

Decision 82 04 033

APR 6 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of San Mateo,)
 County of San Mateo, State of)
 California for a crossing at-grade of)
 the tracks of the Southern Pacific)
 Transportation Company at the proposed)
 westerly extension of Laurie Meadows)
 Drive.)

Application 57451
 (Filed July 14, 1977;
 amended February 13, 1979)

Maurice K. Hamilton, City Attorney,
 for the City of San Mateo, applicant.
Harold S. Lentz, Attorney at Law, for
 Southern Pacific Transportation Company,
 respondent.
O. J. Solander, Attorney at Law, for
 State of California, Department of
 Transportation, protestant.
Robert W. Stich, for the Commission
 staff.

O P I N I O NStatement of Facts

San Mateo, an attractive residential community of approximately 80,000 persons, stretches 5-1/2 miles along both sides of El Camino Real below the Crystal Springs reservoirs on the peninsula between Burlingame and Belmont, 20 miles south of San Francisco. The Southern Pacific Transportation Company (S.P.) operates its double-tracked Coast Route Main Line paralleling El Camino Real, carrying freight and commuter passenger traffic through San Mateo.¹

¹ In the area of our interest, El Camino Real and Pacific Boulevard (which becomes Old County Road at the Belmont Line) parallel each other 1 block apart, with the S.P. tracks bisecting the blocks between these busy streets.

To provide access across the S.P. tracks within the city limits of San Mateo, there are 10 at-grade and 5 grade-separated crossings. However, in the southerly section of San Mateo and the northern section of Belmont, there are only 2 railroad crossings to carry traffic across the railroad barrier. These crossings, Hillsdale Boulevard and Ralston Avenue, are 1-1/2 miles apart. Bordering on either side of the railroad right-of-way in this southern area are commercial, light industrial, and residential areas.

The Hillsdale underpass, approximately 70-feet wide, provides 2 lanes of traffic in either direction, and left and right turn lanes for El Camino Real and Pacific Boulevard, respectively. Hillsdale Boulevard provides direct access to the popular Hillsdale Shopping Center west of the tracks, and to Bayshore Freeway (U.S. Route 101) and Foster City east of the tracks. An estimated 28,900 vehicles use this busy underpass in a given 24-hour period. Similarly, to the south, the at-grade crossing at Ralston Avenue leads to Notre Dame College, west of the tracks, and to Bayshore Freeway and popular Marine World, east of the tracks. This latter crossing is used by an estimated 20,900 vehicles in a given 24-hour period.

The people in the vicinity of Laurie Meadows Drive and the City of San Mateo have assertedly long desired an intervening crossing of the S.P. tracks in the vicinity of Laurie Meadows Drive (roughly midway between Hillsdale Boulevard and Ralston Avenue) to serve the needs of residents east of the tracks and to improve the business economy in southern San Mateo. The city asserts that at present it and the City of Belmont are badly handicapped by the "Chinese Wall" of the S.P. tracks in providing emergency services as

well as basic access to this southeast quadrant of San Mateo.² (See Appendix A map.)

Since 1974 several studies have been commissioned specifically to study the feasibility of such a crossing, and as a bi-product, still another study pointed up the need for an additional south San Mateo crossing to relieve congestion in the area. Concededly it would be most desirable to have a grade separated crossing, and all the various studies concluded that there were feasible grade separation alternatives which should be considered. In 1977, seeking to obtain financial assistance from the California Grade Separation Fund (the Fund) to help meet the then estimated approximate \$4 million cost, San Mateo nominated a Laurie Meadows Drive separation project for placement on the Commission's annual Grade Separation Priority List. The project appeared on the 1977-78 list as Priority Number 60. The city considered the nomination as being "spectacularly unsuccessful", and did not renominate the project. Thereafter, the city permitted redevelopment on the west side of El Camino Real, resulting in establishment of 2 new and substantial businesses (Long's Drug and Petrini's Market) in an area critical as landing zones for any grade separation project. This was followed by Proposition 13 which limited the city's ability to raise and increase property taxes, and by Proposition 4 limiting the city's

