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Decision 98-01-004 January 7, 1998

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the City of Vista to construct Vista Village Drive, a Public Street, and to close West Vista Way Grade Crossing, across the railroad tracks of the North San Diego County Transit Development Board, in the City of Vista, County of San Diego.

**ORIGINAL**  
Application 97-03-008  
(Filed March 3, 1997;  
Amended July 24, 1997)

**O P I N I O N**

City of Vista (City) requests authority to construct Vista Village Drive, at-grade, and to close West Vista Way, across the tracks of the North San Diego County Transit Development Board (NSDCTDB) Escondido Branch Line, in the City of Vista, San Diego County.

The proposed at-grade crossing is needed to provide improved public access and local traffic circulation through downtown Vista, while improving sight distances and carrying capacity of this major thoroughfare. Additionally, the crossing will provide significantly reduced response time for fire and other emergency vehicles.

The proposed at-grade crossing is part of a major street realignment project that will close the existing West Vista Way crossing which is on a curvealinear alignment and located approximately 250 feet to the southeast of the proposed Vista Village Drive crossing. Furthermore, the proposed at-grade crossing will be the only at-grade crossing capable of carrying the current and anticipated traffic demand across NSDCTDB's right-of way between North Melrose Avenue, 1.8 miles to the northwest in the City of Oceanside and Escondido Avenue, 0.8 miles to the southeast.

The existing crossing at West Vista Way will be closed in conjunction with the opening of the proposed crossing at Vista Village Drive.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Sections 2100D, et seq. After preparation and review of an Environmental Impact Report (EIR), City

Council of Vista approved the project on March 26, 1996. On April 10, 1996, a Notice of Determination was filed with the San Diego County Clerk which found that "The project will not have an adverse effect on the environment."

The Commission is a responsible agency for this project under CEQA, and has reviewed and considered the lead agency's EIR and Notice of Determination. The site of the proposed at-grade crossing has been inspected in the field and the proposed plans have been reviewed by the Commission's Rail Safety And Carriers Division, Traffic Engineering staff.

The application was found to be in compliance with the Commission's filing requirements including Rule 38 of the Rules of Practice and Procedure which relates to the construction of public highways across railroads. Detailed drawings of the proposed construction are included as appendices to this order.

By motion filed April 24, 1997, The Burlington Northern Santa Fe Railway Company (BNSF) requested that it be permitted to file its protest to Application (A.) 97-03-008 late, alleging that the railroad required additional time in which to review certain engineering and safety aspects of the application.

The motion for additional time in which to file a protest by BNSF was granted by Examiner's Ruling dated May 6, 1997. The Ruling also transferred the instant application to the Administrative Law Judge (ALJ) Division of the Commission in the event that the parties involved in the construction of the proposed Vista Village Drive crossing would be unable to resolve their differences in a timely manner.

City, BNSF, NSDCTDB, and the Commission's Rail Safety and Carriers Division representatives attended an informal meeting at BNSF's offices in San Bernardino on May 13, 1997 to resolve the disputed points outlined in the railroad's protest. At the conclusion of the meeting, attendees reached an agreement on each point of dispute, and the City of Vista advised that it would revise the project plans and submit an amendment to their application.

On July 24, 1997, the City filed an amendment to the application, clarifying the proposed crossing name and number, and revising project plans. By motion filed

July 24, 1997, BNSF filed a motion to withdraw its protest to the application as amended. This motion is hereby granted.

The amended application incorporated many of the proposals requested by the railroad. Since there are no other unresolved matters or disputes, a public hearing is not necessary and the application may receive ex-parte treatment.

#### **Findings of Fact**

1. Notices of the application and its amendment were published in the Commission's Daily Calendar on March 13, 1997 and July 25, 1997, respectively.
2. City filed an amended application on July 24, 1997, which resolved many of the objections presented by BNSF in its formal protest dated April 24, 1997.
3. BNSF withdrew its protest to the instant application by motion filed July 24, 1997. There are no other disputes or unresolved matters.
4. City requests authority under Public Utilities Code Sections 1201-1205 to construct Vista Village Drive, at-grade, across the tracks of the North San Diego County NSDC/TDB Escondido Branch Line, in the City of Vista, San Diego County.
5. Public convenience and necessity require construction of the proposed Vista Village Drive crossing, as well the closure of the existing West Vista Way at-grade crossing.
6. Public safety requires that the new proposed Vista Village Drive crossing be protected by three Standard No. 9-A automatic gate type signals with cantilevers and one Standard No. 9 automatic gate type signal (General Order 75-C).
7. Public safety also requires the closure of the existing West Vista Way at-grade crossing upon the completion and opening to vehicular traffic of the Vista Village Drive crossing.
8. City is the lead agency for this project under CEQA, as amended.
9. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's EIR and Notice of Determination.
10. The Commission staff recommends that the application be granted.

