

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA APPROVING A CONDITIONAL USE PERMIT FOR OLD DOMINION FREIGHT TO OPERATE A TRUCK AND FREIGHT TERMINAL WITH A 4% PARKING REDUCTION IN A NEW 17,695 SQUARE-FOOT INDUSTRIAL BUILDING, ON AN 8.45 ACRE PARCEL, LOCATED AT 2960 DUTTON AVENUE; ASSESSOR'S PARCEL NO. 043-134-053; FILE NO. PRJ18-043 (CUP18-112)

WHEREAS, an application was submitted requesting the approval of a Conditional Use Permit for Old Dominion Freight Company to operate a truck and freight terminal in a new 17,695 square-foot building, with 224,901 square feet of paving for maneuvering of tractor-trailers and parking on the property located at 2960 Dutton Avenue, also identified as Sonoma County Assessor's Parcel Number 043-134-053;

WHEREAS, the Planning Commission held a duly noticed public hearing on the application at which time all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, the Planning Commission has considered the application, the staff reports, oral and written, the General Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and

NOW, THEREFORE, BE IT RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Section 20-52.050 (Conditional Use Permit), the Planning Commission of the City of Santa Rosa finds and determines:

- A. The proposed Project is allowed in the Light Industrial (IL) Zoning District and complies with all other applicable provisions of this Zoning Code and the City Code. Zoning Code Table 2-10 lists allowable uses within the IL Zoning District, which implements the Light Industry General Plan land use designation, and allows a truck or freight terminal with the approval of a Minor Conditional Use Permit; and
- B. The proposed Project is consistent with the General Plan land use designation of Light Industry, which is applied to areas which accommodates light industrial, warehousing, and heavy commercial uses including freight or bus terminals; and
- C. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity in that the site is in an area zoned and predominately occupied by various industrial uses. The properties to the north, east, south, and west are zoned Light Industrial (IL), with predominately light industrial uses in operation and located near Highway 101. The size of 8.45-acre parcel is large enough to support the operating characteristics of the Project; and
- D. The site is physically suitable for the type, density, and intensity of use being

proposed, including access, utilities, and the absence of physical constraints in that the Project plans demonstrate compliance with all operational standards as specified in Zoning Code. The 8.45-acre site is suitable for the size of the operation. The Project site is located on an arterial street which is in close proximity to Highway 101 and has access to all public utilities. The Addendum to the Mitigated Negative Declaration included a Trip Generation Summary by W-Trans, dated September 13, 2019, indicates that there is no significant impact, not already identified in the 1999 Mitigated Negative Declaration as the 2019 Summary indicates that the project will generate 35 AM Peak Hour Trips and 33 PM Peak Hour Trips and does not require further analysis; and

- E. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located in that the project site is located in an industrial corridor with other light industrial uses are operating and implements the General Plan Land Use Designation. The Project includes public right-of-way improvements that will provide a sidewalk for safer pedestrian travel in front of the property where no current sidewalk exists, and the site is located on an arterial street that can support the proposed use. The Project is located within an enclosed site and does not encroach into any of the surrounding properties and would prevent any light pollution greater than one-foot candle from protruding onto surrounding properties.

The proposed use has incorporated standard Bay Area Air Quality Management District Best Management Practices during all on- and off-site construction activities and falls within the BAAQMD's significance thresholds for industrial uses to prevent any nuisance, injury, or detriment to the public interest, health, safety, convenience, or welfare; and

- F. Due to special circumstances associated with the operation of the use at its location, the proposed use will generate a parking demand different from the standards specified in Table 3-4 in that the parking supplied for the site is deficient by two spaces. However, the proposed use is not open to the public, and out of the total of 60 number of employees only a portion will be on the site at any given staggered shift. The parking demand will not exceed what is available on site; and
- G. The number of parking spaces approved will be sufficient for its safe, convenient, and efficient operation of the use in that given the total number of employees present on the site at any given shift, the proposed parking supply will be sufficient. Given the nature of the truck freight terminal operations, employees may arrive and depart in a tractor-trailer, which would not necessitate a parking space and requiring a parking space would inhibit tractor-trailer maneuverability; and
- H. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA). An IS/MND was prepared in compliance with the California Environmental Quality Act (CEQA) in 1999, for the Dutton Avenue Light Industrial Buildings Initial Study/Mitigated Negative Declaration. A Mitigated

Negative Declaration was posted with the California State Clearing House and the Sonoma County Clerk's Office, initiating a thirty-day public comment period beginning October 15, 1999, and ending November 4, 1999. Potentially significant impacts related to Air Quality, Biological Resources, Cultural Resources, Hazards & Hazardous Materials, Noise, and Transportation/Traffic, Water, Land Use, and Aesthetics were mitigated to a less than significant level through mitigation measure implementation or compliance with existing Municipal Code requirements or City standards. The IS/MND prepared for the project concluded that the construction of two light industrial concrete buildings having an area of 69,836 square feet and 57,512 square feet designed to accommodate warehousing, bulk distribution, office, and research and development, would not result in direct or primary environmental effects. The Design Review Board adopted the IS/MND at its November 4, 1999.

On January 20, 2016, a first Addendum analyzed a modified project for the site. The Addendum analyzed the new project which consisted of two industrial buildings with a combined square footage of 118,500 square feet as it relates to those potential uses identified by the 1999 IS/MND.

A Second Addendum to the adopted 1999 Mitigated Negative Declaration was prepared on September 13, 2019, and reviewed by City Staff, and staff determined that the project would not cause new significant environmental effects or substantial increases in the severity of significant effects beyond those previously identified as part of the City's environmental review process. An Addendum to an adopted negative declaration may be prepared if no significant environmental effects will occur and none of the previously identified effects will increase in severity. (CEQA Guidelines section 15164.) None of the circumstances under CEQA Guidelines Section 15162 are triggered; therefore, no additional analysis is required. See "Old Dominion Second Addendum" for further analysis.

Per CEQA Guidelines Section 15164(c), an addendum need not be circulated for public review, but can be included in or attached to the final EIR or adopted mitigated negative declaration. Per CEQA Guidelines Section 15164(d), the decision-making body shall consider an addendum with the final EIR or adopted mitigated negative declaration prior to making a decision on the project.

BE IT FURTHER RESOLVED, that this Conditional Use Permit is subject to all applicable provisions of the Zoning Code, including Section 20-54.100 (Permit Revocation or Modification).

BE IT FURTHER RESOLVED that a Conditional Use Permit for the Project to allow a truck and freight terminal located at 2970 Dutton Avenue in Santa Rosa, is approved subject to each of the following Conditions of Approval and the conditions found in Engineering Development Services Exhibit A, dated September 16, 2019:

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

GENERAL:

1. Compliance with the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council at the time of building permit review and approval. All fees must be paid prior to issuance of a building permit.
2. All work shall be done according to the final approved plans dated received November 25, 2019.

EXPIRATION AND EXTENSION:

3. This Conditional Use Permit shall be valid for a two-year period.
4. If implemented within the initial approval period in accordance with all conditions of approval, this Conditional Use Permit shall be valid for the duration of use.

