

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the North County Transit District for authority to construct the new San Marcos Civic Center Pedestrian Underpass Crossing (Proposed PUC Crossing No. 106E-116.62-BD), Proposed D.O.T. No. 922634T in the City of San Marcos, County of San Diego, California.

Application 04-03-027
(Filed March 22, 2004)

O P I N I O N

Summary

This decision grants the North County Transit District (NCTD) request to construct a grade-separated pedestrian-rail crossing (crossing), the new San Marcos Civic Center Pedestrian Underpass, under NCTD’s SPRINTER light-rail train tracks in City of San Marcos (City), San Diego County.

Discussion

In connection with the construction of a 1.7-mile San Marcos Loop Corridor track segment of the Oceanside to Escondido 22-mile rail project, NCTD requests authority to construct a crossing under NCTD’s SPRINTER light-rail train tracks to provide pedestrian access between the San Marcos Community Center, within the San Marcos Civic Center complex, and the Community Center Recreational Park Area. The San Marcos Loop Corridor segment will serve the California State University, San Marcos (CSUSM) campus.

The crossing is part of NCTD's light-rail system along the State Route Highway 78 Corridor between Oceanside and Escondido. The Oceanside-Escondido 22-Mile Rail Project will include the reconstruction of the existing railroad tracks and right-of-way (ROW), both currently owned by NCTD between the Oceanside Transit Center and the Escondido Transit Center. This rail project also will include partial track realignment and the construction of three sections of passing track, with each section 3.5 miles in length. The existing track system accommodates three round trips of freight rail service each week by The Burlington Northern and Santa Fe Railway Company. The new light-rail system would share the rail corridor with the freight rail service. However, freight and light-rail service would be completely separate. Freight service will operate only in the evening hours after the completion of light-rail service for the day.

NCTD will provide light-rail service by means of diesel-multiple-unit (DMU) light-rail vehicles. The DMU is a self-propelled diesel-electric or diesel-hydraulic rail vehicle with a maximum speed of 55 MPH. NCTD can couple the vehicles together to make trains consisting of two or three vehicles total. However, initial service will consist of trains with a maximum of two vehicles. During peak loading, each train may transport a maximum of 300 passengers. The San Marcos Loop Corridor segment of the new 22-mile light-rail system will be for the exclusive use of the DMU light-rail service. Freight will not use the San Marcos Loop Corridor.

The crossing will consist of cast-in-place concrete box structures. The interior cross-section of the underpass structure will be 8 feet wide and 8 feet, 3 inches high. The crossing will include stair accesses for pedestrians and ramps for service vehicles and wheelchairs.

North San Diego County Transit Development Board (Board) is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended in 1982 and as stated in Public Resources Code (PR) Section 21000 et seq. The Oceanside-Escondido Rail Project was originally evaluated in an Environmental Impact Report (EIR) certified by the Board in April 1990. In June 1991, the Board certified an EIR for the CSUSM Loop portion of the project. In December 1995, an Advanced Planning Report (APR) was completed for the project which served as the basis for completion of an Environmental Assessment/Subsequent Environmental Impact Report (EA/SEIR), certified by the Board in March 1997. The Federal Transit Administration (FTA) issued a Finding of No Significant Impact in October 1997 based on the EA/SEIR. In February 2000, the Board authorized final technical and engineering design changes. Initial review of the 100% design changes was completed in June 2001 and an Addendum was prepared to evaluate environmental analysis.

On September 13, 2001, in compliance with PR Code Section 21108 or 21152, the Board filed a Notice of Determination (NOD) with the San Diego County Clerk. The NOD found that "Implementation of the 100% design plans for the project will not create new significant effects on the environment from those analyzed in the EA/SEIR." Additional mitigation measures were not made a condition of the approval of the project. A statement of Overriding Considerations was not adopted for this project. A copy of the NOD is included in Appendix A attached to the order.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. 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 that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

We reviewed and considered the Final Environmental Impact Statement (EIS)/EIR and Addendum and the Board's NOD. We find that the Board's environmental documents are adequate for our decision-making purposes.

