

File



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546
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DOCKET NO. 0811-143-RR

RE: IN THE MATTER OF THE PETITION OF MARK A. LAURETTI, MAYOR OF THE CITY OF SHELTON FOR APPROVAL FOR THE TEMPORARY CLOSURE OF THE RAILROAD/HIGHWAY AT-GRADE CROSSING AT MILEPOST 104.5 ON THE MAYBROOK BRANCH OF THE HOUSATONIC RAILROAD COMPANY AT WOOSTER STREET, SHELTON, CONNECTICUT.

FINAL DECISION

DECEMBER 8, 2008

2068

I. INTRODUCTION

A. Petitioners' Proposal

By petition dated June 23, 2008, Mark A. Lauretti, Mayor of the City of Shelton, on its behalf and on behalf of the members of the Shelton River Front Development (comprised of 126 Wooster Street, LLC; 281 Canal Street, LLC; 273 Canal Street, Alegna, LLC; 255 Canal Street, Better Packages, Inc.; and 1425 Noble Avenue, Cranberry Hill, LLC) requested approval for the temporary closure of the railroad/highway at-grade crossing (Crossing No. 504184W) located at Wooster Street in Shelton, Connecticut.

B. Hearing

A public hearing on this petition was held, pursuant to Connecticut General Statutes Sections 13b-18, 13b-270 and 4-177 et seq., at the administrative offices of the Connecticut Department of Transportation, 2800 Berlin Turnpike, Newington, Connecticut on November 26, 2008.

Notice of the petition and hearing to be held thereon was given to the petitioner and to such other parties as required by Section 13b-270 of the Connecticut General Statutes.

The hearing on this matter was conducted by a hearing officer, designated by the Commissioner of Transportation, pursuant to Connecticut General Statutes Section 13b-17.

C. Appearances

The department appeared through Stephen P. Curley, Rail Officer 2, with the Office of Rail - Rail Regulatory and Compliance Unit (herein also referred to as "Rail Regulatory Unit"), 50 Union Avenue, New Haven, Connecticut.

The City of Shelton appeared through its mayor, Mark A. Lauretti. The City of Shelton's address is 54 Hill Street, Shelton, Connecticut.

Joel Hurliman, Chief of Police of the Shelton Police Department, whose address is 85 Wheeler Street, Shelton, Connecticut, appeared on behalf of the City of Shelton.

John N. Guedes, president of Primrose Companies, whose mailing address is 1425 Noble Avenue Bridgeport, Connecticut, appeared on behalf Primrose Companies, one of petitioners.

Edward J. Rodriguez, whose mailing address is P.O. Box 687, Old Lyme, Connecticut, appeared on behalf of The Housatonic Railroad Company, Inc.

David Sullivan, project manager with Milone & MacBroom, whose address is 500 East Main Street, Suite 326, Branford, Connecticut appeared on behalf of the petitioners.

II. FINDINGS OF FACT:

1. The City of Shelton, with the property owners that comprise the Shelton River Front Development - 126 Wooster Street, LLC, 281 Canal Street, LLC, Alegna, LLC, Better Packages, Inc., and Cranberry Hill, LLC, in conjunction with the Housatonic Railroad Company, Inc. are planning reconstruction of Canal Street, Wooster Street and the railroad/highway at-grade crossing over Wooster Street.
2. In order to facilitate public safety and efficient construction of the proposed project, the City agreed to temporarily close Wooster Street to traffic.
3. The petitioners seek to also temporarily close the subject railroad/highway at-grade crossing at milepost 104.05 on the Maybrook Branch of the Housatonic Railroad Company.
4. Once the railroad crossing improvements are completed, along with other construction, Wooster Street and the subject railroad/highway at grade crossing would be re-opened for traffic.
5. The proposed project is expected to commence in the spring of 2009.
6. The average daily traffic over the subject crossing is approximately 550 vehicles.
7. The Housatonic Railroad Company operates approximately two (2) train movements per day over the subject crossing, at an average operating speed of 10 miles per hour.
8. Public safety requires the temporary closing of the subject crossing.
9. All parties are in agreement with the proposal set forth at the public hearing.
10. No opposition was presented to the proposal set forth at the public hearing.