**Conclusions of Law**

1. Since there are no other disputes or unresolved matters, a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

**O R D E R**

**IT IS ORDERED that:**

1. City of Vista (City) is authorized to construct Vista Village Drive, at-grade, across the tracks of the North San Diego County Transit Development Board (NSDCTDB) Escondido Branch Line, identified as Crossing No. 106E-9.14, in the City of Vista, San Diego County, at the location and substantially as shown by plans attached to the application and this order.
2. Upon opening of the Vista Village Drive at-grade crossing, the existing grade crossing at West Vista Way, identified as Crossing 106E-9.20, shall be permanently closed and physically removed.
3. Walkways shall conform to General Order (GO) 118 and clearances shall be in accordance with GO 26-D.
4. Construction of the grade crossing shall be equal or superior to Standard No. 8 concrete panels of GO 72-B. Maintenance of the crossing shall conform to GO 72-B.
5. Protection at Vista Village Drive at-grade crossing shall be three Standard No. 9-A automatic gate-type signals with cantilevers, and one Standard No. 9 automatic gate-type signal (GO 75-C).
6. Construction cost shall be borne in accordance with an agreement to be entered between the parties. A copy of the agreement, together with plans approved by NSDCTDB, shall be filed with the Commission's Rail Safety And Carriers Division staff prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction by further order.
7. Maintenance cost of the automatic protection shall be borne equally by NSDCTDB and City.

8. Within 30 days after completion of the work under this order, City shall notify the Commission's Rail Safety And Carriers Division in writing that the authorized work has been completed.

9. This authorization shall expire if not exercised within two years, unless time is extended, or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity or safety so require.

10. The application is granted as set forth above.

11. Application 97-03-008 is closed.

This order becomes effective 30 days from today.

Dated January 7, 1998, at San Francisco, California.

