

**STAFF REPORT
C85**

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06/21/18
SB50-18-009
P. Huber
E. Kennedy

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**CONSIDER EXERCISING THE RIGHT OF FIRST REFUSAL FOR THE ACQUISITION
OF FEDERAL PUBLIC LANDS, OR RIGHT TO ARRANGE FOR THEIR TRANSFER
TO ANOTHER ENTITY, IN THE CITY OF SYLMAR, LOS ANGELES COUNTY**

AREA, LAND TYPE, AND LOCATION:

Several square feet of federal public lands in the city of Sylmar, Los Angeles County.

INTRODUCTION TO SB 50:

In October 2017, the Governor of California signed SB 50 (Allen, Chapter 535, Statutes of 2017) into law, which added sections 6223 and 27338 to the Government Code and section 8560 to the Public Resources Code. Section 8560 makes certain federal land conveyances void unless the Commission is provided with a right of first refusal or the right to arrange for the transfer of the land to another entity. The Commission must exercise its right of first refusal at a public meeting. If the Commission was provided with its right of first refusal and right to transfer to another entity but elects not to purchase or arrange for transfer, it must issue a certificate affirming compliance with the law. Section 6223 prohibits the recordation of a conveyance of federal public lands unless it is accompanied by a certificate of compliance. The right of first refusal does not apply to certain conveyances, including but not limited to, those associated with a habitat conservation plan, lands conveyed into or out of trust for a federally recognized Native American tribe, and certain land exchanges.

BACKGROUND:

The Applicant, Century Housing, is a housing developer planning a 42-unit apartment building in the city of Sylmar. The planned housing project is located near a U.S. Postal Service (USPS) property. Century Housing is seeking an easement from the USPS to use an existing electrical pole on USPS property (Subject Federal Parcel) to deliver utility services to the planned housing project. Century Housing has applied to the Commission to consider its rights under SB 50 and to issue a certificate of compliance.

PROPERTY DESCRIPTION:

Appraised Value:

No appraisal was prepared.

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Existing Improvements:

None.

Natural and Cultural Resources:

The proposed location of the easement is a developed, urbanized environment. The location is paved and surrounded by buildings and roadways. Accordingly, there are no natural or cultural resources that would be impacted by Century Housing's proposed use.

Encumbrances:

None.

Contamination:

Unknown.

APPLICANT'S INTENDED USE:

Century Housing's intended use of the electric pole is to provide utility service to a planned 42-unit apartment building.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005 and 8560 and Government Code section 6223.

State's Best Interests Analysis:

Section 8560 defines "federal public land" broadly as "any land owned by the United States, including the surface estate, the subsurface estate, or any improvements on those estates." While the statute mandates that the Commission consider its right of first refusal for conveyances of federal public lands within the state of California, it does not provide guidance as to when the Commission should decide to acquire the subject federal public lands or to arrange for their transfer to another entity. However, the legislative history suggests that the Legislature intended for SB 50 to address conveyances of federal public lands with high value for environmental conservation or preservation, tourism, scientific study, or recreation. (See Assem. Com. on Natural Resources, report on SB 50 (2017-2018 Reg. Sess.), as amended May 26, 2017, pp. 3-4.; Sen. Com. on Natural Resources and Water, report on SB 50 (2017-2018 Reg. Sess.), Feb. 22, 2017 version, pp. 1-2.; Sen. Jud. Comm., report on SB 50 (2017-2018 Reg. Sess.), as amended March 20, 2017, pp. 3-4.) Because the Subject Federal Parcel consists only of several square feet of land in an urban, developed area, there is no value for environmental

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conservation or preservation, tourism, scientific study, or recreation on the Subject Federal Parcel. Moreover, staff believes that the proposed conveyance would provide a public benefit by enabling Century Housing to provide utility services to a needed housing project.

For these reasons, staff recommends that the Commission find it is not in the State's best interests to acquire the Subject Federal Parcel or to arrange for its transfer to another entity.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. The Commission's finding that it is not in the State's best interests to acquire the Subject Federal Parcel or to arrange for its transfer, and authorization to issue a certificate of compliance are not projects as defined by the California Environmental Quality Act (CEQA) because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. **Finding that the acquisition or transfer to another entity is not in the State's best interests:** Staff recommends that the Commission also find that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The activity is exempt because CEQA does not apply to projects that a public agency rejects or disapproves.

Authority: Public Resources Code section 21080, subdivision (b)(5) and California Code of Regulations, title 14, section 15270, subdivision (a).

4. **Issuance of a certificate of compliance:** Staff recommends that the Commission also find that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The activity is exempt because CEQA does not apply to ministerial projects. After being provided with the right of first refusal and the right to transfer to another entity, the Commission has no discretion whether to issue the certificate of compliance—it "shall issue a certificate of compliance."

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Authority: Public Resources Code sections 21080, subdivision (b)(1) and California Code of Regulations, title 14, section 15268, subdivision (a).

EXHIBITS:

- A. Land Description
- B. Plat

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

1. **Finding that the acquisition or transfer to another entity is not in the State's best interests:** Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080, subdivision (b)(5) and California Code of Regulations, title 14, section 15270, subdivision (a), projects that a public agency rejects or disapproves.
2. **Issuance of a certificate of compliance:** Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080, subdivision (b)(1) and California Code of Regulations, title 14, section 15268, subdivision (a), ministerial projects.

STATE'S BEST INTERESTS FINDING:

Find that it is not in the best interests of the State for the Commission to acquire an easement over the Subject Federal Parcel proposed for conveyance from the USPS to Century Housing, or to arrange for its transfer to another entity.