Safety, transportation, and noise are within the scope of the Commission's permitting process. The Addendum found that the final design substantially conformed to the project identified in the EA/SEIR and that all facilities would be constructed within the railroad ROW and alignment previously analyzed with only minor deviations. The Addendum further found that incorporation of the minor technical changes would not result in any new environmental impacts or mitigations for safety, transportation or noise beyond those in the underlying EA/SEIR.

The EA/SEIR identified potential transportation impacts due to traffic disruption during construction. A traffic control plan was prepared as mitigation to reduce traffic disruption impacts to less-than-significant levels. The EA/SEIR adopted mitigations in the area of public safety to reduce potential soil contamination impacts to less-than-significant levels. No potentially significant impacts were identified related to noise.

We find that the Board reasonably concluded that implementation of 100% design plans for the project will not create new significant effects on the environment from those analyzed in the SEIR certified by the Board in March 1997. Accordingly, we adopt the Board's findings and applicable mitigation measures for purposes of our approval.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) staff inspected the site of the crossing. After reviewing the need for and the safety of the crossing, RCES recommends that the Commission grant NCTD's request.

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 a public highway across a railroad. Shown in Appendix B attached to the order are a vicinity map and detailed drawings of the proposed crossing.

In Resolution ALJ 176-3131, dated April 1, 2004, and published in the Commission Daily Calendar on April 2, 2004, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains correct. Given these developments, it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3131.

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 comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the Application was published in the Commission's Daily Calendar on March 29, 2004. There are no unresolved matters or protests; a public hearing is not necessary.

2. NCTD requests authority, under Public Utilities Code Sections 1201-1205, to construct the San Marcos Civic Center Pedestrian Underpass crossing underneath NCTD's SPRINTER light-rail train tracks in San Marcos, San Diego County.

3. Public convenience, necessity, and safety require construction of the crossing.

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

5. The Board filed a NOD regarding this project and found that implementation of the 100% design plans for the project will not create significant effects on the environment from those analyzed in the SEIR certified by the Board in March 1997. The Board prepared an Addendum for the project pursuant to the provisions of CEQA. Additional mitigation measures were not made a condition of the approval of the project. A statement of Overriding Considerations was not adopted for this project.

6. The Commission is a responsible agency for this project and has reviewed and considered the Board's environmental documents.

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

8. The Board did not identify environmental impacts related to noise.

9. The Board adopted mitigation measures to reduce potential transportation and public safety environmental impacts to less-than-significant levels.

Conclusions of Law

1. The Board's environmental documents are adequate for our decision-making purposes.

2. The Board reasonably concluded that implementation of 100% design plans for the project will not create new significant effects on the environment.

3. The Board adopted traffic and public safety mitigation measures to reduce potential significant environmental impacts to less-than-significant levels. We adopt the Board's findings and mitigations for purposes of our approval.
4. The Application is uncontested and a public hearing is not necessary.
5. The Application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. North County Transit District (NCTD) is authorized to construct the new San Marcos Civic Center Pedestrian Underpass grade-separated pedestrian-rail crossing, identified as CPUC Crossing No. 106E-116.62-BD, under NCTD's SPINTER light-rail train tracks in the City of San Marcos (City), San Diego County, at the location and substantially as described in the Application and Appendix B attached to this order.
2. City and NCTD (parties) shall bear construction and maintenance costs in accordance with an agreement between the parties. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.
3. Within 30 days after completion of the work under this order, NCTD shall notify the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) of the completion of the authorized work.
4. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. The

Commission may revoke or modify authorization if public convenience, necessity, or safety so require.

