

Mailed: 4/6/99

Decision 99-04-020 April 1, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Ontario )  
for an Order authorizing construction )  
of an at-grade crossing on Francis )  
Street between Haven Avenue )  
And Dupont Avenue )  
\_\_\_\_\_ )

**ORIGINAL**  
Application 98-08-016  
(Filed August 10, 1998  
Amended January 8, 1999)

OPINION

City of Ontario (City) requests authority to construct an at-grade crossing at Francis Street between Haven Avenue and Dupont Avenue across the spur tracks of Union Pacific Railroad Company (UP), in Ontario, San Bernardino County.

The proposed at-grade crossing on Francis Street is necessary to improve traffic flow between Haven Avenue and Dupont Avenue and is part of the development of the Majestic Realty California Commerce Center Phase IV. The proposed project is to consist of approximately 1500 acres of industrial land, including rail-served industrial facilities; corporate offices; and manufacturing, research, development, service commercial, and general office facilities. The proposed site is within a location bounded by Airport Drive to the north, Haven Avenue to the west, a sanitary landfill to the south, and the Day Creek Channel to the east.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Section 21000, et. seq. City prepared an Environmental Impact Report (EIR) for the project. After preparation and review of the EIR, City approved the Final EIR.

The Commission is a responsible agency for this project under CEQA and also has reviewed and considered the lead agency's EIR. The site of the proposed project has been inspected by the Rail Safety and Carriers Division -- Rail Crossing Engineering Section Staff. After reviewing the need for and safety of the proposed at-grade crossing, Staff recommends that City's request be granted.

The application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure which relates to the construction of public highways across railroad tracks. A vicinity map and detailed drawings of the proposed at-grade crossing are shown in Appendix A.

By telephone conversation held on November 24, 1998, Staff advised City of deficiencies in the original application and requested that City file an amended application with the Commission. On January 8, 1999, City filed an Amended Application, which corrected the deficient items brought to City's attention by Staff.

In Resolution ALJ-176-2999 dated September 3, 1998, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's Rail Safety and Carriers Division recommends that this application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ-176-2999.

City stated in this application that the construction of the proposed at-grade crossing is scheduled to begin sometime during the early part of 1999 and that use of the proposed at-grade crossing is urgently needed. Based on the above facts and objectives, City requested that the usual 30-day effective date on an order be waived. We will make our order effective immediately.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU Code Section 311 (g) (2) , the otherwise applicable 30-day period for public review and comment is being waived.

#### Findings of Fact

1. Notice of the application and amendment were published in the Commission's Daily Calendar on August 14, 1998, and January 20, 1999, respectively. No protests have been received.

2. City filed an Amended Application on January 8, 1999, which corrected the deficient items brought to City's attention by Staff. There are no other unresolved matters, and a public hearing is not necessary.

3. City requests authority, under Public Utilities Code Sections 1201 - 1205, to construct an at-grade crossing at Francis Street between Haven Avenue and Dupont Avenue across UP's spur tracks in Ontario, San Bernardino County.

4. Public convenience and necessity require construction of the proposed at-grade crossing.

5. Public safety requires the installation of two Standard No. 8-A flashing light signals with additional flashing lights on cantilever arms (General Order (GO) 75-C).

6. City is the lead agency for this project under CEQA, as amended.

7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIR.

8. The project will have some adverse effects on the environment, but mitigation measures will reduce the adverse impacts to acceptable levels. None of the impacts are associated with the proposed at-grade crossing.

#### Conclusion of Law

1. The application should be granted as set forth in the following order.

### ORDER

**IT IS ORDERED that:**

1. City of Ontario (City) is authorized to construct an at-grade crossing at Francis Street between Haven Avenue and Dupont Avenue across the spur tracks of Union Pacific Railroad Company (UP), in Ontario, San Bernardino County, at the location and substantially as shown by the plans attached to the application and Appendix A of this order, identified as Crossing 3-43.24-C.

2. Clearances shall be in accordance with General Order (GO) 26-D. Walkways shall conform to GO 118.

3. Construction of the grade crossing shall be equal or superior to Standard No. 8 (concrete slabs) of GO 72-B. Maintenance of the crossing shall conform to GO 72-B.

4. Protection at the crossing shall be two Standard No. 8-A flashing light signals with additional flashing lights on cantilever arms (GO 75-C).

5. Construction expense of the crossing and installation cost of the automatic protection shall be borne by Applicant.

6. Maintenance cost of the automatic protection shall be borne by the Applicant in accordance with Section 1202.2 of the Public Utilities Code.