P. GREGORY CONLON

President

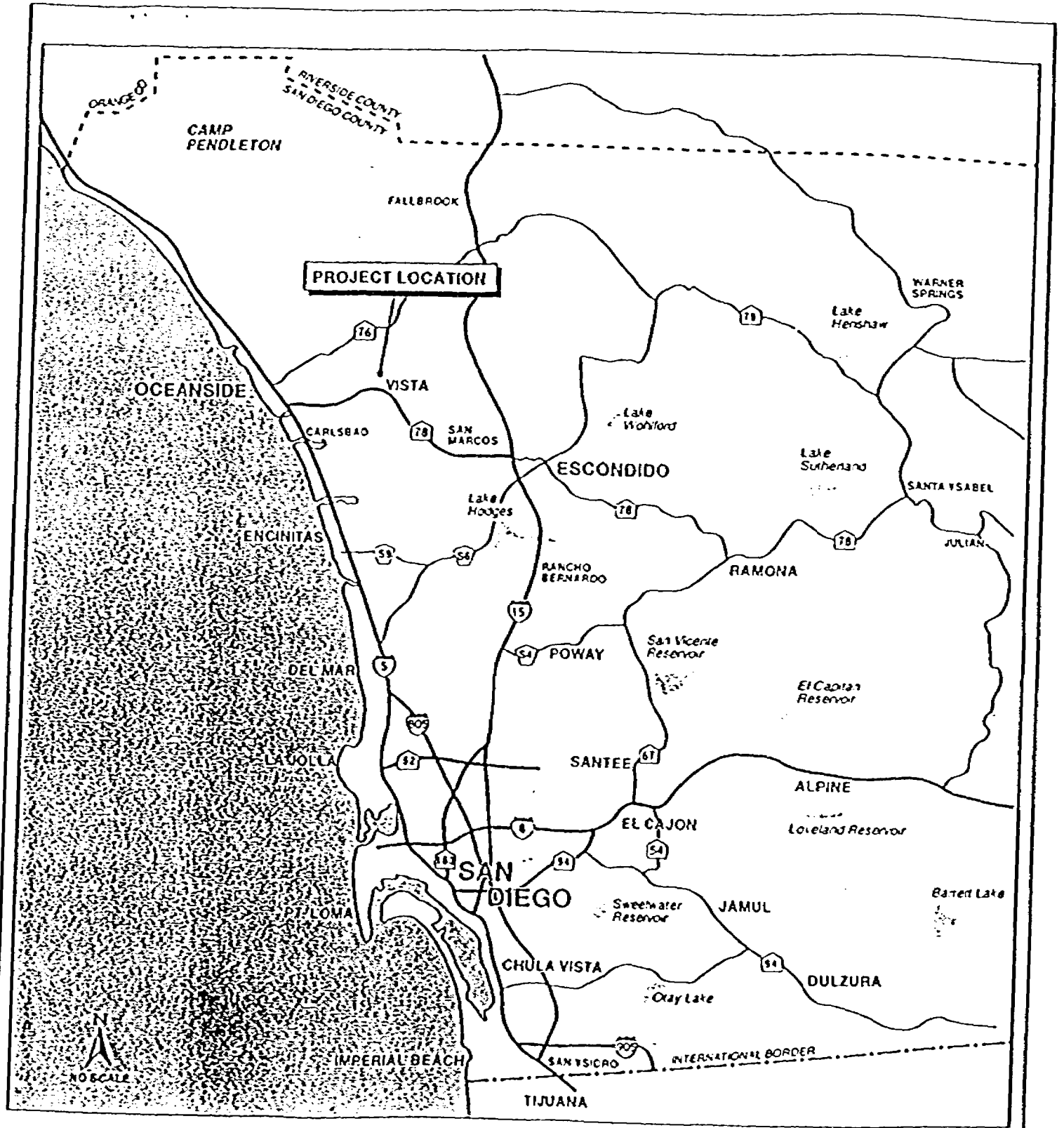
JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

