

Decision 06-08-018 August 24, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Beaumont for authority to construct a new Potrero Boulevard overhead highway-rail crossing, proposed CPUC Crossing No. 001B-559.60-A, DOT No. 924095N within the City of Beaumont, California, over the Union Pacific Railroad.

Application 05-10-017
(Filed October 17, 2005;
Amendment to Application
filed April 5, 2006)

O P I N I O N

Summary

This decision authorizes the City of Beaumont (City) to construct a grade-separated highway-rail crossing (grade separation), referred to as the Potrero Boulevard Overhead, over Union Pacific Railroad Company's (UP) two-track Yuma Subdivision Main Line and over San Timoteo Canyon Road, in Beaumont, Riverside County.

Discussion

Proposed Project

The City proposes to construct the Potrero Boulevard Overhead grade separation as part of a proposed new four-lane overpass that will serve a new development under the Heartland Specific Plan. The proposed development will provide up to 1225 new residential dwelling units, facilities for industrial and commercial uses, and an elementary school. Potrero Boulevard will provide primary access for vehicles to the new development.

The public will benefit from the proposed grade-separation project as the project will provide the primary means of ingress and egress for the Heartland

Specific Plan area. The Potrero Boulevard Overhead will connect the proposed residential, commercial, and industrial developments with other proposed developments located north of UP's Main Line and San Timoteo Canyon Road.

On April 5, 2006, the City filed an Amendment to Application, which revised the method and materials of the proposed grade-separation bridge structure from a three-span, cast-in-place, pre-stressed concrete bridge to a three-span, pre-fabricated steel bridge.

The proposed steel bridge structure, as described in the Amendment, will have a permanent vertical clearance of 24 feet 3 inches above the top-of-rail and a minimum permanent horizontal clearance of 34 feet 10 7/8 inches from the existing track centerline. The overall width of the proposed bridge structure will be 59 feet 4 inches.

Environmental Review

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the Heartland Specific Plan Project is subject to CEQA and the Commission must issue a discretionary decision in order for the proposed grade-separation project to proceed (i.e., the Commission, pursuant to Section 1202 of the Public Utilities Code, must act on the City's application to construct the proposed grade separation), the Commission must consider the environmental consequences of the grade-separation project by acting as either a lead or responsible agency under CEQA.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, the City is the lead agency for the Heartland Specific Plan Project and the Commission is a responsible agency. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving the proposed grade separation project.²

The Commission reviewed the lead agency's Draft and Final Environmental Impact Reports (EIR), Notice of Determination (NOD), and Findings of Fact and Statement of Overriding Considerations, which includes the Statement of Overriding Considerations (SOC) and Section 15092 Findings pursuant to the CEQA Guidelines (Title 14 - Chapter 3 - Article 7 of the California Code of Regulations). In addition, the City submitted an Addendum to the Heartland Specific Plan Final EIR, which specifically considered the Potrero Boulevard Bridge Project that is the subject of this application to the Commission. In the Addendum, the City concluded that the Potrero Boulevard Bridge Project would not result in any new significant environmental impacts or a substantial increase in the severity of a previously identified impact. The NOD, SOC, and Section 15092 Findings are attached to Appendix A of the order. We find the documents adequate for our decision-making purposes.

The Draft EIR included an analysis of potential environmental impacts related to the Heartland Specific Plan Project and alternatives related to, among other items, transportation, traffic, circulation, land use, air quality, and noise. Safety, transportation, and noise are within the scope of the Commission's

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

² CEQA Guidelines, Sections 15050(b) and 15096.

permitting process. The City identified environmental impacts related to transportation, traffic, and circulation as well as noise. The significant impacts relate to intersection levels of service. The locations of the most critical intersection levels of service are at the Potrero Boulevard and State Route 60 interchange. The implementation of mitigation measures stated in the environmental documents would reduce to less-than-significant levels the potential significant impacts from the Heartland Specific Plan Project and this project's contribution to potential cumulative significant impacts to transportation, traffic, and circulation.

The environmental documents also identified significant impacts related to noise. The significant impacts relate to railroad, street and highway, and construction noise. The implementation of mitigation measures stated in the environmental documents would reduce the potential significant noise impacts from the Heartland Specific Plan Project to less-than-significant levels. The implementation of mitigation measures stated in the environmental documents would reduce the contribution by the Heartland Specific Plan Project to potential *cumulative* significant noise impacts, but not to less-than-significant levels. Traffic produced by the Heartland Specific Plan Project, combined with cumulative traffic from other development in the City, would constitute a cumulative significant noise impact. The City adopted an SOC with respect to significant unavoidable adverse cumulative environmental impacts identified in the environmental documents, including those impacts related to noise.

