

S/M.G/RRT/LPC*

Decision 89-09-043 September 7, 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
the County of Los Angeles for the)
construction of a proposed grade)
crossing of Canyon Park Boulevard at)
the Southern Pacific Transportation)
Company's El Paso line, proposed)
crossing B - 444.05, in the County)
of Los Angeles)

Application 88-12-059
(Filed December 29, 1988)

SUPPLEMENTAL OPINION

On July 12, 1989, Park Sierra Properties, Ltd. (Sierra) of Los Angeles filed a petition to modify Decision (D.) 89-05-074 in Application (A.) 88-12-059, which granted the County of Los Angeles' (County) request for authority to construct an at-grade crossing of Canyon Park Boulevard over the tracks of Southern Pacific Transportation Company's (SPT) El Paso main line, in the unincorporated Solemint area of the County.

County through its Board of Supervisors filed A. 88-12-059 on December 29, 1989. Notice of the application was published in the Commission's calendar January 6, 1989. By motion filed January 12th Southern Pacific Transportation Company requested 60-days additional time to review the application. This request was granted. The extended period expired March 29, 1989, without the filing of a protest by Southern Pacific, Sierra, or any other party.

Sierra's petition now requests a change in D. 89-05-074 which would still have us authorize a crossing at this location but with a changed street design and changed adjacent intersection of

Canyon Park Boulevard and Jake's Way. Sierra's request was accompanied by a sketch, not to scale, of its proposal for changed streets in the vicinity of the crossing. This is reproduced in the appendix to this supplemental order along with County's road plan for the same vicinity. County's road plan shows the location of the crossing authorized by D. 89-05-074.

As shown in the appendix, Sierra's major proposed change is that Canyon Park Boulevard and Jake's Way would have a "Y" intersection, rather than the "T" intersection planned by County. Sierra agrees that a crossing should be built in substantially the same location as that approved by the Commission.

Sierra alleges that the county's "T" intersection of Canyon Park Boulevard and Jake's Way will not provide proper access and will result in significantly greater traffic hazards to the occupants of a proposed 5,400 residential unit development, and alleges that the "T" intersection will, by definition, decrease traffic safety and decrease flow efficiency. Sierra includes a traffic study intended to support these claims.

Sierra also alleges that County failed to fulfill the requirement of Rule 38 of the Rules of Practice and Procedure regarding public need for the crossing. Sierra also states that the 5,400 residential unit development will have a significant effect on the environment, in contradiction of County's Notice of Determination (a requirement of the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq) which found that it will not.

Proper public notice of A. 88-12-059 was published in the Commission's Daily Calendar of January 6, 1989. Sierra did not participate as a party of record in this proceeding. The Commission issued its decision in this matter in May, 1989. Now Sierra seeks

changes in that decision. The Commission may, with notice and opportunity to be heard, rescind, alter, or amend any Commission decision, Public Utilities Code Section 1708. However, as procedures provide for interested parties to participate in the process by entering proceedings and providing evidence in the record prior to the matter's being decided by the Commission, a party requesting reopening after the Commission has decided a matter must present a persuasive indication of significant new facts or a major change in material circumstances which might create a strong expectation that the Commission would reach a different decision in order to cause a reopening (In re: Pacific Gas and Electric Co., 4 CPUC2d 140). The Commission has the discretion to reopen on the basis of changed circumstances, but is not required to do so (County of Los Angeles, etal, v. Southern Pacific Transportation Company, (1981), 6 CPUC2d 361).

The petition's representations regarding the public need for the crossing, the environmental impact of the project, and the safety of County's crossing design are not persuasive. Petitioner does not indicate significant new facts nor a major change in material circumstances that would give rise to an expectation that we would reach a different decision in this proceeding. Accordingly, we will deny the petition.

DISCUSSION

Need for the crossing:

Section IV of the application contains a statement that the crossing is needed to provide access to a proposed 5,400 unit residential development. This is the same 5,400 unit development referred to in Sierra's petition. Sierra does not dispute that such a development will need a crossing, and requests that a crossing be authorized. Sierra's contention that County did not show a need for a crossing at or near milepost 444.05 is contradicted by its own petition.

