

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
April 15, 2010 at 6:30 p.m.

City Council meeting called to order at 6:30 p.m. by Mayor Tom Haley.

Mayor Haley gave the Invocation and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Haley and Councilmembers Charles Roccaforte, Bob Flocke, Bill Appleman, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland, and City Attorney Cindy Crosby.

Citizens Communications

No citizens communications were heard.

1. Consent Agenda

- A. Approval of the minutes of the regular City Council meeting of April 1, 2010
- B. Approval of the March 2010 Financial Statements for the City of Wimberley

Councilmember Thurber moved to approve all Consent Agenda items as presented. Councilmember Flocke seconded. Motion carried on a vote of 5-0.

2. City Administrator Report

- Status report on Fiscal Year 2010 sales tax collection for the City of Wimberley

City Administrator Ferguson reported that February revenues are flat and provided year-to-date statistics that indicate the City is on target with revenue projections. He reported strong attendance for April's Market Days and hoped that favorable weather conditions will result in increased visitation to Wimberley.

- Status report on the efforts underway to secure federal funding for the downtown wastewater project

City Administrator Ferguson reported that the City's Tier III, Phase I loan application has been postponed until the Texas Water Development Board's (TWDB's) early May meeting agenda. He noted that an agenda will be posted for possible attendance by a quorum of City Council and Water

Wastewater Advisory Board members. He reported on the sparsely-attended public meeting presenting the environmental impact document that was held on Tuesday, April 13, 2010 at the Wimberley Community Center, with one speaker, Bert Ray, advocating the use of effluent disposal for irrigation purposes.

- Status report on the preparations for the upcoming May 8, 2010 City of Wimberley General Election

City Administrator Ferguson reported on the schedule/location for voting/early voting and noted that election information is available at City Hall, on the City's website, and in the local newspaper.

- Status report on efforts to develop alternative water supplies for the Wimberley Valley

City Administrator Ferguson reported on a recent meeting with Hays County Precinct Three Commissioner Will Conley, City staff, and local water providers providing updated information on the soon to be completed Hays County Water Wastewater Regional Study. He noted meeting topics, including possible funding options for alternative water supplies and anticipated scheduling a City Council/WWAB workshop meeting in the near future. City Administrator Ferguson stressed the need for less reliance on the aquifer and for back-up supplies during drought conditions.

- Status report on the development of an ordinance to regulate non-point source pollution

City Administrator Ferguson reported on a productive meeting with the task force last week and anticipated a draft ordinance to be presented to the Planning and Zoning Commission in May.

- Status report on the preparations to move into the new City Hall

City Administrator Ferguson advised that the City closed on the purchase last week, with preparations underway for the scheduled move on April 30, 2010. He provided information on the moving contractor, remodeling plans, and building permits. Although City Hall will be closed to the public on moving day, he noted that City Hall will be open to receive candidate campaign finance report filings, which are due by the close of business on April 30, 2010.

City Administrator Ferguson closed by reminding Council that photos need to be taken in the near future and anticipated the photo session to take place at the Wimberley Community Center. He asked that Council members advise of their availability next week in order to schedule an agreeable date/time. He also reported that an item will be posted on Council's May 6, 2010 agenda in order to address recent concerns communicated by Las Flores residents related to speeding.

3. Public Hearing and Possible Action

Hold a public hearing and consider approval of an ordinance of the City of Wimberley, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for property located at

10330 Ranch Road 12, Wimberley, Hays County, Texas, designating such property from Residential Acreage (RA) to Scenic Corridor (SC); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting. (*Michael Jones, Applicant*)

This item was heard after Agenda Item 6A.

Councilmember Thurber recused himself from the meeting at this time due to a possible conflict of interest.

City Administrator Ferguson reviewed the report, including the subject property's location and current/proposed zoning/uses. He noted that no planned use/development has been stated by the applicant, and advised of Planning and Zoning's 4-1 vote in favor to recommend approval, provided that specific buffering requirements are met by the applicant. He stated recommended buffering requirements as follows: The owner of the subject property shall install an eight (8) foot wide evergreen buffer along all property lines that abut a residential zoning district or residential use, where no natural vegetative buffer currently exists. The Commission further recommended that the evergreen buffer consist of native, adaptive and drought tolerant bushes, shrubs and plant materials normally expected to reach either (8) feet in height in three (3) years time and that invasive and exotic plants not be used. Maps were displayed of the subject property showing existing buffering/screening and opposition from one (1) property owner was noted.