5. The Application is granted as set forth above.

6. Application 04-03-027 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

APPENDIX A
ENVIRONMENTAL DOCUMENT

010544

FILED
Gregory J. Smith, Recorder/County Clerk

SEP 13 2001

BY W DEPUTY

Notice of Determination

TO: Office of Planning and Research
 1400 Tenth Street
 Sacramento, California 95814

FROM: (Public Agency) _____
 North County Transit District
 810 Mission Avenue
 Oceanside, CA 92054

or,

County Clerk
 County of San Diego
 P. O. Box 121750
 San Diego, CA 92112

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code

Project Title NCTD Oceanside-Escondido Rail Project - Approval of 100% Design

State Clearinghouse Number (If submitted to State Clearinghouse) 96051021

Contact Person Leslie Blanda Telephone Number (760) 967-2852

Project Location Parallel to State Route 78 primarily within the existing rail right-of-way between the cities of Oceanside, Vista, San Marcos and Escondido and an unincorporated portion of San Diego County, with 1.7 miles of new right-of-way to connect to the CSUSM campus at San Marcos.

Project Description 100% Design approval for converting a 22-mile freight corridor into a diesel multiple unit passenger rail system

This is to advise that the North San Diego County Transit Development Board (NSDCTDB)
 (Lead Agency or Responsible Agency)
 has approved the above described project and has made the following determinations regarding the above described project:

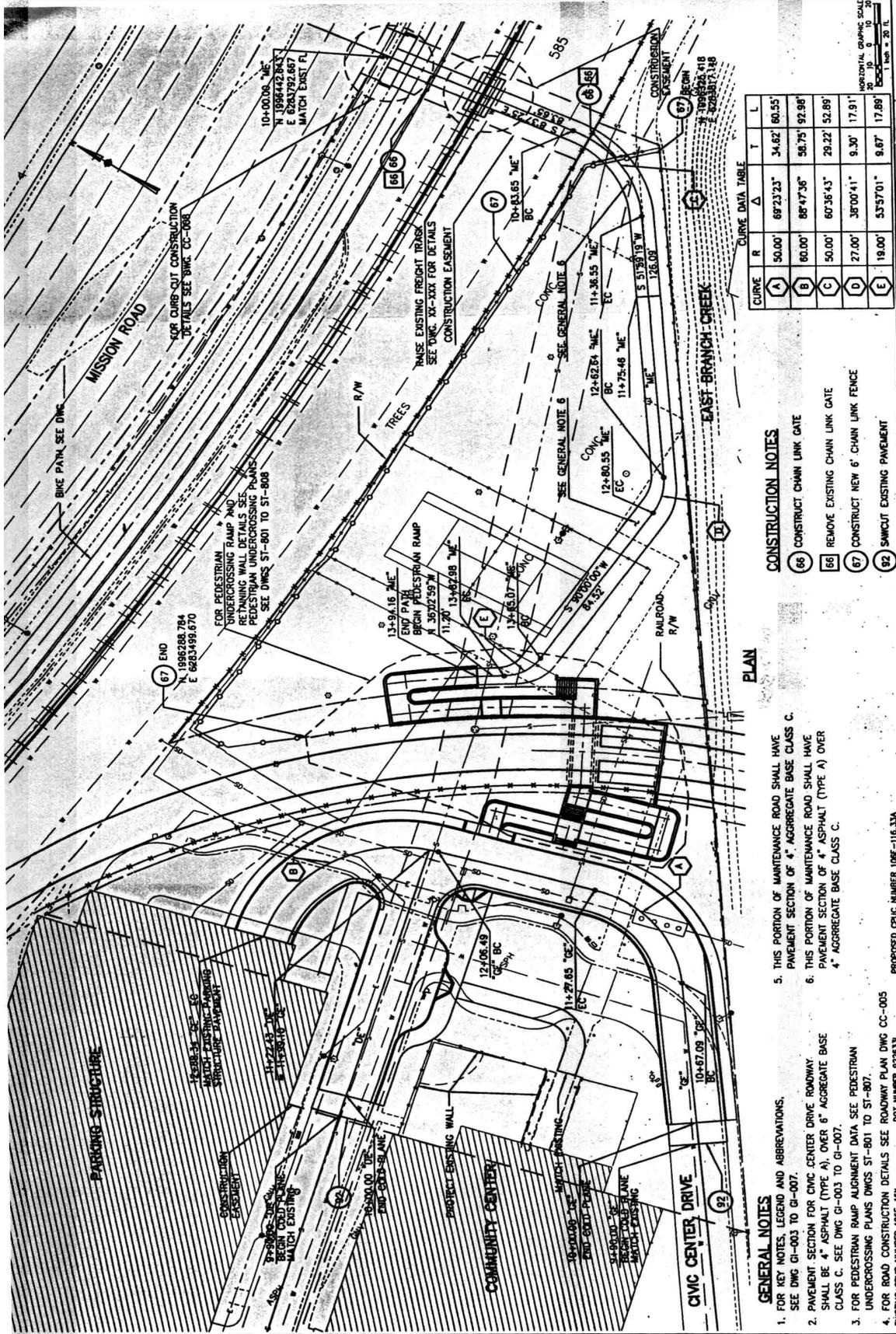
- Implementation of the 100% will have a significant effect on the environment. will not create new significant effects on the environment from those analyzed in the Subsequent Environmental Impact Report (SEIR) certified by NSDCTDB in March 1997.
- An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
 An Addendum was prepared for the project pursuant to the provisions of CEQA. The Final SEIR (March 1997) and Addendum and record of project approval may be examined at North County Transit District, 810 Mission Avenue, Oceanside, CA 92054
- Additional mitigation measures were, were not, made a condition of the approval of the project.
- A statement of Overriding Considerations was, was not, adopted for this project.

