

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA.

.....  
In the matter of the application :  
of BOARD OF SUPERVISORS, Santa :  
Clara County, California, for :  
permission to construct a public :  
highway at grade across the tracks :  
of Southern Pacific Company near :  
the City of Palo Alto. :  
.....

Application No. 352.

Appearances:

Norman E. Malcolm for Santa Clara County, and Palo Alto  
Chamber of Commerce,

H. C. Booth for Southern Pacific Company,

W. E. H. Hart for Loretta B. Hart.

GORDON, Commissioner.

O P I N I O N.

On January 9, 1913, the Board of Supervisors of Santa Clara County, California, filed with the Commission an application for permission to construct a public highway at grade across the tracks of Southern Pacific Company on the west side of and adjoining the City of Palo Alto in said county, said highway to be an extension of Palo Alto Avenue of said city. The center line of this proposed public highway as described in the petition is as follows:

"Beginning at a point on the southerly line of Alma Street, which point is South 73 Deg., 53 Min. West, 61.48 feet from a point in the prolongation of the northerly line of Alma Street, 201.36 ft. from the intersection of the northerly line of Alma Street with the southerly line of Palo Alto Avenue; thence South 73 Deg., 53 Min. West, 172.08 ft. to a point on the southerly line of the Southern Pacific Railroad Company's right-of-way; thence continuing on same line 73 Deg., 53 Min. West, 303.9 ft. to a point on the San Francisco road. Being a strip of land of the uniform width of 60 ft. and 30 ft. on each side of the above described line."

The application states generally that a separation of grades is unreasonable and its advantages are not sufficient to warrant the expenditure; also that the physical features of the crossing and surroundings are favorable to a grade crossing.

A hearing was held upon the application at San Jose on March 24, 1913, at which all interested parties were represented and testimony taken concerning the proposed crossing.

Southern Pacific Company contended that it was reasonable and practicable to construct a sub-grade crossing under its tracks to accommodate the public highway prayed for either at Palo Alto Avenue or at Hawthorne Avenue, which is the next parallel street abutting on the railroad about four hundred (400) feet south of Palo Alto Avenue. This company submitted an estimate of the cost of a subway, or under-grade crossing, equipped with a permanent steel and concrete overhead bridge, and roadway paved with first-class macadam, including concrete sidewalks and curb, aggregating \$18,526.50. The estimated cost of the subway, including the overhead bridge, within the limits of right-of-way of Southern Pacific Company, was \$11,649.50. This cost, the Southern Pacific Company agreed to bear if the City of Palo Alto on the east side of its right-of-way would stand the cost of the east approach to the subway, estimated to be \$3,576.50, and also if the County of Santa Clara would stand the estimated cost of the west approach to the subway on the west side of its right-of-way, estimated to be \$3,300.50.

These figures were, however, for a subway at Hawthorne Avenue. The cost of a similar subway at Palo Alto Avenue on the line of the proposed railway as laid out, was estimated to be but little in excess, if any, of the above statement.

On March 29, 1913, there was filed with the Commission a petition from the City of Palo Alto and also a protest and petition from Loretta B. Hart, a resident and owner of property in Palo Alto adjoining the proposed crossing, protesting against any consideration of a subway for the proposed public highway under the tracks of the

Southern Pacific Company, and insisting that the Commission grant the application for the grade crossing.

A rehearing was held upon the application and the matters contained in the petitions before the Commission at San Francisco on April 23, 1913, at which all interested parties were represented. Testimony was introduced tending to show in effect that a subway or undergrade crossing was neither desired nor considered advisable by the citizens of Palo Alto, and the owners of certain adjoining property in the city. Southern Pacific Company again maintained that a grade crossing would be very dangerous and hazardous to the public traveling on the highway and reiterated its previous offer to stand such expense as might be necessary for the construction of an undergrade crossing within the limits of its own right-of-way.

On May 20, 1913, informal conference was held before the Commission at Palo Alto. At this meeting it was shown that a subway or undergrade crossing at Palo Alto Avenue was feasible and practicable and that a grade crossing at either Palo Alto Avenue or Hawthorne Avenue would be very dangerous and hazardous to the public. On June 28 and July 11, 1913, further informal conferences were held before the Commission at San Francisco at which all interested parties were represented. At the last conference Southern Pacific Company submitted plans and specifications for a subway or an undergrade crossing to be located in the vicinity of Palo Alto Avenue. These plans and specifications were acceptable to all interested parties. Southern Pacific Company at this conference also submitted an estimate of the cost of said subway or undergrade crossing, which was to be equipped with a permanent steel and concrete overhead bridge and roadway paved with first-class macadam including a concrete sidewalk and curb, aggregating \$26,965.00. The estimated cost to Southern Pacific Company is \$13,440.00. This is for the subway, including the overhead bridge from the easterly right-of-way limits of Southern Pacific Company to a line parallel with Southern Pacific Company's westerly right-of-way line, which is a distance of approximately forty-five (45) feet easterly from aforesaid Southern Pacific Company's westerly right-of-way line, which line would be a line connecting the extreme westerly

points of the subway wing walls. This cost the Southern Pacific Company agreed to bear if the City of Palo Alto on the east side of its right-of-way would pay for the estimated cost of the east approach to the subway, which was estimated to be \$9,000.00, and also if the County of Santa Clara would pay for the estimated cost of the west approach to the subway up to the west wing walls of the subway, which was estimated to be \$4,525.00.

