

From: [JLDuncan](#)
To: [City Council Public Comments](#)
Subject: [EXTERNAL] Closed Session Item 3.2, Santa Rosa City Council Meeting, February 27, 2024
Date: Sunday, February 25, 2024 5:59:35 PM
Attachments: [2024-02-27 SRCC .pdf](#)
Importance: High

Please see the attached pdf for my comment for the Closed Session Item 3.2, Santa Rosa City Council Meeting, February 27, 2024, California Public Utilities Commission Proceeding A.15-05-014, extension of the approval of the Jennings Avenue pedestrian and bicycle crossing of the SMART tracks.

Thank you,

James L. Duncan

To: Mayor and Santa Rosa City Council Members,

From: James L Duncan

Re: Closed Session Item 3.2, Santa Rosa City Council Meeting, February 27, 2024,

California Public Utilities Commission Proceeding A.15-05-014, extension of the approval of the Jennings Avenue pedestrian and bicycle crossing of the SMART tracks.

Date: February 25, 2024

I hope the following points will assist the Council in extending the Jennings Crossing approval:

- Santa Rosa, Petaluma, Rohnert Park, and Cotati, have never entered into any rail crossing agreements with SMART.
- The City Attorneys of Santa Rosa and Petaluma recommended against rail crossing agreements with SMART.
- The train horn is not routinely sounded in Quiet Zone crossings.
- SMART is required by Mitigation Measure N-5 in its EIR and voter-approved Measure Q to pay all costs of its Quiet Zone crossings.
- San Rafael and Sonoma County have entered into rail crossing agreements with SMART which include insurance and indemnification provisions for SMART's Quiet Zone crossings.
- Quiet Zone rail crossings are under exclusive federal jurisdiction and are equally as safe as rail crossings which are not in Quiet Zones.
- Under federal law, no lawsuit can be brought against a railroad or a government body when an accident occurs in a Quiet Zone because there is no legal duty to sound the train horn.
- Under California law, government agencies have "design immunity" against lawsuits claiming that accidents were caused by the previously approved design of a public improvement.
- Only the California Public Utilities Commission (CPUC) approves rail crossing safety design.
- The CPUC has approved Santa Rosa's safety design for the Jennings Crossing.
- Only the Federal Railroad Administration approves Quiet Zone crossing safety design.
- The approved Jennings Crossing safety design also meets federal Quiet Zone requirements.
- SMART never asked the CPUC to condition the Jennings Crossing approval in any way.
- Only the CPUC approves the conditions for rail crossing construction.
- Under California law, the CPUC's approval of the location and safety of the Jennings Crossing is final and conclusive. (*Railroad Commission of California v. Southern Pacific Co.* (1924) 264 U.S. 331, 68 L. Ed., 44 S. Ct. 376, at p. 336.) (The CPUC used to be the Railroad Commission.)
- The CPUC Decision approving the Jennings Crossing does not deprive SMART of its property in violation of constitutional guarantees against the taking of property for public use. (*Ibid.* pp. 336-337.)

For additional background information, see the attached letter which was sent to the SMART Board of Directors on February 21, 2024.

Documentation of the points above is available and can be provided,

James L. Duncan



To: Chair and SMART Board Directors,
From: James L Duncan
Re: Closed Session Item 9, SMART Board Meeting, February 21, 2024.
Date: February 20, 2024

Duncan v. SMART, Sonoma County Superior Court case SCV-266092, is now final which means that the legal outcome is binding on the parties involved. One of the outcomes is that SMART did not form a binding contract with the City of Santa Rosa to have SMART's contractors build the improvements at the pedestrian and bicycle at-grade crossing at Jennings Avenue which had been approved by the California Public Utilities Commission in Application A.15-05-014. Although beyond further challenge in the state courts this outcome is incorrect legally and ethically.

Once the Jennings Crossing was initially approved, Santa Rosa promptly requested SMART to provide a bid to have its contractors build it with Santa Rosa paying all costs. Building the crossing before the beginning of regular train service was intended to reduce Santa Rosa's construction costs and also would minimize future disruption to the rail corridor.

The staff of SMART, Santa Rosa, and SMART's contractors worked together and by February 2017 the scope of the work and its costs had been determined, the existing contract between SMART and its contractor had been amended to include the Jennings Crossing, and the Santa Rosa City Council had allocated funding and authorized the City Manager to enter into a Reimbursement Agreement for the work. All that remained to be done before SMART's contractors could begin was to process the Reimbursement Agreement which could have been done promptly but was not.