² A crossing from Pacific Boulevard to El Camino Real at this location would also be crucial to the success of the city's Delaware Street extension project. To relieve congestion on heavily traveled El Camino Real, the city wants to extend Delaware Street southward through Bay Meadows Racetrack parking area (probably via a two-lane aerial facility) to Pacific Boulevard. This project is in San Mateo's capital improvement program and the city is seeking federal FAU funding. Because of opposition from Redwood City and the California Department of Transportation, the city's proposed extension of Laurie Meadows Drive eastward to Bay Shore Freeway does not appear likely of achievement at this time.

budget growth, assertedly leaving the city's share of gasoline tax revenue as the only in-house resource available in any way to pay for any type of crossing.

While these events were in progress, on July 14, 1977 San Mateo filed this application with the Commission, seeking authority under Public Utilities (PU) Code §§ 1201-1205 to construct an at-grade crossing over the S.P. tracks at a proposed extension of Laurie Meadows Drive between Pacific Boulevard and El Camino Real. The considerably lower cost of an at-grade crossing would be financed, according to the application, 50% by the city from its gas tax funds, and 50% by the County of San Mateo.

Since the application, as filed, lacked any environmental impact document, the director of the Transportation Division asked the city to amend its application to conform with the requirements of Rule 17.1 of the Rules of Practice and Procedure, particularly with reference to the California Environmental Quality Act of 1970 (CEQA). On January 26, 1978 the city engineer advised the Transportation Division that work had begun on an environmental impact document, and requested a 6-month delay in hearing. Meanwhile, S.P. advised of its opposition to any at-grade crossing at that site.

On January 16, 1979 the Transportation Division requested deferment of any hearing until it could complete preparation of an engineering study report it was working on. Meanwhile data requests were being made to the city and to S.P. On February 9, 1979 San Mateo filed an amendment to its application. That amendment included a copy of a Negative Declaration prepared by the city (dated December 11, 1978) which found that the proposed crossing project would have no significant effect on the environment.

The staff on February 14, 1980 advised the administrative law judge (ALJ) of its readiness for hearing and the ALJ set hearing for early April. However, at respective requests of both S.P. and the city, hearing was successively continued until July 24, 1980. On that date, and on July 25 and 28, 1980, hearing was held in San Francisco before ALJ John B. Weiss. At the conclusion of oral argument on the last day of hearing the matter was submitted.

At the outset of the hearing, the ALJ addressed motions to dismiss the application. These motions were based upon alleged abuse of discretion by the city in preparation of its Negative Declaration. That Negative Declaration had been adopted by the city on July 22, 1979. The motions to dismiss were respectively filed by the Commission staff on April 30, 1980, and by S.P. on May 5, 1980. In these motions to dismiss the protesting parties alleged that the Negative Declaration had not been prepared in compliance with CEQA Guidelines, and that the city, a local agency, purportedly had failed:

1. In violation of CEQA Guidelines § 15083(b), to consult with all responsible public agencies before approving the Negative Declaration on the crossing project,³ and to provide public notice to property owners contiguous to the property of preparation of a Negative Declaration, and
2. In violation of CEQA Guidelines § 15083(f)(4), to file its Notice of Determination with the county clerk of the county wherein the project is located, and with the Secretary of Resources.

³ It was asserted that San Mateo had failed to consult with either the Commission or Caltrans. Under PU Code § 1201, no crossing shall be constructed across a railroad track at grade without having first secured Commission permission, and an encroachment permit is required from Caltrans to intersect Laurie Meadows Drive with El Camino Real.