Planning and Zoning Commission Acting Chair Jean Ross explained the opposing property owner's concerns based on lack of knowledge about future development plans for the subject property and potential for increased traffic and noise. The opposing property owner preferred a natural, green vegetative buffer over a fence to visually screen and buffer against any negative impact of commercial activities on his residence.

Discussion addressed the amount (in feet) of buffering that the applicant would be required to install and the scope of buffering, including which property lines would be affected.

Mayor Haley opened the public hearing.

Applicant Mike Jones distributed informational handouts to Council (*attached to these minutes*) in support of his position against buffering conditions and noted Hilltop Place Subdivision's amended deed restrictions indicating that the subject property shall be designated as a commercial tract. He directed Council's attention to a survey and photos that show existing vegetation and placement of utilities on the opposing property owner's property. He quoted estimated pricing on fencing and shrubbery, as well as the cost of maintaining vegetation.

Mayor Haley closed the public hearing.

Discussion addressed:

- Definition of types of vegetation
- Hilltop Place lots that may be zoned commercial
- Mayor Haley's recommendation for six-hundred eighty feet (680') of buffering along frontage of Lots 4,5, and 42, if such properties are residential
- Councilmember White's comments relating to responsibility of residential property owners to keep existing buffering in place and effect on commercial property owner to install/maintain buffering, should the residential property owner remove such buffering
- Draft ordinance language (*see Agenda Item 5A*) requiring installation of buffering before a certificate of occupancy can be issued and effect of said ordinance on this zoning application, if approved
- Due to Wimberley's unique geography, Mayor Haley's suggestion that each application be considered by Planning and Zoning with case-specific recommendations for conditions, without imposition of "blanket" buffering standards
- Rationale for the need for standard buffer requirements in response to concerns expressed by residential property owners during the City-initiated zoning process

Stating that he believes in property rights, Mayor Haley entertained a motion to approve the item as presented, with a buffer required along frontage on Lots 4, 5, and 42, with specifics on the type of buffering to be decided by Council. There was brief discussion of various types of vegetation and their respective growth rates.

Councilmember Flocke moved to approve the item as presented, *without* the addition of any buffering requirements. Clarification was provided to Councilmember White that Councilmember Flocke's motion is for no buffering along any property lines abutting the subject property. Councilmember Roccaforte seconded.

Mayor Haley called for a vote as follows: Councilmember Roccaforte, aye; Councilmember Flocke, aye; Councilmember Appleman, nay; Councilmember White, aye. Motion carried on a vote of 3-1.

Councilmember Thurber rejoined the meeting at this time.

4. Resolution

Consider approval of a resolution of the City Council of the City of Wimberley, Texas authorizing the Mayor to sign an amendment to the Wastewater Operating Agreement between the City of Wimberley and the Guadalupe Blanco River Authority; providing for an effective date; and proper notice of meeting. (*City Administrator*)

City Administrator Ferguson reviewed prior Council action approving the TWDB loan application submission, which included a commitment by the City to take needed steps to mandate connection to ensure a viable customer base for a future wastewater system. This resolution is the first step

necessary to follow through on that commitment, which amends the current operating agreement. He noted certain minor modifications to the language of the resolution.

Clarification was provided to Councilmember White relating to language in the original agreement, updating of the original agreement, number of potential connections, method of calculating LUEs based on existing land use, the development process relating to permitting and collection systems/lift stations, financing options, financial impact to business customers, and possible imposition of lien(s). Discussion included:

- Citizens' concerns
- Existing failed/failing downtown septic systems and land limitations
- Negative environmental impact of existing systems on Cypress Creek
- Mitigation of the City's obligation to GBRA should businesses close down
- Method of LUE calculations based on actual water usage and possible advantages, particularly if water usage increases via a centralized system
- Need to anticipate demand and set standards for system development
- Further study of the Aqua Texas option as an affordable short-term alternative for downtown wastewater service and associated advantages/disadvantages
- The City's existing agreement with GBRA
- GBRA's significant investment of capital to date
- Development agreements for certain properties
- Updating of impact fees as the system expands over time
- Clarification of language in amendment to Section 3.3 of the operating agreement
- CCN service area limited to inside City limits

Councilmember Thurber moved to approve the resolution as presented, with the modifications as noted by staff. Councilmember Flocke seconded.

