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ORIGINAL

Decision No. 76748

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Rohnert
Park acting through its City Council,
for permission to construct Southwest
Boulevard crossing at grade across
the main line of the Northwestern
Pacific Railroad in the City of
Rohnert Park.

Application No. 50356

Additional Appearances

Maurice Fredericks and Paul Golis, in their
own behalf, interested parties.
Donald C. Meaney, Counsel, for the Commission's
staff, protestant.

OPINION ON REHEARING

By this application the City of Rohnert Park (City) seeks authority to construct Southwest Boulevard at grade, over the main-line track of Northwestern Pacific Railroad Company (NWP). Following public hearings in October, 1968 and January, 1969, the Commission denied the application without prejudice by Decision No. 75602, dated April 29, 1969.

Applicant sought rehearing, which was granted by Decision No. 75980, dated July 29, 1969. Rehearing of the application was held before Examiner Bishop at Rohnert Park on September 15 and 16, 1969. Applicant presented evidence through its city manager, its consulting city engineer, the president of a community development company, and the building and planning coordinator for Sonoma State College.

Two individuals, who are practicing attorneys and property owners in Rohnert Park, appeared as interested parties in support of the sought relief. Evidence in support of the proposal was presented through witnesses in addition to those called by applicant, as follows: the superintendent of Petaluma City Joint Union High School District (which district includes Rohnert Park), on behalf of the Petaluma Board of Education; one of the above-mentioned Rohnert Park attorneys, who is also a member of the Cotati School District (which includes the elementary schools of Rohnert Park), appearing in his own behalf; and a member of a Lutheran Church located in Rohnert Park, on behalf of the church council of that church.

As in the original hearing, NWP opposed the granting of the application. Apart from evidence regarding two traffic counts which it had made, and the cost and details of protection at the proposed crossing, participation by the railroad was confined to counsel's cross-examination of opposing witnesses and to closing argument. In the original hearing, the Commission's staff took a neutral position, and through its representative, a transportation engineer, assisted in the development of the record through examination of the witnesses. At the rehearing, however, the staff was represented by counsel and appeared in opposition to the granting of the application. The staff presented no evidence,^{1/} but its counsel assiduously cross-examined opposing witnesses and in a closing statement set forth at some length the basis for the staff's opposition to the City's proposal.

^{1/} Staff counsel did call the City's consulting city engineer as his own witness under Section 776 of the Evidence Code for brief questioning.

The Commission denied the application in Decision No. 75602 on the ground that the application was premature. This conclusion was predicated on the evidence that (1) existing and projected near future vehicular traffic between the developed and developing areas of the community did not appear to be of such volume as to create either congestion or undue hazards on currently used streets and crossings, and (2) the City had not shown that adequate financial arrangements either currently existed or in the near future could be made to complete the link between the two present segments of Southwest Boulevard and provide the City's share of the crossing costs. The evidence adduced by the City and its supporters at the rehearing was directed to reinforcement of their position and to bring the record up to date as of the time of rehearing.

The facts concerning the geographical layout of the City of Rohnert Park and environs with relation to the railroad line, including streets, structures, and existing grade crossings, have been set forth in the original decision, and need not be repeated. It is not deemed necessary, either, to describe the evidence adduced through the various witnesses. Updating of certain figures will be noted, however, and attention directed to certain other features in the showings made.

No new traffic counts were taken by the City.^{2/} Two 24-hour traffic counts made by NWP at the Cotati Avenue and Rohnert Park Expressway grade crossings on August 27, 1969 are not helpful since they were taken before either the college or the high school was in session, and therefore are not representative.

^{2/} In Decision No. 75602, at Sheet 3, the result of a traffic count taken on Adrian Drive during the period from September 15 to November 21, 1968 was erroneously stated as an average of 4,851 vehicles per week; the correct figure is 5,441 vehicles per day.

The estimated cost of constructing the City's portion of Southwest Boulevard from Burton Avenue to the proposed crossing is estimated at \$60,000 for a four lane thoroughfare.^{3/} The two lane construction proposed for the present will cost something more than half of that figure. The City's budget, approved for the current fiscal year (1968-69), includes an amount of \$100,000 for this project. It includes provision for drainage construction adjacent to the railroad. At a session on September 15, 1969, the city council took formal action guaranteeing that on the granting of the application herein the City would immediately cause to be constructed the remaining links of Southwest Boulevard.

