



Hall County Regional Planning Commission

Wednesday, August 13, 2008
Regular Meeting

Item F6

Text Amendment Change to Doniphan Zoning

Insert a narrative here

Staff Contact:

Agenda Item #8

PLANNING DIRECTOR RECOMMENDATION TO REGIONAL PLANNING

COMMISSION:

July 25, 2008

SUBJECT:

Concerning amendments to the Zoning Regulations for Doniphan. Amendments to be considered pertain to relocation of livestock waste control facilities in the Transitional Agriculture TA district to allow greater separation between these facilities and the more intensive or higher density residential uses. (C-19-2008DON)

PROPOSAL:

Greg Robb, of Robb Feed Yards north of Doniphan, is requesting this zoning ordinance text change to allow him to request that the Village Board grant a conditional use permit to allow relocation/expansion of livestock waste control facilities for existing operations to property located farther away from the Village limits than the site of his existing operation. The requested changes are shown below and attached along with an application submitted by Stephan D. Mossman on behalf of Mr. Robb.

This proposed language would be added to the conditional use permit section in the TA Transitional Agriculture district of the Doniphan Zoning Regulations:

18. Livestock Waste Control Facilities: if such facilities are required to bring an existing Livestock Feeding Operation (LFO) into compliance with state or federal regulations pertaining to livestock waste regulations and if such facilities are located further from the corporate boundaries of the Village of Doniphan and further from established residential subdivisions of 5 or more houses on 10 acres or less than alternative locations. Such approval by conditional use permit for the construction of livestock waste control facilities shall have no impact on the status of an LFO as an existing non-conforming use and shall be considered a separate use of such property

OVERVIEW:

The Village of Doniphan placed great importance on protecting the Village from negative impacts of livestock operations near the corporate limits when they adopted their 2004 Zoning Map. The steering committee and Village board both agreed that it was a benefit to the Village to zone all of the undeveloped farm ground within the extra territorial jurisdiction of the village as TA Transitional Agriculture to limit the size and intensity of confined feeding operations near the Village. Livestock operations that existed at the time of the adoption of the map were permitted to continue as non-conforming uses. As Doniphan continues to grow, the Village Board will extend their jurisdiction and may bring additional feeding operations into that jurisdiction. Under the current regulations, changes required by State or Federal law or regulation to an existing non-conforming facility are permitted as long as they do not change the foot

print of the site and occur on site. Changes, such as the addition of livestock waste control facilities, are not permitted anywhere except within the foot print of the existing operation.

This zoning ordinance text change would allow livestock producers having existing operations to request that the Village Board grant them a conditional use permit that would allow them to meet state and federal requirements and to build livestock waste control facilities further from the Village limits or existing residential development. These changes would not permit new operations to be developed; or give the Village Board an additional ability to permit new or expanded of new livestock operations in zoning districts that do not allow them.

As part of the conditional use permit the Board would be able to include conditions on the permit that should include but are not limited to:

1. Limiting the use of the facility to only the specified operation.
2. Limiting the size of the operation so that it can only accommodate the number of animals that are allowed in the non-conforming operation.
3. Specifying that the permit is null and void and the operation shall cease if the operation expands.
4. Require that the facility and the associated LFO meet and operate within the bounds of state and federal regulations.

As an alternative to making these conditions of the permit they could be included in the proposed ordinance change as required conditions on any permit that is granted. For instance the planning commission could recommend approval of the changes as modified:

18. Livestock Waste Control Facilities: if such facilities are required to bring an existing Livestock Feeding Operation (LFO) into compliance with state or federal regulations pertaining to livestock waste regulations and if such facilities are located further from the corporate boundaries of the Village of Doniphan and further from established residential subdivisions of 5 or more houses on 10 acres or less than alternative locations. Such approval by conditional use permit for the construction of livestock waste control facilities shall have no impact on the status of an LFO as an existing non-conforming use and shall be considered a separate use of such property, as long as any future approval of said conditional use permit is conditioned upon (1) said livestock waste control facility shall only be allowed to accept livestock waste from the subject LFO needing to comply with state or federal livestock waste regulations, (2) the subject LFO, needing to comply with state or federal livestock waste regulations, shall not be allowed to increase its then-current permitted or grandfathered livestock numbers, at that specific facility location, (3) this permit shall be null and void if the existing LFO expands in size or number of animals, (4) this livestock waste control facility and the associated LFO shall operate within the bounds of state and federal regulations..

