

Decision 99-06-084 June 24, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Fremont to improve the)
Nunes Lane crossing of the Union Pacific Railroad)
Company tracks and designate the improved crossing)
as an emergency vehicle access to the City of)
Fremont, County of Alameda.)
_____)

Application 99-04-041
(Filed April 29, 1999)

OPINION

The City of Fremont (City) requests authority to upgrade one private at-grade crossing to an at-grade emergency vehicle access (EVA) crossing over the tracks of the Union Pacific Railroad (UPRR) company. The proposed crossings will provide necessary access to a new residential development in the City known as the Riverwalk Development. The EVA crossing will henceforth be referred to as Nunes Lane EVA, PUC Crossing Number 001DAB-41.22.

The proposed EVA crossing is an existing at-grade 20' wide private crossing providing access to the 3 residential homes located east of Paseo Padre Parkway and west of Mission Boulevard/State Route 84 in the City of Fremont. The crossing will be part of a new residential housing development located south of the Alameda Creek Trail and North of the Union Pacific Railroad tracks. The proposed development consists of 122 new single-family homes and a private park on approximately 34 acres. The main means of entering and exiting the Riverwalk Development will be at Paseo Padre Parkway north of the Peralta Boulevard and the UPRR tracks. A map of the project vicinity is set forth as Appendix A.

The proposed EVA crossing will be used to provide emergency vehicle access to the residents in the new development. To prevent its use by the general public, the crossing will be equipped with two 20 inch wide and 8 feet high swing gates with locks and two PUC standard number 1-C private crossing signs. Eight feet high wood fencing will border the railroad tracks on the north and south sides to prevent pedestrian access. Keys to the locked EVA crossing gates

will be held by the Fremont Fire Department and/or Fremont Police Department personnel for use by emergency vehicles and by the Union Pacific Railroad.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Sections 21000, et. seq. After preparation and review of an Environmental Impact Report (EIR), the City approved the project. On November 25, 1998, the City filed a CEQA Notice of Determination with the County of Alameda and the State Office of Planning and Research, which states that the project will have a significant effect on the environment, though mitigation measures were made a condition of approval of the project and a statement of overriding considerations was adopted.

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 Commission's Rail Safety and Carriers Division (RSCD) Rail Crossings Engineering staff has inspected the site of the proposed project. The staff examined the need for and safety of the proposed crossing and recommends that the sought authority be granted. The City has requested prompt action on its application due to a constrained construction schedule.

Application 99-04-041 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

In Resolution ALJ 176-3015 dated May 13, 1999, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's RSCD 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 176-3015.

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 was published in the Commission's Daily Calendar on May 6, 1999. No protests have been filed.

2. The City requests authority, under Public Utilities Code Section 1201-1205, to construct one EVA crossing identified as Nunes Lane EVA, PUC Crossing Number 001DAB-41.22.

3. Public convenience and necessity require the construction of the Nunes Lane EVA across the tracks of the UPRR in the City of Fremont in Alameda County.

4. Public safety requires that the EVA crossing be equipped with two Standard No. 1-C Private Crossing signs, per General Order 75-C.

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

6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIR and Notice of Determination.

7. The project will have a significant effect on the environment. Mitigation measures were made a condition of approval and a statement of overriding considerations was adopted.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.

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

ORDER

IT IS ORDERED that:

1. The City of Fremont (City) is authorized to construct an emergency vehicle access at grade crossing west of Mission Boulevard/State Route 84 and east of Paseo Padre Parkway over the tracks of the Union Pacific Railroad (UPRR), to be identified as Nunes Lane EVA, PUC Crossing Number 001DAB-41.22.

2. The crossing shall be fitted with two Standard No. 1-C Private Crossing signs, as specified in General Order (GO) 75-C.

3. The crossing shall be fitted with two swing gates that are normally locked. Keys shall be held only by City emergency response personnel and UPRR personnel.

4. Clearances shall be in accordance GO 26-D.

5. Walkways shall conform to GO 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

6. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement shall be filed by the City with the Commission's Rail Safety and Carriers Division (RSCD) prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

7. Final construction plans, approved by UPRR, shall be filed by the City with RSCD prior to commencing construction.

8. The City will inform the RSCD Rail Crossings Engineering Section in writing within 30 days of the date of the completion of this project.