Environmental matters:

The Board of Supervisors certified an Environmental Impact Report (EIR) in 1986 which concluded that the 5,400 residential unit development, accompanied by 63 acres of commercial development and 6 acres of industrial development on 988 acres, will not have a significant effect on the environment. The development includes landscaping, drainage, and open space to mitigate the environmental effects of structures and paved areas. The preparation and review of the draft EIR fulfilled the requirements of CEQA. Sierra does not explore this question in any substantive detail. Sierra's only discussion regarding the environment deals with how streets in the development should be laid out. No change in the environmental impact of the development, whether it be significant or not, is proposed by Sierra.

Safety of the Crossing:

Sierra's central argument is that it does not agree with County's plan for traffic flow to/within the development. Sierra has its own plan, which apparently was not accepted by the County given the fact that County applied for and received authority for a grade crossing premised on a design of its selection other than that proposed by Sierra. While it is County and not Sierra that is the proper party to propose changes in the design of County's road system, we have nevertheless carefully considered Sierra's contentions.

The forecasts and estimates of traffic flow included in Sierra's traffic study are based on a street plan which will not be built. The study also relies on incomplete information. Sierra's traffic study does not acknowledge that Canyon Park Boulevard is a secondary highway in County's master plan, that it will pass under the Antelope Valley Freeway (at the existing "Industrial Road" overpass; Bridge No. 53-2167) and continue east to Lost Canyon Road. Jake's Way is not a highway in County's master plan.

If the public safety of the railroad crossing were compromised by an adjacent intersection, the Commission would reevaluate the matter consistent with its responsibilities for public safety, inclusive of all aspects of the crossing (crossing location, design, approach roads, traffic circulation at and in the vicinity of the crossing as may impact the crossing, etc.). If County should decide to change its street design in the vicinity of the authorized railroad crossing in such manner as to impact the safety of the crossing, such as would be the case if County were ever to adopt Sierra's proposal, for example, then County would be required to apply to the Commission for authority to make the change inasmuch as the resulting crossing would be substantially different from that authorized by D. 89-05-074.

The authorized crossing is of a main line track. Canyon Park Boulevard, with 3 lanes in each direction, is to cross the track at a 45-degree skew angle. Jakes's Way is to intersect Canyon Park Boulevard at a "T" 70 feet to the west of the crossing. Jake's Way is to be a minor street having a stop sign for traffic turning on to Canyon Park Boulevard. Signalization would be an alternative when future traffic warrants.

Sierra describes its alternative as a "Y" intersection between Canyon Park Boulevard and Jake's Way 100 feet to the west of the crossing. The intersection would be provided with three-way stop signs for left turns and three-way yield signs for right turns, with channelization by raised median islands. Sierra provided a "conceptual" drawing of the "Y" intersection, but no plans. Sierra provided no new plan of the grade crossing in its petition. Apparently the crossing location would not change. Sierra also does not discuss sightlines to the grade crossing from both intersection alternatives, nor queuing of vehicles at the crossing when occupied by a train or at the intersections. Sierra provides no substantial

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evidence that County is willing to change its street system to conform to Sierra's proposal.

While a perpendicular approach without intersecting side streets would be the best theoretical design for an at-grade crossing, County was constrained by topography and access requirements and no such alternative was available. County applied for the Canyon Park Blvd. crossing with a design predicated upon County's selection of traffic flow/road system patterns. The crossing as authorized will be protected by automatic gates and flashing lights, consistent with General Order 75-C.

Sierra's alternative offers no significant overall improvement. The extra 30 feet added between the crossing and the intersection would be an improvement. But the "Y" intersection with its median islands, stop signs, and yield signs, is not more desirable than the "T" intersection. Motorists have fewer experiences with "Y" intersections than with "T" intersections. The three raised medians, not required at the "T" intersection, unnecessarily place fixed objects in the traveled way. The "T" intersection requires stopping only for a turn out of the minor approach (Jake's Way), while the "Y" intersection stops all left turns. Should traffic volumes warrant signalization (and traffic signal preemption by train movements) in the future, the "Y" intersection will present a more complicated sequence of commands to drivers than the "T" intersection. Sierra has failed to submit indications of a major safety improvement which would call into question the County's traffic engineering judgment and provide sufficient cause for this proceeding to be reopened.

