine (9) months of Lease Commencement;

- or
- (c) Substantial completion of Phase 1 of the Apartment/Retail Improvements has not occurred within thirty-six (36) months after the Lease Commencement Date.

There will be separate Termination Rights for each Phase of the project. If Phase I is completed, but Phase II is not constructed consistent with the agreed upon schedule, METRO may terminate Phase II.

Reserves Beginning in the 11th Lease Year MacArthur Park LLC will annually set aside \$300 per unit and \$0.15 per square foot of retail space as a capital improvement and renovation reserve. The per-unit and per square foot amounts are to be increased annually by CPI. These reserves will not be in addition to the customary reserves required by lenders and investors. Reserves by year 50 must be demonstrated as adequate to accomplish possible demolition in year 55, or MacArthur Park LLC must provide adequate financial assurances such as bond or letter of credit, that demolition costs will be paid if the lease extensions are not renewed after year 55.

Additional Rent: “**Additional Rent**” equal to 3% of gross rental revenues from Tenant’s lease of all Phase I and II commercial space will be paid by MacArthur Park LLC monthly to METRO, starting five years after the earlier of first sub-leasing of any commercial space from Certificate of Occupancy or after 80% occupancy has been achieved.

Apartment/Retail Construction Period: The “Apartment/Retail Construction Period” commencement dates are:

Phase 1, the earlier to occur of:

- (a) Completion of JDA/Pre-Construction Period (Commencement of construction of the Apartment/Retail Improvements);
- (b) October 15, 2005 for Phase I; or

Phase 2, October 15, 2006.

And shall terminate, separately as to each Phase, upon the earlier to occur of:

- a) MacArthur Park, LLC.’s receipt of the final Certificate of Occupancy for the Apartment/Retail Improvements;
- b) MacArthur Park LLC.’s receipt of rental income from the Apartment/Retail Improvements; or
- c) 36 months after commencement of Apartment/Retail Construction Period.





Retained Rights

METRO will retain public easements and public rights of access to its Public Transit Facilities within the Ground Lease Parcels, and to and from areas adjacent to the Ground Lease Parcels, for both METRO and the public, for the term of the Ground Lease.

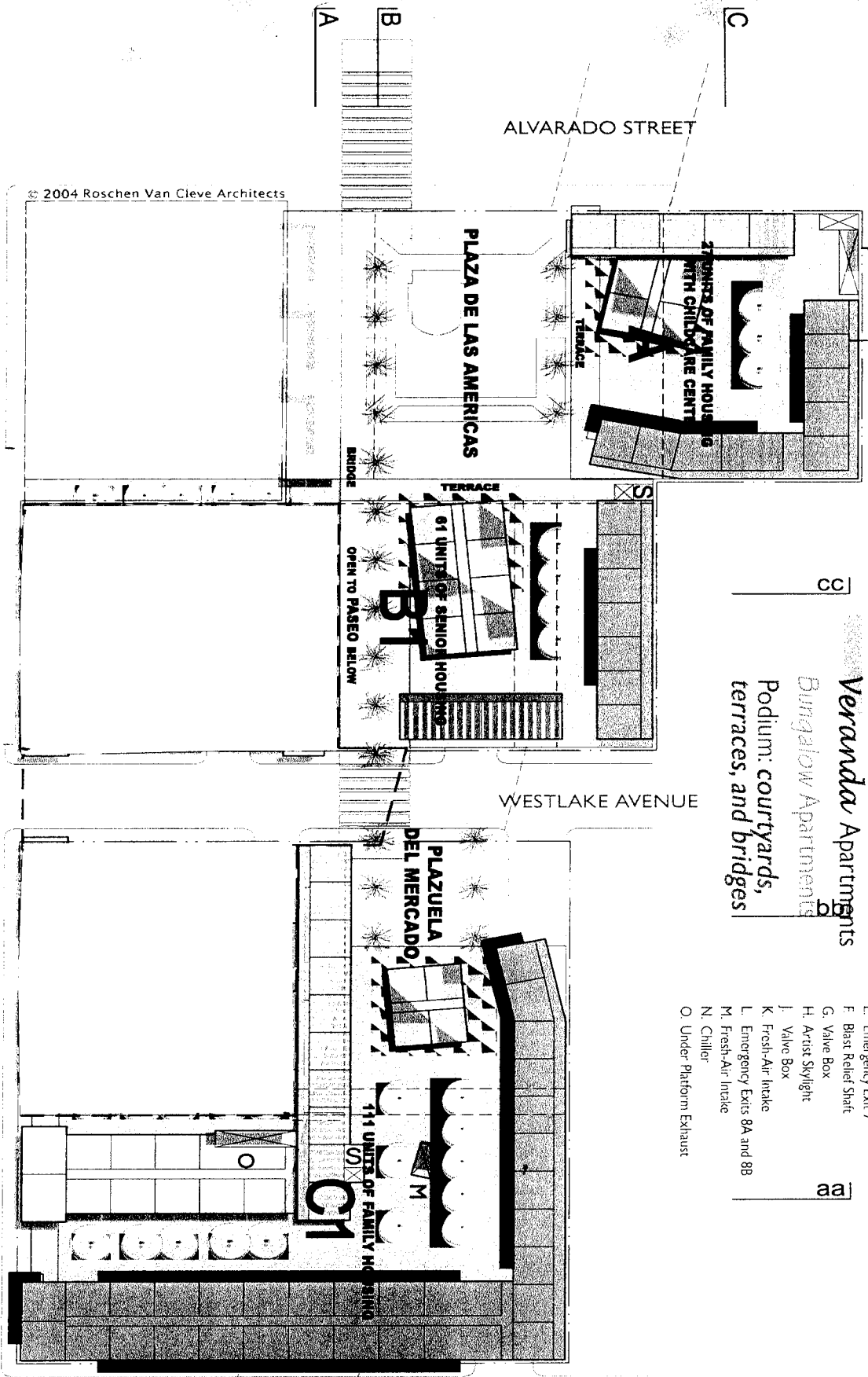
Retail Pads

MacArthur Park LLC. will provide utility and supporting infrastructure to the northern and southern improvements (retail) in order to support future development of the METRO Plaza (referred to as Plazas of the Americas) with the configuration to be mutually agreed upon during the finalization of the project design.