Before making his ruling, the ALJ observed that the amendment to its application filed by the city on February 13, 1979 included a copy of both the Notice of Determination and the Negative Declaration prepared by the city for the project. All parties to this proceeding were provided copies. Subsequently on February 23, 1979 the notice was filed with the San Mateo county clerk, and on May 8, 1980 with the Secretary for Resources.⁴

The ALJ next ascertained that neither the Commission staff nor the S.P. had filed an action or proceeding in Superior Court as of the July 28, 1980 date of the hearing, to attack, review, set aside, void, or annul the city's Negative Declaration.

⁴ Behind the disparity in filing dates of the Notice of Determination, there is an apparent oversight in the applicable statute. The statute, the Public Resources (PR) Code, provides different notice filing requirements applicable for local agencies and state agencies. PR Code § 21152 provides that the notice of a local agency's determination shall be filed with the county clerk. PR Code § 21108 provides that the notice of a state agency, board, or Commission determination shall be filed with the Secretary of the Resources Agency. Although the statute mandates consultation by a local agency with any public agency having jurisdiction by law with respect to a project, prior to completion of an Environmental Impact Report, it is silent with regard to a Negative Declaration. An attempt to bridge this loophole appears in the CEQA Guidelines (Title 14, California Administrative Code) issued by the Resources Agency. The CEQA Guidelines provide that when the Lead Agency is a local agency, a Notice of Determination shall be filed with the county clerk, but that if the project requires discretionary approval from any state agency, the notice shall also be filed with the Secretary for Resources (Guidelines § 15083(f)(4)). Here, although belatedly, the Notice of Determination and a Negative Declaration were filed with both.

Finally, noting that the filing of a Notice of Determination with a county clerk or the Secretary for Resources serves to start a 30-day statute of limitations on challenges to the approval under CEQA (PR Code § 21167(b)), ALJ Weiss then ruled that inasmuch as the complaining parties had not filed an action under Code of Civil Procedure § 1094.5 in a court of competent jurisdiction alleging that the city had improperly determined that the project in issue would not have a significant effect on the environment, and more than 30 days having lapsed, the Negative Declaration had now become final and conclusive on all persons, including responsible parties, as a matter of law (PR Code §§ 21167 and 21080(1)), leaving this Commission without jurisdiction to entertain the motions to dismiss. We ratify the ruling of ALJ Weiss.

Next, on a procedural point, the ALJ denied S.P.'s motion for a continuance to bring in Bell Haven Realty, its lessee for certain property in the area in issue, as an allegedly necessary and proper party to the proceeding. Without addressing the issue of whether or not such a joinder was required as a consequence of Decision 91891 in A.59126 dated June 3, 1980, which purportedly recognized a property right that attaches to certain interests when a new crossing is authorized, the ALJ noted that S.P. had had ample opportunity in the preceding weeks to file the motion prior to the first day of hearing.

At the hearing the city presented evidence, through its director of public works, its city engineer, and its fire chief, of the great disruption to normal commute traffic resulting from the congestion within San Mateo caused by the physical barrier presented of the S.P. tracks. The railroad bifurcates the city, imposing great

inconvenience on the Lauriedale community in particular, and delays for rendition of emergency services such as fire, police, and ambulance. The witnesses told of the need for another crossing of this S.P. barrier, one at Laurie Meadows Drive, and presented evidence of the economics involved, comparing the costs of over- and undercrossings with an at-grade crossing. The witnesses asserted that to build either an over- or an undercrossing would mean the effective destruction of a shopping center on the westerly side of El Camino Real. The two major businesses in that shopping center gross \$19 million per year, employ 100 or more people and develop approximately \$200,000 per year in sales tax revenues for the city.