It was not until June 2017, that SMART sent Santa Rosa the Reimbursement Agreement for signature. SMART's Chief Engineer stated in an e-mail that the Reimbursement Agreement "had to go to the Board" so Santa Rosa hand-delivered to SMART the signed Reimbursement Agreement for the next scheduled Board Meeting. But SMART's General Manager held up the Reimbursement Agreement so that it did not "go to the Board" rather he insisted that Santa Rosa must first also enter into an unrelated separate Quiet Zone Maintenance Agreement with SMART.

Ultimately, as SMART's attorneys told the court, the "reimbursement agreement did not go to the SMART Board, the Board was not asked to authorize the agreement nor did the Board authorize Mansourian to sign it." The legal principle that applies when a party sets a condition to a contract but prevents or makes impossible the performance or happening of that condition - is the condition is excused and the contract is binding and enforceable. This principle is known as the "prevention doctrine" or "doctrine of prevention" and is followed by federal and state courts including California - one can look the principle up online on numerous legal websites.

The prevention doctrine was cited in both the local court and the Court of Appeal but the Court of Appeal, in holding that was no contract for the Jennings Crossing, stated the court would not even consider the applicability of the prevention doctrine to the case. SMART may have

prevailed on this issue but there is another more important court that SMART's Board should be concerned about - the court of public opinion.

Although a supermajority of voters approved Measure Q, SMART's sales tax measure, the subsequent measure to extend the sales tax was rejected by the voters. Both the Marin and Sonoma Bicycle Coalitions, strong supporters of Measure Q, took no position on that failed measure. The Marin Grand Jury recently issued a critical report on SMART titled "SMART at a Crossroads - Here Today, Gone Tomorrow?" A recent comment by Mike Arnold critiques SMART's extremely low farebox recovery as a measure of SMART's effectiveness. So a negative public opinion on the value of SMART compared with other competing social needs already exists. Further, if the Jennings Crossing remains closed there may be a negative public opinion that SMART has brought about its unjustified closure and accordingly may vote no on any future sales tax funding for SMART.

SCV-266092 also asked the court for an award of damages payable to Santa Rosa based upon SMART's actions which were not related to the Reimbursement Agreement. SMART's failure to honor what had seemed a commitment to have its contractors build the crossing and the aftermath of the disastrous Tubbs Fire caused Santa Rosa to have to file for an initial extension of the CPUC's approval in 2019.

SMART's Chief Engineer became a party in A.15-05-014 then and formally expressed opposition to the extension based upon grounds which the Commission had previously rejected. In extending the approval, the Commission directed SMART to "comply with D.16-09-002 and cooperate in good faith with the City to reach an agreement regarding the construction of the approved crossing".

The request for damages was based upon SMART's actions after that initial extension and SMART's continuing actions in opposition to the approved crossing. The CPUC has rejected all of SMART's contentions in A.15-05-014. SCV-266092 alleged that SMART was in violation of Public Utilities Code section 702 in conjunction with other sections of the Public Utilities Code.

The Court of Appeal did not consider or discuss these statutes but held that SMART could not be liable for damages because the CPUC decision approving the crossing did not direct SMART to do anything. The CPUC specifically rejected this exact argument in the related CPUC proceeding C.21-06-011 because section 702 mandates that public utilities obey and comply with CPUC decisions. The Court of Appeal may have held that SMART cannot be liable for damages on the basis noted above but, again, in the court of public opinion the voters may have a negative view of SMART's actions and vote accordingly.

CPUC proceeding, Duncan v. SMART, C.21-06-011 is still pending. The Court of Appeal's holding on the Reimbursement Agreement and SMART's liability for damages are not relevant to C.21-06-011. Those issues have never been before the Commission which cannot award damages and normally does not adjudicate construction contracts.

SCV-266092 asked the court to enforce the CPUC Decision approving the Jennings Crossing and also to declare that the Quiet Zone Maintenance Agreement between SMART and the

County of Sonoma is void at inception which means that the agreement was not and has never been valid. The Court of Appeal, however, has held that these issues in SCV-266092 are under the jurisdiction of the CPUC and must be determined there.