After giving full consideration to the matters contained in the application, to the testimony submitted, and to the petitions and protests filed, I am of the opinion that it is entirely reasonable and practicable to avoid a grade crossing of the proposed public highway with the tracks of the Southern Pacific Company in the vicinity of Palo Alto Avenue, City of Palo Alto, Santa Clara County, California, at a cost based upon the estimate submitted by the Southern Pacific Company last hereinbefore mentioned, and that it is entirely reasonable to the City of Palo Alto and to the County of Santa Clara and a cost which said city and county can reasonably be required to participate in.

The testimony shows that a grade crossing at either Palo Alto Avenue or Hawthorne Avenue is obscured in several directions by trees and brush and would be extremely dangerous for highway traffic. The Southern Pacific Company operates upwards of seventy trains per day over its double main line tracks at this point. The grade crossing, if permitted, due to local conditions would be unusually hazardous, and its danger, so far as the traveling public is concerned would continually increase from year to year as both the railroad and the highway traffic increases.

What a few years ago were deemed unsurmountable obstacles to an undergrade or overgrade crossing are now treated as only engineering difficulties, which skill and capital can generally overcome. It is, therefore, the settled policy of this Commission when one railroad desires to cross another, or where it is desired that the highway cross a railroad or vice versa, to require such crossing to be

made by a subway or overhead crossing whenever and wherever it is practicable and feasible so to do.

The City of Palo Alto and the County of Santa Clara, in my opinion, can reasonably be required to participate in the expense of constructing an undergrade crossing to the extent hereinbefore proposed. I do not find that public necessity demands a temporary grade crossing at the point selected, as such highway traffic as would use this crossing will not be materially inconvenienced by going to the present grade crossing at University Avenue, as is now the case, until the completion of the subway.

I, therefore, submit the following form of order:

O R D E R

The Board of Supervisors of Santa Clara County, California, having on January 9, 1913, filed with the Commission an application for permission to construct a public highway crossing at grade across the tracks of the Southern Pacific Company at a point near the west end of Palo Alto Avenue, in the City of Palo Alto, Santa Clara County, California, as shown by the map attached to the application, and a hearing having been held by the Commission upon the matter at San Jose, California, on March 24, 1913, and a rehearing at San Francisco on April 23, 1913, at which all parties interested, including the City of Palo Alto and certain protesting adjoining property owners were duly represented, and it appearing to the Commission that it is practicable to avoid a grade crossing of the Southern Pacific Company's tracks at the proposed point of crossing by constructing a subway, or undergrade crossing; and it further appearing that Southern Pacific Company has agreed to bear the greater part of the cost of such undergrade crossing, being that portion of the cost attaching to the construction of the subway under its tracks and between the easterly limits of its right-of-way and the extreme westerly limits of the subway wing walls, provided the City of Palo Alto will bear the cost

of constructing the approach to said subway on the east side within its limits, and also provided the County of Santa Clara will stand the cost of constructing the west approach to the subway up to the westerly limits of the subway wing walls, and it further appearing that the application as presented should be denied, but that an order should be issued approving the construction of a subway, or undergrade crossing, for the proposed highway, at or near the point of crossing proposed, as hereinafter provided,

IT IS HEREBY ORDERED that permission be hereby granted to the Board of Supervisors of Santa Clara County, California, the Southern Pacific Company and the City of Palo Alto, Santa Clara County, California, to construct a subway, or undergrade crossing, under the tracks of the Southern Pacific Company at or near the west end of Palo Alto Avenue in said City of Palo Alto, as shown by the map and plans filed by Southern Pacific Company on July 11, 1913, and that said map and plans be and are hereby approved and that the subway shall be constructed upon the following terms and conditions, and not otherwise, to-wit:

- (1) The subway shall be constructed to conform to specifications contained in General Order No. 26 of this Commission.
- (2) The subway shall be constructed in accordance with plans and specifications prepared by and mutually satisfactory to the Southern Pacific Company, the City of Palo Alto and the County of Santa Clara, which plans and specifications were filed by Southern Pacific Company on July 11, 1913, and are approved by this Commission.
- (3) The cost of constructing and maintaining the subway shall be apportioned between the parties as follows:
  - (a) Under the tracks and from the easterly limits of the right-of-way of the Southern Pacific Company to the westerly limits of the wing walls of the subway, including the necessary overhead bridge, retaining walls, paving, sidewalks, sump, and drainage pipe for removing water from the subway, shall be borne

by the Southern Pacific Company;

(b) The east approach to the subway within the limits of the City of Palo Alto, including the necessary grading, paving, retaining walls, etc., shall be borne by the City of Palo Alto;

(c) The west approach to the subway up to the westerly limits of the wing walls of the subway, including grading, paving, etc., shall be borne by the County of Santa Clara;

(4) The subway shall be completed and ready for use within eighteen (18) months after the date of this order.

(5) Should the City of Palo Alto and the County of Santa Clara fail or refuse to join in the construction of said subway hereinbefore provided for, and fail or refuse to share in the cost thereof, as hereinbefore specified, then and in that case, this order becomes null and void and the Southern Pacific Company is relieved from the provisions of this order directing its share in the cost of the said subway and the application for the crossing prayed for herein will be dismissed by the Commission.

(6) This order shall be without prejudice to the right of the Commission to hereafter make such further orders relative to the construction, maintenance, operation and protection of the public highway crossing hereby <sup>authorized,</sup> as in the opinion of the Commission public convenience and necessity demand.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission.

Dated at San Francisco, California, this 23<sup>rd</sup> day

of July, 1913.

Walter Washburn

Alexander

Max Thelen

Commissioners.