An exhibit introduced by NWP through its assistant engineer showed estimated construction and maintenance costs of proposed protective devices at the crossing which had been revised upward from the figures which had been introduced at the original hearing of the application. The revised estimates are \$16,350 for construction and installation of the crossing protection, and \$600 per year maintenance cost.

In his closing argument counsel for the Commission's staff cited the decision of County of Orange, 33 Cal. R.C. 507 (1929) and two other earlier decisions of this Commission^{4/} in which the Commission was stated as having said that a grade crossing should not be opened primarily for the sake of developing a subdivision, promoting real estate or increasing the price of property. Actually,

^{3/} The developer of the proposed real estate project east of the NWP has agreed to bear the cost of the portion to be constructed east of the railroad.

^{4/} Applications of the Cities of Santa Cruz and Fresno, 5 Cal. R.C. 269 and 10 Cal. R.C. 506, respectively.

in those decisions the qualifying word used by the Commission was not "primarily", but "solely". In the Orange County matter, for example, the proposal involved a request to establish a grade crossing to connect a proposed real estate subdivision with a highway in an area where no development of any kind had taken place. Obviously, the facts are different here. In this application the proposed crossing is to serve the needs of a city of some 6,000 people as well as to assist the growth of the undeveloped portions of that community.

The Commission finds, after rehearing, that:

1. The population of the City of Rohnert Park, as of March 1, 1969 and as estimated by the State Department of Finance, was 5,785. Almost all of this population lives west of the railroad.

2. By far the greater portion of the residential units, single-residence and multiple residence, are located west of the railroad.

3. Southwest Boulevard is an essential link between the older, established section of the city west of the railroad and the newer, partially developed section east of the tracks, including with the latter the Sonoma State College, located outside the Rohnert Park city limits, but adjacent thereto.

4. Southwest Boulevard is designed for local traffic between the east and west portions of the city. It will not connect with U.S. 101 freeway.

5. The distance between the Rohnert Park Expressway crossing and the East Cotati Avenue crossing is approximately one and one half miles. The proposed Southwest Boulevard Crossing would be approximately halfway between said crossings.

6. The existing shopping center of the city is located west of the railroad adjacent to Southwest Boulevard.

7. The existing fire and police facilities of the city are based at the existing community services center on Southwest Boulevard west of the railroad.

8. Sonoma State College, since its establishment, has been rapidly increasing in enrollment, with current enrollment of over 3,000 students and is expected to increase. The faculty and staff bring the college population to the neighborhood of 4,000.

9. Approximately 45 percent of the college students last year (1968-69) lived in Rohnert Park and Cotati, the great majority in Rohnert Park.

10. Fifteen percent of faculty and staff of the college lived in Rohnert Park, virtually all of them west of the railroad.

11. Housing for the college students presently exists east of the railroad just west of Snyder Lane both on Cotati Avenue and on Southwest Boulevard. Other student housing is planned, both on and off the campus.

12. Rancho Cotati High School is located east of the railroad on Snyder Lane at the present eastern terminus of Southwest Boulevard.

13. Said high school, at the 1969 fall semester had an enrollment of over 600 students, 240 of whom lived in Rohnert Park. It is designed to accommodate some 1600 students.

14. The Cross and Crown Lutheran Church is located at Southwest Boulevard and Snyder Lane, east of the railroad. It has 476 members, nearly all of whom live in Rohnert Park, and all of these latter persons live west of the railroad.

15. The Episcopal Church is also located east of the railroad one quarter mile south of the above-mentioned church.

16. Adrian Drive is a collector street west of the railroad running southerly from the northern part of the developed section through a residential area to connect with East Cotati Road. It is not designed as an arterial.

17. The absence of a crossing over the railroad on Southwest Boulevard results in undesirably heavy traffic on Adrian Drive moving between locations in the northern half of the developed area west of the tracks and points east of the railroad.

18. Completion of the gap between the two sections of Southwest Boulevard and construction of the proposed crossing would result in advantages, as follows:

- (a) It would substantially reduce the distance traveled: between the shopping center and the fire and police facilities, on the one hand, and the college, the high school and student housing east of the railroad, on the other hand; between residences in the northern half of the developed area west of the railroad, on the one hand, and the high school, the college and the Lutheran church, on the other hand.
- (b) It would place some students within walking distance of the high school.
- (c) It would reduce through traffic on Adrian Drive, thus reducing hazards to residents on that street.