Many of the goals espoused in the Doniphan Comprehensive Plan (Envision Doniphan section) adopted in 2004 support the proposed changes. Specific goals that would support these changes are included below.

Goals from the Comprehensive Plan (Envision Doniphan) that would support these changes:

Economic Development:

Goal: Encourage development in a manner that is in harmony with the natural and built environment while expanding the tax base.

Land Use:

Goal: Minimize land use conflicts within the Village.

Public Health, Safety and Welfare:

Goal: Maintain a safe, clean, and sanitary environment for all residents.

The proposed changes would allow the Village board to protect the tax base of the community and encourage/allow uses that may have a detrimental impact on the tax base to locate further from the Village limits than they otherwise might. The changes should minimize land use conflicts by creating great separation between conflicting uses. Helping local business meet the requirements of the Nebraska Department of Environmental Quality and the US Environmental Protection Agency conforms to maintaining a safe, clean and sanitary environment for all residents.

RECOMMENDATION:

That the Regional Planning Commission recommend that the Doniphan Village Board, **approve** the changes to the Zoning Regulations including the specified conditions as part of the regulation along with findings to support the changes that could include the goals listed above and other finding identified during the public hearing.

_____ Chad Nabity AICP, Planning Director

APPLICATION FOR REZONING OR ZONING ORDINANCE CHANGE

Regional Planning Commission

Check Appropriate Location:

- ☐ City of Grand Island and 2 mile zoning jurisdiction
☒ Alda, Cairo, Doniphan, Wood River and 1 mile zoning jurisdiction
☐ Hall County

RPC Filing Fee

(see reverse side)

plus Municipal Fee*

\$50.00

*applicable only in Alda, Doniphan, Wood River

A. Applicant/Registered Owner Information (please print):

Applicant Name Stephen D. Mossman obo Greg Robb Phone (h) _____ (w) 402-475-8433

Applicant Address 134 S. 13th Street, Ste. 1200 Lincoln, NE 68508

Registered Property Owner (if different from applicant) Greg Robb

Address 102 E. Plum Doniphan, NE 68832 Phone (h) _____ (w) _____

B. Description of Land Subject of a Requested Zoning Change:

Property Address _____

Legal Description: (provide copy of deed description of property)

Lot _____ Block _____ Subdivision Name _____, and/or

All/part _____ 1/4 of Section _____ Twp _____ Rge _____ W6PM

C. Requested Zoning Change:

1. Property Rezoning (yes___) (no___)
(provide a properly scaled map of property to be rezoned)

From _____ to _____

2. Amendment to Specific Section/Text of Zoning Ordinance (yes~~xx~~) (no___)
(describe nature of requested change to text of Zoning Ordinance)

see attached.

D. Reasons in Support of Requested Rezoning or Zoning Ordinance Change:

see attached.

NOTE: This application shall not be deemed complete unless the following is provided:

1. Evidence that proper filing fee has been submitted.
2. A properly scaled map of the property to be rezoned (if applicable), and copy of deed description.
3. The names, addresses and locations of all property owners immediately adjacent to, or within, 300 feet of the perimeter of the property to be rezoned (if the property is bounded by a street, the 300 feet shall begin across the street from the property to be rezoned).
4. Acknowledgement that the undersigned is/are the owner(s), or person authorized by the owner(s) of record title of any property which is requested to be rezoned:

A public hearing will be held for this request

Signature of Owner or Authorized Person [Signature] Date 7/03/2008

Note: Please submit a copy of this application, all attachments plus any applicable municipal filing fee to the appropriate Municipal Clerk's Office. RPC filing fee must be submitted separately to the Hall County Treasurer's Office (unless application is in Grand Island or its 2 mile zoning jurisdiction, then the RPC filing fee must be submitted to the G.I. City Clerk's Office).

Application Deemed Complete by RPC: mo. 7 day. 7 yr. 08 Initial CU

RPC form revised 4/30/07

Greg Robb – Proposed Amendment to
Village of Doniphan Zoning Ordinance

Proposed Amendment to Section 5.06 TA – Transitional Agriculture District

SUBJECT:

Concerning amendments to the Zoning Regulations for the Village of Doniphan. Amendments to be considered pertain to relocation of a Livestock Waste Control Facility (“LWCF”) into the TA District if the location is further away from the corporate boundaries of the Village of Doniphan and the building of such waste control facilities is required to bring an existing facility into compliance with state and federal regulations.