With heavy emphasis on the financial constraints assertedly resulting from Propositions 13 and 4, the witnesses pointed out that even should the city be able to attain a high-priority on the Grade Separation Priority List for a separation project, it would still require that the city come up with 50% of the approximate \$5 million cost, assertedly an impracticality today. The witnesses contend that an at-grade crossing costing closer to \$600,000 is practical and could be made safe, noting that in the preceding five-year period there had been only one accident involving a train and a motor vehicle at the ten grade crossings presently within San Mateo. The city asks for consideration of the energy savings possible to the local motoring public from an estimated 10,000 vehicular crossings per day at a Laurie Meadows Drive crossing. The crossing would reduce time now spent and energy consumed while waiting in congested lanes to cross at Hillsdale Boulevard and Ralston Avenue to shop, do business, and get back home. Noting the approximate 1/10th cost of an at-grade crossing, the city urges a balancing of the equities and authorization of an at-grade crossing.

In addition to the testimony of city personnel, the city also introduced testimony of three other witnesses in support of the application. A store manager of Long's Drug Stores, formerly manager of the store at 43rd Avenue and El Camino Real⁵ testified on the adverse impact of either an over- or underpass crossing, pointing out that in either instance substantial parking and probably a loading dock would be lost. A Long's vice president who had recommended the site for leasing initially, testified that the 43rd Avenue store was one of the firm's better new stores, and that an over- or underpass would have an adverse effect on operations. Finally, a vice president of Petrini's Market,⁶ leasing an entire block in the shopping center area, testified of his assumption that an over- or underpass would eliminate or be detrimental to one of the market's receiving facilities, and would congest the area as well as eliminate much parking, thereby adversely affecting business.

The city also introduced a petition assertedly signed by 602 residents in the area of the proposed crossing. Addressed to the Commission and the city, the signatories favor a crossing at Laurie Meadows Drive.

In opposition, while presenting no evidence, the Caltrans attorney argued that Caltrans' contract with S.P. envisions an early increase in the number of daily trains from 44 to 52, with subsequent further increase to 60, developments which could only increase the safety concerns of any at-grade crossing at Laurie Meadows Drive.

⁵ The store has estimated annual sales of \$7 million.

⁶ This Petrini branch market estimates annual sales in excess of \$12 million.

Also in opposition, S.P. presented evidence through three witnesses and extensive cross-examination of other witnesses. S.P. noted that the Commission fought long and hard to maintain commuter service; that everywhere else the objective is to eliminate at-grade crossings in situations such as this, not create more of them; and that any at-grade crossing can only increase the hazard to both the rail passenger and the motorist. S.P. also argues that increased street congestion in the vicinity which must result out of new and necessarily uncoordinated signals on adjacent roads cannot serve to show public convenience and necessity. S.P. argues that while the city contends that alternative over- or under-grade crossings would hamper or wipe out businesses, the city itself created that situation when it allowed these businesses to locate in the landing areas after the original crossing proposals were made.

An S.P. road foreman of engineers testified of the time it would require to put his freight trains back together after breaking them to give way to commuter passenger trains should an at-grade crossing be approved. A new crossing would cause the loss of one of the only two existing slots remaining between Redwood City and San Francisco where large freight trains can be held to work around the commuter passenger trains. He also told of the 20-minute-plus delay that any emergency stop at such a grade crossing would entail. S.P.'s commuter service manager testified of its contract with Caltrans and of expansion plans for commuter and reverse commuter service. He explained that the ultimate goal of the Urban Mass Transportation Administration (UMTA) and the Metropolitan Transportation Commission is to have a Peninsula commuter corridor entirely grade-separated, thereby allowing substantially increased train speeds.

An assistant engineer from S.P.'s Engineering Department testified of the substantial annual crossing maintenance costs which would result were an at-grade crossing to be authorized.⁷ S.P. also argued that despite the provisions of General Order 72-B (which presently places these costs upon the railroad), in such an abnormal situation as this, should an at-grade crossing be permitted for the sole reason that the city does not have sufficient funds to proceed with a separation, then the cost of maintenance of the crossing surface should be apportioned to the city.