Date Received for Filing _____
 Signature [Signature]
 Executive Director
 Title
 September 12, 2001

RECEIVED
 OCT 23 2001
 BY: AH

FILED IN THE OFFICE OF THE COUNTY CLERK
 SAN DIEGO COUNTY ON SEP 13 2001
 POSTED SEP 13 2001 REMOVED OCT 15 2001
 RETURNED TO AGENCY ON OCT 15 2001
 DEPUTY W

01560; 13910



CURVE DATA TABLE

CURVE	R	Δ	T	L
A	50.00'	69°23'23"	34.62'	60.55'
B	60.00'	86°47'36"	58.75'	92.98'
C	50.00'	60°36'43"	29.22'	52.89'
D	27.00'	38°00'41"	9.30'	17.91'
E	19.00'	53°57'01"	9.67'	17.89'

CONSTRUCTION NOTES

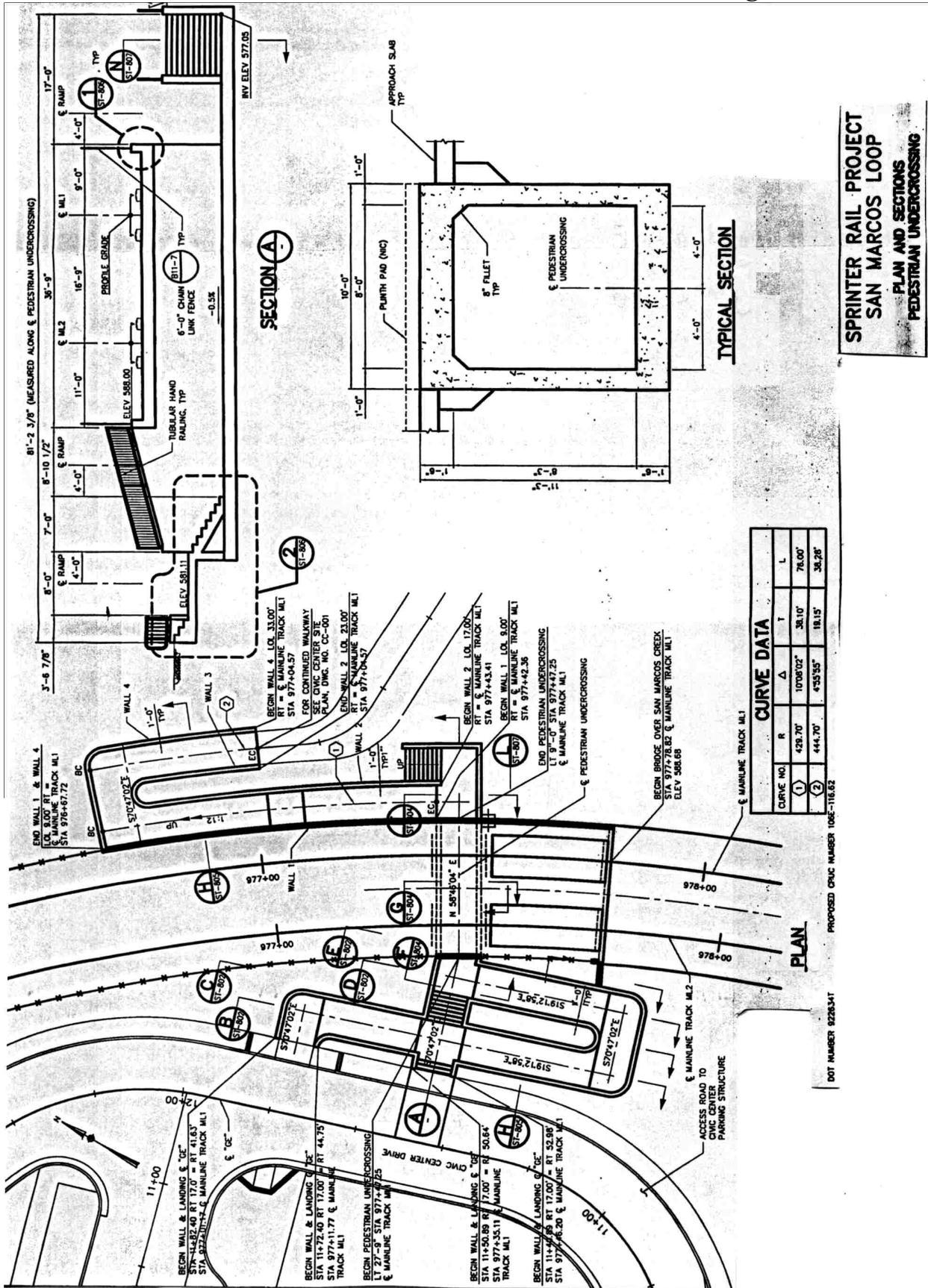
- 66 CONSTRUCT CHAIN LINK GATE
- 65 REMOVE EXISTING CHAIN LINK GATE
- 67 CONSTRUCT NEW 6" CHAIN LINK FENCE
- 92 SAWCUT EXISTING PAVEMENT