ENGINEERING DIVISION:

5. Compliance with all conditions specified by Engineering Development Services Exhibit "A" dated September 16, 2019, attached hereto and incorporated herein.

PLANNING DIVISION:

6. Major Design Review Application approval is required for the project.
7. The Project, as proposed, includes a Major Variance for outdoor lighting. Obtain approval of the Variance for outdoor lighting to exceed 16-foot light standards subject to Zoning Code Section 20-52.060.
8. Compliance with all applicable operational provisions of Zoning Code Chapter 20-46 is required.
9. No signs are approved as part of this Conditional Use Permit. All signs require a separate review process and both Planning and Building permits.
10. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080).
11. Compliance with all Mitigation Measures indicated in the Second Addendum to the 1999 Initial Study/Mitigated Negative Declaration Old Dominion Industrial Building dated September, 2019.
12. Because there is a possibility of finding cultural/tribal resources, the project shall include spot checks by an archaeologist and/or tribal monitor. Verification that an archaeologist and/or tribal monitor is under contract with the project shall be made prior to issuance of grading permits.

13. Compliance with SMART Rail Transit's Conditions of Approval dated August 18, 2018, attached hereto as Exhibit "B" and incorporated herein.
14. Compliance with the following Roseland Area/Sebastopol Road Specific Plan Mitigation Monitoring and Reporting Program (MMRP):
 - A. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
 - B. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
 - C. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
 - D. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
 - E. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
 - F. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
 - G. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
 - H. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
 - I. Minimizing the idling time of diesel powered construction equipment to two minutes.
 - J. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent CARB fleet average.
 - K. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).

- L. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NO_x and PM.
- M. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.
- N. Projects within the project area that have a construction area greater than 5 acres and which are scheduled to last more than two years shall be required to prepare a site-specific construction pollutant mitigation plan in consultation with Bay Area Air Quality Management District (BAAQMD) staff prior to the issuance of grading permits. A project-specific construction-related dispersion model acceptable to the BAAQMD shall be used to identify potential toxic air contaminant impacts, including diesel particulate matter. If BAAQMD risk thresholds (i.e., probability of contracting cancer is greater than 10 in one million) would be exceeded, mitigation measures shall be identified in the construction pollutant mitigation plan to address potential impacts and shall be based on site-specific information, such as the distance to the nearest sensitive receptors, project site plan details, and construction schedule. The City shall ensure construction contracts include all identified measures. Construction pollutant mitigation plan measures shall include but not be limited to limiting the amount of acreage to be graded in a single day, requiring the use of advanced particulate filters on construction equipment, and requiring the use of alternative fuels, such as biodiesel, to power construction equipment.
 - i. Modeling shall be completed prior to grading permit issuance, and measures implemented during construction activities for subsequent projects with a construction area greater than 5 acres and construction lasting more than two years.
- O. Future nonresidential developments projected to generate more than 100 heavy-duty truck trips daily and/or include the need for a BAAQMD permit to operate a stationary source shall include measures to protect public health to ensure they do not cause a significant health risk in terms of excess cancer risk greater than 10 in one million, acute or chronic hazards with a Hazard Index greater than 1.0, or annual PM_{2.5} exposures greater than 0.3 µg/m³.
- P. A formal wetland delineation shall be conducted for areas that will be permanently or temporarily impacted by the project. If jurisdictional waters cannot be avoided, the City shall apply for a CWA Section 404 permit from the USACE and a Section 401 permit from the RWQCB. These permits shall be obtained prior to issuance of grading permits and implementation of the proposed project.

The City shall ensure that the project will result in no net loss of waters of the U.S. by providing mitigation through impact avoidance, impact minimization, and/or compensatory mitigation for the impact, as determined in the CWA Section 404/401 permits.

Compensatory mitigation may consist of (a) obtaining credits from a mitigation bank; (b) making a payment to an in-lieu fee program that will conduct wetland, stream, or other aquatic resource restoration, creation, enhancement, or preservation activities (these programs are generally administered by government agencies or nonprofit organizations that have established an agreement with the regulatory agencies to use in-lieu fee payments collected from permit applicants); and/or (c) providing compensatory mitigation through an aquatic resource restoration, establishment, enhancement, and/or preservation activity. This last type of compensatory mitigation may be provided at or adjacent to the impact site (i.e., on-site mitigation) or at another location, usually within the same watershed as the permitted impact (i.e., off-site mitigation). The project proponent/permit applicant retains responsibility for the implementation and success of the mitigation project.

Evidence of compliance with this mitigation measure shall be provided prior to construction and grading activities for the proposed project.

- Q. In the event previously unknown contaminated soil, groundwater, or subsurface features are encountered or have the potential be present during ground-disturbing activities at any site, work shall cease immediately, and the developer's contractor shall notify the City of Santa Rosa Fire Department for further instruction. The City shall ensure any grading or improvement plan or building permit includes a statement specifying that if hazardous materials contamination is discovered or suspected during construction activities, all work shall stop immediately until the City of Santa Rosa Fire Department has determined an appropriate course of action. Such actions may include, but would not be limited to, site investigation, human health and environmental risk assessment, implementation of a health and safety plan, and remediation and/or site management controls. The City of Santa Rosa Fire Department shall be responsible for notifying the appropriate regulatory agencies and providing evidence to the City Planning and Economic Development Department that potential risks have been mitigated to the extent required by regulatory agencies. Work shall not recommence on an impacted site until the applicable regulatory agency has determined further work would not pose an unacceptable human health or environmental risk. Deed restrictions may be required as provided under mitigation measure MM 3.8.4a.
- R. Prior to construction activities, applicants seeking to construct projects in the project area shall submit a construction traffic control plan to the City

of Santa Rosa for review and approval. The plan shall identify the timing and routing of all major construction-related traffic to avoid potential congestion and delays on the local street network. Any temporary road or sidewalk closures shall be identified along with detour plans for rerouting pedestrian and bicycle traffic for rerouting pedestrian and bicycle traffic. The plan shall also identify locations where transit service would be temporarily rerouted or transit stops moved, and these changes must be approved by the Santa Rosa CityBus and Sonoma County Transit before the plan is finalized. If necessary, movement of major construction equipment and materials shall be limited to off-peak hours to avoid conflicts with local traffic circulation.

15. PROJECT DETAILS:

- A. All project details shall be in accordance with the restrictions and limitations of the City Zoning and California Building Codes, as well as the City's Design Review Guidelines.

BUILDING DIVISION:

16. Obtain a building permit for the proposed project.
17. Provide a geotechnical investigation and soils report with the building permit application. The investigation shall include subsurface exploration and the report shall include grading, drainage, paving and foundation design recommendations.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission finds and determines this entitlement to use would not be granted but for the applicability and validity of each and every one of the above conditions and that if any one or more of the above said conditions are invalid, this entitlement to use would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 12th day of December 2019, by the following vote:

AYES: ()

NOES: ()

ABSTAIN: ()

ABSENT: ()

APPROVED: _____
PATTI CISCO, CHAIR

ATTEST: _____
CLARE HARTMAN, EXECUTIVE SECRETARY

Exhibits: Engineering Development Services Exhibit “A” dated September 16, 2019.
SMART Rail Transit’s Conditions of Approval, Exhibit “B” dated August 18, 2018.