19. There are two elementary schools in the city, both located west of the railroad. Because of rapidly increasing enrollment it has been necessary for the school district to rent additional facilities in Rohnert Park and additionally to bus some students to a Cotati school.

20. In 1967 an additional school site was purchased east of the railroad on Southwest Boulevard in anticipation of the growth in enrollment. However, construction has not been initiated because the school board feels that it should not ask the State agencies for an allocation of the necessary funds until it can assure them that the Southwest Boulevard access will be built.

21. East of the railroad, and on both sides of the dedicated right of way, as well as a completed portion, of Southwest Boulevard is a proposed residential real estate development designated El Colegio Vista No. 2. Part of the property has been purchased by the developers, with options on the rest. The project will include both single and multiple residences and so-called town house arrangements. Five hundred seventy-nine residential units are proposed, in all.

22. The El Colegio project has been approved in principle by the City Counsel, and an agreement has been reached whereby the developer will bear the expense of constructing that portion of the gap in Southwest Boulevard which is east of the railroad. Adequate financing for the first unit of the housing development and for the road construction is available.

23. Essential to the success of the El Colegio project is the completion of Southwest Boulevard between Burton Avenue, west of the railroad, and the west end of the completed portion east of the railroad.

24. Lack of a crossing of said boulevard over tracks of NWP has hindered the development of that part of Rohnert Park located east of said tracks.

25. The city counsel has budgeted funds for the 1969-70 fiscal year sufficient to complete the construction of the boulevard from Burton Avenue to the easterly boundary line of the NWP right of way.

26. The city counsel has by formal action guaranteed that, upon granting of the crossing at grade, the City will immediately cause to be constructed the remaining links of Southwest Boulevard.

27. The closing of the gap in Southwest Boulevard between Burton Avenue and the easterly portion of said boulevard, involving construction of a crossing over the NWP, is an essential part of the development plans of the City of Rohnert Park for the immediate, as well as for the more distant future.

28. Construction of a crossing at separated grades is not practicable because of the inability of the City to provide the necessary funds, among other reasons.

29. The public need, convenience and necessity require the construction of the proposed crossing.

30. The City and railroad are in agreement that if a crossing at grade is authorized protection shall consist of Standard No. 8 flashing light signals (General Order No. 75-B) supplemented with automatic gates. The record establishes that public safety requires that such crossing protection should be constructed and installed.

31. The oral motion of NWP, renewed at the rehearing, to include the Petaluma City Joint Union High School District as a party to this proceeding should be denied.

Any findings set forth in Decision No. 75602 which are inconsistent with the findings herein shall be superseded by the latter.

The Commission concludes, after rehearing, that the application should be granted.

O R D E R

IT IS ORDERED that:

1. The City of Rohnert Park is authorized to construct Southwest Boulevard at grade across the track or tracks of Northwestern Pacific Railroad Company at the location described in the application herein, to be identified as Crossing No. 5-46.8.

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2. The width of said crossing shall be not less than 32 feet and grades of approach not greater than 4.34 percent from the west and 3.60 percent from the east. Construction shall be equal or superior to Standard No. 2 of General Order No. 72. Protection shall be by Standard No. 8 flashing light signals (General Order No. 75-B) supplemented with automatic gate arms.

3. Expense of constructing the crossing shall be borne by applicant. Applicant shall bear maintenance cost of the crossing outside of the lines two feet outside of rails. Northwestern Pacific Railroad Company shall bear maintenance cost of the crossing between such lines.

4. Construction and installation expense of the automatic protective devices specified in ordering paragraph 2 of this order shall be borne by applicant. Maintenance costs for said devices shall be borne by applicant in accord with and pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

5. All of the construction and installation provided for in this order shall be completed within one year after the effective date hereof.

6. The oral motion of Northwestern Pacific Railroad Company, renewed at the rehearing, to include the Petaluma City Joint Union High School District as a party to this proceeding is denied.

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7. The provisions of ordering paragraph 2 in the order in Decision No. 75602 are superseded by the order herein.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Diego, California, this 3rd day of FEBRUARY, 1970.

William J. Gorman
President

William J. Gorman

Franklin

Vernon L. Stevens
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.