7. Final construction plans, approved by UP, shall be filed by City with the Commission's Rail Safety and Carriers Division prior to commencing construction.

8. Within 30 days after completion of the work, City shall notify the Commission 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.

Application 98-08-016 is closed.

This order is effective today.

Dated April 1, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEPPER

Commissioners

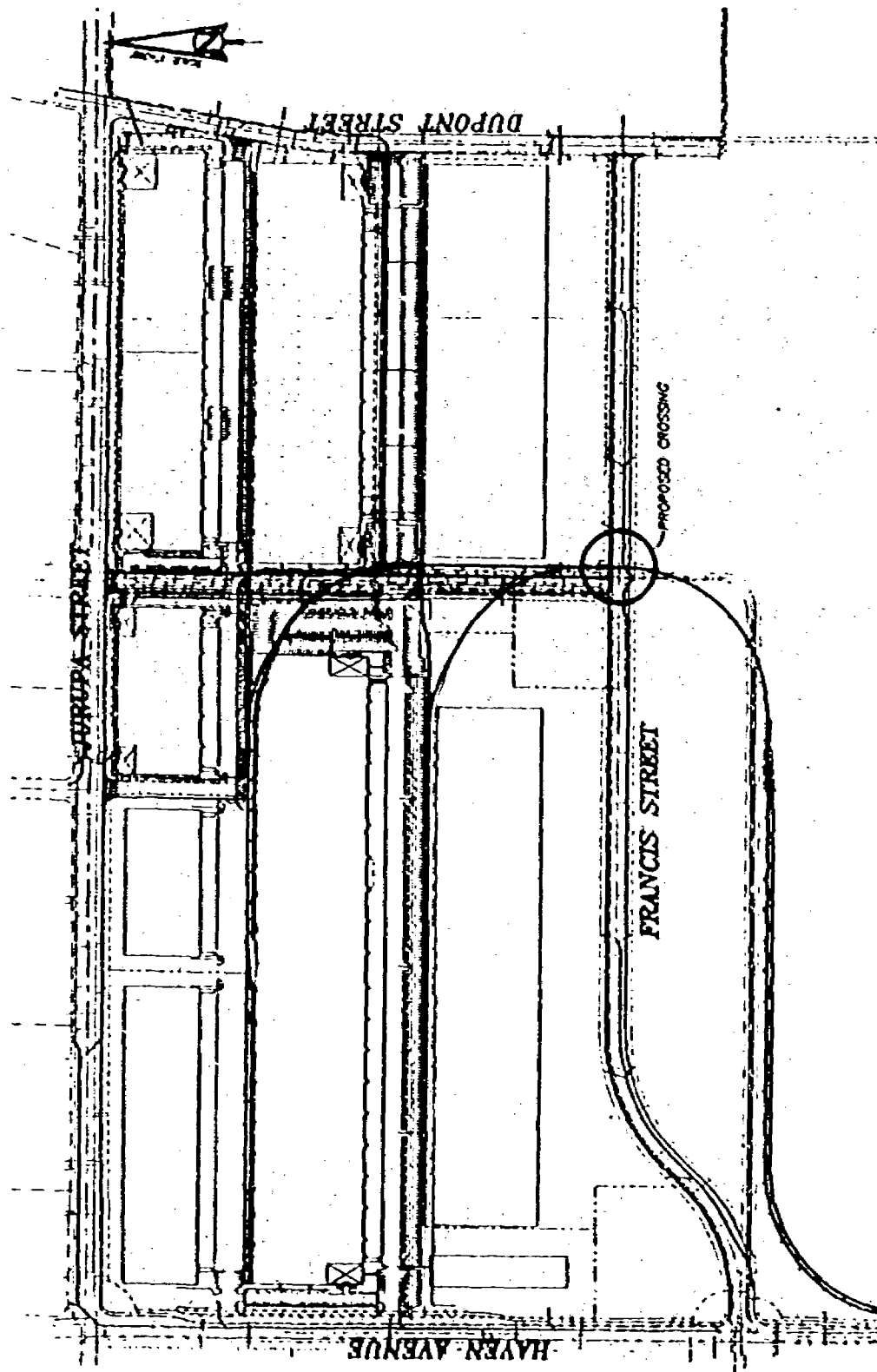


EXHIBIT A - VICINITY MAP  
FOR  
MAGNETIC REALTY  
CALIFORNIA COMMERCE CENTER PHASE IV

