

Decision No. 28203.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
THE CITY OF ALBANY, a municipal
corporation, for an order authoriz-
ing a street crossing, at grade, over
the tracks and right of way of The
Atchison, Topeka and Santa Fe Railway
Company at Garfield Avenue, within
the City of Albany.

ORIGINAL

Application No. 19991.

C. N. Lavers, City Attorney, City of Albany.

W. F. Brooks, for The Atchison, Topeka and
Santa Fe Railway Company.

BY THE COMMISSION:

O P I N I O N

In this proceeding the City of Albany seeks authority to construct Garfield Avenue at grade across a main line track of The Atchison, Topeka and Santa Fe Railway Company.

A public hearing in this matter was conducted by Examiner Hunter at Albany on August 20, 1935, at which time it was taken under submission.

Garfield Avenue is an east and west street, situated in the northerly portion of the City of Albany. Except for the crossing proposed herein and for a distance of three blocks to the east thereof, it extends from a connection with San Pablo Avenue on the west to and beyond the easterly city limits. The city now proposes to open this three-block section between Masonic Avenue on the west and Key Route Boulevard on the east. The Santa

The right of way is located immediately east of Masonic Avenue.

The record shows that the City is offered the necessary right of way for this extension across private property, other than that of the railroad, without cost to it, if the entire project is carried out, including the construction of the grade crossing proposed herein. The City also expects to get Federal and State aid in the financing of this project. The Albany High School is located to the east of Key Route Boulevard and south of Garfield Avenue. If this street extension project goes through, the School Board proposes to purchase a tract of land to the north of Garfield Avenue and west of Key Route Boulevard to be used as a playground for the High School students.

The railroad involved is the main line of The Atchison, Topeka and Santa Fe Railway Company between Oakland and Richmond, over which there are four scheduled passenger and eight scheduled freight train movements per day. The company's time table shows a speed restriction for train movements over the grade crossings in Albany of 15 miles per hour. The proposed crossing would involve only the single track main line located within the company's 40-foot right of way. The proposed crossing is located approximately midway between the existing grade crossings of Brighton Avenue No. 2K-5.9) on the north, and Portland Avenue (No. 2K-5.0) on the south, the distance between these existing crossings being about 1100 feet.

The railroad company opposes the granting of this application unless the existing grade crossing at Brighton Avenue, a comparatively short street, be closed. With the opening of the proposed crossing, the only class of traffic which would be inconvenienced if the Brighton Avenue crossing were closed is a

small portion of that to and from two industries fronting on this street and located east of the railroad. One of these industries is engaged in the sale of lumber and the other building materials. The greater portion of the deliveries from these plants is to the north and east, which does not require crossing the railroad. If the Brighton Avenue crossing were closed and the Garfield Avenue one opened, that portion of the traffic to and from these industries which is required to cross the railroad would be slightly inconvenienced in that the distance would be somewhat increased, depending upon whether the shipment was to the northwest or southwest. San Gabriel Avenue, a north and south street, is located about 250 feet east of the railroad at Brighton Avenue and about 100 feet east at Garfield Avenue. This street would serve as a connection between Brighton Avenue and Garfield Avenue, if extended. If the City's plan to improve Garfield Avenue is carried out, it will afford a direct route to San Pablo Avenue for a large residential section of Albany and the so-called Thousand Oaks district of Berkeley, as well as direct access to the Albany High School from the west.

The view of approaching trains at the proposed crossing is now seriously impaired by buildings on the west side of the railroad and witnesses for both the City and the Company testified that if the proposed crossing is constructed, it should be provided with automatic crossing signals.

The matter of constructing a crossing over the railroad at Garfield Avenue was before the Commission in Application No. 17329 and the Commission, in its Decision No. 23806, dated June 22, 1931, found that public convenience and necessity did not, at that time, require the establishment of a crossing and so ordered. Subsequent to the issuance of said decision there have been a number of residences built in the district to the east of

the railroad and south of the proposed extension of Garfield Avenue which somewhat increases the public necessity for the proposed crossing. The parties stipulated that the record in Application No. 17329 be considered in evidence in the instant proceeding in so far as relevant.

It is clear from the record in this proceeding that a grade crossing at Garfield Avenue would better serve the traveling public than the existing one at Brighton Avenue and that with the opening of the proposed crossing there will be little need for a crossing over the railroad at Brighton Avenue, therefore, in the following order applicant will be authorized to construct Garfield Avenue at grade across the track of The Atchison, Topeka and Santa Fe Railway Company, as proposed herein, provided the existing grade crossing at Brighton Avenue is closed.

O R D E R

A public hearing having been held in the above entitled proceeding and the matter being now ready for decision,

IT IS HEREBY ORDERED that the City Council of the City of Albany, in the County of Alameda, State of California, is hereby authorized to construct Garfield Avenue at grade across the track of The Atchison, Topeka and Santa Fe Railway Company at the location more particularly described in the application and as shown by the maps (Exhibits "C," "D" and "E") attached thereto, subject to the following conditions and not otherwise:

- (1) The above crossing shall be identified as Crossing No. 2K-5.95.
- (2) The entire expense of constructing the crossing shall be borne by applicant. The cost of maintenance of that portion of said crossing outside of lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the cross-

(2) Cont'd.

ing between lines two (2) feet outside of the outside rails shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

(3) The crossing shall be constructed of a width of not less than thirty (30) feet and at an angle of approximately ninety (90) degrees to the railroad and with grades of approach not greater than five (5) per cent; shall be constructed equal or superior to type shown as Standard No. 2 in our General Order No. 72; and shall in every way be made suitable for the passage thereon of vehicles and other road traffic.

(4) Two (2) Standard No. 3 wigwag signals, as specified in our General Order No. 75-A, shall be installed for the protection of said crossing of Garfield Avenue, at the sole expense of applicant. Their maintenance thereafter shall be borne by the Atchison, Topeka and Santa Fe Railway Company.

(5) Prior to the commencement of actual construction of the crossing herein authorized, the City of Albany, applicant herein, shall file with this Commission a certified copy of an appropriate ordinance or resolution duly and regularly passed, instituting all necessary steps to legally abandon and effectively close the existing public crossing of Brighton Avenue over the tracks of The Atchison, Topeka and Santa Fe Railway Company, located approximately six hundred (600) feet north of the crossing herein authorized and identified as Crossing No. 2K-5.9. Upon the completion of the crossing herein authorized and upon its being opened to public use and travel, said crossing No. 2K-5.9 shall be legally abandoned and effectively closed to public use and travel.

(6) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing and of its compliance with the conditions hereof.

(7) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 3rd day of September, 1935.

Leon A. Wheeler

M. J. C.

W. R. D.

Commissioners