



BK 0906 PG 435



MISC 1989 19939

THIS PAGE INCLUDED FOR
INDEXING
PAGE DOWN FOR BALANCE OF INSTRUMENT

SURFACE WATER RUNOFF

EASEMENT AND LICENSE AGREEMENT

THIS EASEMENT AND LICENSE AGREEMENT is made and entered into this 22nd day of NOVEMBER, 1989, by and between OMAHA LIVESTOCK MARKET, INC., A Nebraska corporation (hereinafter "Grantor") and STOCKYARDS PLAZA, LIMITED PARTNERSHIP, a Nebraska limited partnership (hereinafter "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of the real property situated in Omaha, Nebraska which is more particularly described on Exhibit A ("Grantor's Property");

WHEREAS, Grantee is the owner of the real property situated in Omaha, Nebraska which is more particularly described on Exhibit B ("Grantee's Property");

WHEREAS, it is necessary for Grantee in connection with the development of Grantee's Property to obtain an easement over, under and across a portion of the Grantor's Property to carry surface water runoff to a detention cell to be constructed and located on Grantor's Property.

NOW, THEREFORE, in consideration of the sum of one dollar (\$1.00) and other good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, a perpetual, non-exclusive drainage easement to carry surface water runoff from Grantee's Property over, under and across portion of Grantor's Property to a detention cell located on Grantor's Property ("Easement Area") the location of which is generally depicted on Exhibit "C" attached hereto.

2. Construction of Detention Cell. Grantee, at Grantee's sole cost and expense, shall be required to construct a detention cell in accordance with applicable laws, ordinances, regulations, and in accordance with the plans and specifications prepared by Olmstead & Perry Consulting Engineers, Inc. Except as otherwise provided herein, Grantor shall not take any action with respect to the Easement Area and shall not grant any rights therein or allow any use thereof which is inconsistent with the easement grant contained herein.

14439
Mia
A
BK 906 N 4-10-13 KP C/O FEE 75⁵⁰
435-449 N 4-14-13 DEL JK MC WC
OF TRUC COMP RA F/B 01-60020

3. Maintenance of Easement Area. From the date hereof and until Grantor develops Grantor's Property, Grantee shall be solely responsible for all costs of maintaining the Easement Area. Access over the Easement Area shall not be restricted by Grantor or its successors or assigns. From and after the date of Grantors development of Grantor's Property, Grantee shall be solely responsible for overseeing the maintenance of the Easement Area and the costs of such maintenance shall be allocated based upon square footage of the respective properties. Provided, however, in the event Grantee fails to maintain the Easement Area in accordance with reasonable maintenance standards generally applicable to detention cells and such failure continues for a period of thirty (30) days after receipt by Grantee of written notice from Grantor of such failure, Grantor shall have the right but not the obligation to cause to be performed such maintenance and assess Grantee for its proportionate share thereof. In the event Grantee fails to pay his pro rata share within thirty (30) days of receipt of written demand from Grantor, Grantor shall be permitted to file a lien against Grantee's Property in the amount of the sum due Grantor.

4. Deposit Requirement. The parties acknowledge that Grantor and Grantee have entered into an option ("Option") whereby Grantor has given Grantee the exclusive right to acquire Grantor's Property. The parties further acknowledge that Grantor's Property may be adversely affected by the easement granted hereby in the event Grantee fails to exercise the Option. Therefore, as additional consideration to Grantor for entering into this Agreement, Grantee does hereby deposit with Grantor the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) ("Deposited Amount") and Grantor does hereby acknowledge the receipt of the Deposited Amount. In the event Grantee exercises the Option, Grantor shall simultaneously with Grantee's acquisition of Grantor's Property, return the Deposited Amount to Grantee. In the event Grantee fails to exercise the Option and a third party develops Grantor's Property and thereafter, if the City of Omaha, at its expense, installs a storm sewer that services Grantor's Property, Grantor shall upon completion of the installation of the storm sewer return the Deposited Amount to Grantee. In the event Grantee fails to exercise the Option and thereafter, if the City of Omaha installs a storm sewer that services Grantor's Property with a pro rata cost thereof assessed to Grantor, Grantor or its successors and assigns shall be permitted to draw against the deposited amount as a source of funds for the payment of such charges with any unused portion thereof retained by Grantor. Provided, however, in the event the Deposited Amount is not sufficient to cover Grantor's pro rata portion assessed to it as a result of the storm sewer installation, Grantee shall be liable for such deficiency in an amount not to exceed an additional twenty-five thousand dollars

(\$25,000.00). Provided further, in the event the Deposited Amount is not otherwise disposed of in accordance with the above provisions on or before December 31, 1999, Grantor shall return the Deposited Amount to Grantee and Grantee's obligations under this paragraph 4 shall terminate and be of no further force and effect.

5. Relocation of Easement Area. In the event Grantee fails to exercise the Option and acquires Grantor's Property, and in the event the City of Omaha requires or if Grantor desires to have the Easement Area relocated to a different portion of Grantor's Property, Grantor shall, at Grantee's cost and expense and upon forty-five (45) days prior written notice to Grantee, relocate the Easement Area to a different portion of Grantor's Property. Grantor shall have been permitted to draw against the Deposited Amount as a source of funds for the costs of relocating the Easement Area. Provided, however, in the event the Deposited Amount is not sufficient to cover the costs of such relocation, Grantee shall be liable for such deficiency in an amount not to exceed an additional twenty-five thousand dollars (\$25,000.00). Provided further, in the event the Deposited Amount is not otherwise disposed of in accordance with the above provisions on or before December 31, 1999, Grantor shall return the Deposited Amount to Grantee and Grantee's obligations under this paragraph 5 shall terminate and be of no further force and effect.

6. Title and Authority. Grantor represents and warrants to Grantee and its successors and assigns, that it is the owner in fee simple of Grantor's Property.