GENERAL NOTES

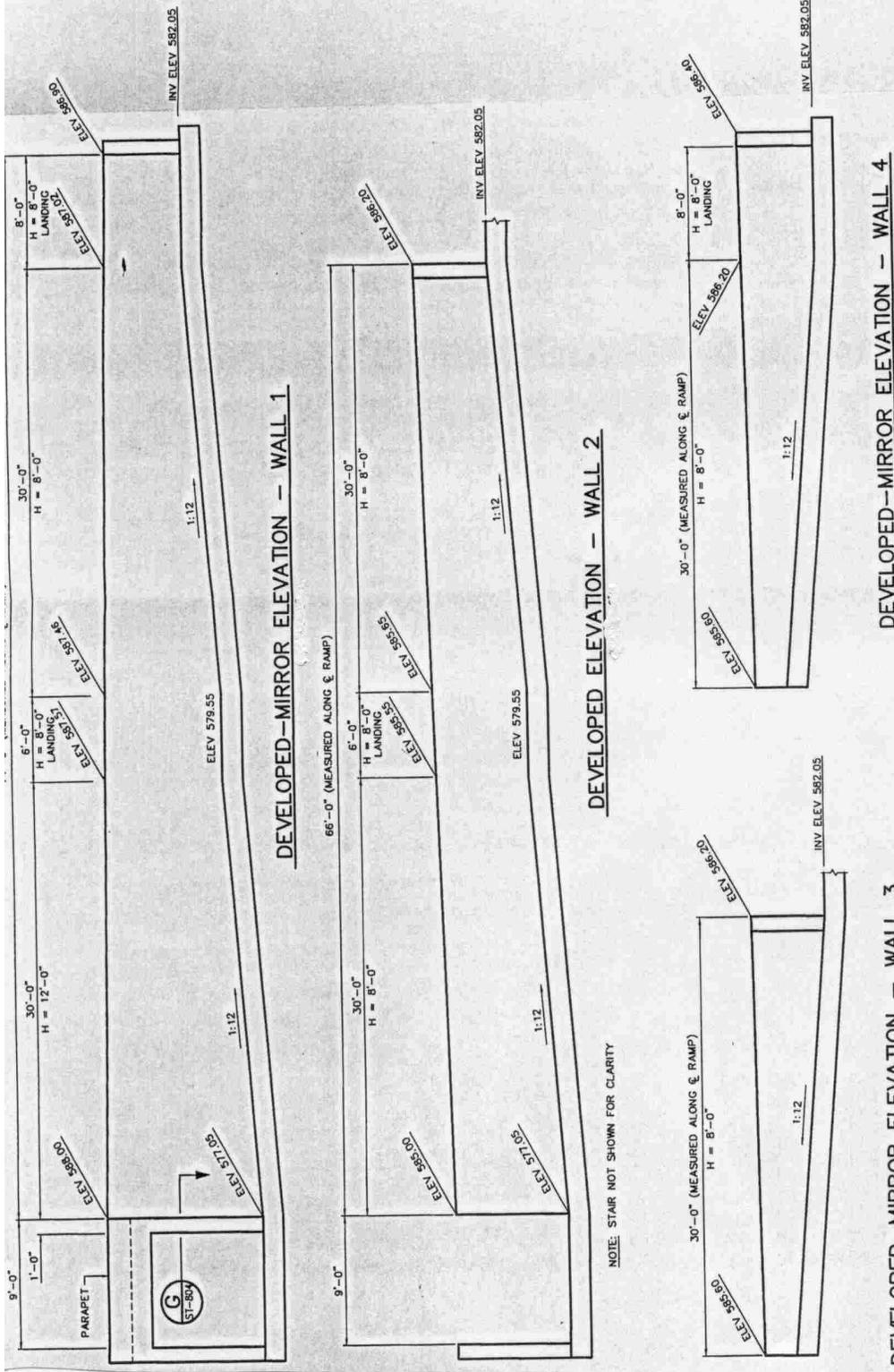
1. FOR KEY NOTES, LEGEND AND ABBREVIATIONS, SEE DWG. G1-003 TO G1-007.
2. PAVEMENT SECTION FOR CIVIC CENTER DRIVE ROADWAY SHALL BE 4" ASPHALT (TYPE A), OVER 6" AGGREGATE BASE CLASS C. SEE DWG. G1-003 TO G1-007.
3. FOR PEDESTRIAN RAMP ALIGNMENT DATA SEE PEDESTRIAN UNDERCROSSING PLANS DWGS. ST-801 TO ST-807.
4. FOR ROAD CONSTRUCTION DETAILS SEE ROADWAY PLAN DWG. CC-005 EXISTING CPIC NUMBER 106E-18X DOT NUMBER 922633L
5. THIS PORTION OF MAINTENANCE ROAD SHALL HAVE PAVEMENT SECTION OF 4" AGGREGATE BASE CLASS C.
6. THIS PORTION OF MAINTENANCE ROAD SHALL HAVE PAVEMENT SECTION OF 4" ASPHALT (TYPE A) OVER 4" AGGREGATE BASE CLASS C.

SPRINTER RAIL PROJECT
SAN MARCOS LOOP
CIVIC CENTER SITE PLAN

PROPOSED CPIC NUMBER 106E-116.33A



PROPOSED CIVIC NUMBER 106E-116.62
DOT NUMBER 9228341



SPRINTER RAIL PROJECT
 SAN MARCOS LOOP
 ELEVATIONS
 PEDESTRIAN UNDERCROSSING

PROPOSED CPUC NUMBER 106E-116.82

DOT NUMBER 922634T