PROPOSAL:

Greg Robb of Robb Feed Yards north of Doniphan is requesting these changes to allow relocation/expansion of livestock waste control facilities for existing operations from an area adjacent to the corporate boundaries of the Village of Doniphan to a location further from such boundaries. The proposed changes are below. Additions are *Italicized and underlined*.

OVERVIEW:

These changes would allow livestock producers with existing operations to meet state and federal requirements and to locate waste handling facilities further from municipalities and/or more intensely populated areas of the county. These changes would not permit new livestock operations in areas that do not allow them. In 2006, LB 975 was passed by the Nebraska Legislature. This bill, codified at **Neb.Rev.Stat. §54-2437 (Cum.Supp. 2006)**, states that a county planning commission or county board **shall** grant a conditional or special use permit to an existing animal feeding operation if the purpose is to construct a livestock waste control facility to comply with state or federal regulations pertaining to livestock waste management. While the bill does not apply to Villages or other municipalities, it is a strong expression of state support for the proposal at issue.

The Robb operation has already been approved by the Nebraska Department of Environmental Quality ("NDEQ") to build a LWCF within the footprint of its existing facility. However, construction in that location would be directly adjacent to the corporate limits of the Village of Doniphan and less compatible than a location further from the corporate limits. Thus, the Village now has a choice to either accept the location of the LWCF in the existing footprint or agree to this zoning amendment to allow the LWCF to be placed in a more favorable location.

PROPOSED CHANGE:

Section 5.06 TA - Transitional Agriculture District

5.06.01 ***Intent:*** The (TA) Transitional Agriculture District is intended to permit the continuation of productive agricultural uses adjacent to the corporate limits of the Village of Doniphan, while also accommodating single-family residential and compatible uses.

5.06.02 ***Permitted Uses:***

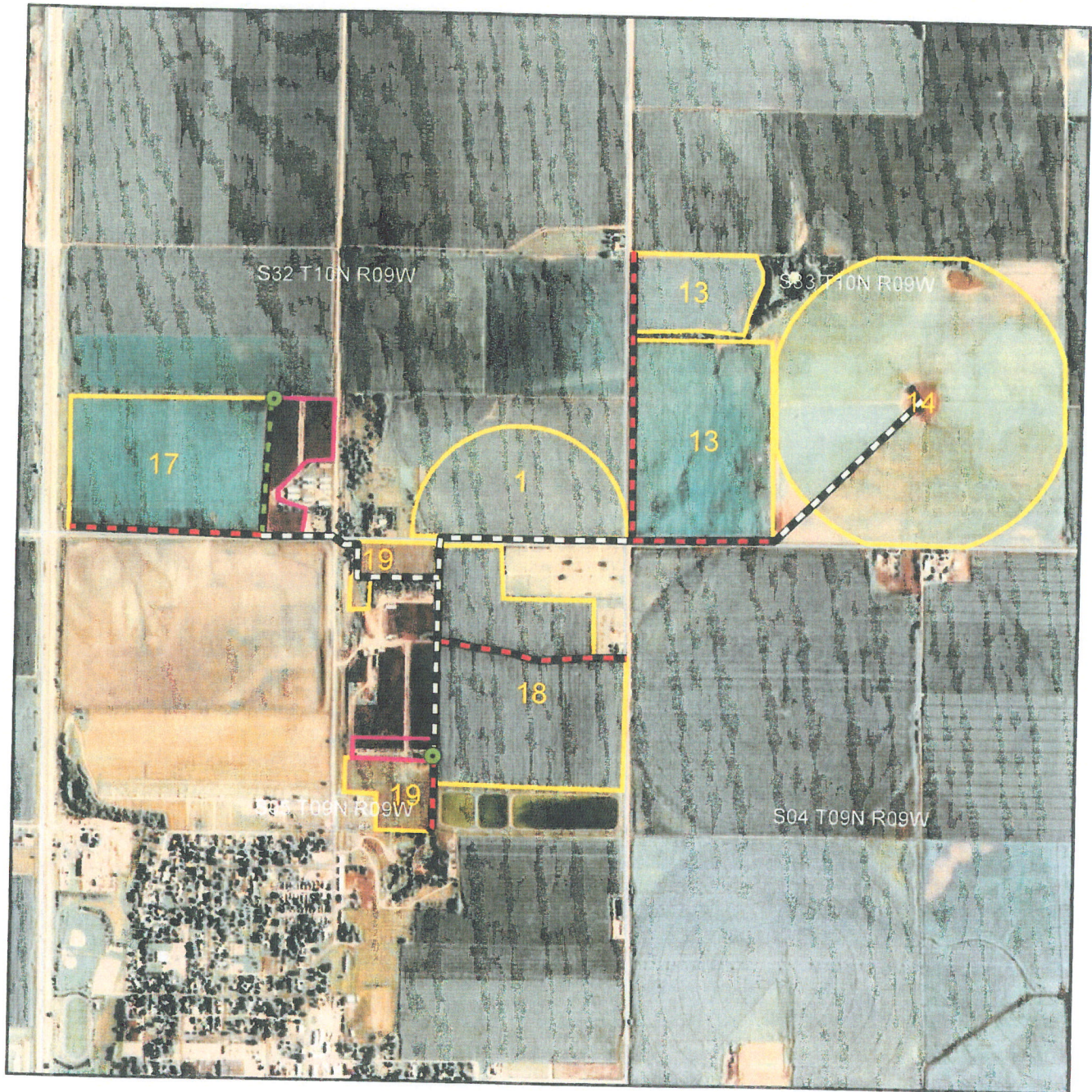
1. Farming, pasturing, truck gardening, and orchards, including the sale of products raised on the premises, including the raising of animals for organizations such as 4-H, FFA, or similar organizations, provided that the limits established in Section 5.06.06 are not exceeded.
2. Single family dwellings for use by the owners and their families, tenants, and employees, provided the following conditions are met:
 - A. Property owners with a tract of 80 acres or more may sell one small tract per 80 acres for such single family dwellings provided that such sale has not not previously been exercised on the large tract, and/or
 - B. Owners of an existing ranch or farm dwelling that is ten years old or more may sell a small tract containing such dwelling
3. Child Care Home.
4. Home Occupations, pursuant to Home Occupation standards in Section 7.10.
5. Public service facilities.
6. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities and natural wildlife habitats and preserves.
7. Roadside stands offering the sale of agriculture products produced on the premises
8. Commercial Greenhouses