C.21-06-011 asks the Commission to find that SMART is in violation of Public Utilities Code section 702 in conjunction with other sections of the Public Utilities Code as well as provisions of the California Constitution and to impose penalties on SMART. Because the Court of Appeal did not consider these statutes at all there is no impediment to the Commission doing so. Accordingly, the issue of enforcement of SMART's compliance with the Commission's Jennings Crossing Decisions and associated state law should be resolved in C.21-06-011.

The Quiet Zone Maintenance Agreement between SMART and the County of Sonoma was not and is not currently included in C.21-06-011. The Scoping Memo in C.21-06-011 would have to be revised to include that agreement. The CPUC Administrative Law Judge in C.21-06-011 has indicated that the Scoping Memo will not be revised at this late date. This issue should be determined in a subsequent proceeding and should also include the similar Quiet Zone Agreement between SMART and the City of San Rafael.

Both the Quiet Zone Agreement between SMART and the County of Sonoma and the City of San Rafael do not disclose SMART's duty under CEQA and the specific provisions of Mitigation N-5 in its EIR to mitigate the significant environmental impact of its train horn noise with Quiet Zones. Further, SMART's Quiet Zone Agreement does not disclose that Measure Q, which levies a sales tax to fund SMART, specifically dedicates that sales tax revenue to funding the environmental compliance and mitigation measures identified in SMART's Final Environmental Impact Reports. Specific mitigation measures include ... implementation of Quiet Zones. Accordingly, these agreements should be found to be void.

The ongoing CPUC proceeding A.15-05-014 is the original application by Santa Rosa for approval of the Jennings Crossing and is now before the CPUC for its third extension all of which have been made necessary by the actions of SMART. As the Board should be aware, the ALJ has set March 1, 2024 as the date that Santa Rosa must file an update regarding any agreement with SMART for the construction of the Jennings Crossing. Neither SMART's EIR, Measure Q, nor the CPUC's Decisions authorize SMART to bring about the closure of the Jennings Crossing and if it remains closed - the court of public opinion may hold SMART responsible for that.

I hope that these comments will inspire the Board to change course and act to redeem SMART in the court of public opinion.

James L. Duncan

[REDACTED]

From: [Matthew Hartzell](#)
To: [City Council Public Comments](#)
Cc: [Patrick Seidler](#)
Subject: [EXTERNAL] Public comment on Feb. 27, 2024 Council Meeting Agenda Item 3.2
Date: Monday, February 26, 2024 2:25:28 PM
Attachments: [Santa Rosa Council letter 2-26-24.pdf](#)

Maraskeshia Smith
City Manager, City of Santa Rosa

Dear Ms. Smith,

Please accept the attached public comment letter on the record for the Feb. 27, 2024 Council Meeting Agenda Item 3.2.

Thank you

Patrick Seidler and Matthew Hartzell
WTB-TAM



February 26, 2024

Santa Rosa City Council
100 Santa Rosa Avenue
Santa Rosa, CA 95404

Mayor Natalie Rogers
Vice Mayor Mark Stapp
Councilmember Eddie Alvarez
Councilmember Dianna MacDonald
Councilmember Victoria Fleming
Councilmember Chris Rogers
Councilmember Jeff Okrepkie

RE: Feb. 27, 2024 Council Meeting Agenda Item 3.2

Dear Santa Rosa City Council

WTB-TAM is a Community-Based Organization with a 31-year track record building best practices for sustainable transportation in Marin and Sonoma Counties, as well as other locations.

We write to you today regarding Item 3.2 in Closed Session of the upcoming Santa Rosa City Council meeting on February 27, 2024.

We urge the City of Santa Rosa to do everything in its power to negotiate with the California Public Utilities Commission (CPUC) to construct an at-grade crossing of the SMART railroad for bicyclists and pedestrians at Jennings Avenue.

Historically, community members were always allowed to cross the train tracks at Jennings Avenue. This is proven by historical satellite image analysis and by interviews with longtime neighbors who remember when the tracks were used by freight trains of the Northwestern Pacific Railroad.

When SMART acquired the railroad from the Northwestern Pacific, the citizens of Santa Rosa were promised that SMART would build an at-grade crossing at Jennings Avenue. SMART later decided in closed-door meetings to not build the at-grade crossing at Jennings Avenue, claiming that such a crossing would be “unsafe.” SMART did this without ever holding any public hearing or giving any public explanation why an at-grade crossing at Jennings Avenue would be any less safe than any other at-grade crossing along the 71-mile SMART railroad corridor between Larkspur and Cloverdale.