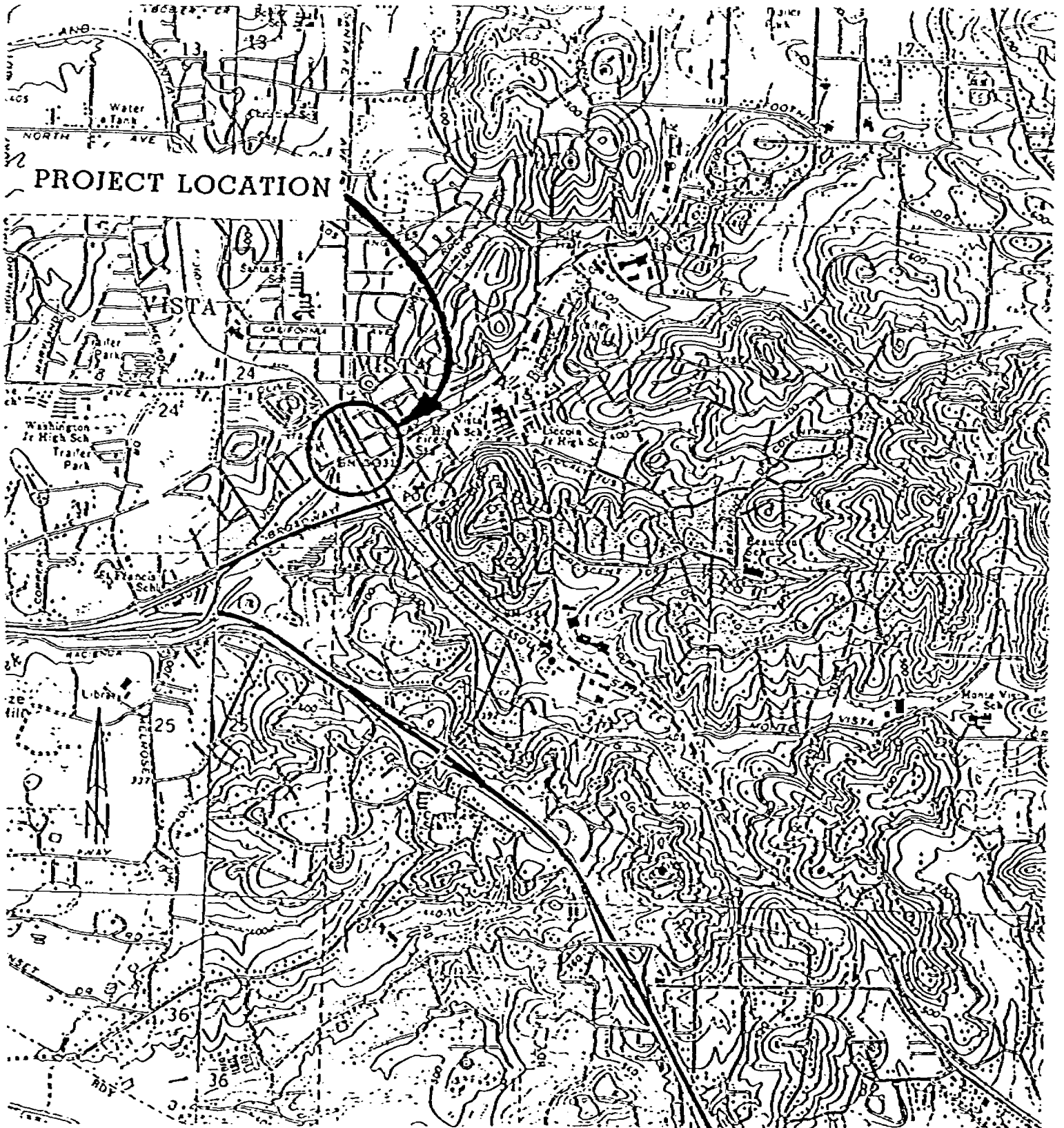
JOSIAH L. NEEPER

RICHARD A. BILAS

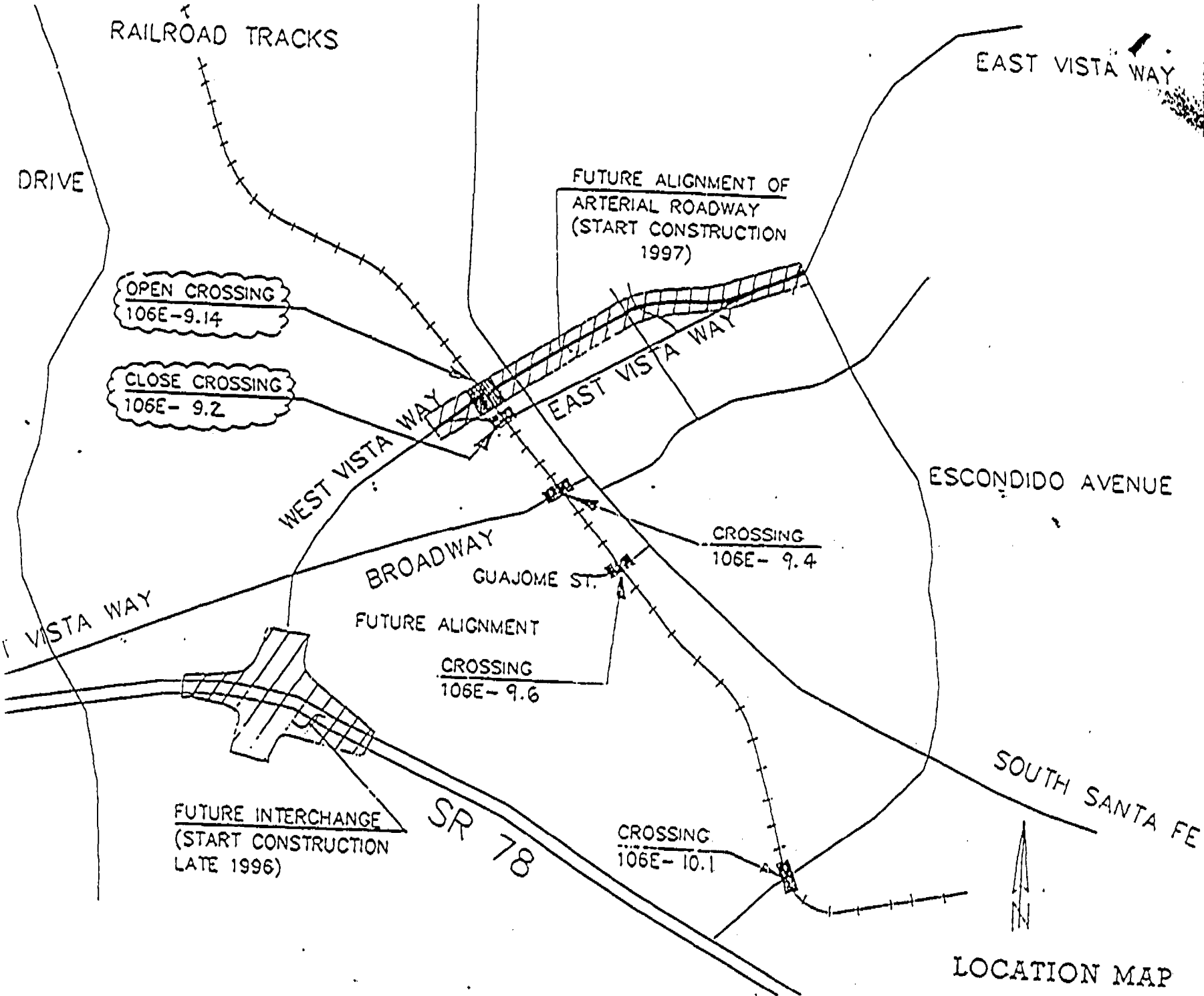
Commissioners



REGIONAL MAP

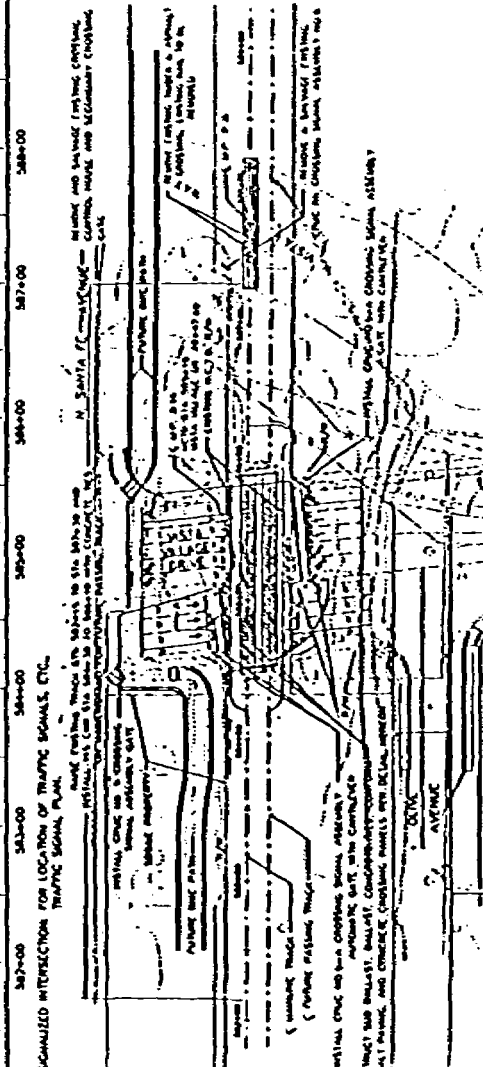
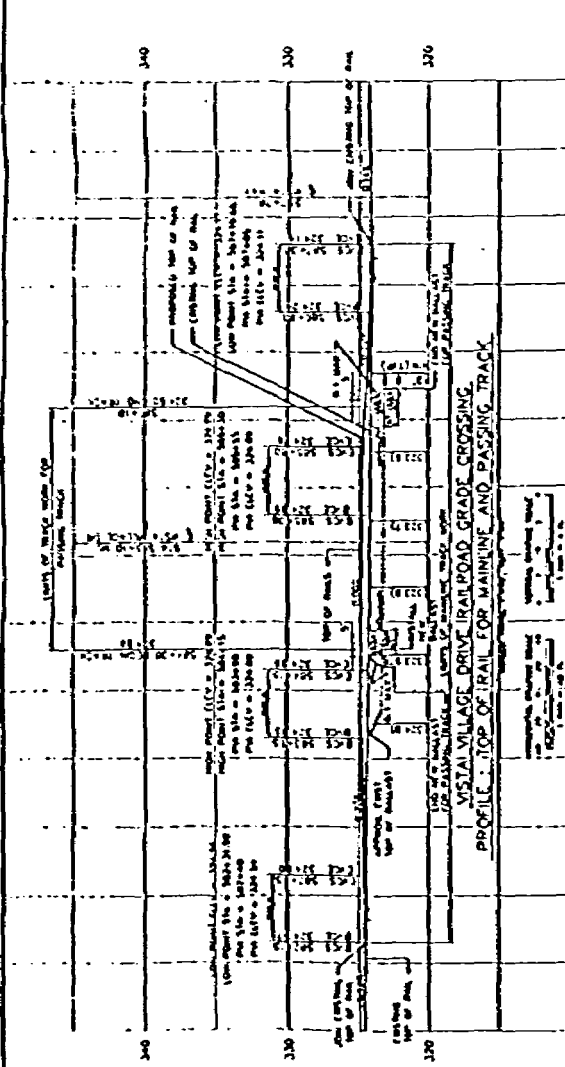