9. This authorization shall expire if not exercised within two (2) 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. This application is granted as set forth above.

11. Application 99-01-004 is closed.

This order becomes effective today.

Dated June 24, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

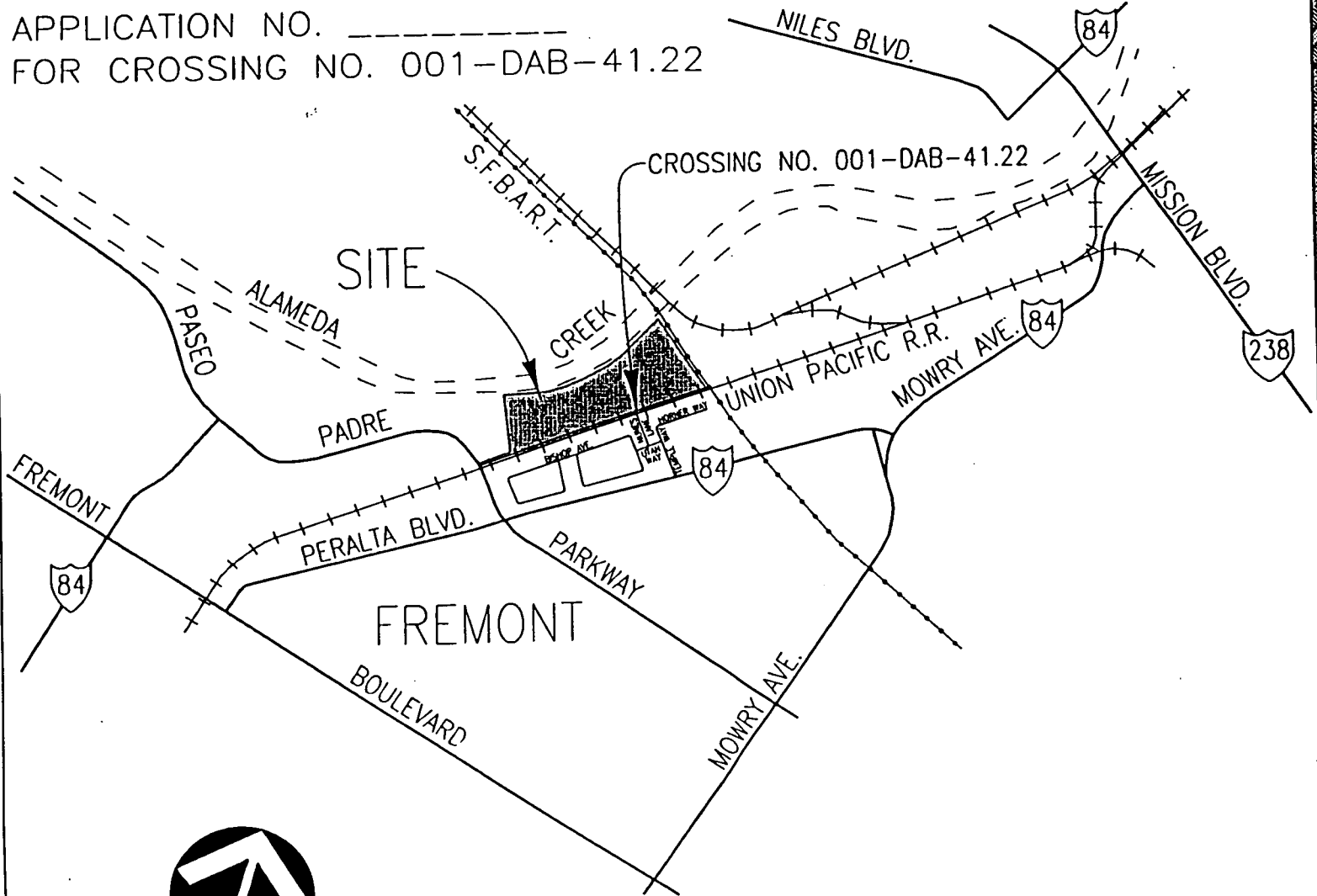
JOSIAH L. NEEPER

JOEL Z. HYATT

CARL W. WOOD

Commissioners

PUBLIC UTILITIES COMMISSION
APPLICATION NO. _____
FOR CROSSING NO. 001-DAB-41.22



LOCATION MAP
N.T.S.

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