The at-grade crossing at Jennings Avenue is essential to neighborhood connectivity in Santa Rosa’s District 5. In the current conditions, pedestrians or bicyclists seeking to travel from one side of the SMART tracks to the other at Jennings Avenue must travel 0.7 miles out of the way to Guerneville Road. This is expressly at odds with best practices for bicycle and pedestrian network design.

Best practices tell us that bicyclists and pedestrians need contiguous, connected networks, with the shortest possible path between two points. In the current conditions, the SMART tracks



constitute a barrier to access and connectivity across Jennings Avenue and between the east and west halves of Santa Rosa. The required detour is a disincentive to community members who want to walk or ride a bike. The result is that fewer trips are made by foot or bike, more trips are made by car, and the City's metrics on car trips and greenhouse gas emissions are made to suffer.

Please do everything in your power to break the stalemate and make the at-grade crossing at Jennings Avenue a reality.

Thank you.

Patrick Seidler
President, WTB-TAM

Matthew Hartzell
Director of Planning, WTB-TAM

CC:

Maraskeshia Smith
City Manager, City of Santa Rosa

Dina Manis
City Clerk, City of Santa Rosa

From: [Eris Weaver](#)
To: [City Council Public Comments](#)
Subject: [EXTERNAL] Public Comment: Agenda Item #3.2
Date: Monday, February 26, 2024 2:51:37 PM
Attachments: [image001.png](#)
[image002.png](#)

Dear Mayor and Councilmembers:

From the beginning, the Sonoma County Bicycle Coalition has supported an at-grade crossing of the SMART tracks at Jennings Avenue. The crossing would allow residents to walk or cycle safely between home, school, shopping without the risks of travelling College Avenue or Steele Lane. Far more people have been directly injured or killed by automobiles than trains! Not to mention all those who have suffered from the diseases caused by inactivity (heart disease, obesity, etc.)

I understand that the City has applied to the CPUC for an extension of its permit for the crossing, and that the CPUC wants to see some sort of progress by March first.

Please stay strong and continue to push for the at-grade crossing! The alternative that SMART proposed at the March 2023 meeting was an enormous, impossibly expensive solution that is unlikely to ever get built. Let's stay with the simplest solution and save lives.

Thank you for your consideration.



Eris Weaver, Executive Director
Sonoma County Bicycle Coalition
eris@bikesonoma.org
707-545-0153 office • 707-338-8589 cell
www.bikesonoma.org
[Book time to meet with me](#)



I'm riding 120 miles to raise money
for SCBC – [DONATE HERE](#)

From: [Steve Birdlebough](#)
To: [City Council Public Comments](#)
Subject: [EXTERNAL] Tuesday, 2/27 Council Meeting, Agenda Item 3.2 - Jennings Bicycle-Pedestrian Crossing
Date: Monday, February 26, 2024 3:41:50 PM
Attachments: [A1505014-Ltr-to-SMART-SRosa-re-Jennings-Crossing-2018-08-22.pdf](#)

Dear Mayor Rogers and Council Members—

The Transportation and Land-Use Coalition of Sonoma County, the Sierra Club Sonoma Group, and Friends of SMART, as Joint Parties in proceedings before the California Public Utilities Commission to authorize the Jennings Bicycle-Pedestrian Crossing, urge the City of Santa Rosa to reinforce its efforts to get the crossing built soon.

The crossing is an essential part of the Jennings Bicycle Boulevard, which is in the City's plans to eliminate the hazards that cyclists and pedestrians currently experience due to speeding traffic on Guerneville Road and College Avenue. In case you have not seen it, attached is the Sierra Club's previous communication in this matter.

Cordially,
Steve Birdlebough, Chair
Sonoma County Transportation and Land-Use Coalition



SONOMA GROUP
P.O. Box 466, Santa Rosa, CA 95402
(707) 544 7651

August 22, 2018

Deborah Fudge, Chair, and Board Members
Sonoma Marin Area Rail Transit District
5401 Old Redwood Highway #200
Petaluma, CA 94954

Chris Coursey, Mayor, and Council Members
City of Santa Rosa
100 Santa Rosa Ave,
Santa Rosa, CA 95404

Via E-Mail

RE: Jennings Pedestrian-Bicycle At-Grade Crossing, Santa Rosa

Dear Chair Fudge, Mayor Coursey, Board & Council Members:

The Sierra Club supports passenger rail transportation as a means of reducing automobile dependency and improving the environment. We have supported the City of Santa Rosa's application for an official at-grade crossing of the SMART tracks at Jennings Avenue with gates, bells, and warning lights, because it is a practical way to further these goals, as described in the attachment to this letter.