Lastly, the Railroad Operations and Safety Branch of the Commission's Transportation Division presented evidence in opposition to an at-grade crossing, contending that if there is a need for a crossing at this location the city should pursue a separation project. Stressing that the various studies made have produced little argument that one or another of the separation alternatives posited in the studies would not be practicable, and assuming that the city if it diligently tried could obtain funding from the Grade Separation Fund, staff argued that there might be little if any significant differences in the cost to the city of a grade crossing and a grade separation. A senior and two associate transportation engineers provided staff testimony. Included were assertions that 40 to 50% of the traffic which would use the proposed crossing would make left turns at El Camino Real and Pacific Boulevard, and that while the roadway capacity would be adequate, the poor geometrics and close proximity of two traffic signal systems and a crossing warning system between two closely spaced streets would create operational difficulties. It was noted that the site presents most of the undesirable features usually presented to the Commission when

⁷ Estimated to be \$7,576 annually, using guidelines provided by the Railroad-Highway Grade Crossing Handbook of the Federal Highway Division, Department of Transportation.

arguments are being made in favor of eliminating existing at-grade crossings and replacing them with separations. Here sight distances would make it difficult to provide adequate warnings, resulting in decision-making problems for motorists. There would be very inadequate left turn storage capacity, and inadequate distance to provide for safe merging of weaving traffic. And most importantly, considering the involvement of high-speed trains, there would be inadequate distance to clear the tracks while waiting for traffic signal changes. There was testimony that experience elsewhere on the Peninsula has shown that emergency vehicles generally avoid at-grade crossings because of inherent delay uncertainties. Noting that the Commission has not authorized a grade crossing on the Peninsula S.P. main line in over 25 years, and that 17 existing grade crossings had been eliminated by the Separation Fund, and others by Caltrans, a policy consistent with federal policy and national objectives, staff argues that no matter how well an at-grade crossing is constructed and protected, a grade crossing at this location would be comparatively more hazardous than other grade crossings on the Peninsula, and would not be compatible with present standards for rail passenger operations. Asserting that San Mateo has not diligently pursued separation funding, staff asked that we deny the application.

Discussion

The PU Code provides that no public road, highway, or street shall be constructed at grade across a railroad track without prior permission from this Commission (PU Code § 1201), and places exclusive jurisdiction with this Commission to require, where in our judgment it would be practicable, a separation of grades (PU Code § 1202). The reason for this latter requirement is that railroad grade separations constitute ultimate protection, since all grade crossing accidents and delays then are eliminated. It has long been recognized that the Commission should not grant applications for crossings at grade where there is a heavy movement of trains, unless public convenience and necessity absolutely demand such a crossing (Mayfield v S.P. Co. (1913) 3 CRC 474). The advantages which might

accrue by way of added convenience and financial benefit are outweighed by the dangers and hazards attendant upon a crossing at grade. Accident incidence is related to increases in the number of crossings; therefore, grade crossings should be avoided whenever it is possible to do so (Kern County Bd. of Supervisors) (1951) 51 CPUC 317). As long ago as 1971, the National Transportation Safety Board declared that "Grade crossings are not compatible with rail rapid transit operations", and in 1978 the Railroad-Highway Grade Crossing Handbook issued by the Federal Highway Administration, stated unequivocally, "Lines for high speed railroad passenger service should have no grade crossings." Since 1930 this Commission, working with local agencies and the railroad, has closed over 50 public at-grade crossings on the 50-mile stretch of the S.P. commuter tracks between San Francisco and San Jose. Since the Fund was established with the 1958-59 fiscal year, the State of California has expended over \$20 million on this line alone to finance 17 grade separation projects. This Commission in over 25 years has not authorized a grade crossing on this line.

Today in this State a proponent who desires to construct a new at-grade crossing over mainline railroad trackage carrying any appreciable volume of passenger traffic has a very heavy burden to carry. Against the afore stated formidable backdrop of fundamental statutory and professional opprobrium, he must convincingly show both that a separation is impracticable and that the public convenience and necessity absolutely require a crossing at grade. In our opinion San Mateo fails to meet the former requirement although the city comes very close on the latter.