7. Binding Effect. The easement and license granted herein shall run with the land and shall be binding upon the successors and assigns of the parties hereto. Notwithstanding anything else to the contrary contained herein, this Easement and License Agreement shall automatically terminate upon Grantee's Property being serviced by City of Omaha storm sewer.

IN WITNESS WHEREOF, the parties have executed this Easement and License Agreement on the day and year first written above.

"GRANTOR"

OMAHA LIVESTOCK MARKET, INC.,
a Nebraska corporation,

By Raymond J. [Signature]
President

"GRANTEE"

STOCKYARDS PLAZA, LIMITED PARTNERSHIP, a Nebraska limited partnership,

By: Stockyards Plaza, Inc., a Nebraska corporation, General Partner,

By [Signature] President

STATE OF New York)
COUNTY OF New York) ss:

The foregoing instrument was acknowledged before me this 22nd day of NOVEMBER, 1989, by Raymond F. Ryan of Omaha Livestock Market, Inc., a Nebraska corporation.

[Signature]
Notary Public
EVE THOMSON
Notary Public, State of New York
No. 31-9327500
Qualified in New York County
Commission Expires April 30, 1990 H

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss:

The foregoing instrument was acknowledged before me this 29th day of November, 1989, by Donald F. Day, President of Stockyards Plaza, Inc., a Nebraska corporation, on behalf of the corporation.

GENERAL NOTARY-State of Nebraska
KRISTINE K. DERGAN
My Comm. Exp. Febr. 18, 1991

Kristine K. Degan
Notary Public

LEGAL DESCRIPTION

LOT 4 PRELIMINARY PLAT OF STOCKYARDS PLAZA II

BOOK 906 PAGE 439

PART OF THE SOUTHEAST QUARTER OF SECTION 4, AND PART OF TAX LOT 10, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 14 NORTH, RANGE 13, EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF EDWARD BABE GOMEZ AVENUE, AND THE EASTERLY RIGHT-OF-WAY LINE OF 33RD STREET; THENCE SOUTH 51°24'31" EAST (ASSUMED BEARING) ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF EDWARD BABE GOMEZ AVENUE A DISTANCE OF 35.11 FEET; THENCE SOUTH 78°25'46" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 448.41 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°07'28" EAST A DISTANCE OF 230.81 FEET; THENCE SOUTH 88°52'32" EAST A DISTANCE OF 264.81 FEET; THENCE NORTH 01°07'28" EAST A DISTANCE OF 351.00 FEET; THENCE SOUTH 88°52'32" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF "L" STREET A DISTANCE OF 746.32 FEET; THENCE SOUTH 17°53'01" EAST A DISTANCE OF 644.80 FEET; THENCE SOUTH 11°58'14" WEST A DISTANCE OF 336.90 FEET; THENCE NORTH 78°25'48" WEST A DISTANCE OF 794.87 FEET; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY RIGHT-OF-WAY LINE OF EDWARD BABE GOMEZ AVENUE ON A 180.00-FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 245.35 FEET (SAID CURVE HAS A CHORD BEARING OF NORTH 39°22'57" WEST AND A CHORD DISTANCE OF 226.79 FEET) TO A POINT OF TANGENCY; THENCE NORTH 78°25'46" WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF EDWARD BABE GOMEZ AVENUE A DISTANCE OF 232.59 FEET TO THE POINT OF BEGINNING, CONTAINING 18.534 ACRES, MORE OR LESS.

EXHIBIT "A"

EXHIBIT "B"

LEGAL DESCRIPTION

PARCEL 1: Part of Tax Lot 10 located in the Southwest Quarter (SW1/4) of Section 4, Township 14 North, Range 13 East of the 6th P.M., in the City of Omaha, in Douglas County, Nebraska, described as follows:

Commencing at the point of intersection of the Northerly right-of-way line of Edward Babe Gomez Avenue and the Easterly right-of-way line of 33rd Street; thence North 07°00'14" East (assumed bearing), along the Easterly right-of-way line of said 33rd Street, a distance of 205.23 feet; thence South 88°52'32" East, along the Easterly right-of-way line of 33rd Street, as dedicated and recorded in Book 823, Page 100 of the Douglas County Register of Deeds, a distance of 46.52 feet, to the Point of Beginning; thence North 01°07'28" East, along said Easterly right-of-way line of 33rd Street, a distance of 263.50 feet; thence North 86°46'42" East, along the proposed "L" Street right-of-way line, a distance of 132.08 feet; thence South 89°02'07" East, along said right-of-way line, a distance of 13.41 feet; thence South 01°07'28" West, a distance of 293.55 feet; thence North 88°52'32" West, a distance of 145.11 feet; thence North 01°07'28" East, a distance of 20.00 feet, to the Point of Beginning.

NOTE: The above premises is to be known as Lot 1, in STOCKYARDS PLAZA II.

PARCEL 2: Part of Tax Lot 10 located in the Southwest Quarter (SW1/4) of Section 4, Township 14 North, Range 13 East of the 6th P.M., in the City of Omaha, in Douglas County, Nebraska, described as follows:

Commencing at the point of intersection of the Northerly right-of-way line of Edward Babe Gomez Avenue and the Easterly right-of-way line of 33rd Street; thence North 07°00'14" East (assumed bearing), along the Easterly right-of-way line of said 33rd Street, a distance of 205.23 feet; thence South 88°52'32" East, along the Easterly right-of-way line of 33rd Street, as dedicated and recorded in Book 823, Page 100 of the Douglas County Register of Deeds, a distance of 46.52 feet; thence North 01°07'28" East, along said Easterly right-of-way line of 33rd Street, a distance of 275.00 feet; thence South 88°52'32" East, along the South line of "L" Street, a distance of 445.11 feet; thence South 01°07'28" West, a distance of 6.24 feet, to the Point of Beginning; thence South 84°26'48" East, along the proposed right-of-way line of "L" Street, a distance of 79.74 feet; thence South 89°02'07" East, a distance of 91.50 feet; thence South 01°07'28" West, a distance of 192.86 feet; thence North 88°52'32" West, a distance of 171.00 feet; thence North 01°07'28" East, a distance of 198.76 feet, to the Point of Beginning.