**CITY OF SANTA ROSA, CALIFORNIA
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
ENGINEERING DEVELOPMENT SERVICES DIVISION**

**EXHIBIT "A"
SEPTEMBER 16, 2019 (revised)
OLD DOMINION FREIGHT TRANSFER STATION
2960 & 2970 Dutton Avenue
PRJ18-0043**

- I. Developer's engineer shall obtain the current City Design and Construction Standards and the Community Development Department's Standard Conditions of Approval dated August 27, 2008 and comply with all requirements therein unless specifically waived or altered by written variance by the City Engineer.
- II. The entitlement application shows wetlands which shall require a permit from the North Coast Water Quality Control Board. Mitigation measures required by the Board may not be consistent with the approval of this Project, which would require a re-application of the project for approval with the new configuration. It is recommended that the applicant work closely with the Board and the City to achieve a mutually acceptable project.
- III. In addition, the following summary constitutes the recommended conditions of approval on the subject application/development based on the plans stamped received January 17, 2019 and March 28, 2019:

PARCEL AND EASEMENT DEDICATIONS

1. The existing asphalt parking lot from Lot 1 is built over a lot line at the southwest corner of the project. The applicant shall either record a lot line adjustment (LLA) or as applicable, record a private cross-access, cross-drainage, cross-parking agreement that shall be implemented between the owners; or the improvements can be removed. A copy of the cross-lot agreement or LLA shall be reviewed and approved by the City Engineer and recorded at the County of Sonoma Records Office. The applicant shall provide a copy of the recorded document to Engineering Development Services (EDS) for their records prior to issuance of a building permit.
2. The existing easement for a railroad spur track recorded over Lot 2 in favor of the adjoining property to the south, lot 1 shall not be encumbered by this project. Proposed building improvements cannot encroach into the railroad spur easement or render it un-usable. Curb and gutter and asphalt is permissible within the easement at the applicants' sole risk.

3. As applicable, a revocable license agreement and/or consent agreement shall be obtained from the Sonoma County Water Agency (SCWA) for project encroachments within their existing 25-foot wide easement for their aqueduct water facilities located along the east property line. The applicant shall provide a copy of the consent approval letter and plans from SCWA prior to City building permit issuance. The existing and proposed improvements shall be shown on the construction drawings. All permitting and consent from SCWA shall be obtained directly by the applicant at the applicants' sole expense.
4. A "no egress/ingress" restriction document along Dutton Avenue was recorded per Document no. 98-23532 which was then revised by a second recorded Document No. 2001-154948 for Vehicular access rights relinquishment to the City of Santa Rosa along the property frontage to allow for the two driveway entrances to the project site. As applicable, the applicant's engineer or Land surveyor shall modify the document for submittal, review and approval from the City Engineer to revise the "restricted access easement" along Dutton Avenue if the driveway locations do not conform to the recorded access document. The City shall record the revised access easement document prior to issuance of the encroachment permit.
5. The improvement plans shall show all existing and proposed easements including: A. The existing 7.5 ft. Public Utility easement (PUE) per doc. 92-0058562; B. The proposed "No Ingress/egress rights line" that may supersede the recorded Doc. 2001-154948. C. The existing Railroad spur easement for the benefit of Lot 1 to the south which shall be protected in place. D. The existing 25-foot wide SWCA aqueduct easement and E. the existing 15-foot wide sidewalk access easement. All document numbers shall be referenced on the drawings. Private improvements such as BMPs shall not be located in the PUE. As applicable, the existing PUE and sidewalk access easements shall be required to be quitclaimed, revised and re-dedicated to current city standard, as directed by the City Engineer to facilitate the frontage revisions.
6. Dutton Avenue shall be dedicated as a Parkway per City standard 200.J along the entire project frontage. Half width street dedication shall consist of a 7-foot wide left/right center median lane, a 12-foot wide travel lane, a 11-foot wide travel lane, a 5-foot wide class 2 bike Lane, a 0-foot wide parking lane, curb and gutter, an 8-foot wide planter strip. (ROW = 7+12+11+5+8 = 43 feet) In addition, behind the right of way line, the applicant shall dedicate a 13-foot wide Public Utility easement with a 6.5-foot wide public access easement over the public sidewalk. See the standard conditions of approval for dimensions.

7. The wetlands open space shall not be dedicated to the city and shall be privately owned and maintained by the owner for perpetuity.
8. All dedication costs shall be borne by the developer or property owner, including preparation of any legal descriptions, plats, title reports, and deeds that are necessary. Legal descriptions and plats ("R" sheets) shall be prepared by a registered Land Surveyor or Civil Engineer licensed to practice Land Surveying in the State of California and approved by the City Engineer. City forms are available at the City of Santa Rosa Planning and Economic Development Department, Engineering Development Services Division, Room 5, City Hall.

PUBLIC STREET IMPROVEMENTS

9. A City of Santa Rosa Encroachment Permit is required prior to issuance of the grading permit. Any improvements, proposed or required, within the public right or any existing public sewer or water easements shall be reviewed and approved with the Encroachment Permit application. Only Construction plans submitted with the Encroachment Permit Application are considered "final plans" and these plans shall be approved for construction. Contact Engineering Development Services at 543-4611, located at 100 Santa Rosa Avenue, Room 5, as soon as possible to begin Encroachment Permit application processing. Encroachment Permit application processing may take 4-6 weeks. Submit plans for review that show all work in the public right of way, or in public easements, including all work on public utilities (water meter boxes, sewer lateral cleanouts, backflow devices, etc.)
10. Dutton Avenue shall be improved as a Parkway per City Standard detail 200J along the entire project frontage. Half width street improvements shall consist of a 7-foot wide center left/right turn lane; one 12-foot wide travel lane and one 11-foot wide travel lane, an 0-foot wide parking lane, A 5 feet wide class 2 bike lane, curb and gutter, an 8-foot wide minimum planter strip and a 6-foot wide sidewalk. The scope of work is removing and relocating the existing curb and expanding the street pavement for approximately 3-foot wide and includes installment of new pavement of 3-foot, 8-foot wide planter strip with landscape and irrigation, sidewalk and landscape buffer stripe for the entire project frontage and construction of the transitions at the north and south property lines to meet existing improvements. The sidewalk may meander within the existing 15-foot wide sidewalk easement. The Construction plans shall show the Dutton Avenue cross section on the plans and the existing configuration of improvements, the proposed improvements relationship to the right of way lines and the existing Public utility/public access easements. The class 2 Bike Lane as required per the Roseland Area Specific Plan shall not be painted/ striped at this time by the

applicant. Frontage lane configurations may change with future development.

11. Public Improvement plans shall be submitted for review and approval by the City Engineer for the street expansion and frontage improvements which shall include a complete set of construction drawings including street cross sections and curb profile, signing and striping plans, lighting plan, utility plans, SWPPP/erosion control plan, sidewalk plans and their transisions as applicable.
12. New services (electrical, telephone, cable or conduit) to new structures shall be underground.
13. The applicant shall connect into the closest adjacent public storm drain system within their contributory area that has capacity for their project drainage outfall. Concrete shall not be installed over the top of public utilities. Pot holing of existing utilities may be required prior to construction to provide a workable gravity design.