There is little issue but that a separated crossing is practicable.⁸ The various studies commissioned by the city or others have all recognized the practicability of a separation, whether it be over or under the tracks (see the George Nolte & Associates, July 1974; Jones Tillson & Associates; Deleuw, Cather & Co., August 1976; and Alan Voorhees & Associates, Inc., March 1978 Studies), and have recommended a grade separation as the most desirable solution. And while San Mateo's surprising imprudence in allowing the commercial development or redevelopment represented by Long's and the Petrini Market to take place in the most apparent and feasible landing areas for any separation is to be greatly regretted, that imprudence has still not served to make any separation plan impracticable. It has merely made a separation less practical as a consequence of the additional construction, eminent domain, and other costs it created.

San Mateo has convincingly demonstrated and argued the desirability of some crossing in the vicinity of Laurie Meadows Drive. A crossing is indeed needed to improve vehicular traffic flow in the southern part of the city. The evidence introduced shows that a new interconnection between El Camino Real and Pacific Boulevard in that vicinity undoubtedly would help to relieve existing heavy congestion at both the El Camino Real-Hillsdale and El Camino Real-Ralston interchanges, particularly during commuter periods. An interchange would make possible diversion of some of the El Camino Real traffic over to Pacific Boulevard, and would facilitate traffic distribution when Delaware Street is extended through

⁸ And it should be carefully noted that the word used in the statute (and carried over to the requirements for applications in Rule 38(d) of our Rules of Practice and Procedure) is "practicable" rather than "practical". "Practicable" means being possible physically of performance, a capability of being used, a feasibility of construction. On the other hand "practical" connotes the means to build, the possibility of financing. For example: "a plan might be practicable in that it could be put into practice, though not practical because...too costly..." (Webster's New Dictionary of Synonyms (1973) p. 625.)

Bay Meadows to connect with Pacific Boulevard. It would also help to disperse some of the traffic generated by Bay Meadows Race Track.⁹ It would eliminate necessity for the long roundabout route that presently confronts those residents of Lauriedale and other residential areas east of Pacific Boulevard who wish to shop at businesses located west of the S.P. tracks in the area. And it would also provide for the growth in trans-track traffic anticipated from future residential development in the Laurie Meadows Drive vicinity.¹⁰ While a crossing, provided it was a separated crossing, would undoubtedly facilitate movement of emergency police, fire, and ambulance services, the negative effect that an at-grade crossing and train blockage would have on the quality of emergency vehicle response leads us to conclude that dependence upon any Laurie Meadows at-grade crossing, especially during periods of peak traffic, would be hazardous and questionable.¹¹ In sum, however, it is clear that a crossing at Laurie Meadows Drive would provide a considerable amount of public convenience to San Mateo residents, and reflects a considerable degree of necessity.

⁹ It is estimated that 3,200 trips daily would be generated across the proposed crossing from Bay Meadows Race Track.

¹⁰ Estimated at approximately 6,800 trips daily across the tracks.

¹¹ Grade Crossing Nominations filed with the Commission indicate that emergency vehicles of various agencies do not use at-grade crossings due to potential delay factors.

San Mateo pleads that the strictures on finances imposed by Propositions 13 and 4 make it impractical to raise the funds needed to pay for a grade separated crossing even were the city able to qualify for Fund participation. We recognize the difficulties involved. But the people themselves voted for and imposed these financial restraints upon their elected officials, and if sufficient numbers of the citizens of San Mateo conclude that the rail barrier in the vicinity of Laurie Meadows Drive is intolerable and that a crossing is absolutely necessary, they have the means by the ballot box to provide the funds to pay for their share of the cost of a separation. Access across the tracks is still obtainable by other crossings, albeit with substantial delay and inconvenience. Also, we observe that in 1977-78 San Mateo allowed development of the Long's and Petrini facilities, despite full awareness of the then existing traffic congestion and crossing problems. Having allowed such developments in the face of known traffic problems, San Mateo may not now fairly argue that an at-grade crossing should be allowed to solve the traffic problems created by the development it permitted.