AUTHORIZATION:

Authorize the Executive Officer, or her designee, to issue a certificate of compliance with Public Resources Code section 8560 for the conveyance of an easement over the Subject Federal Parcel to Century Housing.

LEGAL DESCRIPTION

EXHIBIT A

AN EASEMENT FOR THE PURPOSE OF MAINTENANCE FOR THE BENEFIT OF LOS ANGELES DEPARTMENT OF WATER AND POWER AND ALSO FOR THE PURPOSE OF USAGE FOR THE BENEFIT OF PARCEL NUMBER 95 OF RECORD OF SURVEY NUMBER 199 PAGE 85. THE SERVIENT PARCEL IS PORTION OF LOT 71 OF MACLAY RANCHO EX-MISSION OF SAN FERNANDO RECORDED IN BOOK 37, PAGE 5-16 OF MISCELLANEDUS RECORDS, RECORDS OF LOS ANGELES COUNTY HAVING APN : 2509-014-902.

THE EASEMENT IS DESCRIBED AS :

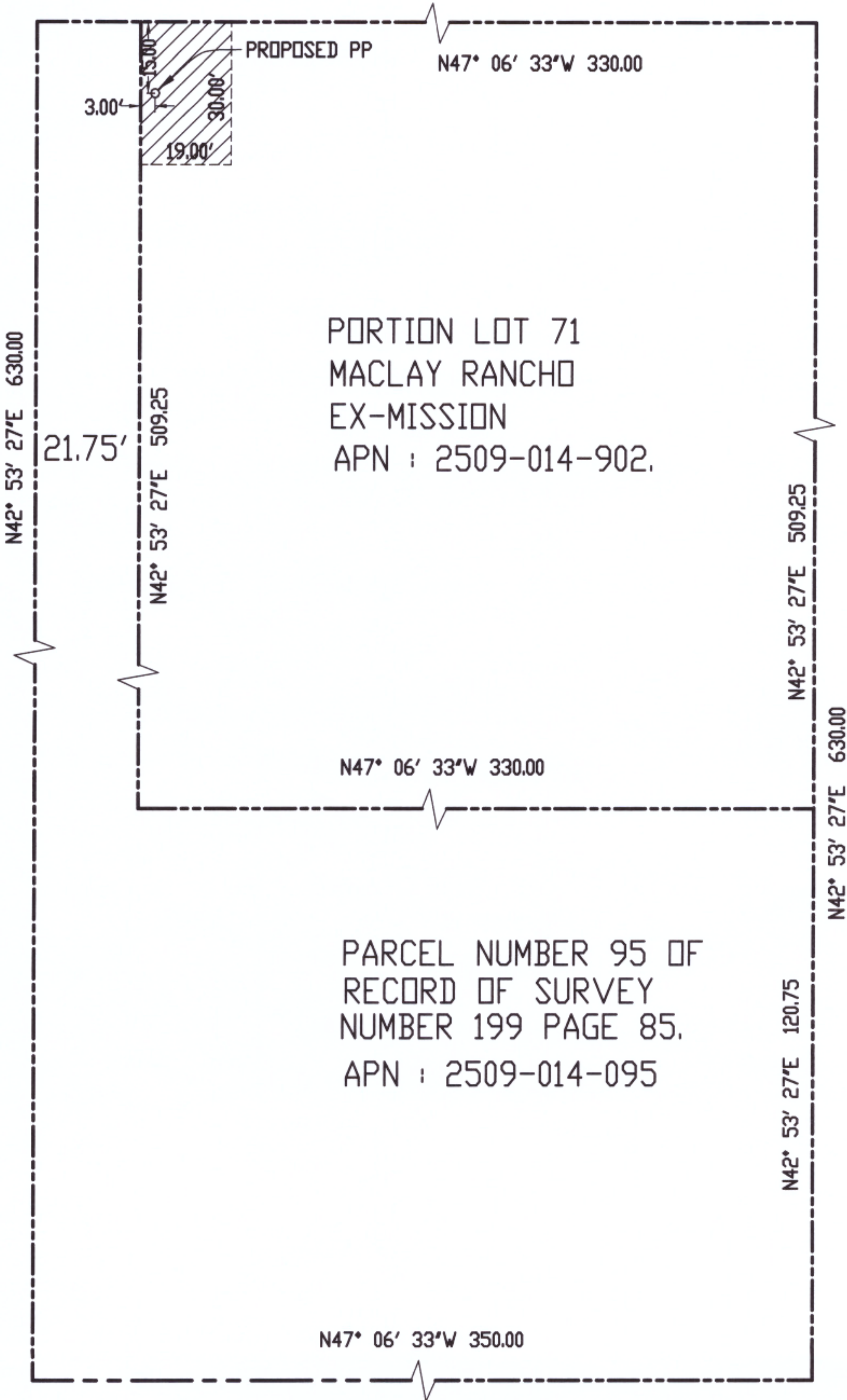
BEGINING AT MOST NORTHEASTERLY CORNER OF SAID PARCEL 95; THENCE SOUTHWESTERLY ALONG SOUTHEASTERLY LINE S42°53'27"W 30.00 FEET; THENCE S47°06'33"E 19.00 FEET; THENCE N42°53'27"E 30.00 FEET TO NORTHEASTERLY LINE OF PARCEL 902; THENCE ALONG NORTHEASTERLY LINE N47°06'33"W 19.00 FEET TO THE POINT OF BEGINNING.



A handwritten signature in black ink, appearing to be "M. Molai", written over a horizontal line.

EXHIBIT B

FOOTHILL BLVD.



LEGEND :

PROPOSED
EASEMENT :