III. CONCLUSIONS OF LAW

The Department of Transportation has jurisdiction over, and is responsible for, all aspects of the planning, development, maintenance and improvement of transportation, including rails, within the State of Connecticut in accordance with Connecticut General Statutes Sections 13b-2 and 13b-3.

Moreover, generally, Section 13b-270 of the Connecticut General Statutes provides that when a mayor of any city within which a highway crosses or is crossed by a railroad, he/she may bring to the commissioner of transportation a petition alleging that the public safety requires the alteration of such crossing. Upon such hearing, if the commissioner finds that public safety requires it, the commissioner shall make the order in accordance with the petition.

In this case, the evidence shows that the City of Shelton, in conjunction with the Housatonic Railroad Company and other companies, is planning the reconstruction of Canal Street, Wooster Street and the railroad/highway at-grade crossing No. 504184W at Wooster Street in Shelton. Closing the railroad/highway at-grade crossing at Wooster Street No. 504184W - at milepost 104.05 on the Maybrook Branch of the Housatonic Railroad Company would facilitate the efficient construction of the project and is required to ensure public safety.

The evidence shows that the public safety requires the temporary closure of the subject crossing, in accordance with Connecticut General Statutes Section 13b-270.

IV. ORDER

Based on the evidence of record and pursuant to Connecticut General Statutes Section 13b-270, the petition of the City of Shelton is hereby APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

1. The closing of the subject crossing shall commence in the spring of 2009, and no later than July 31, 2009.

2. The railroad//highway at-grade crossing at Wooster Street, Crossing # 504184W, located at milepost 104.05, be temporarily closed as shown on the referenced plans entitled SIGNS & PAVEMENT MARKINGS TEMPORARY CLOSURE OF WOOSTER STREET, SHELTON RIVERFRONT DEVELOPMENT, CANAL STREET & WOOSTER STREET, SHELTON, CONNECTICUT, MILONE & MACBROOM, dated August 7, 2008, last revision 11-19-08, Sheet No. 2 of 3, and labeled **Applicant's Exhibit #2** and RAILROAD CROSSING CLOSURE DETAILS SHELTON RIVERFRONT DEVELOPMENT CANAL STREET & WOOSTER STREET, SHELTON, CONNECTICUT, dated November 19, 2008, Sheet No. 3 of 3, and marked as **Applicant's Exhibit # 3**.

3. The petitioners, **the City of Shelton and the property owners that comprise the Shelton River Front Development - 126 Wooster Street, LLC; 281 Canal Street, LLC; 223 Canal Street, LLC; 273 Canal Street, Alegna, LLC; 255 Canal Street, Better Packages, Inc.; and 1425 Noble Avenue, Cranberry Hill, LLC** - will be responsible for the implementation of the closure.

Highlights of the referenced plans labeled Applicant's Exhibit # 2 and Applicant's Exhibit # 3 are as follow:

- a. Removal of all existing pavement markings and signing pertaining to the railroad/highway at-grade crossing at Wooster Street, see SIGN LEGEND, signs A through D - Exhibit # 2.
- b. Installation of signing pertaining to the closure of the railroad/highway at-grade crossing at Wooster Street, see SIGN LEGEND, signs E through H - Exhibit # 2.
- c. Existing traffic control devices at the intersection of Wooster Street and Canal Street and the intersection of Wooster Street and Route 110 (Howe Avenue), respectively, are to remain, see SIGN LEGEND sign K - Exhibit # 2.
- d. Concrete "jersey barrier," is to be installed on Wooster Street at each approach to the crossing. The "jersey barrier" is to be located at a minimum distance of fifteen feet (15') from the nearest rail, covering the full width of the roadway surface - Exhibit # 3.
- e. Six feet (6') high security fence is to be installed on Wooster Street at each approach to the crossing. The security fence is to be located at a minimum distance of twelve feet (12') from the nearest rail. The Housatonic Railroad Company and the City of Shelton will determine the extent of the length of the installation of fence - Exhibit # 3.
- f. Traffic drums, spaced every six feet (6'), are to be placed along the Wooster Street approach at the intersection of Wooster Street and Canal Street. These traffic drums can be temporarily removed during periods of construction or emergencies - Exhibit # 2.
- g. A turnaround area for northbound vehicles on Wooster Street located prior to the crossing is to be provided while the crossing remains closed - Exhibit #2 and #3.