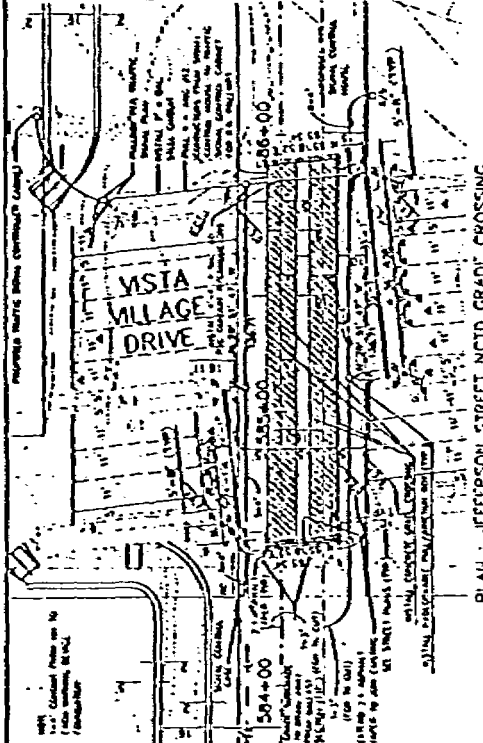
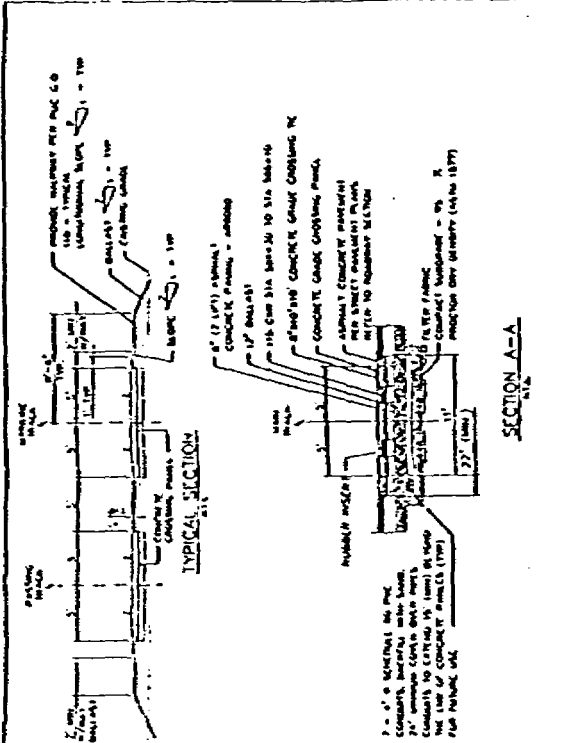


VICINITY MAP



LOCATION MAP





**PLAN: JEFFERSON STREET NCTD GRADE CROSSING**

CITY OF VISTA  
VISTA VILLAGE DRIVE  
NCTD GRADE CROSSING

NOTE: LOCATION OF TRAFFIC SIGNALS, ETC. REFER TO THE STREET IMPROVEMENT PLAN.

**EARTH TECH**

Frederic R. Morris, Inc.  
1000 West 10th Street  
P.O. Box 1000  
40705

RAIL PLAN- NCTD GRADE CROSSING