The California Public Utilities Commission decided in 2016 that the proposed grade crossing is safe and in the public interest, and has authorized the City to build the crossing. We understand that representatives of the City and SMART have determined that it would be most expeditious to have the actual construction work done by SMART's contractors, and the required documents were prepared more than a year ago.

The importance of this crossing is underlined by the fact that it is part of the Santa Rosa General plan, the North Station Area Specific Plan and the Bicycle-Pedestrian Master Plan. It aims to afford emergency access to a part of the city between Highway 101 and the railroad tracks that now has only three vehicular access points. It is a key part of the west-east Jennings Bicycle Boulevard that will connect to a pedestrian-bicycle bridge over the freeway at the junior college. It will reduce dependency on automobiles and benefit families that have only one car, or none, improving traffic flows, the environment, the economy, and public health. It will also provide a connection to the multi-use pathway along the rail corridor.

The present fence, erected in November, 2015 when SMART began testing its railcars interferes with the ability of residents of the Jennings neighborhood to walk to the post office, the clinic, the Coddington Mall, Social Security office, a choice of grocery stores, businesses restaurants, auto repair shops, etc. It

unnecessarily degrades the neighborhood in a way that was strongly resisted in Marin County and in Downtown Santa Rosa when closures of at-grade crossings there were suggested.

Further delay in construction of the Jennings Pedestrian & Bicycle crossing is not in the public interest. Equity and public safety demand that SMART and the City of Santa Rosa set aside their differences and proceed within the next 20 days toward construction of the CPUC-approved at-grade pedestrian crossing of the tracks at Jennings Avenue. If you wish to discuss this matter further please contact Steve Birdlebough scbaffirm@gmail.com (707) 576-6632.

Sincerely yours,



Suzanne Doyle
Co-Chair, Sierra Club Sonoma Group Executive Committee

cc: Members of the SMART Board and Santa Rosa City Council
Farhad Mansourian, SMART General Manager
Chris Coursey, Santa Rosa Mayor

ATTACHMENT

SAFETY AND THE PUBLIC INTEREST IN THE JENNINGS AT-GRADE CROSSING

Pedestrians and bicyclists began walking across the railroad tracks that bisect Jennings Avenue over 100 years ago. As the population grew, the crossing enabled the development of a community where people could easily walk to and from the post office, grocery stores, shopping malls, a business park, a transit center, an elementary school, social services, affordable apartments, and single-family homes. According to a 2015 study there were 115 crossings at Jennings on a typical day in October, adding up to more than 15 thousand users per year.¹

The Jennings Avenue crossing is a central element of the City's North Station Area Plan, as well as its General Plan, and Bicycle-Pedestrian Master Plan.² It is expected to provide important pedestrian and bicycle access to improve traffic flows, with benefits for the environment, the economy, and public health. It will reduce dependency on automobiles and benefit families that have only one car, or none. It will also be a key connection to the pedestrian and bicycle path along the rail corridor.

Soon after the voters approved funding for the SMART project, the City started examining options for grade-separated and at-grade crossings to maintain the Jennings Avenue connection. It was found that a grade-separated crossing would require 900 feet of ramps (450 feet on each side) in order to comply with the ADA's 8% grade requirement. Such a grade would be a difficult incline for the elderly and disabled, particularly in the rain.

Also, ramp users would have to contend with confined hairpin turns that could conceal loiterers and facilitate illegal activity. City police and fire chiefs report that grade-separated crossings have higher instances of crime and illicit activity than at-grade crossings. Grade-separated crossings also present barriers to emergency services. The grade separated crossing would have a massive footprint and, in the view of the community, would be an unsightly behemoth.

