

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Brentwood to construct a new at-grade crossing at the extension of Sand Creek Road in the vicinity of Mile Post No. 60.54 of the Union Pacific Railroad Company in the City of Brentwood, County of Contra Costa, State of California.

Application 02-03-003
(Filed March 4, 2002)

O P I N I O N**Summary**

The City of Brentwood (City) requests authority to construct a new, public at-grade crossing at the extension of Sand Creek Road across the track and right-of-way of the Union Pacific Railroad Company (UPRR) in Brentwood, Contra Costa County. The new crossing will be located between Public Utilities Commission (PUC) Crossing Nos. 001B-59.10 and 001B-61.60 at approximate Mile Post (MP) 60.54 of the UPRR tracks. A map of the general project vicinity is set forth in Appendix A. A drawing of the proposed crossing is shown in Appendix B.

Discussion

The proposed project will be a part of the Sand Creek Road Extension project that will provide a major east-west arterial roadway via Sand Creek Road through Central Brentwood by connecting State Route (SR) 4 Bypass (now under construction) on the west to Brentwood Boulevard (SR 4) on the east. In the

initial phase of construction of the Sand Creek Road Extension project, two travel lanes within an approximate right-of-way width of 140 feet will be built. At a later date, based on future traffic volumes, additional traffic lanes in each direction will be added.

The Circulation Plan of the Brentwood General Plan states that the Sand Creek Road railroad crossing is necessary for the improvement of traffic circulation within the City. The City Council of Brentwood has identified this project as a major priority. A substantial amount of vehicle traffic is suspected to cross the proposed railroad crossing after it is completed. There is no through train service on the railroad line of which the proposed crossing will be a part. At the time of the writing of this decision, trains are primarily being parked in Brentwood along this railroad line.

For public safety, the crossing will have an active warning system compliant with General Order (GO) 75-C that will consist of a Standard No. 9A installed on the shoulder, and a Standard No. 9 installed on the 9-foot wide median on either side of the railroad track for traffic in each direction. The median will extend throughout the roadway on both sides of the crossing and prevent motorists from circumventing the gates as trains are approaching the crossing. In addition to the warning devices, there will be standard roadway markings and signage for railroad-highway grade crossings. Concrete panels, compliant with GO 72-B, for the surface of the crossing shall be required. In the event that train traffic increases (through or otherwise), it shall remain an option that a diagnostic review involving all parties concerned can be made to determine if Standard No. 8s for pedestrians and bicyclists are warranted in addition to the other warning devices.

The City states in its application that in light of the fact that few trains currently utilize the rail line through the City, construction of a grade separation is not a cost-effective solution to the traffic circulation and access problems. However, the City further states in its application that it recognizes that new grade crossings are not ideal, and therefore it intends to seek construction, through separate application, of an underpass at the existing Lone Tree Way crossing of the UPRR's tracks in the City. The City expects that the construction of this underpass is to begin within three years of the opening of the proposed Sand Creek Road crossing. The appropriate UPRR officials have agreed to this proposal of the City in general, and have managed to resolve other differences with the City through cooperative efforts. Based on their agreement(s), UPRR has withdrawn its initial protest to the application for the proposed crossing.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code 21000 et. seq. On June 6, 2000, in compliance with CEQA, the City filed its Notice of Determination approving the Sand Creek Road Extension project. In approving this project, the City found that although the proposed project could have a significant effect on the environment, there would not be a significant effect in this case because mitigation measures, which were made a condition of project approval, will lessen or eliminate any potential adverse impacts. In April 2000, the City prepared the Initial Study/Mitigated Negative Declaration for the Sand Creek Road Extension project, in accordance with CEQA, that assesses the potential environmental impacts of implementing the extension of Sand Creek Road.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences

of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities, which must be conducted by a responsible agency, are contained in CEQA Guideline Section 15096.

