

Decision 02-08-019 August 8, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the City of Palo Alto for a finding that construction of the Embarcadero Road Bike Path Extension Project along the CalTrain right of way owned by the Peninsula Corridor Joint Powers Board located in the City of Palo Alto between Churchill Avenue and Encina Avenue will not create an unsafe condition for the public or the employees or passengers of CalTrain.

Application 01-11-047  
(Filed November 16, 2001)

**O P I N I O N**

**Summary**

The City of Palo Alto (City) proposes to build a pedestrian/bicycle path (Project) west of and parallel to the Peninsula Corridor Joint Powers Board (JPB) railroad tracks. The proposed Project will extend from Churchill Avenue in the south to Encina Avenue to the north. The Project will complete the final critical missing gap in the City's bikeway path and provide a continuous bike route from the City's southern city limits with Mountain View to its northern city limits with Menlo Park. A map of the Project vicinity and a plan for the proposed path is included as Attachment A.

**Discussion**

The City proposes to build a pedestrian/bicycle path west of and parallel to the JPB railroad tracks. The bike path will extend from Churchill Avenue to the end of the existing bike path at the Palo Alto Medical Foundation (PAMF),

just north of Encina Avenue in the City of Palo Alto. The Project is included in the Palo Alto Bikeway Master Plan, and falls within the corridor identified for Route 1 on the Santa Clara County Countywide Bicycle System.

The Project includes construction of a new pedestrian/bicycle bridge over Embarcadero Road. The new bridge will be a precast/prestressed overpass. A plan of the overpass is included as Attachment B.

Approximately 1,100 feet of the Project between the north right-of-way line of Embarcadero Road and the PAMF property, just north of Encina Avenue, will be constructed on the westerly margin of the CalTrain right-of-way pursuant to a revocable easement granted to the City by the JPB. South of Embarcadero Road and parallel to the CalTrain right-of-way the Project will extend for 1,600 feet to Churchill Avenue and then 300 feet west along the southern margin of the Palo Alto High School campus parallel to Churchill, on a nonexclusive easement granted to Applicant by the Palo Alto Unified School District (PAUSD) and the Trustees of Stanford University.

The JPB also owns a nonexclusive easement over this segment of the bicycle path for the construction and maintenance of passenger platforms to serve Stanford Stadium, pursuant to a 1922 agreement between Southern Pacific Railroad Company, PAUSD and the Stanford Trustees. There is an existing platform, approximately 260 feet long, located at the north end of this easement, used four to five times a year for Stanford football games. At present, passengers using this platform must cross Embarcadero Road on the railroad overpass to a gate in the Town and Country Shopping Center fence to reach El Camino Real and Stanford Stadium. The Project will have no effect on this platform or its use by CalTrain passengers going to and from Stanford Stadium. A gate in the

access control fence opposite the gate in the Town and Country Shopping Center fence will be provided for passengers to cross the bike path.

The Project will complete the final critical missing gap in the City's bikeway path and provide a continuous bike route from the City's south city limits with Mountain View to its north city limit with Menlo Park. Separate from this Project, but adjacent to it, is the proposed Homer Avenue pedestrian/bicycle underpass, which will provide a safe route to cross JPB's tracks for the users of the proposed pedestrian/bicycle path. The western portal for the proposed underpass would be 460 feet north of the northern limit of the Project. Commission staff is currently reviewing plans for the underpass. Staff supports the creation of grade-separated crossings in this corridor.

The proposed pedestrian/bicycle path will be ten-feet wide, constructed of a two-inch layer of asphaltic concrete over a six-inch aggregate base (except at the Embarcadero Road bridge), and will be separated by a six-foot high fence. The fence is to be constructed of 1" tubular steel bars on 4 ½ " centers. Additionally, a new chain link fence will be built between the proposed path and Palo Alto High School.

The City intends to use the bridge over Embarcadero Road as a high-bid contingency. In other words, if bids for the Project come in substantially higher than anticipated, the Embarcadero Road Bridge would not be built at the present time. Under this scenario, the proposed pedestrian/bicycle path would bypass Embarcadero Road using surface streets to the west of the tracks, and the City would submit a subsequent Petition for Modification to the Commission omitting the bridge. Secure fencing would be installed under the subsequent plan omitting construction of the bridge to keep users of the path from

attempting to use the rail bridge over Embarcadero Road as a convenient short cut.