Mayor Haley called for a vote as follows: Councilmember Flocke, aye; Councilmember Appleman, aye; Councilmember Thurber, aye; Councilmember White, abstain; Councilmember Roccaforte, aye. Motion carried on a vote of 4-0, with Councilmember White abstaining.

5. Ordinances

- A. Consider approval of an ordinance of the City of Wimberley, Texas, Amending Title XV (Land Usage) of the Code of Ordinances Chapter 151 (Building Regulations; Construction) by adding Section 151.20 (Commercial Screening Buffer) in order to establish regulations regarding screening buffers between commercial and residential uses; and providing findings of fact, a repealing clause, to provide a savings and severability clause and providing for an effective date. (*Planning and Zoning Commission*)

City Administrator Ferguson provided background information and reasoning on the development of standards as presented in the draft ordinance. He stated that the proposed ordinance requires a

landscape buffer along all commercial property lines abutting property zoned or used for residential purposes so as to visually screen the commercial uses.

The proposed ordinance requires where no natural vegetation exists, that the commercial property owner shall install an eight (8) foot wide evergreen buffer consisting of native, adaptive, and drought tolerant bushes, shrubs, and plant materials normally expected to reach eight (8) feet in height in three (3) years time.

Discussion among Council, staff, and Planning and Zoning Acting Chair Ross addressed possible scenarios such as removal of an existing buffer by the residential property owner and its effect on the commercial property owner's obligation to provide buffering. Other topics of discussion included the intent of screening buffers, the commercial property owner's burden of installing/maintaining buffering, case-specific review versus "blanket" minimum standards, variance procedures, draft ordinance objectives, and specificity of buffering types.

After different interpretations of the draft ordinance were discussed relating to commercial/residential property owners' obligations, Councilmember Thurber moved to approve revision of this item by City staff and legal counsel in order to clarify that the burden for buffering should be on the commercial property owner at all times. Councilmember Appleman seconded.

In the interest of clarity, City Administrator Ferguson restated Councilmember Thurber's motion using the following example: If a buffer exists (whether along residential or commercial property lines), then the commercial property owner does not have the obligation to install a buffer, but if a buffer is removed (even after issuance of the certificate of occupancy), the commercial property owner has the obligation to install and maintain a buffer. Councilmember Thurber replied that City Administrator Ferguson's example states his motion correctly. Councilmember Appleman reiterated his second to the clarified motion.

Mayor Haley called for a vote as follows: Councilmember Appleman, aye; Councilmember Thurber, aye; Councilmember White, aye; Councilmember Roccaforte, nay; Councilmember Flocke, nay. Motion carried on a vote of 3-2.

- B. Consider approval of the first reading of an ordinance amending Chapter 50 (Sewers and Water), Section 50.63 (Connection to the Sewer System Required), of the Code of Ordinances of the City of Wimberley, Texas, in order to establish the requirements for mandatory connection to a public wastewater system; and providing for an effective date; proper notice and meeting, severability and repealer. (*City Administrator*)

City Administrator Ferguson explained the connection requirements and penalties as set forth in the proposed ordinance and recommended approval.

Discussion between City Administrator Ferguson and Councilmember White addressed certain scenarios involving landlocked properties, easements, and connection of buildings/structures located on properties that are within one-hundred fifty feet (150') of a public wastewater system.

Councilmember Appleman acknowledged the difficulty of this decision, but felt that it is necessary to approve this item in order to move forward.

Councilmember Appleman moved to approve the item as presented. Councilmember Thurber seconded.

Mayor Haley called for a vote as follows: Councilmember Thurber, aye; Councilmember White, abstain; Councilmember Roccaforte, nay; Councilmember Flocke, aye; Councilmember Appleman, aye. Motion carried on a vote of 3-1, with Councilmember White abstaining.

6. Discussion and Possible Action

- A. Discuss and consider possible approval of an easement agreement with Aqua Utilities, Inc. d/b/a/ Aqua Texas, Inc. establishing a wastewater utility easement on Lot 2 of the Wimberley Community Center subdivision. (*City Administrator*)

This item was heard after Agenda Item 3.

