

Decision No. 40122

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the City of Mill Valley, a municipal corporation, for authorization to construct public street across the tracks of Northwestern Pacific Railroad Company at grade.)	Application
)	No. 27965
)	
)	

THOS. C. NELSON, City Attorney, for Applicant
 E. J. FOULDS, for Northwestern Pacific Railroad Company
 J. D. MAATTAS, for Pacific Greyhound Lines

O P I N I O N

In this proceeding the City of Mill Valley requests permission to construct Sunnyside Avenue at grade across the tracks and station grounds of Northwestern Pacific Railroad Company in said city.

Public hearings have been held, briefs have been filed, and the matter is now submitted for determination.

Sunnyside Avenue runs in a general easterly and westerly direction between the property of the railroad and Blythesdale Avenue, one of the important entrances to the city. Blythesdale Avenue runs in a general northerly and southerly direction, and at the center of the city is intersected by Throckmorton Avenue, an east and west street. West of the railroad property is Miller Avenue which runs southerly from Throckmorton Avenue. The main business district is confined to a small area along Miller Avenue, Throckmorton Avenue, and Blythesdale Avenue north of Sunnyside Avenue. All vehicular traffic to and from the business district of Mill Valley now must circulate along these three streets. (1)

(1) The geographical situation at the location involved is shown on Exhibit No. 2.

It is the proposal of applicant to open Sunnyside Avenue across the railroad property to Miller Avenue in order to facilitate the circulation of vehicular traffic and make Sunnyside Avenue between Blythesdale Avenue and the railroad property more readily available for parking vehicles along its curbs.

The portion of the railroad property proposed to be used for the crossing is in the station grounds and at the end of the so-called Mill Valley Branch. Two tracks would be involved in the crossing, one the team track upon which freight cars are spotted for unloading and a so-called tail track which is used in switching operations to the freighthouse.

The property of the railroad involved herein is a portion of its passenger terminal premises which occupy the southeast corner of the intersection of Miller Avenue and Throckmorton Avenue. Since the abandonment of rail passenger service to Mill Valley and the inauguration of passenger stage service by Pacific Greyhound Lines, this terminal property is under lease to the Pacific Greyhound Lines as its Mill Valley terminal and storage area for passenger stages when not in use.

The Northwestern Pacific Railroad Company is opposed to the granting of this application on the grounds that undue hazards will accrue by the opening of Sunnyside Avenue over its tracks, due to the obstruction of view by trees in the immediate vicinity, particularly along the east line of its property and also adjacent to Miller Avenue. In addition, according to the railroad, the opening of said street would deprive the railroad of adequate transportation facilities. The railroad takes the position that public transportation operations of the town of Mill Valley of passengers, freight, and express are conducted on the property herein involved, and that any reduction of this area by the construction of Sunnyside Avenue across it would be detrimental to the users of public transportation. The

railroad further urges that if the Commission in its judgment grants the application, the existing team track should be extended at least 100 feet to compensate for the car spots lost on that portion of the track to be occupied by the street. The railroad also contends that if the crossing is opened it should be protected by push button control wigwag signals, the construction cost of which is estimated to be about \$2,300, and that all such expense should be borne by applicant.

Pacific Greyhound Lines objects to the granting of the application upon the ground that the opening of the street would deprive it of necessary parking area for its buses. It now parks a maximum of 43 buses in the area at night, most of which are needed to start the early morning service from Mill Valley to San Francisco. The remainder are for spares in the event of breakdown or other mechanical failure of the buses, and a few which deadhead to Sausalito. (2)

In the event the Commission grants the application, Pacific Greyhound Lines then requests that the City of Mill Valley provide it with parking space for its buses within two blocks of its present terminal, as it must have sufficient space in the immediate vicinity to park its buses, particularly at night to handle peak operations leaving Mill Valley in the morning.

Pacific Greyhound Lines further contends that if the crossing of Sunnyside Avenue is opened, the hazards at the location would definitely increase by the intermingling of passenger cars, buses, and pedestrian traffic.

It would appear, as the City contends, that by the opening of Sunnyside Avenue across the railroad tracks to connect this street with Miller Avenue, the circulation of vehicular traffic would be improved. With respect to the movement of rail traffic over the

(2) This parking arrangement is shown diagrammatically on Exhibit No. 9.

proposed crossing, it is clear that train movements are relatively light and that vehicles could be protected against accidents from train movements were a member of the train crew or other competent employee to act as a flagman when trains cross the street. The installation of wigwags does not appear to be necessary at the present time. It will be necessary to extend the railroad team track approximately 100 feet so as to afford sufficient car unloading space and to permit spotted freight cars to clear the street crossing area.

The detrimental effect upon the operation of Pacific Greyhound Lines resulting from the reduction of the leased space on railroad property which this carrier now devotes to the storage of its buses cannot readily be estimated. This may compel Pacific Greyhound Lines to secure additional bus storage space at another location; furthermore the continued use of existing parking space, both to the north and the south of the proposed extension of Sunnyside Avenue across the railroad property may result in some traffic congestion and hazard. However, it is not the province of the Commission in this proceeding to consider the impairment of use of the rail property due to the opening of this street other than its use for rail purposes.

The application requests an order authorizing the City to construct the crossing at grade upon just and equitable terms. It is an application filed pursuant to sections 43(a) and 43(b) of the Public Utilities Act. It is not a petition of the nature contemplated by section 43(c), which relates to the fixing of just compensation in connection with grade separations.

Exhibit No. 4 is a resolution of the City Council of applicant City, declaring that public convenience and necessity require the "acquisition, construction and completion" of the project of improving Sunnyside Avenue over and through a described parcel of real property. It also declares that it is necessary for the City to acquire an easement for street right of way purposes through and over

that property, and that it is necessary that Sunnyside Avenue be constructed at grade across the tracks of the railroad located on that property. The resolution directs the City Attorney to petition this Commission for permission to extend Sunnyside Avenue across the tracks at grade, and to take any and all steps to acquire by agreement or eminent domain proceedings the necessary easement for street right of way purposes over and through the described property. Therefore, in authorizing the construction of a grade crossing herein, it should be understood that the Commission is not passing upon any questions relating to the rights of the applicant City or of any other party in connection with the street opening, or the acquisition of property in eminent domain.

The application to establish a crossing at grade will be granted subject to the terms and conditions set forth in the following order. Additional protective measures may be prescribed in the future should the need therefor appear.

O R D E R

A public hearing having been held and the matter being under submission;

IT IS HEREBY ORDERED that the City of Mill Valley, in the County of Marin, State of California, is hereby authorized to construct Sunnyside Avenue at grade across the tracks of Northwestern Pacific Railroad Company at the location more particularly described in the application and as shown by the map attached thereto, subject to the following conditions and not otherwise.

1. The crossing herein authorized shall be identified as Crossing No. 5D-11.6.
2. The team track of the railroad shall be extended approximately one hundred (100) feet.
3. The entire expense of constructing the crossing and fulfilling the requirements heretofore mentioned shall be borne by applicant.

4. All train movements over the crossing shall be protected by a member of the train crew or other competent employee of Northwestern Pacific Railroad Company acting as flagman, and at the expense of said railroad.
5. 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 provisions hereof.
6. The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof, unless further time be granted by subsequent order.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco California, this 1st day of April, 1947.

Harold P. Kuls
Justice F. Collier
Joseph H. Powell
Chas. E. Morrison
Herbert P. Patton
Commissioners