The City found that the benefits of the proposed Heartland Specific Plan Project outweigh the significant unavoidable adverse environmental impacts. The City determined that each of the separate benefits identified in the SOC, in itself and independent of other project benefits, is a basis for overriding all

unavoidable impacts identified in the environmental documents and in the City's findings.

As noted above, the Addendum addressed the Potrero Boulevard Bridge Project. The Potrero Boulevard Bridge Project does not create any circumstances that require a subsequent or supplemental EIR, since the bridge construction project involves only some minor design changes or additions to the Heartland Specific Plan Project. The Addendum also demonstrated that the bridge construction project does not identify or require adoption of any further mitigation measures or alternatives beyond those provided in the certified Final EIR for the Heartland Specific Plan Project. No new or substantially greater impacts would occur with the implementation of the bridge construction project.

In reviewing the environmental documents, we find that with respect to issues within the scope of our permitting process, the City adopted feasible mitigation measures to lessen the significant environmental impacts to less-than-significant levels. We will adopt the City's findings and mitigations for purposes of our approval.

With respect to the SOC, we find that the City enumerated several significant benefits associated with the Heartland Specific Plan Project that appeared, on balance, to reasonably justify approval of the project as a whole despite certain significant and unavoidable impacts.

With respect to the Section 15092 Findings, we find that the City found that (1) all significant effects on the environment due to the Heartland Specific Plan Project have been eliminated or substantially lessened where feasible, and (2) the benefits of the Heartland Specific Plan Project set forth in the SOC outweigh any remaining significant effects of this project on the environment found to be unavoidable.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) inspected the site of the proposed grade separation. After reviewing the need for and the safety of the proposed grade separation, RCES recommends that the Commission grant the City'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. A vicinity map and detailed drawings of the proposed grade separation are shown in Appendices B and C, respectively, attached to the order.

Categorization and Need for Hearings

In Resolution ALJ 176-3161, dated October 27, 2005, and published in the Commission Daily Calendar on October 28, 2005, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were not necessary. No protests were filed, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3161.

Waiver of Comment Period

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. The Commission published notice of the application and amendment to application in the Commission Daily Calendar on October 20, 2005 and April 7,

2006, respectively. There are no unresolved matters or protests; a public hearing is not necessary.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct the proposed Potrero Boulevard Overhead grade separation over UP's two-track Yuma Subdivision Main Line and over San Timoteo Canyon Road in Beaumont, Riverside County.

3. The construction of the proposed Potrero Boulevard Overhead grade separation is necessary to provide primary access for vehicles into a proposed new development, which will provide up to 1225 new residential dwelling units, facilities for industrial and commercial uses, and an elementary school.

4. Public convenience, necessity, and safety require construction of the proposed Potrero Boulevard Overhead grade separation.

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

6. The City approved the Heartland Specific Plan Project and adopted the Draft and Final EIR, SOC, Section 15092 Findings, and Addendum for this project pursuant to CEQA. In the NOD, the City found that "The project will not have a significant effect on the environment." Mitigation measures were made a condition of the approval of the project. Findings, including Section 15092 Findings, were made pursuant to the provisions of CEQA.

7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Draft and Final EIR, NOD, Findings of Fact and Statement of Overriding Considerations, including the SOC and Section 15092 Findings, and the Addendum.

8. Safety, transportation, and noise as they relate to the proposed Potrero Boulevard Overhead grade separation are within the scope of the Commission's permitting process.

9. For the proposed Potrero Boulevard Overhead grade separation, the lead agency identified environmental impacts related to transportation, traffic, and circulation as well as noise.

Conclusions of Law

1. The Draft and Final EIR, NOD, SOC, Section 15092 Findings, and Addendum adopted by the City as the documentation required by CEQA for the crossing project are adequate for our decision-making purposes.