City Administrator Ferguson stated that this proposed agreement establishes a twenty (20) foot wastewater utility easement between the Wimberley Community Center (WCC) and the Patsy Glenn Nature Refuge, with the 0.107 acre easement to be located within an existing drainage easement at the southern end of the WCC parking lot near the entrance to the Refuge.

The requested easement is needed to allow Aqua Texas, Inc. to run a sewer line from its lift station behind Brookshire Brothers to Mill Race Lane, which will cross Ranch Road 12 near Ozona National Bank to provide centralized wastewater service to W.C. Carson's large, mixed-use development planned on the north side of Cypress Creek. He provided reasoning for the easement location, other easement location options considered, and stressed that an arborist will prepare a plan to protect trees.

He noted that Aqua Texas will be required to restore any area disturbed during construction to pre-construction condition and recommended approval.

Discussion addressed the effect of easement placement on possible future building and on Mill Race Lane residences/businesses.

John David Carson stated that Mill Race Lane would have the ability to be served from this Aqua Texas line and discussion among Mr. Carson, staff, and Council established the exact location of the proposed easement and Aqua Texas lines. He stated that this is the last easement needed in order for development to proceed and thanked Council for consideration of this issue.

In response to Councilmember Appleman's request, Mr. Carson offered to provide a walking tour of the route. City Administrator Ferguson stated that notification will be provided to property owners

who may be affected during construction, with measures taken to mitigate any negative effects of construction.

Councilmember Flocke moved to approve item as presented. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible approval of a professional services agreement with Baker-Aicklen & Associates, Inc. for the preparation of a boundary survey for the City of Wimberley. (*City Administrator*)

City Administrator Ferguson reviewed past Council actions resulting in Council's direction to staff to enter into negotiations with Baker-Aicklen and Associates in an attempt to develop a contract for the completion of a City limits survey. He highlighted terms such as lump sum cost (\$75,000), possible additional costs, and estimated time for project completion. He closed with staff's recommendation for approval.

Councilmember White moved to approve the item as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible approval of plans for a volunteer appreciation event to recognize members of the City's various boards and commissions and others who have volunteered time to assist the City of Wimberley. (*Place Four Councilmember Steve Thurber*)

City Administrator Ferguson detailed a proposal for a reception tentatively scheduled for late May, to be held in the art gallery at the Wimberley Community Center. He stated that in addition to the reception, a brief ceremony is planned in Johnson Hall to recognize individual volunteers. He welcomed Council's input in submitting names for recognition. Mayor Haley stated that recently deceased Transportation Advisory Board (TAB) Chairman Corwin Vansant should be given special recognition for his service. Several ideas for honoring Chairman Vansant's service were discussed, including a possible designated area at Blue Hole for such recognition.

Councilmember Flocke moved to approve the plans as presented. Councilmember Thurber seconded. There was brief discussion of potential costs associated with the proposed event. Motion carried on a vote of 5-0.

- D. Discuss and consider possible approval of a professional services agreement with American Fireworks to design, prepare, and execute a fireworks display in Wimberley on July 4, 2010. (*City Administrator*)

City Administrator Ferguson recommended approval of the proposed agreement and presented details on the event's location and timeframe. He noted that the display will be funded from community contributions and that the City reserves the right to add to the total amount of the contract, should contributions exceed the \$5,000, as stated in the agreement.

Discussion addressed fundraising efforts, goals, and commitments acquired to date. Councilmember Flocke moved to approve the item as presented. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

7. City Council Reports

- Announcements
- Future Agenda Items

Hearing no further announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 8:30 p.m.

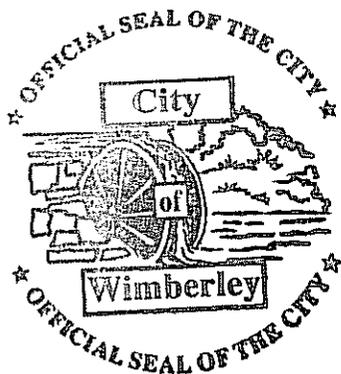
Adjournment: Council meeting adjourned at 8:30 p.m.

Recorded by:

Cara McPartland

Cara McPartland

These minutes approved on the 6th of May, 2010.



APPROVED:

Tom Haley

Tom Haley, Mayor

307-262

AMENDED RESTRICTIONS FOR HILLTOP PLACE, LTD.