LEGEND 

-  Alcove Apartments
 -  Podium Apartments
 -  Veranda Apartments
 -  Bungalow Apartments
- Podium: courtyards, terraces, and bridges

- MTA site conditions: Scope Resolves
- A. Plaza Redesign
 - B. Blast Relief Shaft / Under Platform Exhaust / Fresh-Air Intake
 - C. Portal South Entrance / Elevator
 - D. Equipment Room Hatch Cover
 - E. Emergency Exit 7
 - F. Blast Relief Shaft
 - G. Valve Box
 - H. Artist Skylight
 - I. Valve Box
 - J. Fresh-Air Intake
 - K. Fresh-Air Intake
 - L. Emergency Exits 8A and 8B
 - M. Fresh-Air Intake
 - N. Chiller
 - O. Under Platform Exhaust

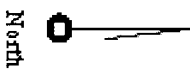


Alvarado Station

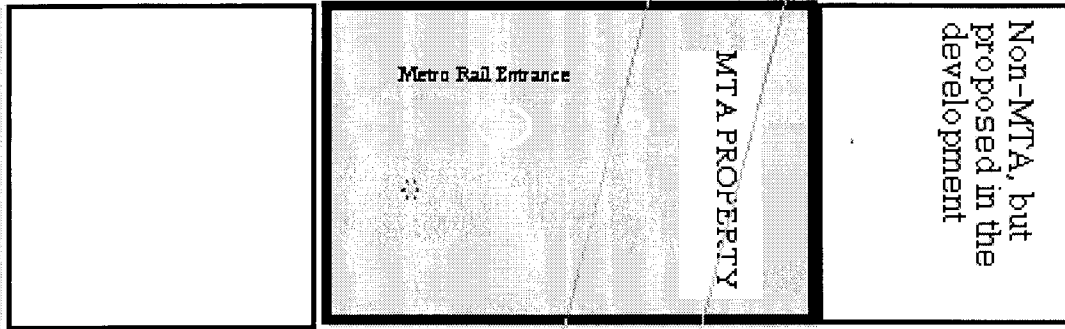
PHASE I & PHASE II podium level / typical housing plan 1"=60' date 01.05.04

planning by Suisman Urban Design
 joint development by McCormack Baron Salazar, Inc. The Related Companies of California, POLIS Builders, LTD.

MacArthur Park



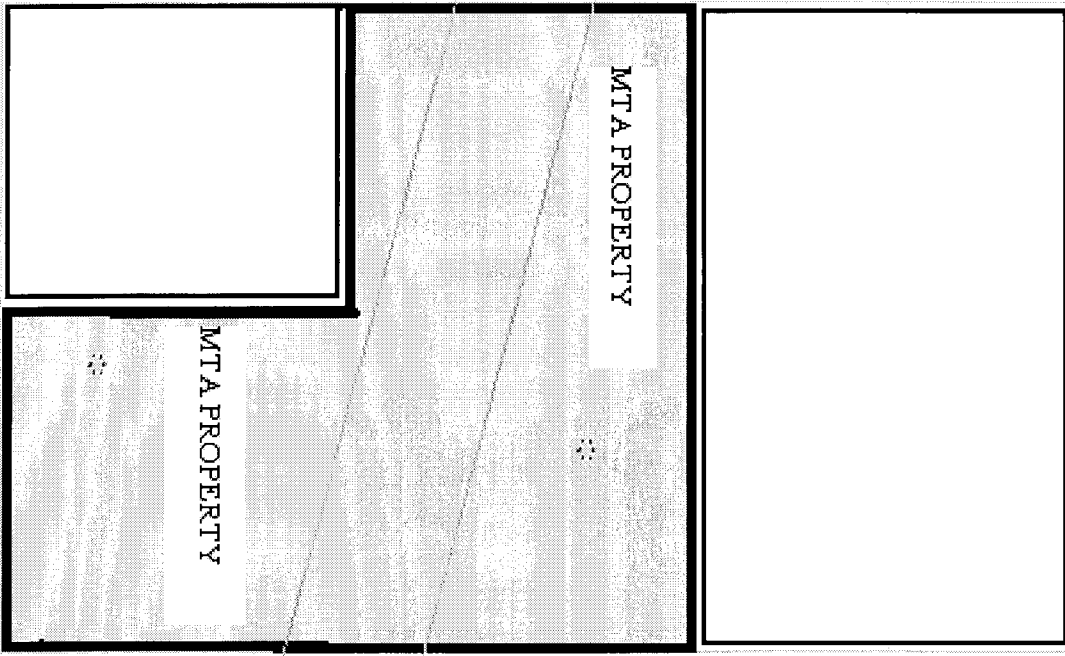
Alvarado Street



Seventh Street

Westlake Blvd.

Westlake Avenue



Bonnie Brae Street