2. We adopt the City’s NOD, SOC, Section 15092 Findings, and Addendum. With respect to significant impacts from transportation, traffic, and circulation as well as noise related to the proposed Potrero Boulevard Overhead grade separation, we find that the lead agency adopted feasible mitigation measures to substantially lessen the environmental impacts to a less-than-significant level. For those impacts that could not be reduced to a less-than-significant level, we find the City enumerated several significant benefits of the project that reasonably justify approval. We adopt these findings for purposes of our approval.

3. 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 Beaumont (City) is authorized to construct the proposed Potrero Boulevard Overhead grade-separated highway-rail crossing, identified as CPUC Crossing No. 001B-559.60-A, over Union Pacific Railroad Company’s (UP) two-track Yuma Subdivision Main Line and over San Timoteo Canyon Road, in Beaumont, Riverside County, at the locations and substantially as shown by the vicinity map attached to the application and Appendix B attached

to this order and the plans attached to the amendment to application and Appendix C attached to this order.

2. The City shall bear the cost of construction in accordance with Public Utilities Code Section 1202.5(a). The City and UP (parties) shall bear the cost of maintenance in accordance with an agreement between the parties. Should the parties fail to agree, the Commission will apportion the cost of maintenance by further order.

3. Within 30 days after completion of the work under this order, UP shall notify the Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section (RCES) 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. A request for extension of the three-year authorization period must be submitted to RCES at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

6. The application is granted as set forth above.

7. Application 05-10-017 is closed.

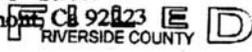
This order becomes effective 30 days from today.

Dated August 24, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

APPENDIX A
ENVIRONMENTAL DOCUMENTS

Notice of Determination

TO: _____ Office of Planning and Research **FROM:** City of Beaumont
 1400 Tenth Street, Room 121 Planning Department
 Sacramento, Ca 95814 550 E. 6th Street
 Beaumont, CA 92823  **D**

AUG 04 2004

GARY L. ORSO
 By  R. Williams
 Deputy

Subject: **Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resource Code**

COUNTY CLERK
 Neg Declaration/Ntc Determination
 Filed per P.R.C. 21152
 POSTED

Heartland Specific Plan No. 93-1 and Environmental Impact Report No. 93-1

Project Title _____ **AUG 04 2004**

N/A Jeffrey E. Oakley (909) 769-8520 Removed: **SEP 7 2004**

State Clearinghouse Number (if submitted to Clearinghouse) **Contact Person** **Area Code/Number/Ext.**

By:  Dept. of Planning, State of California

Project Location: North of State Highway 60, south of San Timoteo Canyon Road and just west of the future Potrero Blvd. extension; Beaumont, CA. 92223.

Project Description: Resolution No. 1994-23 was adopted by the Beaumont City Council on October 10, 1994 and certified the Heartland Specific Plan No. 93-1 and Environmental Impact Report No. 93-1.

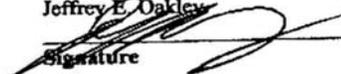
Applicant: City of Beaumont Planning Department. 550 East 6th Street. Beaumont, CA. 92223. (909) 769-8520.

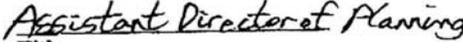
This is to advise that the City of Beaumont City Council approved the above-described project on October 10, 1994 and has made the following determinations regarding the above-described project:

1. The project _____ will, X will not have a significant effect on the environment.
2. X An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation Measures X were, _____ were not made a condition of approval of the project.
4. A Statement of Overriding Findings X was, _____ was not adopted for the project.
5. Findings X were, _____ were not made pursuant to the provisions of CEQA.
6. A de minimis findings _____ was, X was not made relative to Fish & Game Resources.

This is to certify that the Environmental Impact Report and record of approval is available to the General Public at Beaumont City Hall, Planning Department, 550 E. 6th Street, Beaumont, CA 92223.

Date Received for filing and posting at OPR/County Clerk: _____

Jeffrey E. Oakley

 Signature


 Assistant Director of Planning
 Title

SECTION 1 - STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant effects which will occur as a result of the proposed Heartland Specific Plan. With the implementation of the mitigation measures discussed in the Draft and Final EIR, these effects can be mitigated to levels of insignificance except for project-related unavoidable significant impacts in the areas of air quality and biological resources on a direct impact basis as well as the identification of the project's contribution to adverse cumulative impacts associated with air quality, noise and biological resources, as identified in Section 3 of these findings.