STATE OF TEXAS I
COUNTY OF HAYS I

119788

KNOW ALL MEN BY THESE PRESENTS

That Hilltop Place, Ltd., a Texas Limited Partnership having its principal place of business in Wimberley, Hays County, Texas, (hereinafter called the "Developer"), being the owner of that certain tract of land described and platted into that certain said subdivision recorded in the office of the County Clerk of Hays County, Texas on the 10th day of March, 1978, A. D., after having been approved as provided by law, and being recorded in Volume _____ Pages _____ of the Map Records of Hays County, Texas, and the Developer desiring to create and carry out a uniform plan and scheme for the improvement, development, and sale of property in said Hilltop Place, Section One, (hereinafter referred to as "Subdivision"), does hereby adopt, establish, promulgate and impress the following Reservations, Restrictions, and Covenants, which shall be and hereby made applicable to the Subdivision.

I.

GENERAL PROVISION

APPLICABILITY

1. Each Contract, Deed or Deed of Trust which may be hereafter executed with respect to any property in the Subdivision shall be deemed and held to have been executed, delivered and accepted subject to all of the provisions of this instrument, including, without limitation, the Reservations, Restrictions, and Covenants herein set forth, regardless of whether or not any of such provisions are set forth in said Contract, Deed or Deed of Trust, and whether or not referred to in any such instrument.

DEDICATION

2. The streets and roads shown on said recorded plats are for the sole and exclusive use of the Developer and the owner of the lots in this subdivision to be known as "Hilltop Place, Section One"

Handouts distributed by Michael Jones at City Council meeting of April 15, 2010

307-271
Exercise of any such prerogative by one, or more members of the Committee in their capacity as such shall not constitute action by the Developer after the election of such Committee members notwithstanding that any such Committee member be a Director of the Developer.

III.

DESIGNATION OF TYPE OF LOTS

1. All lots in Hilltop Place, Section 1 that are five (5) acres or larger shall be known as "Ranches" except for tracts number 1, 2, 3, 10, 32, and 40, which shall be designated as "commercial tracts"; and tracts numbers 33 through 39 which shall be designated as "semi-commercial tracts".

IV.