TRAFFIC

14. "No parking" and "fire lane" signs shall be installed along the private driveways' entrances to the large rear parking lot area per Fire Department requirements and shall provide a striped drive aisle, that provides a minimum width 20-feet wide travel lane within the entire parking lot for emergency vehicular circulation.
15. City Standard 611 cobra style street lights shall be installed along the frontage to current spacing requirements, using LEOTEK LED fixtures. Street light spacing, wattages, and locations shall-be determined during the improvement plan review process. Existing Cobra Head fixtures shall be retrofitted with LEOTEK LED fixtures as approved during plan review.
16. Electrical boxes for street lights and signals shall be provided with grounded vandal resistant inserts, McCain Tamper Resistant Inserts or City approved equal, in street light pull boxes at locations as directed by the City. Catalog cuts shall be provided with the first plan check submittal for review and approval by the City Engineer. The street light improvement plans shall include the following note; "The contractor may use their own locks during construction for ease of access, however once the conductors in the pull box are live the contractor shall coordinate with the City Inspector to have the City lock installed. Electrical pull boxes in planter strips shall be provided with a 2-foot concrete apron around each box."

17. Adequate sight distance from the driveways shall be maintained at all times and landscaping shall be maintained at maximum 36-inches height within the stopping sight distance triangle using a stopping sight distance as designated by Caltrans standards. Signs and monuments shall not be placed in the stopping sight distance triangle. Tree canopies shall be maintained at least 7-feet off the ground.
18. Appropriate street name signs, pavement markings, and regulatory signs, as approved by the City Engineer, shall be installed. Developer shall be responsible for any transitional improvements required between new construction and existing improvements.
19. The project developer shall be responsible for repairing/removing any debris, damage, or deterioration occurring to existing local streets and/or private driveways as a direct result of construction activity related to installation of the improvements (grading, road construction, utility installation, etc.). Required repair may involve patching, cleaning, sealing or overlaying affected areas as appropriate to return the roads to as good a condition as they were in prior to construction. If the project developer does not act prudently in a timely manner, the City may, at its discretion, perform the correction and charge the owner/subdivider for all costs and overhead incurred.
20. Conduit and pull boxes shall be installed per City Standard for future traffic signal interconnect along Dutton Avenue.

PRIVATE DRIVEWAY IMPROVEMENTS

21. The two commercial driveway aprons on Dutton Avenue shall be constructed in accordance with City Standard detail 250D. The private driveways shall have a minimum width of 24-feet at the back of sidewalk, accessing through an additional 6-feet in width at the curb cut per City Standard 250D. Provide for a 6-foot wide sidewalk, with a level portion of sidewalk behind the driveway ramp. Install curb and gutter at the edge of asphalt that extends at least 10-feet behind the driveway aprons. Paint onsite curbs red to indicate no parking along the entry ways.
22. Submit an on-site signing and striping plan for the new parking lot improvements at first review.
23. Submit parking lot and street lighting plans for review and approval. Lighting shall meet minimum lighting requirements.

STORM WATER COMPLIANCE (SWLID)

24. The developer's engineer shall comply with all requirements of the latest edition of the City Storm Water Low Impact Development Technical Design Manual. Final Plans shall incorporate all Standard Storm Water Low Impact Development Plan (SWLID) Best Management Practices (BMP's) and shall be accompanied by a Final Storm Water Mitigation Plan which shall address the storm water quality and quantity. Final Plans shall be accompanied by a City approved Declaration of Maintenance Agreement to assure continuous maintenance in perpetuity of the SWLID BMP's and shall include a maintenance schedule to be implemented by the owner.
25. Perpetual maintenance of SWLID BMP's shall be the responsibility of the owner of these BMP's. The owner shall be responsible for performing and documenting an annual inspection of all BMP's on the property. The annual reports shall be retained by the private property owner for a period of the latest five years and shall be made available to the City upon request.
26. The SWLID "Declaration of Maintenance" document shall be recorded at the Sonoma County recorder's office prior to grade permit issuance or as required by the Building Official. A recorded copy of the document shall be given to the City of Santa Rosa EDS division for their records.
27. After the SWLID BMP improvements have been constructed, the developers Civil Engineer or qualified professional is to prepare and sign a written certification that they were constructed and installed as required or per the manufacturer's recommendation. Written certification of SUSMP BMP's is to be received by the City prior to acceptance of public improvements.
28. A Storm Water Pollution Protection Plan (SWPPP) shall be required at building plan submittal to show protection of the existing storm drain facilities during construction. This project shall comply with all current State Water Board General Construction Permit Requirements.
29. Note on the plans that no debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of any nature, shall be allowed to enter into or be placed where it may be washed by rainfall into the storm drain system. When operations are completed, any excess material or debris shall be removed from the work area.
30. Where bio swales or BMP facilities are located in landscape strips, other

utilities such as DDCV, joint trenches, backflow/reduced pressure devices, solar panels, transformers, irrigation meters, meter boxes, cleanouts, fire hydrants, etc. shall be located without conflict with the swales/water infiltration or collection. Each trench crossing shall extend the length of a bioswale by 5 additional linear feet. Locations of infrastructure shall be present on the plans and shall be reviewed during plan check. BMPs shall not be located within a Public utility easements or access easement.

31. The Civil Engineering plans shall show sufficient construction details and dimensions of each BMP device on the drawings, so the BMP may be replaced in the future. Landscape plans and civil plans shall be coordinated with the approved SWLID report and show the BMP locations clearly to prevent them from being filled in with landscape materials.
32. All BMP's shall be constructed using the LID manual construction details, priority type 1 or 2, using landscaped based infiltration/storage. BMPs constructed using any other detail other than priority 1 or 2 shall be reviewed and approved by the State Water Board via a separate direct submittal by the applicant. Provide a copy of any approval letter for alternative BMP installations from the Board to the City for its files.
33. Install a trash capture device per the SWLID permit at the project storm drainage outfall on private property. The owner shall maintain the device for perpetuity.

STORM DRAINAGE

34. All drainage flows from offsite shall be intercepted at the property line and conveyed through a private system to discharge into the public right of way. Cross lot drainage is not permitted without a storm drainage easement being recorded at the Sonoma County Recorder's office in favor of the upstream property.
35. Hydraulic design shall conform to Sonoma County Water Agency (SCWA) criteria. All storm water run-off shall be collected via an underground drainage system and discharged to the nearest public downstream facility possessing adequate capacity to accept the run-off. Provide a hydrology/hydraulic report prepared by a registered Civil Engineer at first plan review. Project design plans shall conform to the approved hydrology/hydraulics report design.
36. Lot drainage and private storm drain facilities shall be approved by the Chief Building Official's designated representative. Private drainage inlets and lines shall be required and shall be privately owned and maintained.
37. Blind connections to the public storm drainage system are not permitted.

Install a 48" manhole at each connection point to the public storm drain system. The minimum pipe size in the Right of way shall be a 15" pipe.

38. All storm drain inlets shall be labeled per the City standard detail 409 - "DRAINS TO CREEK" or an approved equal.
39. Any off-site storm water runoff shall be conveyed across the project site in a separate bypass storm drain system or shall be fully treated by the project. Collection points along the boundary of the project shall convey storm water to the bypass system to separate treated and untreated storm water.