5.06.03 ***Permitted Conditional Uses:***

1. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
2. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools
3. Livestock Feeding Operations, provided that such operations have no more than five hundred (500) animal units
4. Mining and extraction of natural resources.
5. Agricultural storage facilities for equipment and grain, excluding packing and rendering facilities.
6. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools.
7. Hospitals, nursing and convalescent homes.
8. Broadcast towers, pursuant to Section 7.11.
9. Cemeteries, provided all structures are located one hundred feet (100') from all property lines.
10. Water supply and storage, wastewater treatment, sewage and solid waste disposal facilities.
11. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
12. Veterinarians' offices and hospitals, and boarding kennels.
13. Wind energy systems on tracts of more than ten (10) acres, pursuant to Section 7.15.
14. Public campgrounds.
15. RV Parks.
16. Commercial Kennels, stables, and riding clubs.
17. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
18. Livestock Waste Control Facilities if such facilities are required to bring an existing Livestock Feeding Operation (LFO) into compliance with state or federal regulations pertaining to livestock waste regulations and if such facilities are located further from the corporate boundaries of the Village of Doniphan and further from established residential subdivisions of 5 or more houses on 10 acres or less than alternative locations. Such approval by conditional use permit for the construction of livestock waste control facilities shall have no impact on the status of an LFO as an existing non-conforming use and shall be considered a separate use of such property.

Robb Feed Yard

Irrigation Distribution

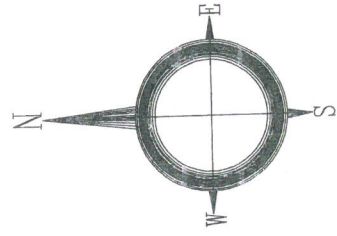


- Pump
- Gated Pipe
- Surface Pipe
- Underground Pipe
- Facility Border
- Sections
- Irrigation Distribution Land

