

ORIGINAL

Decision No. 78082

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of the City of Fremont, Alameda)
County, California, for a Railroad)
Grade Crossing over the Southern)
Pacific Company's Railroad in the)
City of Fremont, Mission San Jose)
District.)

Application No. 51476
(Filed November 13, 1969)

Carey W. Royster, Assistant City Attorney for the
City of Fremont, and Laurence W. Milnes, for
applicant.

Harold S. Lentz, Attorney at Law, for Southern
Pacific Transportation Company, respondent.
M. E. Getchel, for the Commission staff.

O P I N I O N

By this application, the City of Fremont (City) requests authority to construct a public crossing at grade over the tracks of the Southern Pacific Transportation Company (Railroad), the successor in interest to the Southern Pacific Company named in the application. The proposed crossing would be at the planned Stevenson Boulevard extension which will, when constructed, extend from Mission Boulevard southwesterly to the existing Stevenson Boulevard which continues in generally the same direction across City, over the Nimitz Freeway and into the industrial area of City. Railroad protested the application.

Public hearing was held before Examiner Mooney in Fremont on March 31 and April 1, 1970. The matter was submitted upon the receipt of reply briefs on August 3, 1970. Evidence was presented by City and Railroad. The Commission staff assisted in the development of the record. Opening and reply briefs were filed by City and Railroad.

The following facts are established by the record, and we find them to be such:

1. The population of City has substantially increased in the seven-year period between 1962 and 1969 from approximately 60,000 to an estimated 100,000. The volume of annual retail sales has likewise jumped from under 40 million dollars to an estimated 110 million dollars during said period. It is anticipated that the accelerated growth of both population and retail sales will continue.

2. Mowry Avenue is approximately one mile in a north-westerly direction from and generally parallels Stevenson Boulevard. It runs from the industrial area of City in the vicinity of San Francisco Bay, over Nimitz Freeway, through the business section and merges with Peralta Boulevard which continues under two separate lines of Railroad and connects with Mission Boulevard. Via Mowry Avenue and Peralta Boulevard, it is approximately three and one-half miles between Mission Boulevard and Nimitz Freeway. Mission Boulevard curves to the south and approximately seven miles southerly from Peralta Boulevard crosses Nimitz Freeway. Between said crossing and Mowry Avenue and the extension thereof along Peralta Boulevard, there are no direct connections between Mission Boulevard and Nimitz Freeway. Immediately southeast of the two adjacent underpasses on Peralta Boulevard, the two lines of Railroad referred to above merge into a single line.

3. There are protected crossings at grade over the single track of Railroad at West Pickering Avenue, approximately 1,000 feet southeast of Peralta Boulevard, and at Walnut Way, approximately 2,000 feet beyond West Pickering Avenue. The next crossing

is the protected crossing at grade over Railroad's track at Paseo Padre Parkway, approximately 9,000 feet in a southerly direction from Walnut Way. To the east of the crossing, Paseo Padre Parkway connects with streets which terminate at Mission Boulevard.

Neither West Pickering Avenue nor Walnut Way extends into the central area of City. Both are two-lane streets. Each connects with Overacker Avenue which extends from Peralta Boulevard to Walnut Way and is immediately to the southwest of the track and parallels it.

4. A new Civic Center complex, including a 500-acre park and cultural center, is being completed by City. Said complex is located at Stevenson Boulevard and Paseo Padre Parkway, approximately one mile southwest of the proposed crossing. It is approximately three-quarters of a mile from the central business district along Mowry Avenue via Civic Center Drive which intersects Stevenson Boulevard and terminates at the Civic Center. Civic Center Drive generally parallels Mission Boulevard approximately a mile southwest thereof.

5. Traffic into the central business district from Mission Boulevard and the areas adjacent thereto via both the Mowry Avenue and Paseo Padre Parkway routes has substantially increased between 1962 and 1969. Based on the current trend, it is apparent that said traffic will continue to increase.