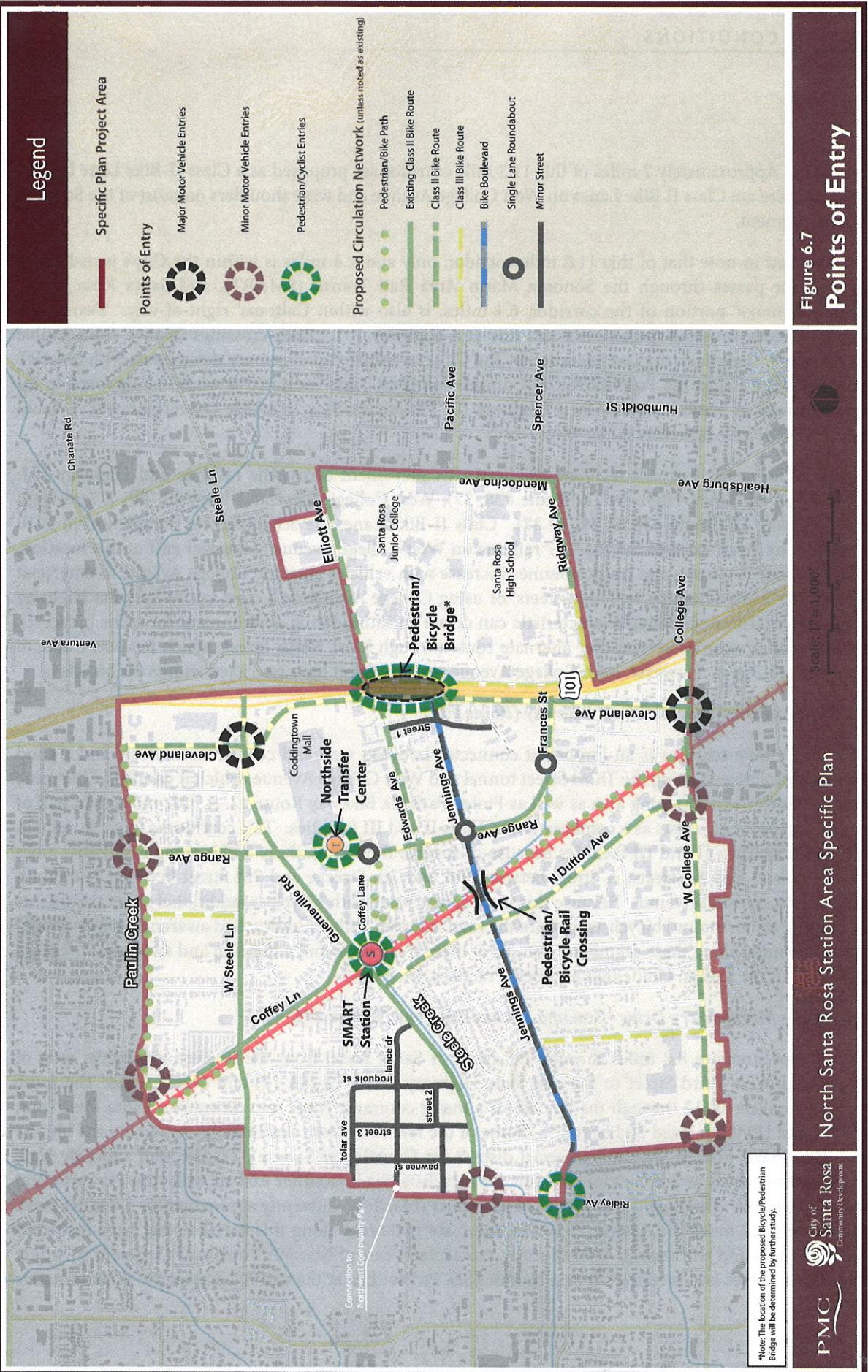
An at-grade crossing, by contrast, could more conveniently meet all safety and legal requirements. The crossing would have gates, warning lights, and bells similar to the others in use along the SMART tracks and throughout the country, both at single and double-tracked locations.³ The at-grade crossing is also endorsed by the local community, local authorities, the City's fire and police chiefs, the City Council, local public officials, local organizations, and the general public.

The State Public Utilities Commission (CPUC) conducted a public participation hearing that showed overwhelming community support for the at-grade crossing, then held evidentiary hearings, and received written briefs. On September 20, 2016, it issued a decision approving the at-grade crossing for Jennings Avenue. The decision included a detailed examination of the safety and public interest aspects of the grade-separated and at-grade crossing options.

¹ See, 2014 Draft EIR, p. 2-5, and Appendix G, pp. & 25. If most of the people crossing the tracks were making round-trips, about 12 bicyclists, 12 grade school students, and 33 others used the crossing on that day.

² See Figure 6.7, *infra*, p. 2.

³ See the photos of at-grade crossings within walking distance of schools (pp. 4, 5 & 7), the College Ave. crossing ½ mile south of Jennings, and fences breeched (pp. 5, & 6) or with a board to assist in climbing over (p. 8).