WATER AND WASTE WATER

40. Sewer, irrigation and water demand fees, meter installation fees and processing fees shall be paid prior to building permit and connection to City water. The applicant may contact the EDS Engineering Water Services staff to determine estimated sewer, irrigation and water demand processing and meter fees.
41. Water services shall be provided per Section X of the Water System Design Standards. Commercial and irrigation uses shall be metered separately.
42. City Standards require that a commercial project install a 12" combination service per City Standard #870 for fire sprinkler, public and/or private fire hydrant, domestic and irrigation meters if one does not exist.
43. The water services and meters shall be sized to meet fire protection, domestic and irrigation uses. A dedicated fire protection service with an associated double detector check valve per City Standard 880 shall be installed to serve the building. The flow calculations shall be submitted to the Engineering Development Services Division during the plan check phase of the Encroachment Permit application.
44. The applicant shall install a separate irrigation service with a reduced pressure backflow device per current City Standards 876. See Section X.O. of the Water System Design Standards. Meter size is dependent on peak demand and shall be determined upon review of irrigation plans. Irrigation demand, processing and meter fees shall be paid prior to issuance of building permit.
45. Submit landscape and irrigation plans in conformance with the Water Efficient Landscape Ordinance adopted by the Santa Rosa City Council, Resolution No. 4051, on October 27, 2015. Plans shall be submitted with

the Building Permit application.

46. All irrigation and domestic water meters shall be protected with reduced pressure backflow devices.
47. No plumbing for landscape irrigation or any other use shall cross property lines.
48. Any existing sewer laterals without a cleanout shall be provided with a clean out at the right of way line or edge of easement per City Standard 513. Sewer laterals shall have clean outs at all angle points or changes in direction and/or every 100 feet.
49. Submit a full fire flow analysis to the Fire Department for review. Connections to the City water system shall be dependent on meeting fire flow requirements. Private hydrants shall be required on site and the locations shall be determined with the Building Permit Application. Fire sprinklers shall be required in addition to the private hydrants. The location shall be determined during the plan check process of the Improvement Plans.
50. Santa Rosa Water Engineering provides mapping of private onsite water mains and fire hydrants for the Fire Department and processes the fee collection and meter installation for the fire line. Provide two copies of the approved onsite plans showing private fire lines and private fire hydrants locations to the Utilities Engineering Division prior to requesting meter sets and commencing service. Refer to section XI.A of the Water System Design Standards for submittal of plans for private fire systems.

ENVIRONMENTAL SERVICES

51. An industrial Waste discharge permit may be required. Contact Chris Murray at Environmental Compliance at 707-543-3393.
52. If applicable, submit a City of Santa Rosa general wastewater discharge permit application including plumbing plans to Environmental Compliance, 4300 Llano Road, Santa Rosa, CA. It requires no fee and it can be accessed on line at www.srcity.org/generalapp

FIRE DEPARTMENT – 8.29.2018

53. A Phase 1 Environmental Site Assessment shall be submitted at the Fire Department, including the review fee, and approved. Grading, demolition or construction permits shall not be issued until the Fire Department has

reviewed and approved the Phase 1 study.

54. CA Fire Code requires fire apparatus access roads ("Fire Lanes") to within 150 feet hose-pull distance of all first-floor exterior walls.
55. Aerial apparatus access is required for buildings over 30 feet tall at the eave or parapet or 3-stories or more. Aerial access shall be provided along one entire side of the building: 26 feet unobstructed width, paved, at least 15 feet but not more than 30 feet from the face of building.
56. Fire flow and location of fire hydrants, fire protection appurtenances shall be in strict accordance with California Fire Code Chapter 5, Appendix B, and Appendix C as adopted by the City of Santa Rosa.
57. Fire department connections (FDC's) shall be located within 100-feet of a fire hydrant.
58. Required Fire Department access roads shall be signed "No Parking – Fire Lane" per current Fire Department standards.
59. Traffic calming measures on private property are not approved as a part of this review. (i.e. speed bumps, humps, speed tables or undulations.)
60. Provide a Fire Department key box (Knox box) access to the building and if a gate is installed across the driveway Opticom and key-switch/Knox pad-lock access through electric/manual gates shall be required.
 - a. Gates shall be electronically controlled with Opticom strobe activated device for emergency vehicles, have a Knox Key switch override and battery backup for operation during a power failure.
 - b. Gates shall be set back from the street a minimum of 20-feet to allow emergency vehicle to pull out of the traffic lane.
 - c. Gates shall be a minimum of 20-feet wide.
61. Twelve inch illuminated building address characters shall be provide per Fire Dept. standards. An illuminated address directory monument sign shall be provided at each entrance to the property.
62. Storage or use of any hazardous materials (such as pool chemicals) at the site shall require a Hazardous Materials Inventory Statement to be submitted to the Fire Dept. for review. Materials in excess of the permit amounts shall require a Hazardous Materials Management Plan to be submitted to the Fire Dept. for review and approval and may require payment of Hazardous Material Use or Hazardous Waste Generator fees.
63. Access roads and water supplies for fire protection shall be installed and

made serviceable prior to storage or construction of any combustible materials.

RECREATION AND PARKS (3.12.19)

64. Street trees shall be required and planted by the developer. Selection shall be made from the City's approved master plan list. Planting shall be done in accordance with the City *Standards and Specifications for Planting Parkway Trees*. Contact the Recreation and Parks Division Office (707) 543-3770 for copies of the master street tree list and standards. This declaration shall be added to the General Notes of the improvement plans.
65. Parks acquisition and/or park development fees shall be paid at the time of building permit issuance. The fee amount shall be determined by the resolution in effect at the time.
66. All landscaping shall be privately maintained and irrigated. Property owners and/or homeowners' association shall be responsible for the irrigation and maintenance of the street trees and maintenance of the planter strips in front of and alongside of their lots.



CAROL DUGAS - EDS PROJECT ENGINEER

<file:///E:/ENG/CEC/PRJ/Dutton 2950.2960 Old Domon Freight transfer station>



Debora Fudge, Chair
Sonoma County Mayors' and
Councilmembers Association

Judy Arnold, Vice Chair
Marin County Board of Supervisors

Damon Connolly
Marin County Board of Supervisors

Jim Eddie
Golden Gate Bridge,
Highway/Transportation District

Dan Hillmer
Marin County Council of Mayors and
Councilmembers

Eric Lucan
Transportation Authority of Marin

Jake Mackenzie
Sonoma County Mayors' and
Councilmembers Association

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gary Phillips
Transportation Authority of Marin

David Rabbitt
Sonoma County Board of Supervisors

Carol Russell
Sonoma County Mayors' and
Councilmembers Association

Shirlee Zane
Sonoma County Board of Supervisors

August 16, 2018

Amy Nicholson
City Planner, City of Santa Rosa
100 Santa Rosa Ave Room 3
Santa Rosa, CA 95404

Re: Comments on PRJ18-043

Dear Ms. Nicholson,

SMART appreciates the opportunity to review the designs for the proposed Old Dominion transfer terminal at 2960 Dutton Ave. SMART offers the following comments on the proposed project:

1. SMART will continue to require a minimum distance of at least eight (8) feet 6 (six) inches from the center line of the rail spur easement, as identified in the Industrial Track Agreement dated 1981 – see attached
2. Storm water discharge onto the SMART Right-of-Way will not be permissible
3. We note that there is minimal clearance between the eastern boundary of the trailer stalls and the proposed fence on the property line. Please note that no maintenance of the building will be permissible from the SMART Right-of-Way
4. If any work occurs within SMART's rail spur easement, a track access permit will be required, along with proof of insurance

Please don't hesitate to reach out to me if you or the developer have any questions, comments or concerns. I can be reached by telephone at (707) 794-3079 or by email at edippel@sonomamarintrain.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "ED", is placed over the "Sincerely," text.