6. The area which would be traversed by the proposed extension of Stevenson Boulevard between Civic Center Drive and Mission Boulevard is, for the most part, unimproved farming land. Although no formal request has been made to City as yet, it may reasonably be anticipated that the unimproved area will be

subdivided and developed when and if the proposed two-lane extension and crossing are constructed. The proposed crossing would be protected by automatic signals and gates. The estimated cost of the crossing and protection is between \$20,000 and \$25,000. City has agreed that none of the construction or maintenance costs should be paid by Railroad.

7. A Bay Area Rapid Transit District station is being constructed on Walnut Way near Mission Boulevard. The City Council has approved plans to extend Walnut Way to Civic Center Drive in the near future. This will provide an alternate two-lane route from Mission Boulevard to City's Civic Center and business areas. Without the proposed improvement of Stevenson Boulevard, the traffic on Walnut Way, when open to Civic Center Drive, would be substantial and, based upon City's estimate, could be as high as 15,000 vehicles per day. There are single-family dwellings along Walnut Way. High density traffic could create a traffic hazard on said street. The proposed crossing and extension of Stevenson Boulevard would divert approximately one-half of this traffic to it. Furthermore, when the Bay Area Rapid Transit System commences operations to and from City in the next year or so, the volume of traffic on Walnut Way will be further increased.

8. A Freeway Agreement was executed by City and the State of California on April 24, 1970. Said agreement covers the portions of Route 238 Freeway within City. In the vicinity of Stevenson Boulevard, it will be located between Mission Boulevard and Civic Center Drive. There will be an interchange with the freeway at the proposed extension of Stevenson Boulevard. The

construction has been programmed by the State Division of Highways for approximately 1978, and may require the relocation of Railroad's tracks in the vicinity thereof. This is one of the reasons a grade separation at Stevenson Boulevard was not proposed by City.

9. Railroad has been charged recently with violations of an ordinance of City regarding the blocking of crossings by trains. The validity of said ordinance is not at issue in this proceeding. We are here concerned with the question of whether the proposed crossing at Stevenson Boulevard should be granted.

10. The authorization of the proposed Stevenson Boulevard crossing would create a problem for Railroad in its train operations. The crossing would be over the single Milpitas-San Jose main line track. Both General Motors and Ford have plants on this line. Between 17 and 30 trains per day operate over the line. Depending on production at the aforementioned plants and the seasonal movement of perishable fruits and vegetables, a train could range from ten to 120 cars. The length of a 120-car train would be between 7,400 and 7,500 feet. Immediately northwest of the Peralta Boulevard underpass, the line of Railroad, which extends into Oakland, passes at grade over the tracks of the Western Pacific Railroad. Said crossing is controlled by an operator in a tower adjacent thereto. A train cannot ignore a red signal from the tower. It must stop and cannot proceed until authorized by the tower operator. The tower is operated by the Western Pacific Railroad, and its trains have precedence over those of Railroad when approaching the crossing. Railroad's train in a northerly direction towards

Oakland would first see the signal controlling it shortly before reaching Walnut Way because of a curve in the track to the south thereof. Beyond Walnut Way the track is straight. If the signal were red, the train could stop short of Walnut Way and would not block any crossings, irrespective of its length. The proposed crossing, if authorized, would be 2,000 feet more or less in a southerly direction from Walnut Way. A train exceeding this distance in length and stopped short of Walnut for a red signal would have to be cut and moved off the proposed crossing if the delay were to exceed ten minutes which is the maximum blocking time allowed by the Commission's rule regulating the blocking of crossings. Because of the curve in the tracks and a slight grade at the proposed crossing, it is doubtful that a train could be either cut or assembled and moved off the crossing within ten minutes. The curve would create a problem in passing signals to the engineer, and hand brakes would have to be set on the portion of the train remaining on the grade behind the crossing.