Having reduced the effects of the proposed project to the extent feasible by adopting the conditions of approval and a program to monitor mitigation measures for certain project impacts (as discussed in Section 2 and 3 of these Findings) and having balanced the benefits of the proposed project against the proposed project's potential unavoidable adverse impacts (as noted in Section 3 of these Findings), the City of Beaumont hereby determines that the benefits of the proposed project outweigh these potential unavoidable adverse impacts based on the following overriding considerations:

1. The proposed project provides a variety of complementary land uses (residential, commercial, industrial park, recreational and open space) within a single mixed use project. These proposed land uses conform to the City of Beaumont General Plan and assist in its implementation.
2. The Heartland Specific Plan provides a total of 1,224 dwelling units which include family-oriented housing which will respond to local and regional housing demand.
3. Approval of the Heartland Specific Plan will provide the necessary master planning to insure provision of necessary infrastructure, desired amenities, and common landscape and design elements which would not be possible if the property were developed using a "piecemeal" approach.
4. Provision of complementary land uses proposed within a single mixed use project will reduce traffic, noise and air quality impacts associated with automobile trips which would otherwise be headed for similar destinations at a further distance. According to the Traffic Analysis contained in the Draft EIR Appendix, a total of 24,620 daily vehicle trips will be generated by the project as currently proposed. Of this total, 5,040 daily trips (or 20.5% of total trips) will remain on the project site with 14,580 external trips being generated.
5. Construction of the proposed project responds to the commercial and recreational market demand by proposing a mixed-use development which includes commercial and industrial park land uses, various recreational facilities (sports park, paseo park and trails, community open space and natural open space) to serve the local and visiting population.

6. According to the Fiscal Impact Report contained in the Final EIR, the project will provide an annual net fiscal benefit to the City of \$313,230.
7. The proposed project will include an 11.5 acre commercial facility for project residents as well as those utilizing the SR 60 and Potrero Boulevard corridors.
8. Drainage facilities will be constructed on-site to contain and direct the flow of stormwater runoff originally upstream of the proposed project and directing this runoff through and downstream of the project site which will eliminate potential on-site flood hazards.
9. The proposed project involves preservation of 89.0 acres of permanently dedicated open space (approximately 21.3% of the subject property). Areas to be preserved include the primary San Timoteo drainage and Cooper's Creek. Major portions of several sensitive wildlife habitats found on-site will also be preserved which include: Willow Riparian, Alluvial Fan and Sage Scrub habitats. Protection of wide open space corridor for San Timoteo Creek will facilitate wildlife movement.
10. Provision of traffic mitigation measures will address the on- and off-site circulation impacts which are directly attributable to the proposed project and those impacts indirectly attributable to the proposed project's incremental contribution to cumulative traffic levels. Off-site roadway improvements will benefit the region by adding capacity to critical off-site intersections and roadways. The proposed project contributes to the implementation of key portions of the City's Master Plan of Arterial Highways including a new freeway interchange, and will be responsible for its fair-share of the costs of necessary regional roadway improvements.
11. The proposed project will provide funding for various regional infrastructure elements through City mitigation fee programs as well as mitigation fees to the affected School District(s).
12. Construction of the proposed project will provide commercial and industrial uses that will accommodate a share of the projected community and regional work force by creating 1,901 long-term employment opportunities thereby enhancing the jobs/housing balance for the area. An additional maximum of 415 short-term construction-related jobs will also be created annually over the project's 10 year development period.
13. The project's design and provisions for landscaping will result in aesthetically pleasing entrance to the City of Beaumont.

SECTION 7 - SECTION 15092 FINDINGS

Based on the information contained in sections 2, 3 and 5 of these Findings, the City of Beaumont has made one or more of the following findings with respect to the significant effects of the proposed project:

- A. Changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid many of the significant environmental effects thereof as identified in the Final Environmental Impact Report.
- B. Some changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.
- C. Specific economic, social, or other considerations make infeasible the mitigation measures or alternatives identified in the Final Environmental Impact Report.

Based on the foregoing findings and the information contained in the record, and as conditioned by the foregoing findings:

- A. All significant effects on the environment due to the proposed project have been eliminated or substantially lessened where feasible (see Sections 2 and 3 of these Findings).
- B. The benefits of the proposed project set forth in the foregoing Statement of Overriding Considerations (see Section 1 of these Findings) outweigh any remaining significant effects of the project on the environment found to be unavoidable.

APPENDIX B
VICINITY MAP