FINDINGS OF FACT

1. County filed A. 88-12-059 on December 29, 1988. Notice of this application was duly published in the Commission's Daily Calendar on January 6, 1989. No protests were filed.

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2. The Commission granted A. 88-12-059 by D. 89-05-074. An at-grade crossing of the Southern Pacific mainline track at Canyon Park Blvd. in the unincorporated Solemint area of Los Angeles County was authorized.

3. The authorized crossing is for Canyon Park Blvd. with Jake's Way shown as a minor street intersecting Canyon Park Blvd. some 70 feet to the west of the crossing, with a stop sign for traffic control on Jake's Way.

4. County certified an Environmental Impact Report in 1986 which concluded that the 5,400 unit development with additional commercial and industrial construction would not have a significant impact on the environment. Petitioner does not propose any significant changes in the proposed development plan, nor does it show that County's environmental report was defective.

5. County's application presented evidence of public need for a crossing of Canyon Parkway Blvd. at this location. This evidence included extensive development plans.

6. The proposed crossing, as authorized by D. 89-05-074, will be protected by automatic gates and flashing lights and will conform to the safety requirements set forth at General Order 75-C.

7. Petitioner requests under Public Utilities Code Section 1708 a reopening of A. 88-12-059 and a modification of D. 89-05-074.

8. Petitioner seeks a public at-grade crossing at the same general location as authorized by D. 89-05-074, but with a street system of its own design differing from that proposed by the County and authorized by D. 89-05-074.

9. Petitioner's proposed design is not clearly safer than that which was proposed by the County.

10. Petitioner has not alleged sufficient facts to show that the County's environmental impact considerations were in any significant way deficient or erroneous.

11. Petitioner has not alleged sufficient facts to show the proposed crossing is not needed by the public.

CONCLUSIONS OF LAW

1. Section 1708 of the Public Utilities Code confers discretionary authority on the Commission to reopen proceedings for taking further evidence but only under extraordinary circumstances.

2. The burden is on petitioner to provide a persuasive indication of significant new facts or major change in material circumstances which might create a strong expectation that the Commission would reach a different decision in order to cause a reopening.

3. Petitioner has not met its burden of persuasion.

4. The petition should be denied.

SUPPLEMENTAL ORDER

IT IS ORDERED THAT the petition of Park Sierra Properties to modify Decision 89-05-074 is denied.

This order is effective today.

Dated Sept. 7, 1989, at San Francisco, California

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. CHANAN
PATRICIA M. ECKERT
Commissioners

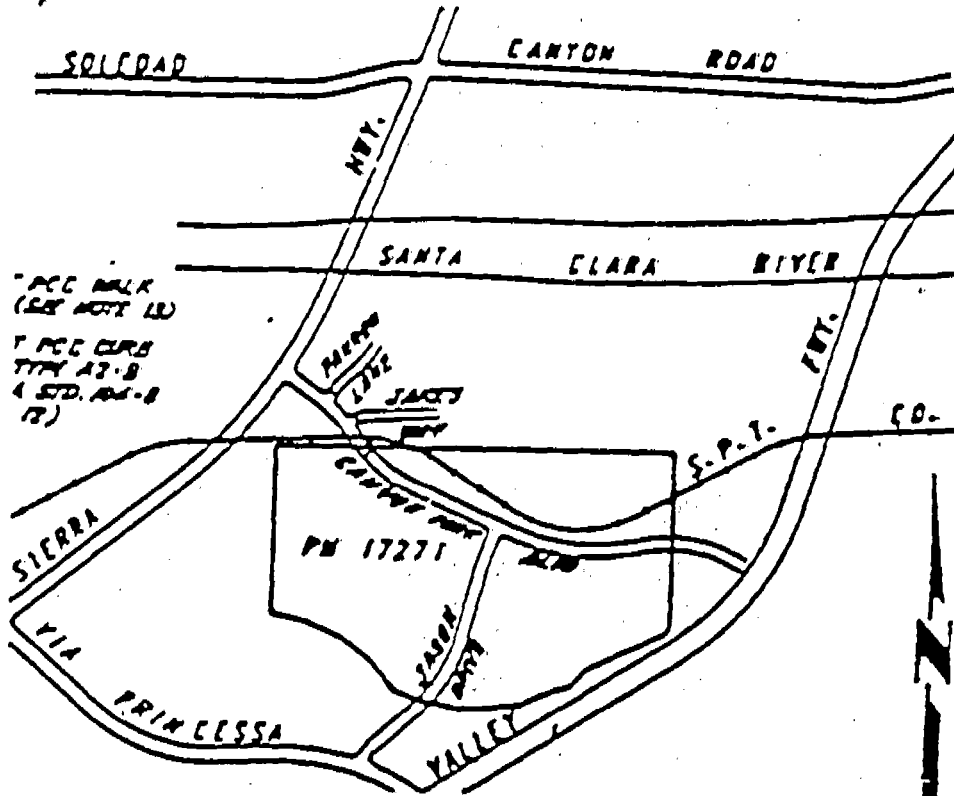
I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

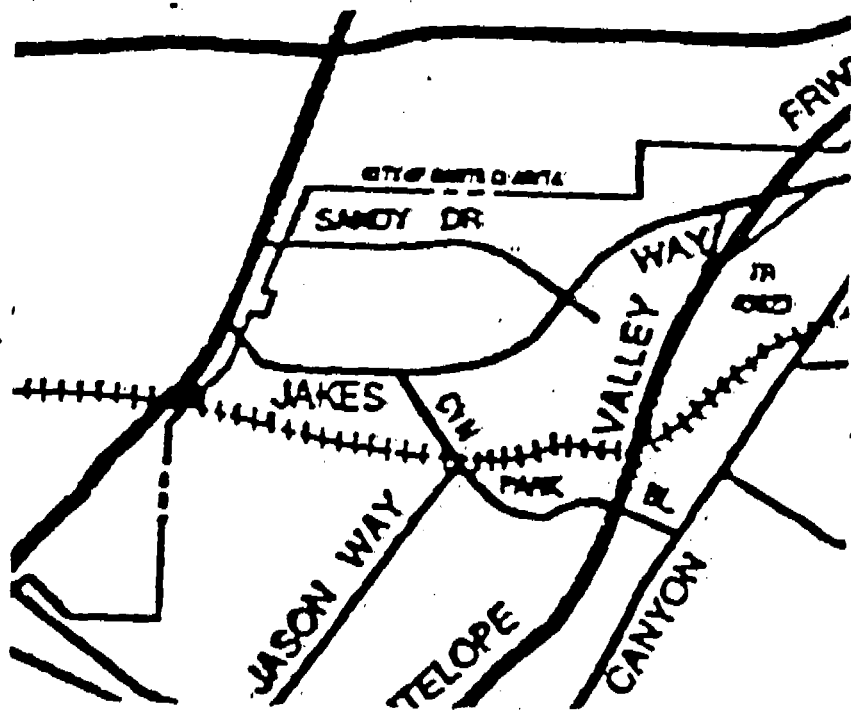
VICINITY MAP

Crossing of Canyon Park Boulevard over Southern Pacific Transportation Company's main line, in the Solemint area of Los Angeles County



1" PCC WALK
(SEE NOTE 13)
1" PCC CURB
TYPE A2-B
(4 STD. A2-B
R)

- as authorized by D. 89-05-074 in A. 88-12-059
(scale: 1" = 1100 feet)



- as proposed in the petition for modification
(not to scale)

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3. Petitioner has not met its burden of persuasion.

4. The petition should be denied.

ORDER

IT IS ORDERED THAT the petition of Park Sierra Properties to modify Decision 89-05-074 is denied.

This order is effective today.

Dated SEP 7 1989, at San Francisco, California

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OGANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director