11. In the event the proposed crossing were authorized, Railroad's operational problems referred to in Finding 10 would be substantially reduced if the grade crossing at West Pickering Avenue were closed. Most trains held by a red signal could then stop forward of the closed West Pickering Avenue crossing and would not extend beyond Walnut Way. Those that did extend beyond Walnut Way would be on straight track, and if it were necessary

to cut and reassemble the train, the task would be easier and not as time consuming as at Stevenson Boulevard.^{1/}

12. Public health, convenience and safety require that a crossing at grade over the single-line track of Railroad at Stevenson Boulevard in City as requested in the application be constructed.

13. Because of the operational problems that could be created for Railroad, the opening to the public of the crossing referred to in Finding 12 should be conditioned upon the prior closing of the crossing at grade over the single-line track of Railroad at West Pickering Avenue in City.

14. The construction of the crossing referred to in Finding 12 should be equal or superior to Standard No. 2 of General Order No. 72, and it should be protected by two Standard No. 8 flashing light signals (General Order No. 75-B), each supplemented with an automatic gate.

15. All costs of constructing the crossing referred to in Finding 12 and the automatic protection referred to in Finding 14 should be borne by City.

16. All costs incidental to the closing of the crossing at West Pickering Avenue referred to in Finding 13 should be borne by City.

17. All maintenance costs of the crossing referred to in Finding 12 and the automatic protection referred to in Finding 14 should be borne by City.

^{1/} In its reply brief, City urged that the most equitable solution to this controversy would be to grant the application upon the condition that the West Pickering crossing be closed. Railroad in its reply brief requested the Commission to consider denying the application, and it asserted that if the crossing is authorized, conditions to alleviate Railroad's crossing blocking problem, which at the very least would be the closing of the West Pickering Avenue crossing, should be attached.

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The Commission concludes that:

1. Subject to the conditions set forth in the order which follows, the application should be granted.
2. City should file with the Commission a copy of the plans and specifications covering the closing of the West Pickering Avenue crossing and the construction of the Stevenson Boulevard crossing and the installation of protective devices thereat. Said filing should be made at least thirty days prior to the commencement of any work or construction.

O R D E R

IT IS ORDERED that:

1. Subject to the condition set forth in ordering paragraph 2, the City of Fremont is hereby authorized to construct Stevenson Boulevard at grade across the track of the Southern Pacific Transportation Company at the location described in the application, to be identified as Crossing No. DA-30.7, in the City of Fremont.
2. The closing by the City of Fremont of the crossing at grade over the track of the Southern Pacific Transportation Company at West Pickering Avenue in the City of Fremont, identified as Crossing No. DA-30.1, shall be a condition precedent to the opening to the public of the new crossing at Stevenson Boulevard.
3. Construction of the crossing at Stevenson Boulevard shall be equal or superior to Standard No. 2 of General Order No. 72. Protection at said crossing shall be by two Standard No. 8 flashing light signals as set forth in General Order No. 75-B, and each shall be supplemented with an automatic gate.

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4. The City of Fremont shall bear the entire cost of closing the crossing at West Pickering Avenue and constructing the crossing and protection at Stevenson Boulevard.

5. All maintenance costs of the crossing and protection at Stevenson Boulevard shall be borne by City.

6. At least thirty days prior to the commencement of any work or construction at the West Pickering Avenue and Stevenson Boulevard crossings, the City of Fremont shall file with the Commission a copy of all plans and specifications covering said work and construction.

7. Within thirty days after completion of all work and construction, pursuant to this order, the City of Fremont shall so advise the Commission in writing. This authorization shall expire if not exercised within one year unless the time is extended by further order of the Commission, and it may be revoked or modified if public convenience, necessity or safety so require.

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

Dated at San Francisco, California, this 15th day of DECEMBER, 1970.

[Signature]
Chairman

[Signature]

William Lyons, Jr.

[Signature]

Verma L. Sturgeon
Commissioners