But that is not all. The convenience to San Mateo residents and benefits to local business cannot warrant exposing vulnerable and unsuspecting railroad commuters and the motoring public to the additional and unnecessary safety hazard of an at-grade crossing. Regardless of the careful construction and any signal sophistication that might be adopted, the restrictive geometrics inherent in this location, and which necessarily must attend any at-grade crossing in this vicinity, involving as they do very limited left turn storages,¹² lack of adequate space to clear tracks,¹³ the presence of immediately adjacent signalized intersections,¹⁴ very limited sight distances, a mainline commuter passenger

¹² With heavy left turn movement anticipated at the crossing, good practice would require exclusive left turn lanes with storage length for 10 to 12 vehicles; the proposal provides left turn storage for only 1 to 2.

¹³ The percentage of crossing accidents in California attributed to stalled vehicles and vehicles stopping but not clearing the tracks is over 30% (CPUC Annual Report on Railroad Accidents, 1978). This proposed site would be a location for such accident. At similar peninsula crossings the 10-year accident history shows: Ralston Avenue - 3 stalled, 2 stopped but failed to clear tracks; 25th Avenue - 2 stalled, 1 stopped but failed to clear tracks 1 bike hit by second train.

¹⁴ The signalized intersections would be only 200 feet apart, necessitating coordination of El Camino Real traffic signals (operational control-Caltrans), Pacific Boulevard traffic signals (operational control-San Mateo), and automatic gates (operational control-S.P.) with preemption required to clear traffic from the crossing. This causes a ripple effect and delay in progressive traffic movement, stacking up, stalling, and rear-ending.

and freight double-tracked right-of-way,¹⁵ inadequate length of road was to provide safe merging, and a substantial and increasing number of high-speed trains, would create a significant safety hazard. The Commission's principal concern in railroad-highway crossing regulatory matters must be the adequate safeguarding, as far as it can be done practicably, of human life and limb. Safety is an issue of overriding importance.¹⁶ Despite substantial advances, there are numerous situations remaining where grade crossing protection can never provide a satisfactory solution due to limiting physical and operating conditions. In such locations, grade separations are the only solution. The Commission is of the opinion that this is one such location, and that the advantages to be obtained by opening a grade crossing at Laurie Meadows Drive are not sufficient to warrant creation and acceptance of the significant safety hazard that would result. To do so would create a situation entirely inconsistent with Commission, state, and federal policy. After giving this record full consideration, we are of the opinion that the application must be denied.

¹⁵ There are 26 passenger trains (speed 70 mph) between 6:45 a.m. and 9:00 a.m., and between 3:30 p.m. and 6:30 p.m. The high combination of vehicles and trains using the proposed crossing, which would increase significantly with extension of Delaware Street and Caltrans takeover of passenger commuter train operations, serves to elevate the vehicle-train accident potential to among the highest of the grade crossings nominated for inclusion in the 1980-81 Grade Separation Priority List.

¹⁶ The duty of the Commission is primarily to prohibit the construction of any grade crossing concerning which the advantage of the public convenience and necessity to be served does not exceed the disadvantages that would accrue by virtue of the public hazard that would be created (City of Fresno (1975) 78 CPUC 94, City of Delano (1970) 71 CPUC 310, USA (Fed. Pub. Housing Auth.) (1944) 45 CRC 423, County of Los Angeles (1929) 33 CRC 194).

Findings of Fact

1. The southern portion of the City of San Mateo is in effect bisected north-south by the double-tracked right-of-way of S.P., a section of the Peninsula Main Line carrying heavy commuter passenger traffic as well as freight traffic.

2. Two heavily traveled parallel north-south public streets, El Camino Real and Pacific Boulevard, less than 200 feet apart, and serving commercial, light industrial, and residential areas to the west and east respectively, straddle the S.P. right-of-way in this southern area of San Mateo.