Farhad Mansourian
General Manager

Elizabeth Dippel
Assistant Planner

5401 Old Redwood Highway
Suite 200
Petaluma, CA 94954
Phone: 707-794-3330
Fax: 707-794-3037
www.sonomamarintrain.org

INDUSTRIAL TRACK AGREEMENT

MILE POST 5-51.67

- 7668

THIS AGREEMENT, made this 2nd day of March 1981,
by and between **NORTHWESTERN PACIFIC RAILROAD COMPANY**
a corporation, hereinafter called "Railroad", and **MARKET WHOLESALE GROCERY COMPANY,**

P.O. Box 4087
Santa Rosa, CA 95402

address:

, hereinafter called "Industry";

RECITALS:

The parties hereto desire to evidence their understandings and agreements with respect to the construction, maintenance and operation of industrial track facilities, hereinafter called "Track", described as follows:
Two spur tracks, ~~track~~ approximately **1057 and 783** feet in length, at or near **Todd** Station, County of **Sonoma** State of **California**.
The approximate location of said Track is illustrated on the map attached and hereby made a part hereof.

~~The estimated cost to Industry for work to be performed and materials to be furnished by Railroad for the construction of said Track and for work performed incident to the construction of said Track is \$x~~

AGREEMENT:

NOW, THEREFORE, in consideration of the agreements hereinafter contained to be kept and performed by the parties hereto, it is mutually agreed that said Track shall be constructed, maintained and operated under the following terms, covenants and conditions:

1. The term "Track" as used herein shall designate the plural number if there is more than one track, and shall include all appurtenances thereof, consisting of rail and fastenings, switches and frogs complete, bumpers, ties, ballast, roadbed, embankment, trestles, culverts and any other structures and things necessary for the support of and entering into the construction of said Track, and if said Track, or any portion thereof, is located in a thoroughfare, said term "Track" shall include pavements, culverts, drainage facilities and all other work required by lawful authority or agreed to by Industry in connection with the construction, renewal, maintenance and operation of said Track.

2. Industry will secure and furnish, at its expense, all necessary franchises and permits and right of way beyond the premises of Railroad for the construction and maintenance of said Track and for the operation of locomotives, motors, trains and cars thereon and thereover, except in the event that any public body from which it is necessary to obtain franchises or permits shall require that the application be made by Railroad, then application therefor shall be made by Railroad on behalf of Industry. In the event that Railroad applies for and secures said franchises or permits, Industry expressly agrees to pay any and all expenses incurred by Railroad in obtaining said franchises or permits, and all sums which may be expended at any time or times by Railroad under the provisions of said franchises or permits.

~~Railroad, at its own expense, shall construct and thereafter own and maintain the portion or portions of said Track between the point or points of initial switch or switches thereof and the clearance point or points in the center line thereof, which said clearance point or points shall be thirteen (13) feet distant, measured at right angles, from the center line of the track from which said Track will diverge. Industry, at its own expense, shall construct and thereafter own and maintain the remaining portions of said Track beyond said clearance point or points; said construction and maintenance shall be to the satisfaction of Railroad; Industry shall pay to Railroad the cost of all work to be performed as an incident to the construction of said remaining portion. Notwithstanding the foregoing, however, if said Track is an extension of or will diverge from an industrial track, Industry shall, at its own expense and to the satisfaction of Railroad, construct and thereafter own and maintain the entire Track. Subject to the next succeeding paragraph, Railroad may, but shall not be obligated to, maintain any segment of Industry's portion of said Track located on Railroad's land and/or any automatic warning devices.~~

Industry, upon request of Railroad and before any work to be done hereunder by Railroad at the expense of Industry is commenced, shall deposit with Railroad the estimated cost of said work. If the actual cost thereof shall prove more or less than said deposit, the difference shall be promptly paid by Industry or refunded by Railroad, as the case may be. If Railroad shall perform any work hereunder which Industry is obligated to perform or pay for without first obtaining deposit from Industry, Industry agrees to pay Railroad the cost of said work promptly upon receipt of bills therefor.

Prior to performing any work on Railroad's premises, Industry shall give Railroad's Division Engineer five (5) days' written notice, and, upon request, provide Railroad with certified copy of insurance policies in form and amounts satisfactory to Railroad, insuring Industry's and Railroad's liability for any bodily injury or property damage sustained in connection therewith. Said insurance shall be subject to termination only upon ten (10) days' written notice to Railroad. Any contractor performing any of such work for Industry shall be required by Industry to execute Railroad's standard form of contractor's right of entry permit before commencing such work.

In the event Industry desires, at any time prior to termination of this agreement, to construct additional trackage extending or diverging from its portion of said Track, the construction of such additional trackage shall be in accordance with plans and specifications approved by Railroad. Unless otherwise agreed, such trackage shall become a portion of the Track hereunder, to be maintained by Industry.

3. Notwithstanding the provisions of Section 2 hereof, all material in said Track furnished at the expense of Railroad and not paid for by Industry, whether in original construction or by way of replacements or repairs, shall be and remain the exclusive property of Railroad. In the event that said Track is disconnected, or upon termination of this agreement, Railroad may recover from the land of Industry all the material owned by Railroad, and Industry, provided no default shall then exist as to any covenants or agreements to be kept and performed by Industry, may recover all material owned by Industry and located on land of Railroad; provided, however, that Railroad, at its option, may perform, at the sole cost and expense of Industry, all work of dismantling, taking up and removing all material owned by Industry and located on land of Railroad, and of placing the land in its original condition. If said Track or any portion thereof is located in a thoroughfare, Industry will pay the cost of removing all material owned by Industry and restoring the thoroughfare to good condition, satisfactory to the proper lawful authority. Notwithstanding anything to the contrary herein contained, Railroad shall have the right at any time to purchase at its then value any or all material in said Track owned by Industry and not located on land of Industry.

4. Railroad agrees to operate said Track for the purpose of serving Industry, unless prevented due to labor dispute or any cause beyond the control of Railroad, subject to any lawful charges that may be made by Railroad for such services. Railroad shall have the right to use said Track when not to the detriment of Industry. If said Track is an extension of or diverges from trackage not owned by Railroad, Railroad's obligation to serve Industry shall be subject to any restriction on operation on such trackage, and to the continued existence in place and maintenance of such trackage.