NOTE: The above premises is to be known as Lot 2, in STOCKYARDS PLAZA II.

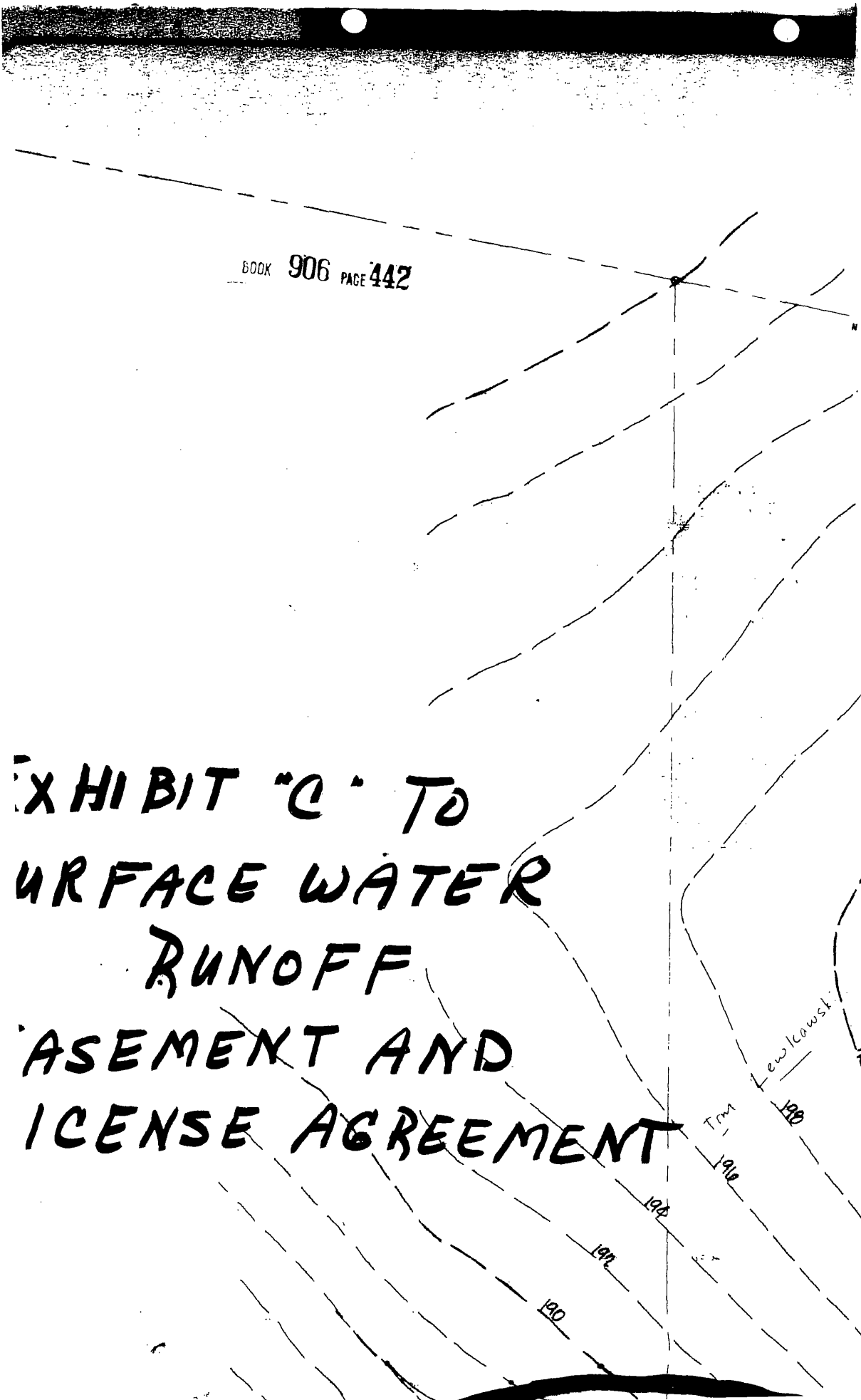
PARCEL 3: Part of Tax Lot 10 located in the Southwest Quarter (SW1/4) of Section 4, Township 14 North, Range 13 East of the 6th P.M., in the City of Omaha, in Douglas County, Nebraska, described as follows:

Beginning at the point of intersection of the Northerly right-of-way line of Edward Babe Gomez Avenue and the Easterly right-of-way line of 33rd Street; thence North $07^{\circ}00'14''$ East (assumed bearing), along the Easterly right-of-way line of said 33rd Street, a distance of 205.23 feet; thence South $88^{\circ}52'32''$ East, along the Easterly right-of-way line of 33rd Street, as dedicated and recorded in Book 823, Page 100 of the Douglas County Register of Deeds, a distance of 46.52 feet; thence South $01^{\circ}07'28''$ West, a distance of 20.00 feet; thence South $88^{\circ}52'32''$ East, a distance of 145.11 feet; thence North $01^{\circ}07'28''$ East, a distance of 293.55 feet; thence South $89^{\circ}02'07''$ East, along the proposed South right-of-way line of "L" Street, a distance of 229.95 feet; thence South $84^{\circ}26'48''$ East, along said right-of-way line, a distance of 70.26 feet; thence South $01^{\circ}07'28''$ West, a distance of 198.76 feet; thence South $88^{\circ}52'32''$ East, a distance of 171.00 feet; thence North $01^{\circ}07'28''$ East, a distance of 192.86 feet; thence South $89^{\circ}02'07''$ East, along the proposed South right-of-way line of "L" Street, a distance of 50.00 feet; thence South $01^{\circ}07'28''$ West, a distance of 339.00 feet; thence North $88^{\circ}52'32''$ West, a distance of 264.81 feet; thence South $01^{\circ}07'28''$ West, a distance of 225.72 feet; thence North $78^{\circ}25'46''$ West, along the proposed Northerly right-of-way line of Edward Babe Gomez Avenue, a distance of 457.29 feet; thence North $51^{\circ}24'31''$ West, along said right-of-way line, a distance of 24.10 feet, to the Point of Beginning.