The following paragraphs are excerpts regarding safety and the public interest from the CPUC Decision as modified by the Order that denied a rehearing:

“SED⁴ does not dispute the factual truth of the City’s reasoning or that the City’s reasons do not demonstrate that the crossing is in the public interest.

“Safety is of paramount importance to the Commission. Ensuring safe service is in the public interest. Safety is thus a critical element of public interest. In this particular case, public interest necessitates consideration of the safety impacts of a separated-grade crossing and the alternative detour. As discussed above, both of these options present safety concerns.

“Those safety concerns include: individuals may choose to cut the fence and walk across the tracks at-grade to avoid the long overcrossing; the overcrossing could attract loiterers and other crime-related activity; the confined bridge area, which is obscured from view, presents personal safety risks; emergency service access to the overcrossing is limited; the detour route requires a 20-minute walk, some of which is along an isolated gravel path and some of which is along busy streets; the detour route also requires the pedestrian to cross the tracks at-grade.” (pp. 25)

“The City has made a convincing showing that it has eliminated all potential safety hazards. The proposed crossing has been designed to comply with numerous legal requirements. The design is ADA compliant. The design includes protection and warning devices in compliance with federal and State regulations (including GO 75-D, Caltrans Highway Design Manual path standards, California Manual of Uniform Traffic Control Devices, and Federal Highway Administration Railroad-Highway Grade Crossing Handbook). The safety features will be similar to those at the improved at-grade crossing used by pedestrians to cross Guerneville Road. As part of the design process, the City consulted with SMART and SED.

“The City states that Pedestrian Clearing Sight Distance is sufficient (visibility 1500 to north and 2000 feet to south), but safety devices including —fencing, emergency swing gates pavement markings, truncated domes, flashing light signals, audible devices and automated pedestrian arms/gates will be installed.

“SED has stipulated that the proposed design meets all legal requirements.

“In addition to the safe design of the at-grade crossing, a crossing guard during school hours could provide additional protection for school children. For this reason, this decision directs the City to work with the school district to determine if a crossing guard should be located at the crossing. The City is directed to provide a report on the crossing guard analysis to SED as part of City’s compliance with this decision.” (pp. 29-30)

⁴ The Safety Enforcement Division of the CPUC staff.



Eighth Street Crossing (Elementary Schools located on both sides of the tracks -- 1/31/16) Typical daily use: 185 pedestrians (45 grade school) 25 cyclists in Oct. 2013 per DEIR (Appendix G, pp. 21-29)



Seventh Street Crossing (Elementary Schools located on both sides of the tracks -- 1/31/16) Typical daily use according to DEIR: 329 pedestrians (34 grade school) 165 cyclists



Sixth Street Crossing (Chops Teen Center Located one block west of tracks -- 1/31/16) Typical daily use according to DEIR: 508 pedestrians (32 grade school) 153 cyclists (10 grade school)



Fence breeched at Jennings Crossing (1/24/16) Typical daily use in Oct. 2013 according to the DEIR: 91 pedestrians (25 grade school) & 25 cyclists.



Fence breeched & Train at Jennings (7/3/16)

In November 2015, during the pendency of the CPUC proceedings, a fence was erected across Jennings Avenue in an effort to reduce the pedestrian crossings, and signs were posted describing a half-mile detour route. The detour takes pedestrians on an isolated path and on a sidewalk crossed by side-streets and driveways along a heavily trafficked four-lane road, and still requires them to cross the railroad tracks at grade. Holes have from time to time been cut in the fence at Jennings Avenue, and people have been seen climbing over the fence.

Following the decision, City and SMART staff members determined that it would be most expeditious and cost-effective to have the actual construction work done by SMART's contractors. The City prepared the required documents by the summer of 2017, and submitted them to SMART for action. It is now disturbing that construction of this crossing has not been commenced, and odd to hear suggestions that the crossing might be unsafe, when that issue has already been thoroughly evaluated by the CPUC.



Pedestrian-Bicycle Crossing at Copland Creek Trail (within $\frac{1}{2}$ mile of an Elementary School -- 1/10 /16)



Pedestrian-Bicycle-Pedestrian Crossing $\frac{1}{4}$ mile north of Hamilton Station (within $\frac{1}{2}$ mile of two schools --1/20/16)



Guerneville Rd. sidewalk double-track Crossing with no pedestrian gates
(1/31/16)



Jennings fence with board
(5/15/18)