Rail traffic in this vicinity consists of 80 high-speed passenger trains and 4 freight trains per weekday. Train speeds are 35 miles per hour for freight. All passenger trains stop at the Palo Alto station, 1375 feet north of the Project.

The City is the lead agency for this Project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq. An Environmental Assessment of the potential environmental impacts of the Project was prepared by the Applicant in 1994, resulting in preparation of a Negative Declaration finding that the Project has no significant environmental impact. The Negative Declaration was approved by the Applicant's Planning Director on June 15, 1994. The Negative Declaration was approved by the Applicant's City Council on August 1, 1994, and the accompanying Notice of Determination was posted in the Office of the County Clerk of Santa Clara from December 19, 1994 through January 19, 1995.

The Commission is a responsible agency for this Project under CEQA (Public Resources Code Section 21000 et seq.) and has reviewed and considered the lead agency's Initial Study/Environmental Assessment and Negative Declaration. 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 environmental documentation. The environmental documentation consists of an Initial Study, a Negative Declaration and the Notice of Determination. Analysis of potential environmental impacts included: land use, energy/natural resources, aesthetics, hydrology and water, transportation and traffic, soil and mineral resources, cultural resources, biological resources, population and housing, hazards and hazardous materials, recreation, human health, utilities, public services, light and glare, noise, and air quality. Although a Negative Declaration was approved for the project, mitigation measures were adopted as part of the project approval.

Safety and security, transportation and noise are within the scope of the Commission's permitting process. The environmental documentation did not identify any potential impacts related to noise.

Transportation impacts identified related to temporary closures for Embarcadero Road and JPB's southbound rail line. The mitigation measures adopted to address these impacts are to perform construction on consecutive Sundays after midnight, and direct detours of Embarcadero road to adjacent streets.

Safety and security impacts identified related to public services. The impacts concerned the potential for additional calls for fire and police. The environmental document concluded the increase would not be substantial and also noted that safety would be greatly enhanced for students of the adjacent high school by establishing a separated travel route along the tracks, thereby reducing/eliminating trespassers.

The Commission's Consumer 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 finding sought by the City be granted. The environmental documents prepared and adopted by the City are adequate for our decision-making purposes.

With respect to the potentially significant safety and security and transportation impacts identified above, the Commission finds that the City adopted feasible mitigation measures to either eliminate or substantially lessen those impacts and we adopt the City's mitigation measures for purposes of our decision.

In Resolution ALJ 176-3079, dated January 9, 2002, and published on the Commission Daily Calendar on January 10, 2002, the Commission preliminarily categorized the application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. 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 176-3079. The City of Palo Alto requests a finding from the Commission, that the proposed bicycle/pedestrian path will not create an unsafe situation.

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 public review and comment is being waived.

### **Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on December 14, 2001. No protests have been filed.
2. Public convenience and necessity require the construction of the proposed bicycle/pedestrian path.

3. The City of Palo Alto is the lead agency for this project under CEQA and adopted a Negative Declaration approving the project.

4. The Commission is a responsible agency for this Project under CEQA and considered the lead agency's Initial Study/Environmental Assessment and Negative Declaration.

5. The mitigation measures adopted by the City of Palo Alto are feasible to eliminate or substantially reduce identified environmental impacts.

### **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.

3. The environmental documents adopted by the City of Palo Alto are adequate for our decision-making purposes.

4. The City of Palo Alto will not create an unsafe condition by building a bicycle/pedestrian path on the west side of the tracks of the Peninsula Corridor Joint Powers Board (JPB), between Churchill Avenue and Encina Avenue, in the City of Palo Alto, Santa Clara County.

### **O R D E R**

#### **IT IS ORDERED** that:

1. Clearances with respect to the City of Palo Alto's (City) bicycle/pedestrian path shall be in accordance with General Order (GO) 26-D.

2. 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.

3. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between parties. A copy of this agreement shall be filed by the City with the Commission's Consumer Protection and Safety Division (CP&SD), prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

4. The City shall file the final construction plans, as approved by the Peninsula Corridor Joint Powers Board with CP&SD prior to commencing construction.

5. Within 30 days after completion of the work under this order, the City shall advise the CP&SD staff in writing that the authorized work has been completed.