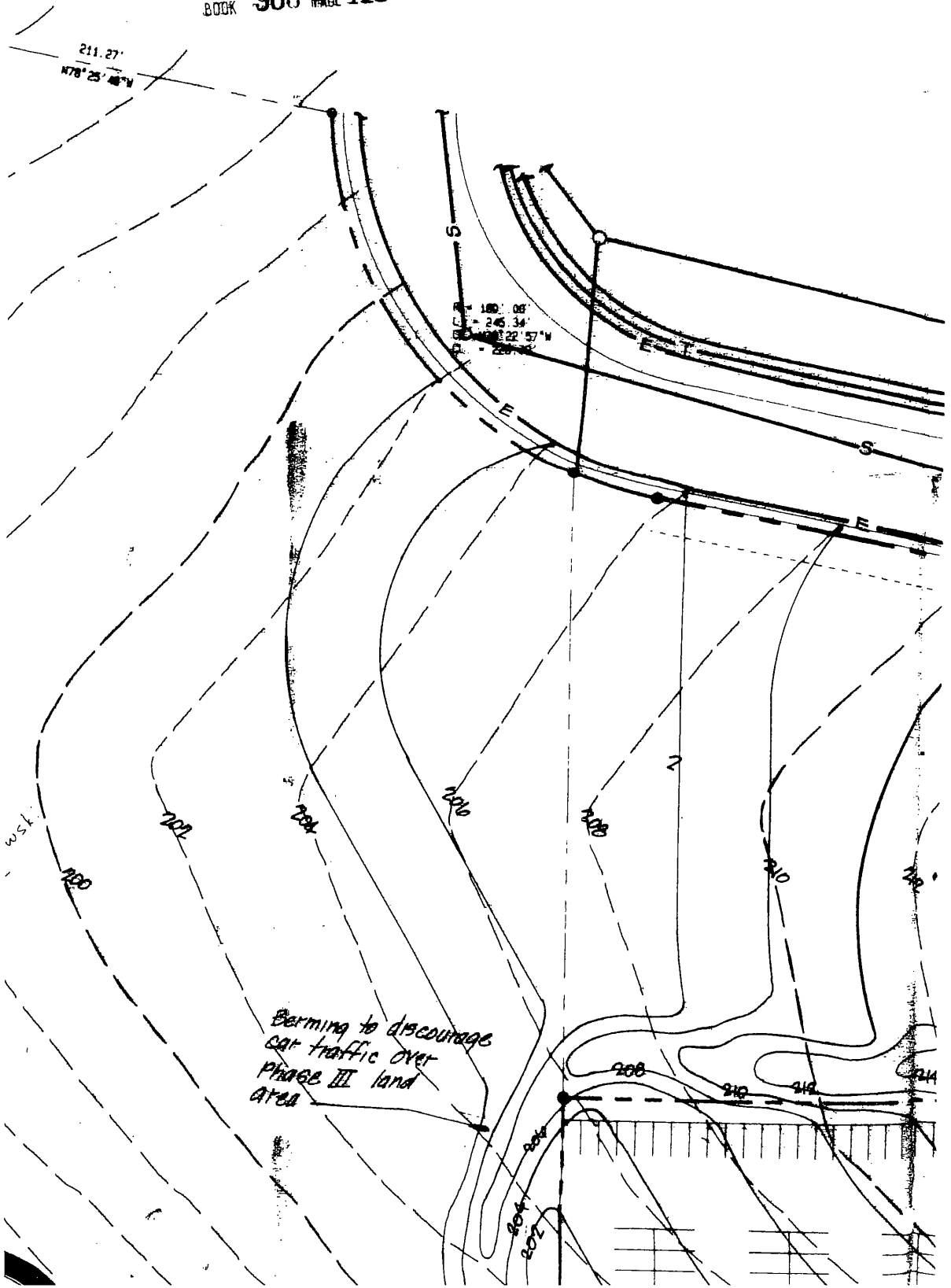
NOTE: The above premises is to be known as Lot 3, in STOCKYARDS PLAZA II.

BOOK 906 PAGE 442

EXHIBIT "C" TO
SURFACE WATER
RUNOFF
ASSESSMENT AND
LICENSE AGREEMENT



BOOK 906 PAGE 443



GRADING SYMBOLS

NOTE: ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED ON THIS PLAN

— 00 — PROPOSED FINISH SPOT ELEVATIONS

- - - 00 - - - EXISTING CONTOURS

— 00 — PROPOSED FINISH CONTOURS

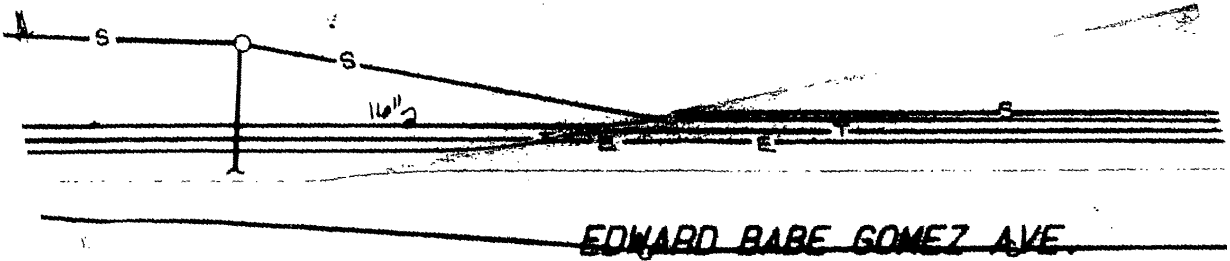
→ DRAINAGE FLOW

PROPOSED FINISH SPOT ELEVATIONS
 EXISTING CONTOURS
 PROPOSED FINISH CONTOURS
 DRAINAGE FLOW

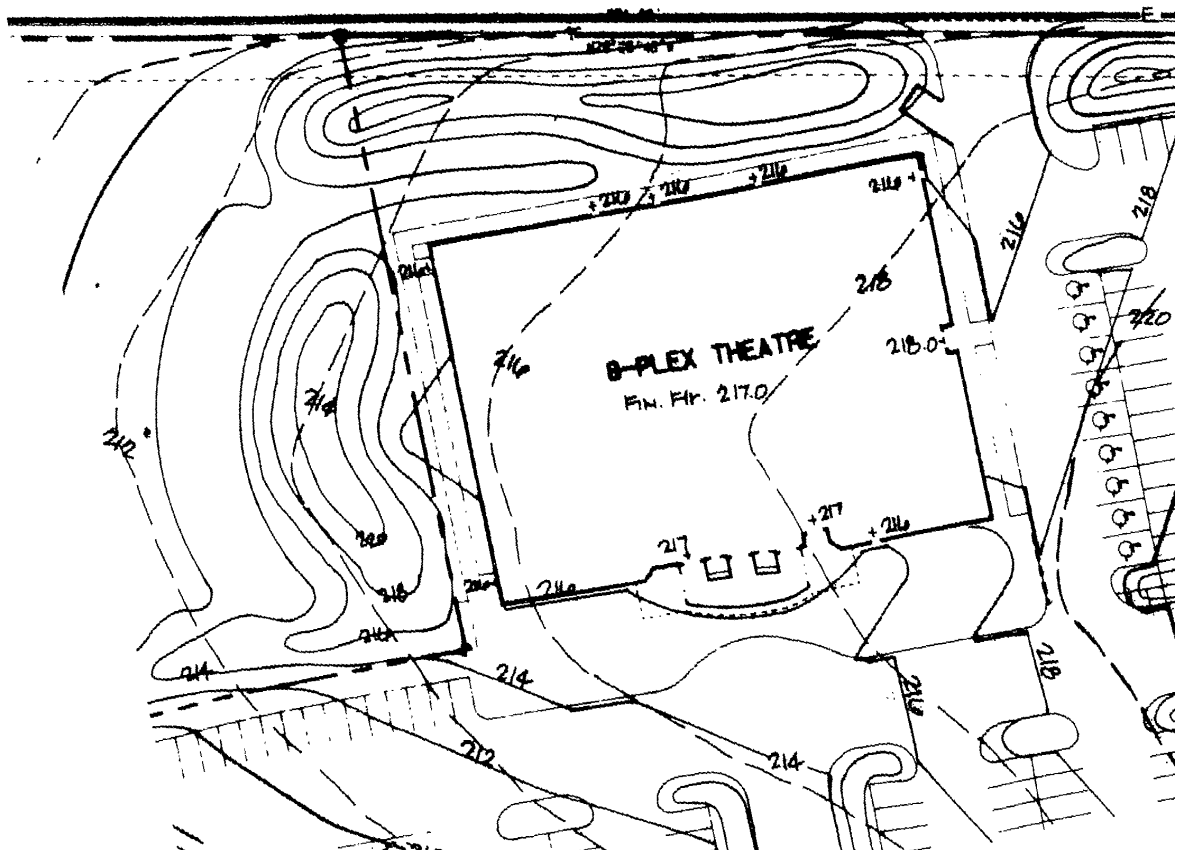
BOOK 906 PAGE 444

GRADING ABBREVIATIONS

- G. BOTTOM OF CURB (GUTTER)
- D.F. DRAINAGE FLUME
- DS. DOWNSPOUT
- ELEV. ELEVATION
- F.F. FINISH FLOOR
- F.G. FINISH GRADE
- GR. GRADE
- H.P. HIGH POINT
- L.P. LOW POINT
- INV. PIPE INVERT ELEVATION
- TC TOP OF CURB
- T.O.P. TOP OF PAVEMENT
- T.O.R. TOP OF RIM
- T.O.W. TOP OF WALL



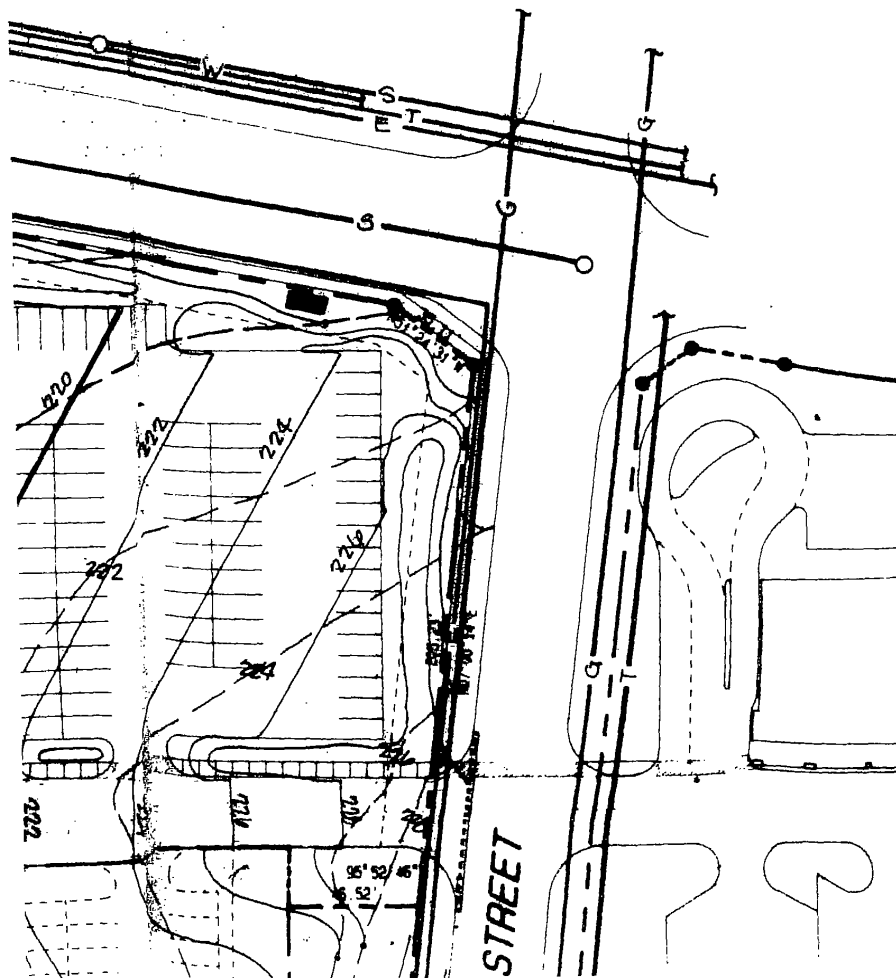
EDWARD BABE GOMEZ AVE.



GRADING NOTES

1. ALL SITE PREPARATION WORK (IF ANY REQUIRED) WILL BE PERFORMED IN ACCORDANCE WITH SPECIFICATION SECTION 02100 - SITE PREPARATION.
2. ALL SITE GRADING WORK WILL BE PERFORMED IN ACCORDANCE WITH SPECIFICATION 02210 - SITE GRADING.
4. ALL SITE EXCAVATION WORK (IF ANY REQUIRED) WILL BE PERFORMED IN ACCORDANCE WITH SPECIFICATION SECTION 02220 - EXCAVATION.
5. ALL SITE BACKFILLING WORK (IF ANY REQUIRED) WILL BE PERFORMED IN ACCORDANCE WITH SPECIFICATION SECTION 02221 - BACKFILLING.
6. ALL FINISH SITE GRADING WORK WILL BE PERFORMED IN ACCORDANCE WITH SPECIFICATION SECTION 02260 - LANDSCAPE GRADING.
7. ELEVATIONS OF ANY UTILITIES ITEMS WILL BE SET BY THE UTILITY COMPANY.
8. ELEVATIONS SHOWN ARE TO FINISH SURFACES. VERIFY WITH SITE PLAN THE DEPTH OF PAVING, DRIVES AND SIDEWALKS. GRADE AS REQUIRED TO ACHIEVE THE FINISH SURFACE ELEVATIONS AS SHOWN.
9. MAXIMUM FILL SLOPE SHALL BE 3:1. MINIMUM CUT SLOPE SHALL BE 3:1.
10. MATCH EXISTING ELEVATIONS AT PROPERTY LINES OR STREET CURBS AS SHOWN.

BOOK 906 PAGE 445



CONCEPTUAL GRADING PLAN

STOCKYARDS PLAZA - THEATRES

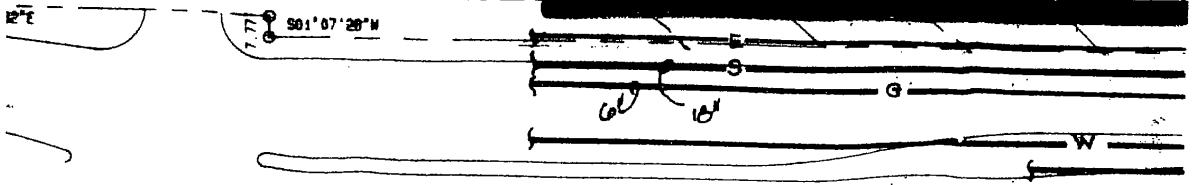
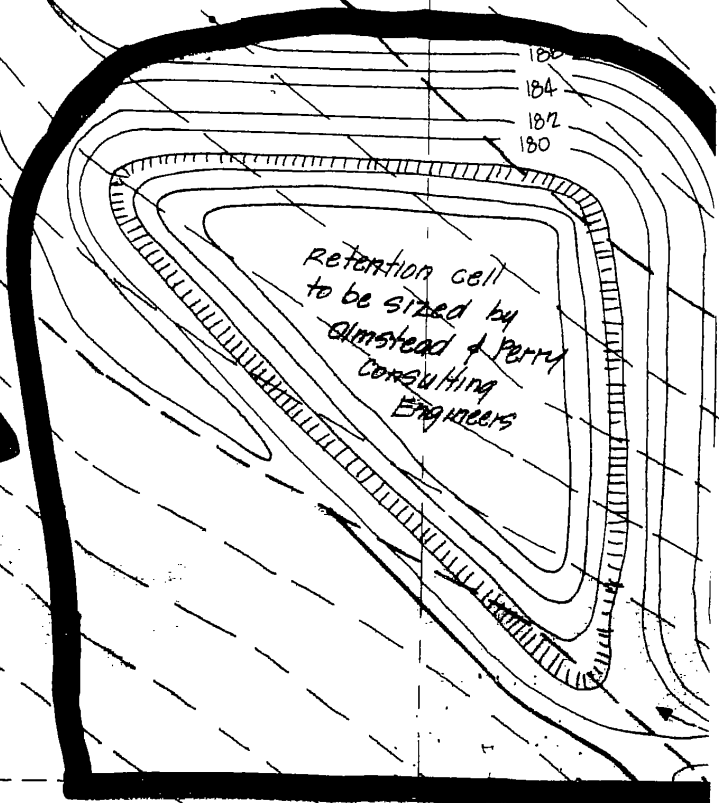
33RD AND "L" STREET

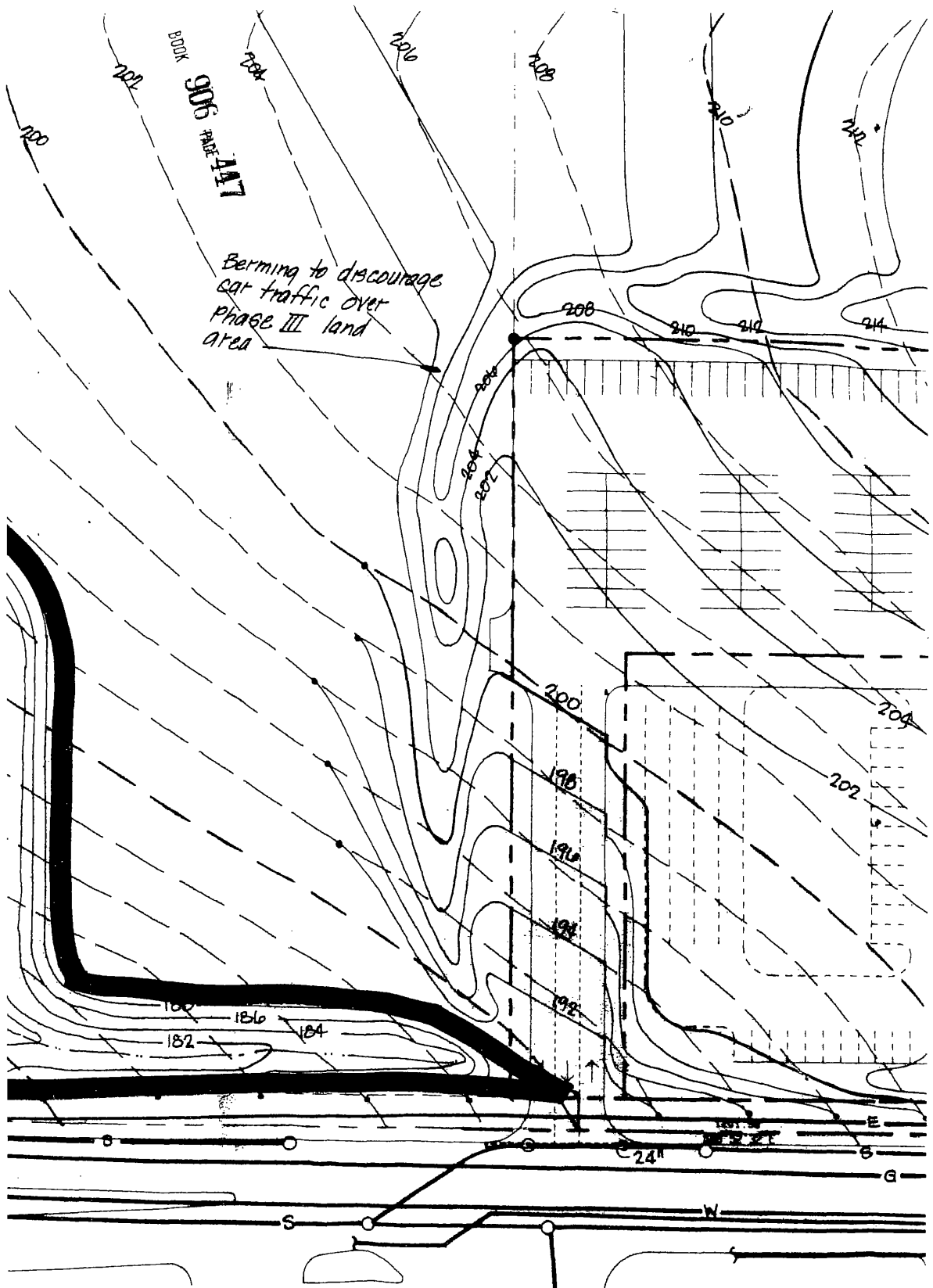
SMALLA ARCHITECTS

RUNOFF ASSESSMENT AND LICENSE AGREEMENT

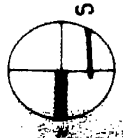
BOOK 906 PAGE 446

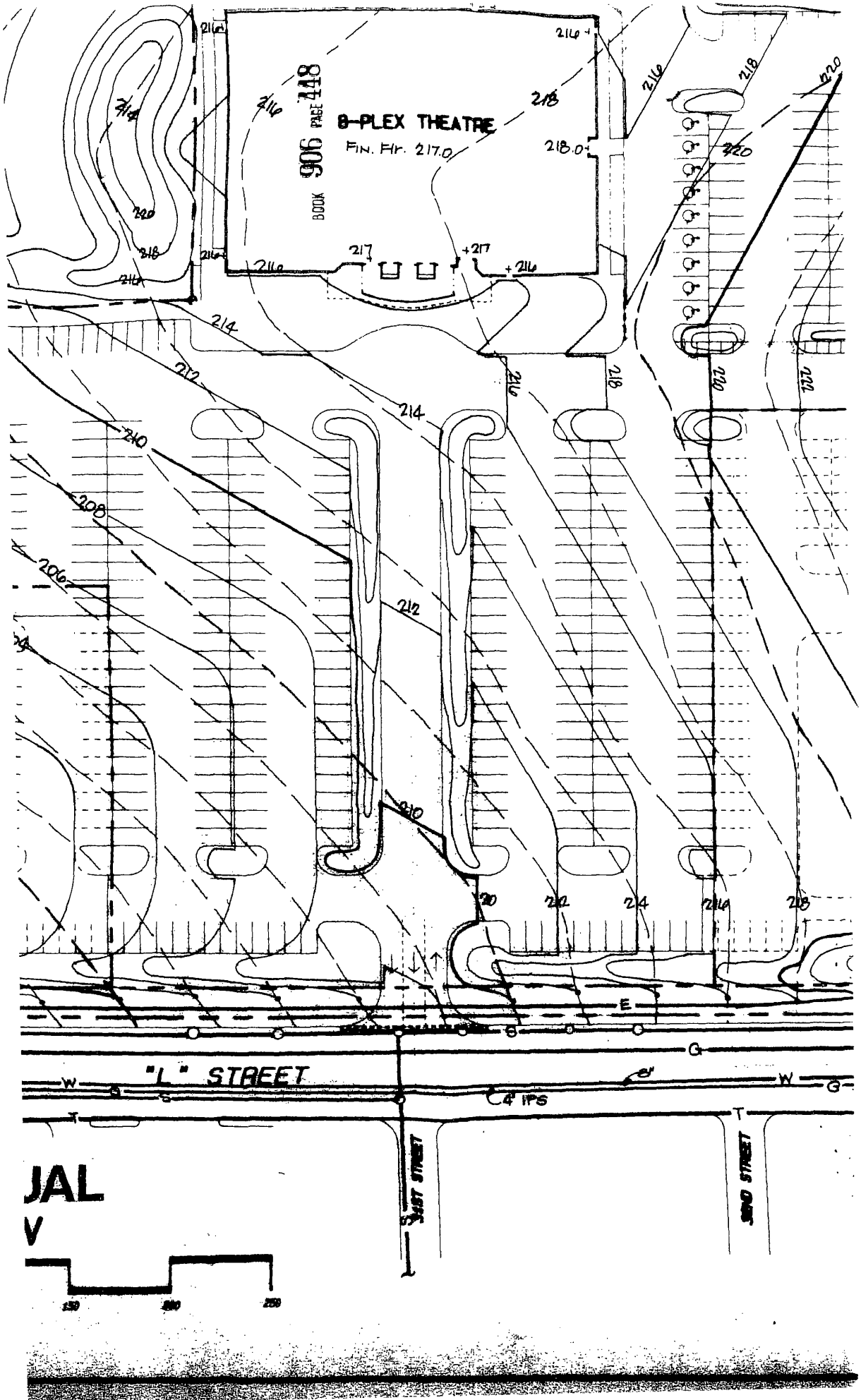
EASEMENT
AREA

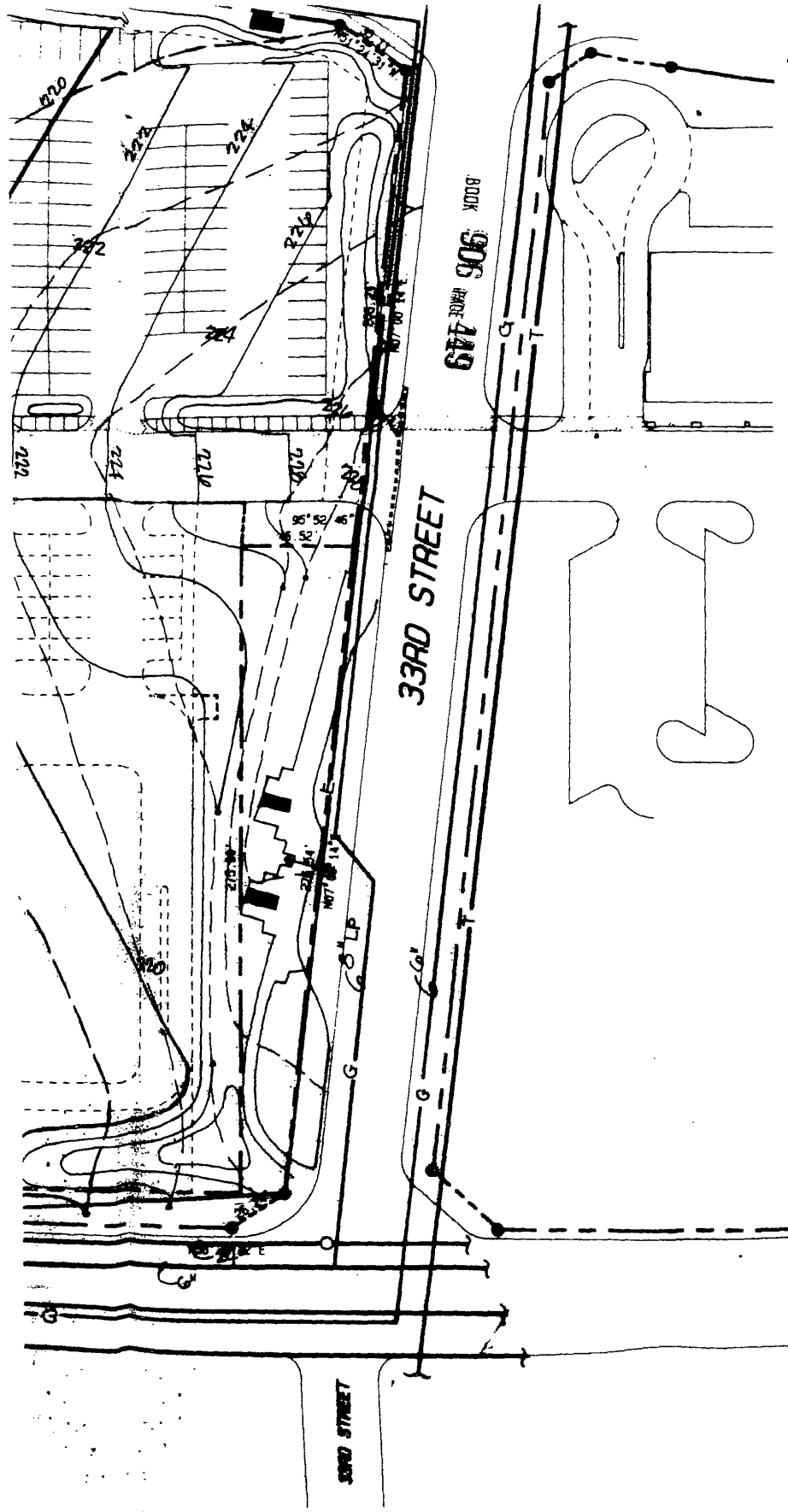




CONCEPTUAL GRADING PLAN







STOCKYARDS PLAZA -
33RD AND "L" STR.
 OMAHA NEBRASKA

Purdy & Slack
 ARCHITECTS



PROJECT NO. 88014
 DATE 7/29/89

REVISIONS:

Δ	DATE

C1.2