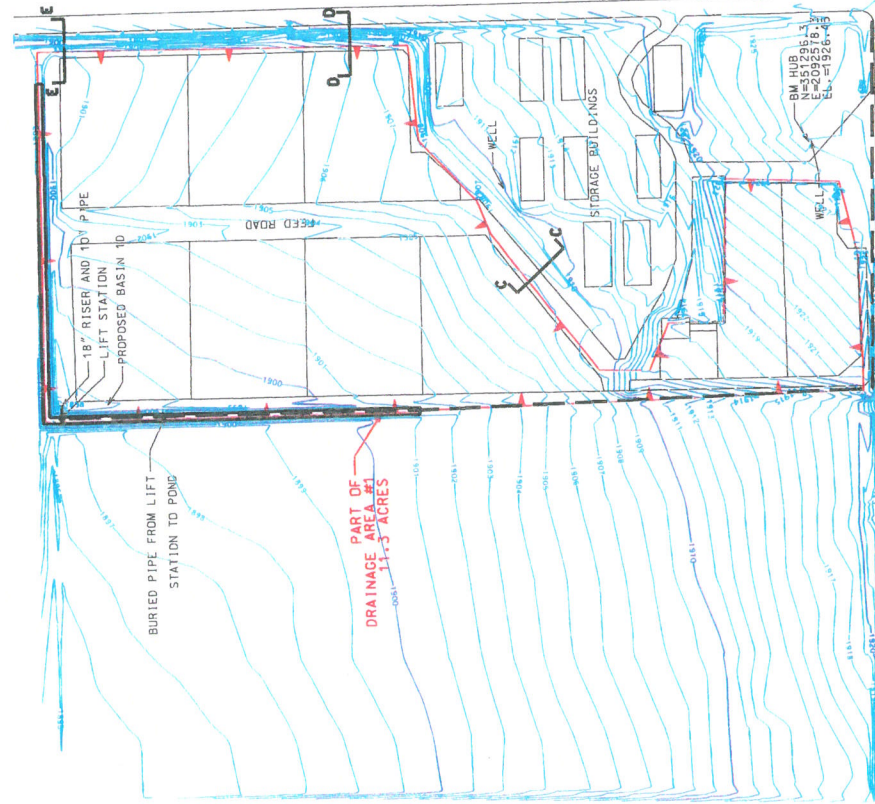
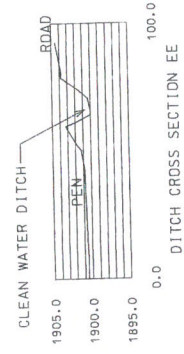
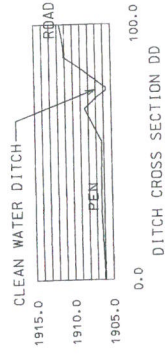
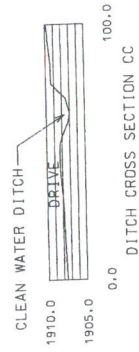
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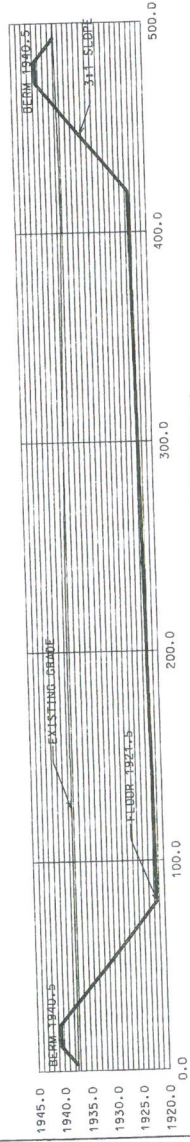
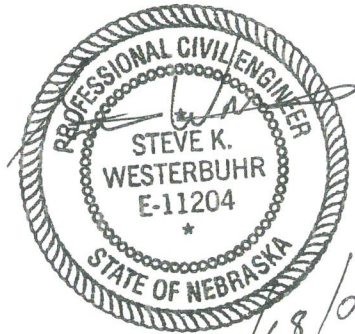
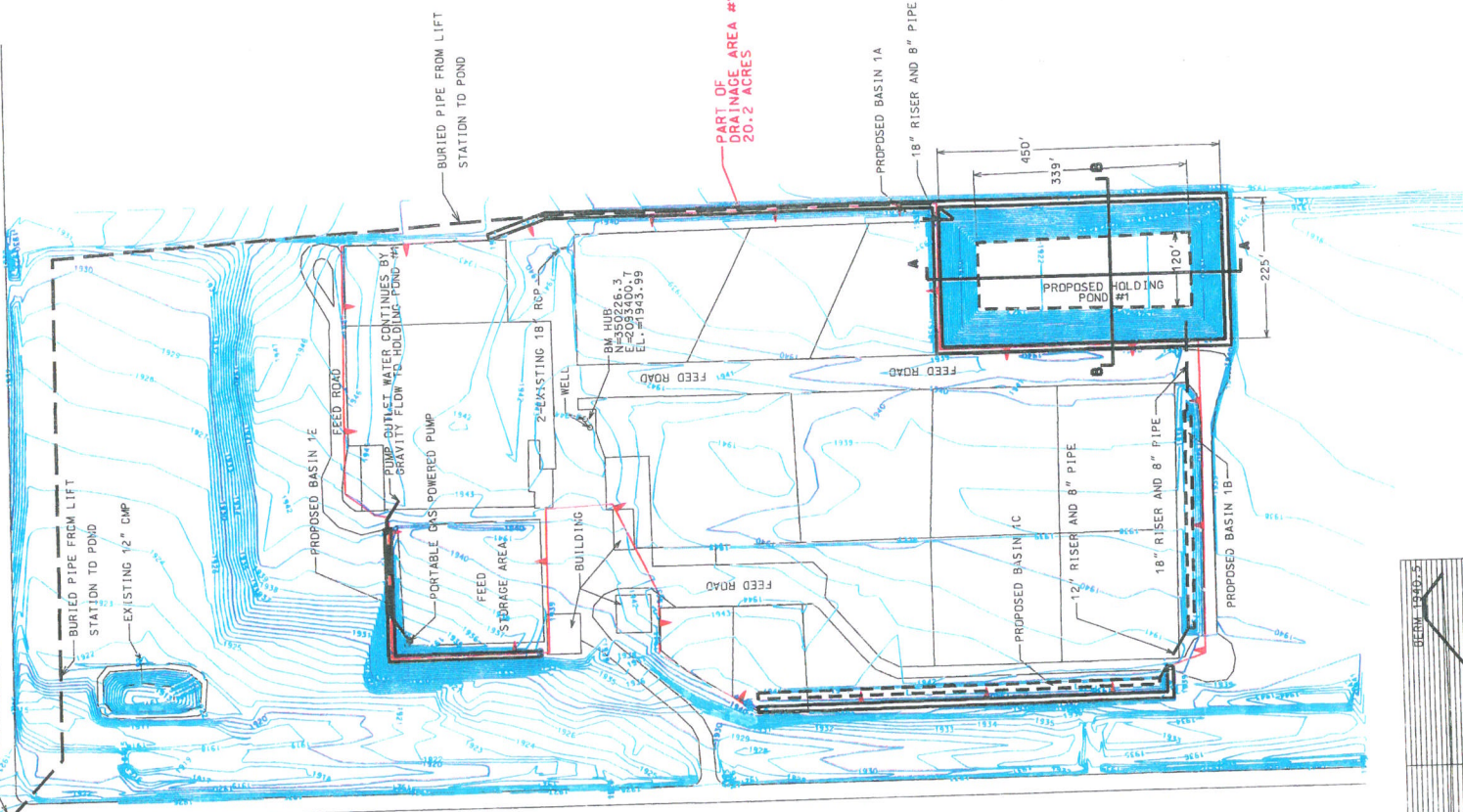
Settje Agri-Services & Engineering, Inc.



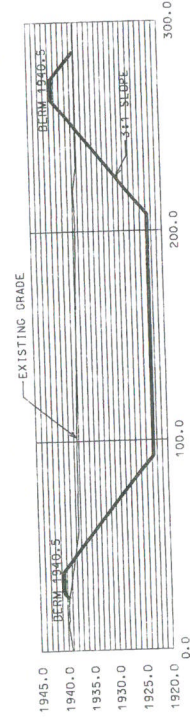
SCALE: 1"=300'



NW CORNER OF THE NE 1/4 OF SEC. 5, T 9 N, R 9 W



HOLDING POND #1 CROSS SECTION AA



HOLDING POND #1 CROSS SECTION BB

SITE PLAN
ROBB FEEDYARD INC.
SE 1/4, SW 1/4, SEC 32, T 10 N, R 9 W
W 1/2, NE 1/4, SEC 5, T 9 N, R 9 W
HALL COUNTY
SETTJE AGRI SERVICES
AND ENGINEERING, INC.