6. This finding shall expire if not exercised within four years unless time is extended or if the above conditions are not complied with. This finding may be revoked or modified if public convenience, necessity, or safety so require.

7. This application is granted as set forth.

8. Application 01-11-047 is closed.

This order becomes effective 30 days from today.

Dated August 8, 2002, at San Francisco, California.

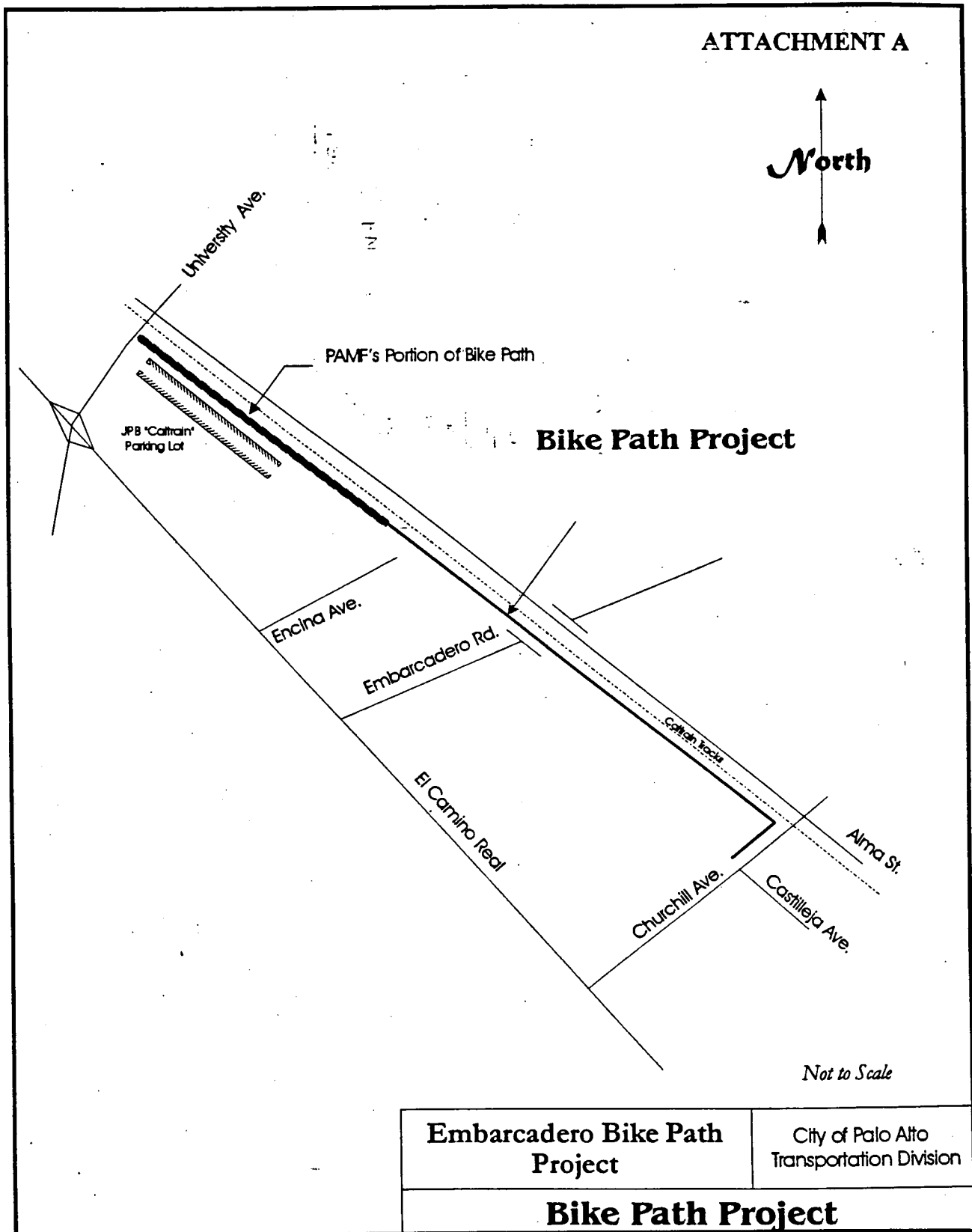
LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
CARL W. WOOD  
MICHAEL R. PEEVEY  
Commissioners



Commissioner Geoffrey F. Brown,  
being necessarily absent, did not  
participate.

Project Map





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