4. Two weeks prior to the actual closing date of the crossing, the petitioners will notify the following by correspondence of their intention to close the crossing: all local emergency services (EMT, Fire, Hospital, Police), all local school bus companies, all local businesses on Wooster Street and Canal Street within the area of the Shelton River Front Development, the Housatonic Railroad Company and the Department's Rail Regulatory and Compliance Unit.

5. The petitioners will be responsible for reimbursement for any flagging protection services deemed necessary by the Housatonic Railroad Company during the erection of the security fence. The petitioners will also be responsible for the maintenance of the security fence while the closure of the crossing is in effect.

6. All pavement markings, signing and all other warning devices associated with the closure be in accordance with the "Manual on Uniform Traffic Control Devices," latest edition.

7. The proposed Housatonic River Lofts Wooster Street Garage, to be located on the west side of Wooster Street, is to be closed until the crossing is reopened.

It is further ordered that PRIOR TO THE RE-OPENING OF THE SUBJECT RAILROAD/AT-GRADE CROSSING, AND IN ACCORDANCE WITH CONNECTICUT GENERAL STATUTES, THE PETITIONERS SHALL COMPLY WITH THE FOLLOWING:

8. The petitioners shall petition the Department of Transportation's Rail Regulatory and Compliance Unit for a public hearing as required by Section 13b-343 of the Connecticut General Statutes and said hearing is held for the approval of the installation of railroad flashing lights, railroad pedestrian and vehicular gates, related track circuitry, railroad crossing surface, pavement markings and signing for the railroad /highway at-grade crossing at Wooster Street, Crossing No. 504184W. The petitioners will be responsible for the implementation of the above-stated railroad crossing appurtenances.

No such hearing shall be requested or scheduled until a final design for the crossing is submitted and all appropriate agreements (PE, Railroad Force Account for Construction) between the petitioners and the Housatonic Railroad Company are executed.

9. Any additional safety measure(s) pertaining to one-way traffic operations on Wooster Street, as required by the State Traffic Commission (STC) as part of the Major Traffic Generator certificate for the Shelton River Front Development, shall be implemented prior to the reopening of the crossing. A copy of STC Report for said development, STC #126-0711-01, shall be forwarded to the Department's Rail Regulatory and Compliance Unit to ensure compliance of requirements.

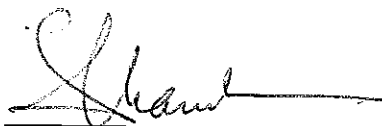
10. Upon completion, and within 30 days, of the installation of the proposed railroad crossing appurtenances and any other traffic control devices as stated in the above-mentioned Conditions #6 and #7, petitioners shall contact the Department's Rail Regulatory and Compliance Unit in order that an inspection of the railroad/highway at-grade crossing is performed for the approval of the traffic control devices.

11. The proposed railroad crossing appurtenances shall not be placed in service and the crossing will remained closed until approval is given.

12. The Rail Regulatory and Compliance Unit shall provide, for this docket file, written confirmation indicating that the all orders issued herein have been met by the petitioner. The proposed railroad crossing appurtenances shall not be placed into service until approval, in writing, is provided by the Rail Regulatory Unit.

Dated at Newington, Connecticut, on this the 8th day of December, 2008.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Laila A. Mandour
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration