

**Zoning Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-4
AGENDA DATE: Thu 06/17/2004
PAGE: 1 of 1**

SUBJECT: C14-84-092 (RCA) - Rosewood Congregation - Conduct a public hearing and approve a restrictive covenant amendment for the property locally known as 6200 Bolm Road (Boggy Creek Watershed). Planning Commission Recommendation: To grant the restrictive covenant amendment. Applicant: Rosewood Congregation of Jehovah's Witnesses (Johnny M. Holmes). Agent: Austin Civil Engineering, Inc. (Andy Dodson). City Staff: Wendy Walsh, 974-7719.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guemsey

RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-84-092 (RCA)

P.C. DATE: May 25, 2004

ADDRESS: 6200 Bolm Road

OWNERS / APPLICANTS: Rosewood Congregation
of Jehovah's Witnesses
(Johnny M. Holmes)

AGENT: Austin Civil Engineering, Inc.
(Andy Dodson)

EXISTING ZONING: GO-NP

AREA: 2.577 acres

SUMMARY STAFF RECOMMENDATION:

Staff recommends approval of the applicant's request to amend the Restrictive Covenant to terminate Item #1. (Please refer to Department Comments below)

PLANNING COMMISSION RECOMMENDATION:

May 25, 2004: *APPROVED STAFF'S RECOMMENDATION TO AMEND THE RESTRICTIVE COVENANT TO TERMINATE ITEM #1; BY CONSENT.*
[D.S; N.S 2ND] (9-0)

ISSUES:

None at this time.

DEPARTMENT COMMENTS:

The subject property is undeveloped and has frontage on both Bolm Road and Gardner Road. The property is within the Johnston Terrace Neighborhood Plan (NP) area and carries general office – neighborhood plan (GO-NP) combining district zoning, as established with the Plan in March 2003 (C14-02-0183.002). Prior to March 2003, the property was zoned limited industrial services (LI) district by way of a 1985 case. Due to the permissive nature of the LI district and the proximity to single family residences, the applicant, a contractors supply business, entered into a public Restrictive Covenant that accompanied the 1985 case. As provided in Exhibit B, Item #1 of that Covenant states:

“No building, structure or other improvements shall be erected, constructed or otherwise placed upon the Property until a site plan for the Property has been approved by the Planning Commission and City Council of the City of Austin. No permit applications for any work regarding the Property shall be filed prior to such site plan approval.”

The new owners of the property, a religious assembly organization, have filed a Site Plan application for a church facility (SP-03-0453C – please refer to Exhibit C). The applicant proposes to terminate Item #1 of the Restrictive Covenant so that site plan approval may be administrative, rather than require public review. The applicant's request is consistent with Section 25-2-283(G) of the Land Development Code which states: “The Council may not require a site plan as a condition of zoning or rezoning.” All other provisions of the 1985 Restrictive Covenant will remain intact.

Staff recommends amending the Restrictive Covenant to terminate Item #1 in accordance with the Code.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GO-NP	Undeveloped
<i>North</i>	SF-3-NP; MF-2-NP; P-NP	Single family residences; Johnston High School
<i>South</i>	LI-CO-NP	Equipment sales; Distribution warehouse; Trucking company; Single family residences; Apartments
<i>East</i>	P-NP; W/LO-NP; LI-CO-NP	City offices; Office-warehouse; State offices
<i>West</i>	SF-3-NP; CS-MU-CO-NP	Church; Single family residences; Office - distribution

NEIGHBORHOOD PLANNING AREA: Govalle / Johnston Terrace Combined Neighborhood Planning Area (Johnston Terrace)

TIA: Is not required

WATERSHED: Boggy Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

497 – M.E.T.S.A. – Neighborhood Association 511 – Austin Neighborhoods Council
 972 – PODER: People Organized in Defense of Earth and Her Resources

SCHOOLS:

Ortega Elementary School

Martin Junior High School

Johnston High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-02-0170	SF-3 to P	To Grant P district zoning as staff recommended	Approved P district zoning. (12-12-02)
C14-00-2026	LI to MF-2	To Grant MF-2-CO as staff recommended	Approved MF-2-CO with CO for 2,000 trips and prohibiting access to Bert Lane. (11-2-00)

RELATED CASES:

The subject property is platted as Lots 1-3 of Glenn Synnott Subdivision, recorded in April 1984 (C8s-84-037). Please also refer to previous and current development applications on the property, as described under Department Comments on Page 1.

CITY COUNCIL DATE: June 17, 2004

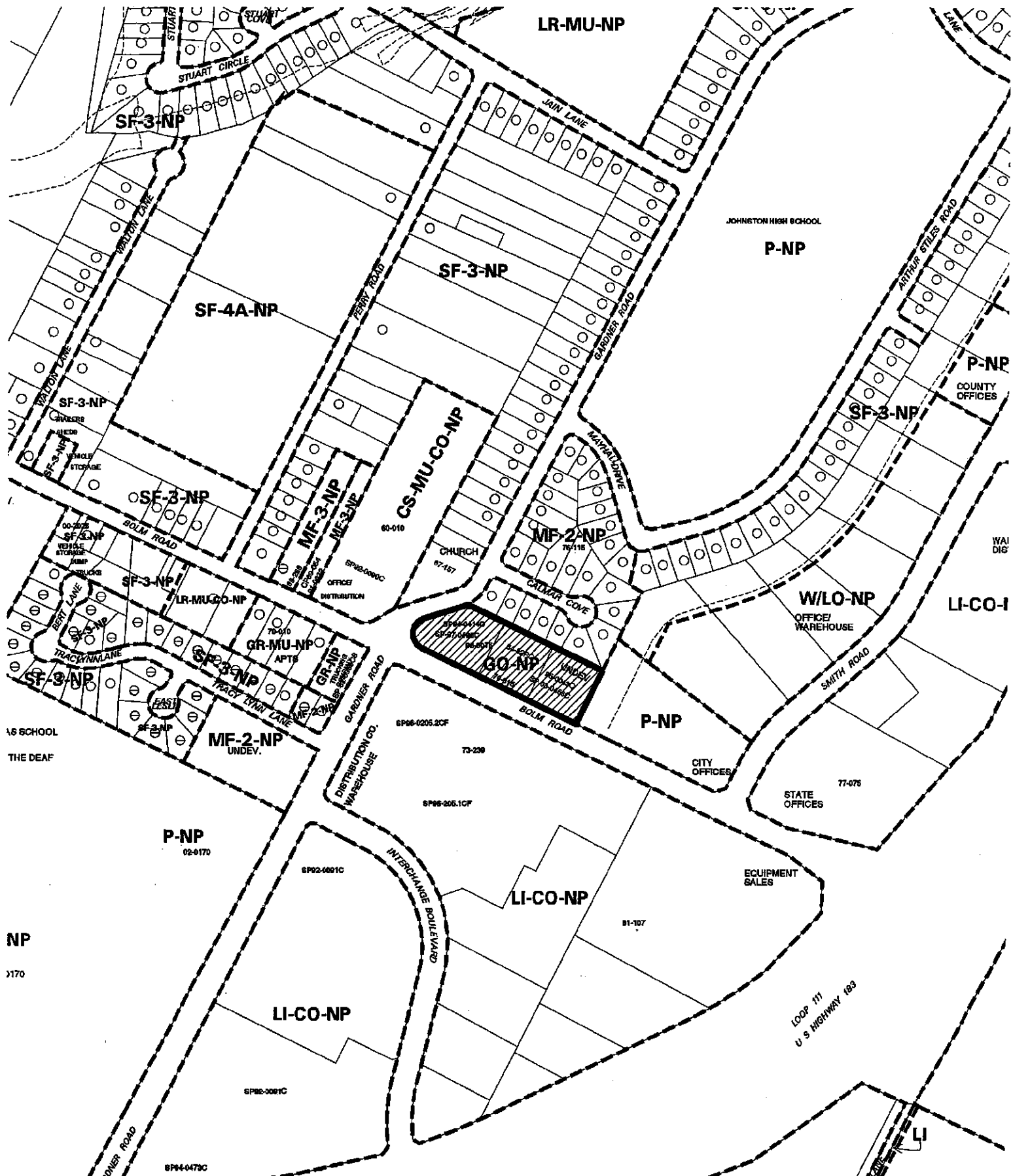
ACTION:


ORDINANCE READINGS:

ORDINANCE NUMBER:

CASE MANAGER: Wendy Walsh
e-mail address: wendy.walsh@ci.austin.tx.us

PHONE: 974-7719



 <p>1" = 400'</p> <p>SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: W. WALSH</p>	<p>RESTRICTIVE COVENANT AMENDMENT</p> <p>CASE #: C14-84-092(RCA) EXHIBIT A</p> <p>ADDRESS: 6200 BOLM RD</p> <p>SUBJECT AREA (acres): N/A</p> <p>DATE: 04-05</p> <p>INTLS: SM</p>	<p>CITY GRID REFERENCE NUMBER</p> <p>M21</p>
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RESTRICTIVE COVENANT

THE STATE OF TEXAS){
){
 COUNTY OF TRAVIS){

WHEREAS, GLENN SYNNOTT ("Synnott") is the owner of approximately 2.5783 acres of land out of the J. C. Tannehill League in the City of Austin, Travis County, Texas, being all of that property conveyed to Synnott by general warranty deed of record at Volume 8406, Pages 625-629 of the Deed Records of Travis County, Texas ("Property"); and

WHEREAS, the City of Austin and Synnott have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desires to set forth such agreements in writing;

NOW, THEREFORE, Synnott for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, do hereby agree with respect to the Property, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding upon them, their successors, heirs and assigns as follows, to wit:

1) No building, structure or other improvements shall be erected, constructed or otherwise placed upon the Property until a site plan for the Property has been approved by the Planning Commission and City Council of the City of Austin. No permit applications for any work regarding the Property shall be filed prior to such site plan approval.

2) All persons who signed the petition dated May 1, 1984, which was presented to the City Council of the City of Austin regarding the Property (a copy of which is attached hereto as Exhibit A) shall be notified of the consideration of the site plan by the Planning Commission and the City Council of Austin, Texas.

3) No ingress to or egress from the Property shall be permitted on to Gardner Road.

EXHIBIT B
 1985 RESTRICTIVE COVENANT

4) Any building, structure or other type of improvement which is erected, constructed or otherwise placed upon the Property shall be setback at least 20 feet from the property line of any single family residence.

5) All non-moveable machinery located upon the Property shall be enclosed within a building.

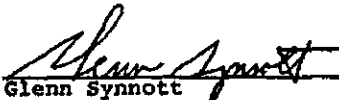
6) If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

7) If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment or court order, the same shall in no way effect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

8) The failure at any time to enforce any agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

9) This agreement may be modified, amended or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the Property at the tie of such modification, amendment or termination.

EXECUTED, this 6th day of December, 1984.


Glenn Synnott

THE STATE OF TEXAS)(
COUNTY OF TEXAS)(
)

This instrument was acknowledged before me on this 6th day
of December, 1984, by Glenn Synnott

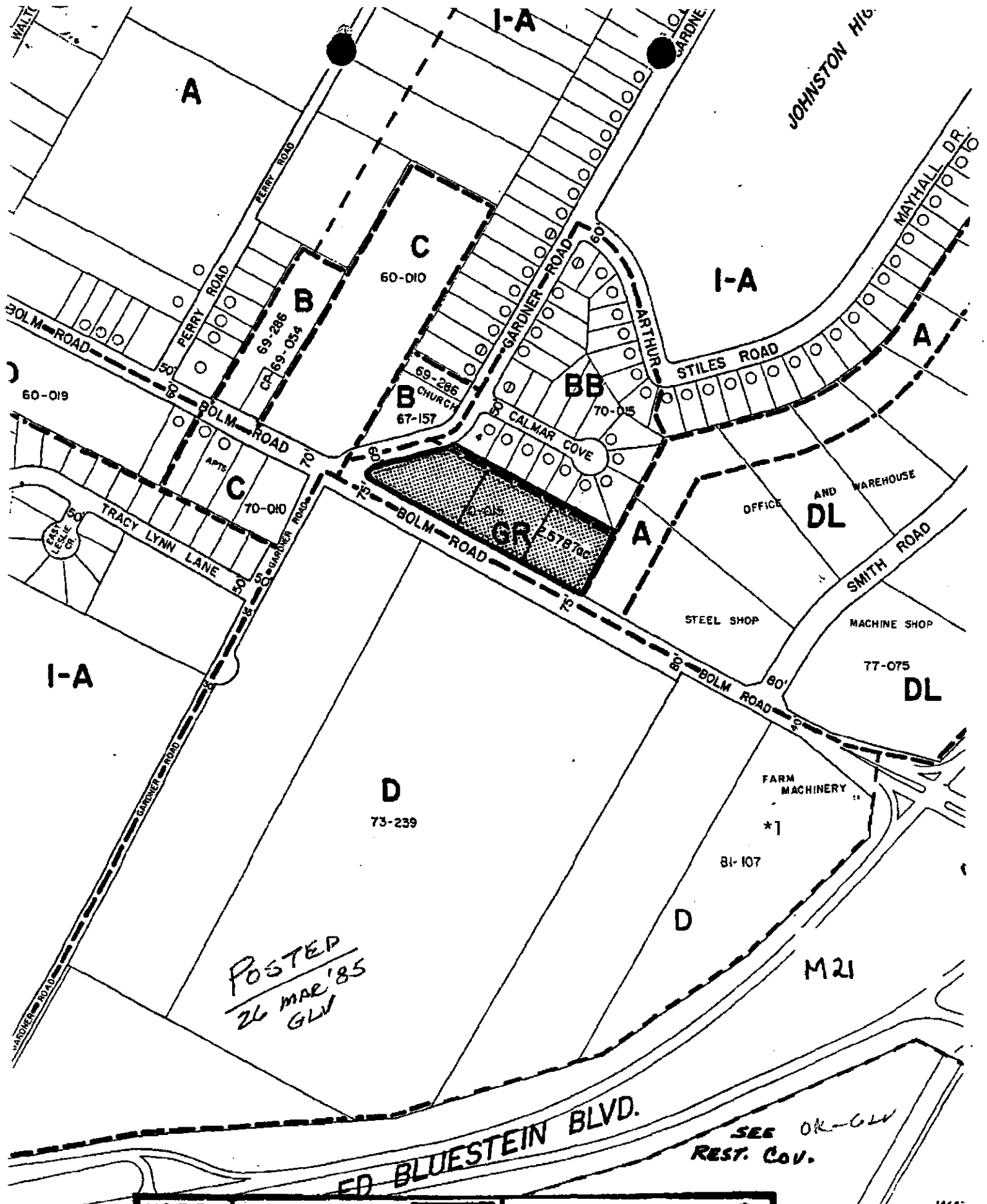
David P. Pinedel
Notary Public in and for the
State of Texas

My Commission Expires:

6/14/86

David Pinedel
(Name - Typed or Printed)

41284-11.



<p>NORTH</p> <p>JA 4/84</p>	AREA OF HEARING		RESIDENTIAL STRUCTURES ○
	ZONING LINE		ORD. # 85 0131-M
	PENDING CASE		FILE NO. C14-84-092

M 21



AUSTIN CIVIL
ENGINEERING, INC.
2708 SOUTH LAMAR BLVD., SUITE 200A
AUSTIN, TEXAS 78704
PHONE (512) 306-0045
FAX (512) 306-0046

ROSEWOOD CONGREGATION
SITE PLAN
6200 BOLM RD
AUSTIN, TEXAS

SITE CIVIL PLAN
7
of 18
DATE: 1/27/94
SHEET NO.

ASSUMPTIONS:
1. ALL EXISTING UTILITIES SHOWN ON THIS PLAN ARE BASED ON OFFICIAL RECORDS AND FIELD SURVEY. THE CLIENT HAS REPRESENTED THAT THE INFORMATION PROVIDED IS TRUE AND CORRECT.
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COMMENTS:
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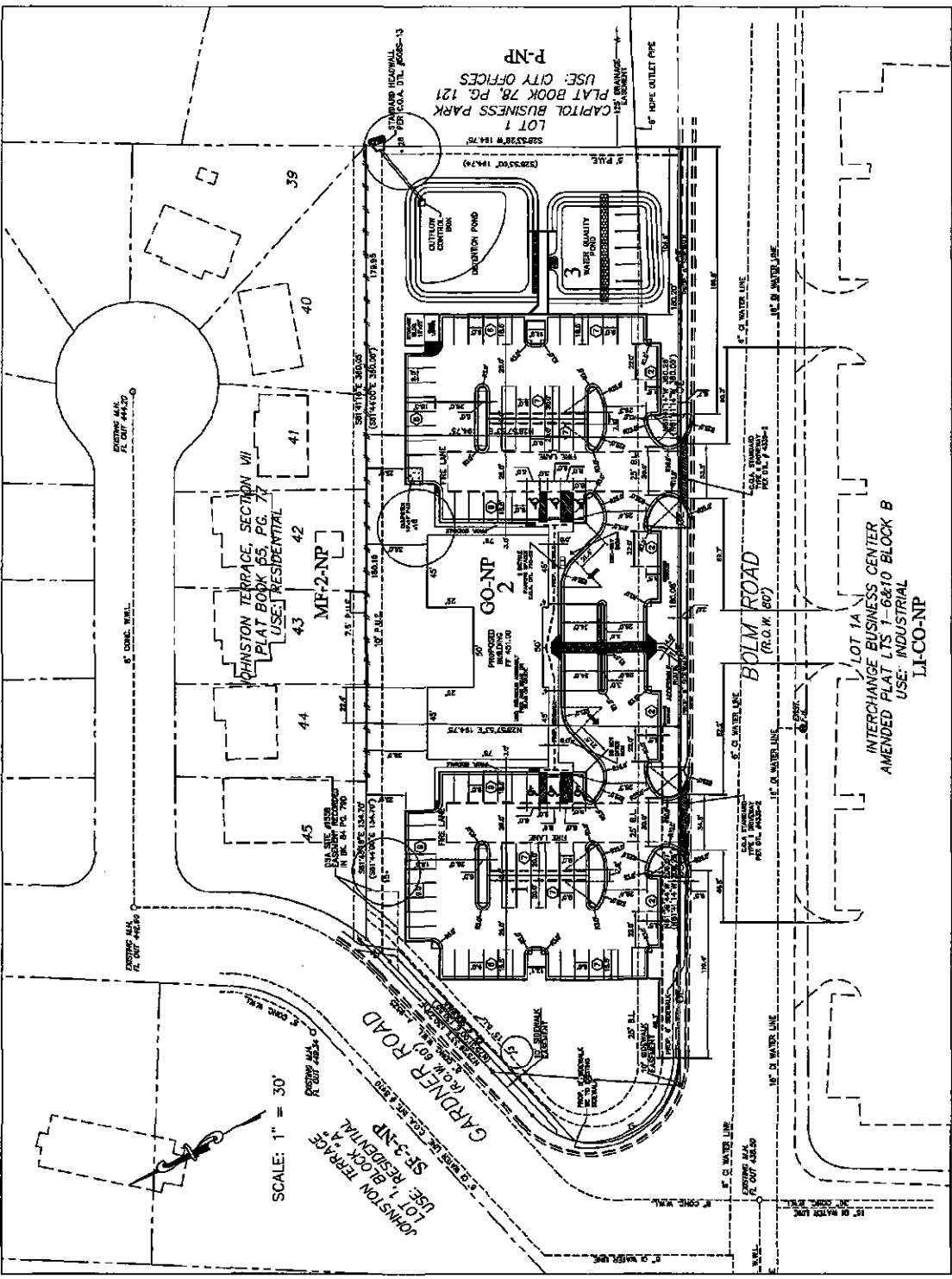
NOTES:
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GENERAL NOTES:
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PERMITS:
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PERMITS

Agency	Permit Type	Permit Number	Permit Date
City of Austin	Building	12345	1/27/94
City of Austin	Water	67890	1/27/94
City of Austin	Sewer	11223	1/27/94

PROPOSED IMPROVEMENTS

Item	Quantity	Unit	Cost
Gravel	1000	cu yd	\$1000
Asphalt	500	sq yd	\$500
Concrete	200	cu yd	\$200

PROPOSED IMPROVEMENTS

Item	Quantity	Unit	Cost
Gravel	1000	cu yd	\$1000
Asphalt	500	sq yd	\$500
Concrete	200	cu yd	\$200

EXHIBIT C
PROPOSED
SITE PLAN

AMENDMENT OF RESTRICTIVE COVENANT
FOR
ZONING CASE: C14-84-092

Owner: ROSEWOOD CONGREGATION OF JEHOVAH'S WITNESSES, AUSTIN, TEXAS, a Texas non-profit organization

Address: 3706 Grayson Lane, Austin, TX 78722

City: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

City Council: The City Council of the City of Austin.

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged.

WHEREAS, Glenn Synnott, as owner of all that certain property described in Zoning File No. C14-84-092, consisting of approximately 2.5 acres of land (the "Property"), as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County, Texas, in Volume 9124, Page 514, (the "Restrictive Covenant") imposed certain restrictions and covenants on the Property by the Restrictive Covenant of record; and,

WHEREAS, the Restrictive Covenant provided that the covenant could be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council and (b) the Owner of the Property at the time of such modification, amendment or termination; and,

WHEREAS, Rosewood Congregation of Jehovah's Witnesses Austin, Texas, a Texas non-profit organization, is the current owner (the "Owner") of the Property on the date of this Amendment and desires to amend the Restrictive Covenant; and,

WHEREAS, the City Council and the Owner agree the Restrictive Covenant should be amended;

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreements hereinafter set forth, the City of Austin and the Owner, agree as follows:

1. Paragraph #1 is deleted in its entirety and is of no further force and effect.

~~[1. No building, structure or other improvements shall be erected, constructed or otherwise placed upon the Property until a site plan for the Property has been approved by the Planning Commission and City Council of the City of Austin. No permit applications for any work regarding the Property shall be filed prior to such site plan approval.]~~

2. Except as expressly provided for in this Amendment, each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment.

3. The City Manager, or his designee, shall execute, on behalf of the City, this Amendment of Restrictive Covenant for Zoning File No. C14-84-092, as authorized by the City Council of the City of Austin. This Amendment of Restrictive Covenant for Zoning File No. C14-84-092 shall be filed in the Official Property Records of Travis County, Texas.

EXECUTED this the _____ day of _____, 2004.

OWNER:

**Rosewood Congregation of Jehovah's Witnesses,
Austin, Texas, a Texas non-profit organization**

By: _____

**Johnny M. Holmes,
President**

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2004,
by Johnny M. Holmes, President of Rosewood Congregation of Jehovah's Witnesses, Austin, Texas, a
Texas non-profit organization, on behalf of the non-profit organization.

Notary Public, State of Texas

CITY OF AUSTIN:

By: _____

**Laura J. Huffman,
Assistant City Manager,
City of Austin**

THE STATE OF TEXAS

§

COUNTY OF TRAVIS

§

This instrument was acknowledged before me on this the ____ day of _____, 2004, by Laura J. Huffman, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

AFTER RECORDING RETURN TO:

**CITY OF AUSTIN LAW DEPARTMENT
P.O. BOX 1088
AUSTIN, TX 78767
ATTN: DIANA MINTER, PARALEGAL**