The Commission has reviewed the City's' Initial Study/Mitigated Negative Declaration for the Sand Creek Road Extension project. Safety and security, traffic (transportation), and noise are within the scope of the Commission's permitting process. The City's Initial Study/Mitigated Negative Declaration did not identify any potential impacts related to the safety and security of the project area.

In the City's Initial Study/Mitigated Negative Declaration, it is noted that noise impacts will have less than a significant effect on the environment after mitigation measures are implemented for this project. Some of the noise mitigation measures for areas near the proposed crossing involve the construction of sound walls and fences, the replacement of existing home windows with sound-rated windows where necessary, and the limiting of construction activity to the hours of 7 a.m. to 6 p.m. With respect to transportation impacts, in the same environmental documentation noted above, the City states that local streets affected by the Sand Creek Road Extension project will be widened for turning movements and signalized near appropriate interchanges to accommodate additional traffic. The Commission finds that through its environmental documentation, the City has adopted feasible mitigation measures to either eliminate or substantially lessen noise and transportation impacts. We adopt the mitigation measures as described in the

referenced Initial Study/Mitigated Negative Declaration for purposes of our approval.

The Commission's Consumers Protection and Safety Division (CP&SD), Rail Crossings Engineering Section staff inspected the site of the proposed project. After reviewing the need for and safety of the proposed crossing, the staff recommends that the requested authority sought by the City be granted for a period of two years.

Application 02-03-0003 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 176-3084 dated March 21, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. An initial protest by UPRR filed on April 4, 2002 was withdrawn on May 17, 2002. The Commission's CP&SD 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 176-3084.

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

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on March 7, 2002. An initial protest by UPRR filed on April 4, 2002 was withdrawn on May 17, 2002.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct the new, public at-grade crossing at the extension of Sand Creek Road across the track and right-of-way of the UPRR in the City of Brentwood, Contra Costa County. The new crossing will be located between PUC Crossing Nos. 001B-59.10 and 001B-61.60 at approximate MP 60.54.

3. Public convenience, safety and necessity require the construction of the proposed at-grade crossing in the City of Brentwood.

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

5. The Commission is a responsible agency for this project, and has reviewed and considered the City's environmental documentation specified in this decision.

6. In April 2000, the City prepared and approved the Initial Study/Mitigated Negative Declaration for the Sand Creek Road Extension project, which the proposed crossing is a part.

7. Safety and security, transportation, and noise are within the scope of the Commission's permitting process.

8. The City's environmental documentation did not identify any potential environmental impacts from the project related to safety or security.

9. The Commission finds that for impacts related to transportation or noise, the City's environmental documentation adopted feasible mitigation measures to either eliminate or substantially lessen those impacts. We adopt the mitigation measures required by the City's environmental documentation for purposes of our approval.

Conclusions of Law

1. The application is no longer contested and 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. The City of Brentwood (City) is authorized to construct the new, public at-grade crossing at the extension of Sand Creek Road across the track and right-of-way of the Union Pacific Railroad Company (UPRR) in Brentwood, Contra Costa County. The new crossing will be identified as Public Utilities Commission (PUC) Crossing No. 001B-60.54, Sand Creek Road.

2. Public safety requires that the new Sand Creek Road crossing be protected with active warning devices, compliant with General Order (GO) 75-C, that consist of a Standard No. 9A installed on the shoulder, and a Standard No. 9 installed on the 9-foot wide median on either side of the railroad track for traffic in each direction.

3. Clearances shall be in accordance with GO 26-D.

4. Walkways shall conform to GO 118. Walkways adjacent to any tracks 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.

5. Construction and maintenance costs shall be borne in accordance with an agreement that has been entered into between the parties. The City shall file a copy of the agreement with the Commission's Consumers Protection and Safety Division (CP&SD) prior to construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Prior to construction, the City shall file with CP&SD final construction plans, approved by UPRR.

7. The City shall inform the Rail Crossings Engineering Section of CP&SD in writing within 30 days of the date of completion of this project.

8. 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.

9. This application is granted as set forth above.

10. Application 02-03-003 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

APPENDIX B