3. Heavily congested public street crossings of this S.P. right-of-way presently exist at Hillsdale Boulevard and Ralston Avenue, approximately 1.7 miles apart. The Hillsdale crossing is a grade separation while the Ralston Avenue crossing is at grade.

4. Over the past decade the desirability of another crossing approximately midway between Hillsdale and Ralston in the vicinity of Laurie Meadows Drive to relieve increasing traffic congestion in the southern area has become increasingly evident.

5. Since 1974, various crossing studies have determined the desirability of a crossing at Laurie Meadows Drive and have concluded that there were feasible grade separation alternatives which should be considered.

6. In 1977, the city unsuccessfully nominated a Laurie Meadows Drive grade separation project to the Commission in an effort to obtain financial assistance from the Grade Separation Fund.

7. In 1977, the city also permitted certain redevelopments in the 43rd Avenue area west of El Camino Real, which redevelopments made a grade separated crossing less feasible and more expensive.

8. Asserting financial impracticalities derived from Propositions 13 and 4, the city now proposes an at-grade crossing at Laurie Meadows Drive, and by this application seeks Commission authorization under PU Code §§ 1201-1205.

9. Initially the city's application lacked environmental consideration as required by CEQA; the city subsequently remedied this by amendment after preparing a Negative Declaration for the project, and by filing a Notice of Determination with the San Mateo county clerk as required by statute, and with the Secretary for Resources as required by CEQA Guidelines.

10. No timely challenge to the Notice of Determination has been filed by any party under Code of Civil Procedure § 1094.5 in any court of competent jurisdiction.

11. Any at-grade crossing in this vicinity is opposed on safety and operational grounds by S.P., Caltrans, and the Railroad Operations and Safety Branch of the Commission's Transportation Division staff.

12. Any at-grade crossing in this vicinity would impose potential operating hazards and delays on S.P.

13. The restrictive geometrics inherent in any at-grade crossing in this vicinity, including Laurie Meadows Drive, would create a significant safety hazard for railroad commuters and the motoring public.

14. Creation and acceptance of any such significant safety hazard would be entirely inconsistent with Commission, state, and federal policy.

15. Public safety requires that crossings be at separated grades at railroad mainline tracks wherever practicable.

16. A grade separated crossing at Laurie Meadows Drive has not been shown to be impracticable, merely less practical, as a consequence of financial strictures imposed upon the city by Propositions 13 and 4.

Conclusions of Law

1. No timely action having been commenced during the period prescribed by statute, the city's Negative Declaration is conclusively presumed to comply with the provisions of the law for purposes of its use by responsible agencies such as this Commission.
2. The advantages to be obtained by opening a grade crossing at Laurie Meadows Drive are not sufficient to warrant creation and acceptance of the significant safety hazard that would result.
3. The application should be denied.

O R D E R

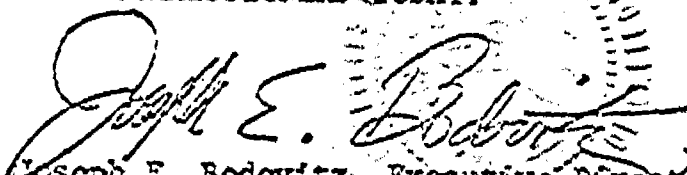
IT IS ORDERED that the request for authority to open a Laurie Meadows Drive at-grade crossing across the tracks of the Southern Pacific Transportation Company in the City of San Mateo is denied.

This order becomes effective 30 days from today.

Dated APR 6 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

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


Joseph E. Bodovitz, Executive Director

HILLSDALE
BLVD.

A. 57451

APPENDIX A-MAP

LAURIE MEADOWS DRNE AT-GRADE
PROPOSED CROSSING

BAYSHORE
FREEWAY

PROJECT

BALSTON