5. Industry agrees that:

Industry will comply with clearance regulations as delineated on the chart attached, marked Exhibit "A" and hereby made a part hereof, and with walkway standards as delineated on the chart attached, marked Exhibit "A-1" and hereby made a part hereof.

A minimum overhead clearance of twenty-seven (27) feet, measured vertically above tops of rails, shall be observed for wires over or across any track and for a distance of at least eight (8) feet six (6) inches from the center line of such track; subject, however, to statute or order of competent public authority having jurisdiction in the premises.

If, by statute or order of competent public authority having jurisdiction in the premises, greater clearances or other standards than those specified in said Exhibits "A" and "A-1" shall be required, Industry shall strictly comply with such statute or order.

All doors, windows or gates of any building or enclosure shall be of the sliding type or shall, when opened, be swung away from the Track when such building or enclosure is so located that said doors, windows or gates if opened toward the Track would, when opened, be at clearances in violation of the clearances specified in said Exhibit "A".

Notwithstanding anything herein contained, no structure, material, pole, cable, wire, conduit, pipe, opening, excavation or obstruction of any kind or character shall be erected, piled, made, stored or maintained by Industry upon or over the premises of Railroad or beneath any track upon the premises of Railroad, without the prior written consent of Railroad. Further, no pipe, pole, wire, conduit, underground structure, opening or excavation of any kind whatsoever shall be made or placed beneath any track, or within ten (10) feet thereof, beyond the premises of Railroad without first giving Railroad written notice thereof.

Industry shall, at all times, keep the pathway for trainmen and the walkway as shown on said Exhibits "A" and "A-1", and the area between the rails free and clear of debris and/or obstructions of any kind or nature and whether due to the operations of Industry or Railroad or both or to the loading or unloading of cars on said Track. The indemnification hereinafter provided for in this section shall apply whether or not Railroad has notice or alleged notice of any violation by Industry of Industry's duty to keep said area clear of debris and obstructions.

Industry agrees that under no circumstances shall any gunpowder, dynamite or other explosive material be piled or stored by Industry or others upon the premises of Railroad.

Prior to using said Track for loading, unloading or storage of flammable liquid with flash point at or below 100° Fahrenheit, non-flammable compressed liquefied gas, flammable compressed gas or other regulated hazardous material, Industry shall first secure the written permission of Railroad for the specific material or materials. Industry shall comply with Railroad's rules governing, which will be furnished by Railroad to Industry upon request.

In the event of leakage or spillage, Industry shall, at its own expense, promptly clean Railroad's premises to the satisfaction of Railroad, the Environmental Protection Agency and/or any public body having jurisdiction in the matter. Should any such leakage or spillage result in a fine, penalty, cost or charge being suffered or incurred by Railroad, Industry shall promptly and fully reimburse and indemnify Railroad for or on account thereof.

Industry agrees to indemnify and save harmless Railroad from all loss, damages, penalties, costs or judgments that may be assessed against or recovered from Railroad on account of or in any manner growing out of the violation of this section. The term "Railroad" as used in this paragraph shall include the affiliated companies of Railroad and any other railroad company operating on said Track with the consent of Railroad.

6. If required, Industry shall, at its expense and to the satisfaction of Railroad, install and maintain derail or derails on Industry's portion of said Track.

7. In the event that there is installed or used a gate, fence on premises of Railroad, door, unloading pit, scale, car-moving device, or any loading or unloading device across, over, beneath, on or adjacent to said Track, Industry shall, whenever said facilities are not in use and when Railroad is operating or about to operate on said Track, cover, open, remove or retract and securely fasten such facilities to such position as to provide the clearances prescribed herein and align the deadrail, if any, of said scale with said Track, so as to permit operation by Railroad thereover, or shall install an operating limit sign, if the scale will not permit operation thereover by Railroad. Said facilities shall be installed and maintained by Industry at its own expense and to the satisfaction of Railroad and in conformance with any ordinance, rule or regulation of any public body having jurisdiction in the matter. Said facilities shall not be installed across, over, on or adjacent to trackage of Railroad or beneath said Track, nor shall any door be installed across said Track without the prior written approval of Railroad.

Said gate or door may be opened and fastened by employees of Railroad or of Industry as their local representatives may from time to time agree; provided, however, that Railroad shall not be obligated to open said gate or door and, upon request of Railroad, Industry shall open and fasten said gate or door as herein provided.

In lieu of covering said pit as herein provided, Industry may install and maintain such grill cover thereover as may be approved by the public body having jurisdiction in the matter.

Industry hereby releases and agrees to indemnify Railroad, its agents, successors and assigns, from all liability, cost and expense (including, but not limited to, loss of or damage to the property of either party and injury to or death of agents or employees of either party) resulting from the construction, reconstruction, presence, maintenance, use or removal of said gate, fence, door, unloading pit, car-moving device, scale, or loading/unloading device, except when due to the sole negligence of Railroad. Industry further releases and agrees to indemnify Railroad from any liability, cost or expense resulting from failure or alleged failure of the representatives of Railroad to close said gate. The term "Railroad" as used in this paragraph shall include the affiliated companies of Railroad and any other railroad company operating on said Track with the consent of Railroad.

Should it become necessary at any time in the future, due to changes in said Track or for any other reason, to remove, reconstruct, alter or change the location of said facility or facilities, Industry shall, at its own expense, make such changes as may be necessary.

Upon termination of this agreement, Industry shall promptly remove said facilities from Railroad's premises and restore said premises, at its own expense and to the satisfaction of Railroad.

Each of the facilities mentioned above shall designate the plural number if there is more than one installed.

8. Railroad may rearrange or reconstruct the Track or modify the elevation thereof whenever necessary or desirable in connection with the improvement of its property or changes in its tracks at or near the location of said Track; provided that Industry shall continue to have similar trackage, without additional cost to Industry. In the event, however, that a rearrangement or reconstruction of the Industry's portion of said Track, or modification of the elevation thereof, is required by reason of or as a result of any law, ordinance, order, permit, regulation or other public enactment, or by reason of the happening of any contingency over which Railroad has no control, then Industry shall bear the cost of such rearrangement, reconstruction or modification. Nothing in this section contained shall in any way affect the right of Railroad to terminate this agreement under the conditions hereinafter set forth.

9. Railroad shall have the right to disconnect said Track or refuse to operate over same, and in either case this agreement, at the option of Railroad, shall terminate in the event that (a) Industry shall cease to do business on said Track in an active and substantial way for a continuous period of one (1) year, unless prevented from doing so by law, strikes or any causes beyond the control of Industry; (b) Industry shall fail to observe and perform each and every covenant and promise herein contained which is by Industry to be observed and performed, or (c) Railroad is required or authorized by law, ordinance or police regulation, or order of any lawfully constituted public authority having jurisdiction in the matter, to discontinue operation of said Track, or to change its tracks in such a manner as to render it impracticable, in the judgment of Railroad, to continue to operate said Track.

10. This agreement is not to be construed as extending, altering, amending, modifying or forming part of any instrument in writing between the parties hereto, or their predecessors or successors in interest, with respect to the use by Industry, or its successors in interest, of any premises of Railroad or its lessor.

11. This agreement is made in full contemplation of all applicable restrictive orders and regulations of the United States Government now or hereafter in effect, and accordingly it is expressly conditioned upon the ability of Railroad, after active endeavor in which Industry shall fully cooperate, to secure and furnish labor and materials and to secure any necessary authority to perform the work.

12. This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

13. Sections 14 and 15 on the attached insert are hereby made parts hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate the day and year first hereinabove written.

WITNESSED BY:

RAILROAD (Signed) W. J. HONOLD

By _____ Assistant Manager
(Title) Contract Dept.

INDUSTRY **ORIGINAL SIGNED**

By _____
(TITLE) **BY LESSEE/S**

INSTRUCTIONS: Attach Exhibits "A" and "A-1" and map showing the proposed track or tracks, and indicate thereon the portion and length of track to be paid for by Railroad, and the portion and length of track to be paid for by Industry.

NOTE: If Industry is an incorporated company, this agreement should be executed by an authorized officer thereof and his title indicated; otherwise, the signature should be witnessed by an employee of Railroad, if practicable; if not, by a disinterested party.

I N S E R T

14. Railroad, at its expense, shall construct and thereafter own and maintain the initial portion of the 1057-foot spur track between the point of initial switch thereof and the clearance point in the center line thereof (approximately 135 feet in length), which said clearance point will be thirteen (13) feet distant, measured at right angles, from the center line of the track from which said 1057-foot track will diverge.

Industry, at its expense and to the satisfaction of Railroad, shall construct and thereafter own and maintain the remaining portion of said 1057-foot track beyond said clearance point, and the whole 783-foot spur track from the point of switch to the end thereof.

15. Industry, at its expense and to the satisfaction of Railroad, shall arrange for the necessary protection to the waterline existing in the vicinity of said Track.

*

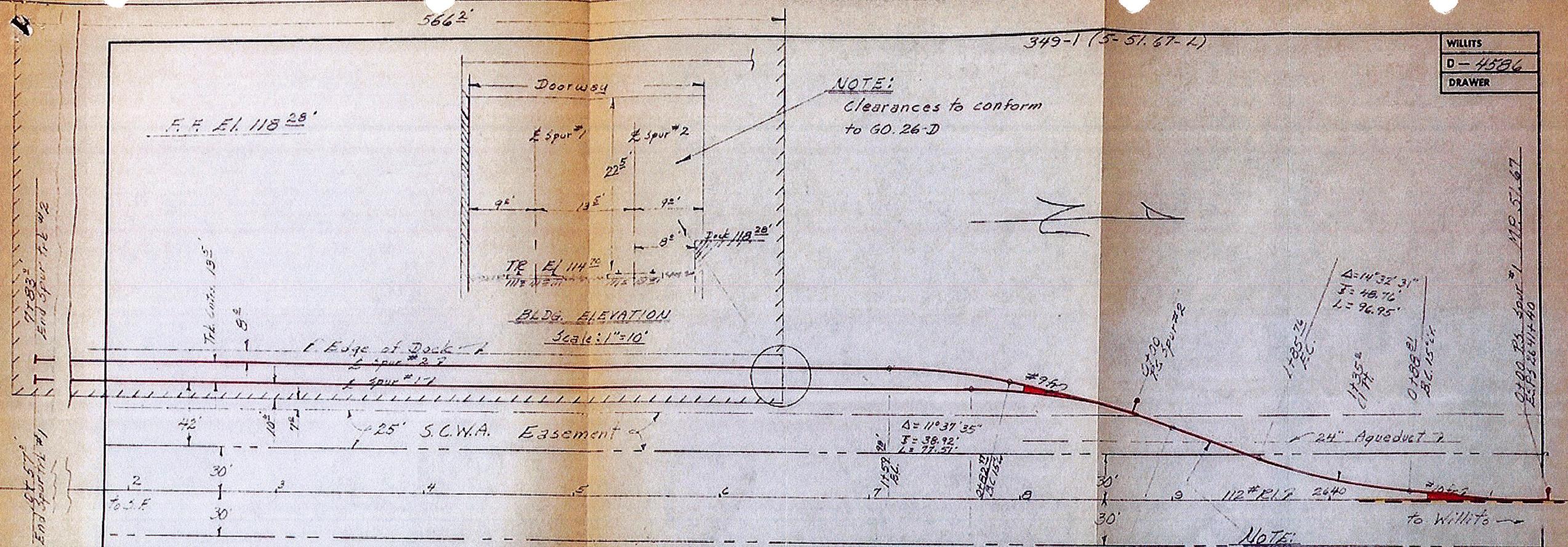
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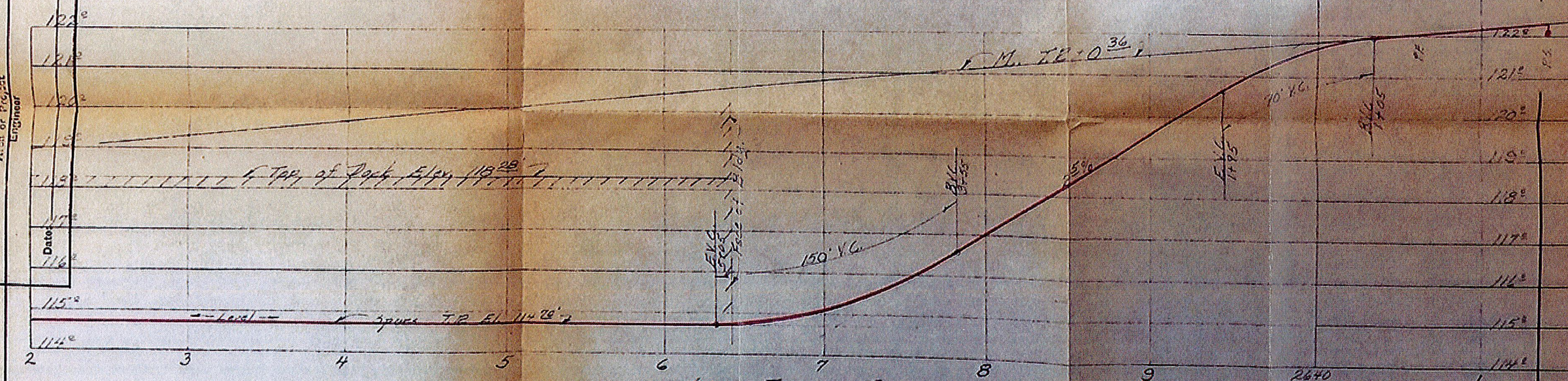
WILLITS
D-4586
DRAWER



COMPLETION REPORT PRINT
Illustrates Facilities Constructed
Under GMO 6/460

Original signed
K. B. Derr
Area or Project Engineer

Signed: _____
Date: 1/16/80



LEGEND

- NWPR Property Lines
- Red ~ New Work
- Dashed ~ Mauve to Yellow Betterment

42
7

SPUR TRACK PROFILE
Scale: Hor. 1"=50'; Ver. 1"=2'

NORTHWESTERN PACIFIC RAILROAD CO.
TODD-MP 50.7
SPUR TRACKS TO SERVE MARKET
WHOLESALE GROCERY CO. ~
DISTRIBUTION CENTER

SCALE: 1"=50' CLG DATE: Feb. 29 1980
Rev 10/22/80