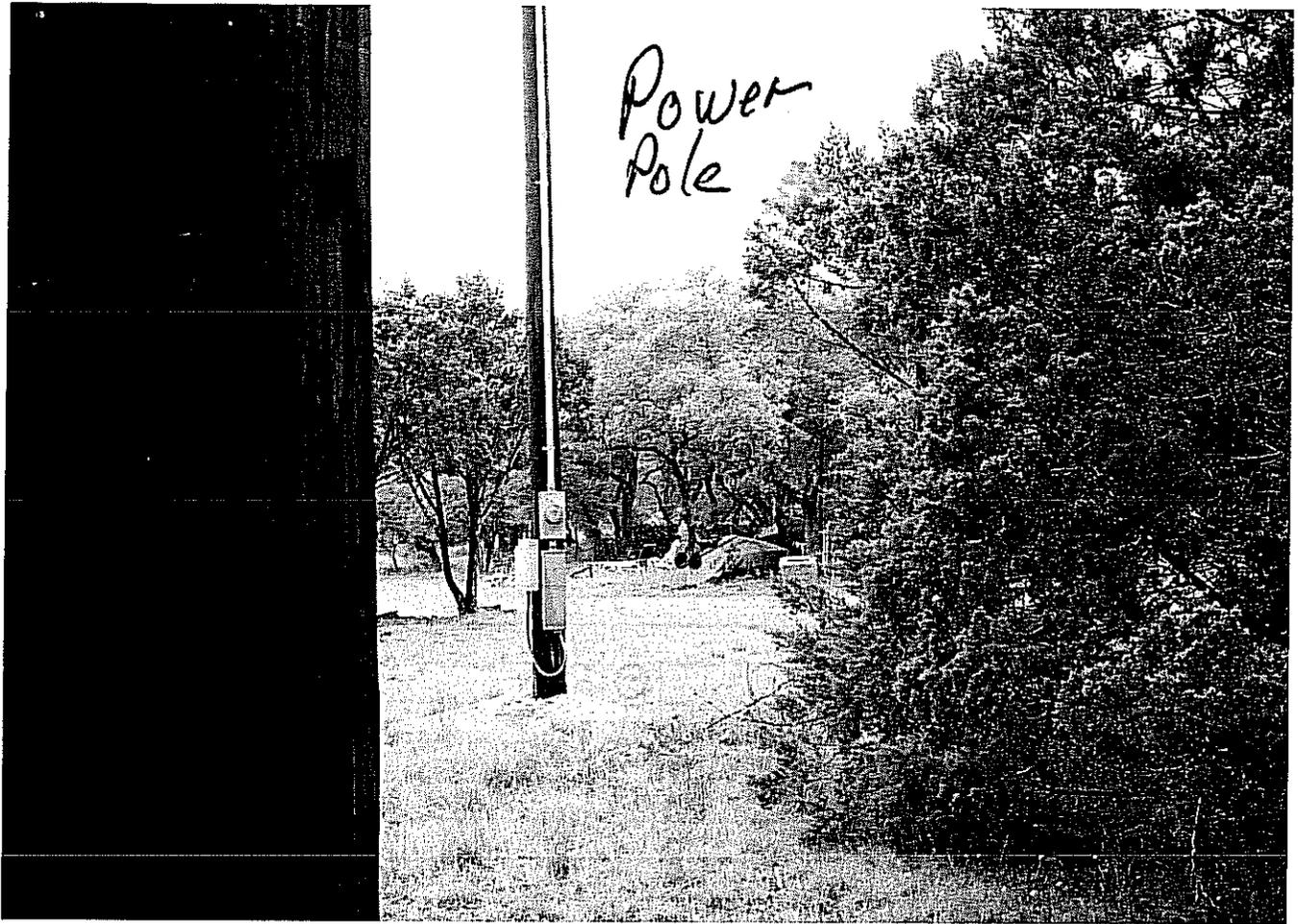
GENERAL RESTRICTIONS

1. None of the lots or the improvements thereon except for the designated "commercial tracts" and "semi-commercial tracts" shall be used for anything other than single-purchaser, private residential purposes. All outbuildings such as garages, servant quarters, guest quarters, barns, and stables must comply with the Architectural Control Committee and be used in conjunction with a single-family, privately-owned residence. For the purposes of this instrument, the word "lot" shall not be deemed to include any portion of the following areas shown on the recorded plat: any esplanades or greenbelts (unless otherwise shown on plats), any unrestricted or reserve areas shown on the plats.

2. The living area of the main residential structure (exclusive of porches, whether open or screened, garage or other car parking facility, terraces, driveways and servants' quarters) shall not be less than the following respective amounts for each of the designated particular types of lots: Hilltop Place, Section One - "Ranches" 1,400 square feet for a one story dwelling, and 1,800 square feet for a two-story dwelling.

Current Owner		Legal Description		Exemptions		Appraised	
GUNTER, KEVIN P & COLLEEN M (00003266) 111 TWIN SADDLES LN DRIPPING SPRINGS, TX 78620		HILLTOP PLACE SEC 1, LOT 4 & WPT OF 5 & WPT OF 42, ACRES 8.824				Unavailable	
Situs Address		Entties		CWI, EWI, FWI, GHA, RSP, SWI		Homestead Cap	
120 SIERRA LOMA WIMBERLEY, TX 78676						N/A	
History Information							
		2009	2008	2007	2006		
Imp HS		\$0	\$0	\$0	-		
Imp NHS		\$0	\$0	\$0	-		
Land HS		\$0	\$0	\$0	-		
Land NHS		\$120,830	\$96,640	\$53,850	\$53,850		
Ag Mkt		\$0	\$0	\$0	-		
Ag Use		\$0	\$0	\$0	-		
Tim Mkt		\$0	\$0	\$0	-		
Tim Use		\$0	\$0	\$0	-		
HS Cap		-	-	-	-		
Assessed		\$120,830	\$96,640	\$53,850	\$53,850		
Improvement Sketch							
Building Attributes							
Construction	Foundation	Exterior	Interior	Roof	Flooring		
Heat/AC	Baths	Fireplace	Year Built	Rooms	Bedrooms		
Improvements							
Type Description	Area	Year Built	Eff Year	Value			
Land Segments							
SPTB Description	Area	Market	Ag Value				
C3 C3-Vac Platted > 5 Ac	8.824						

1



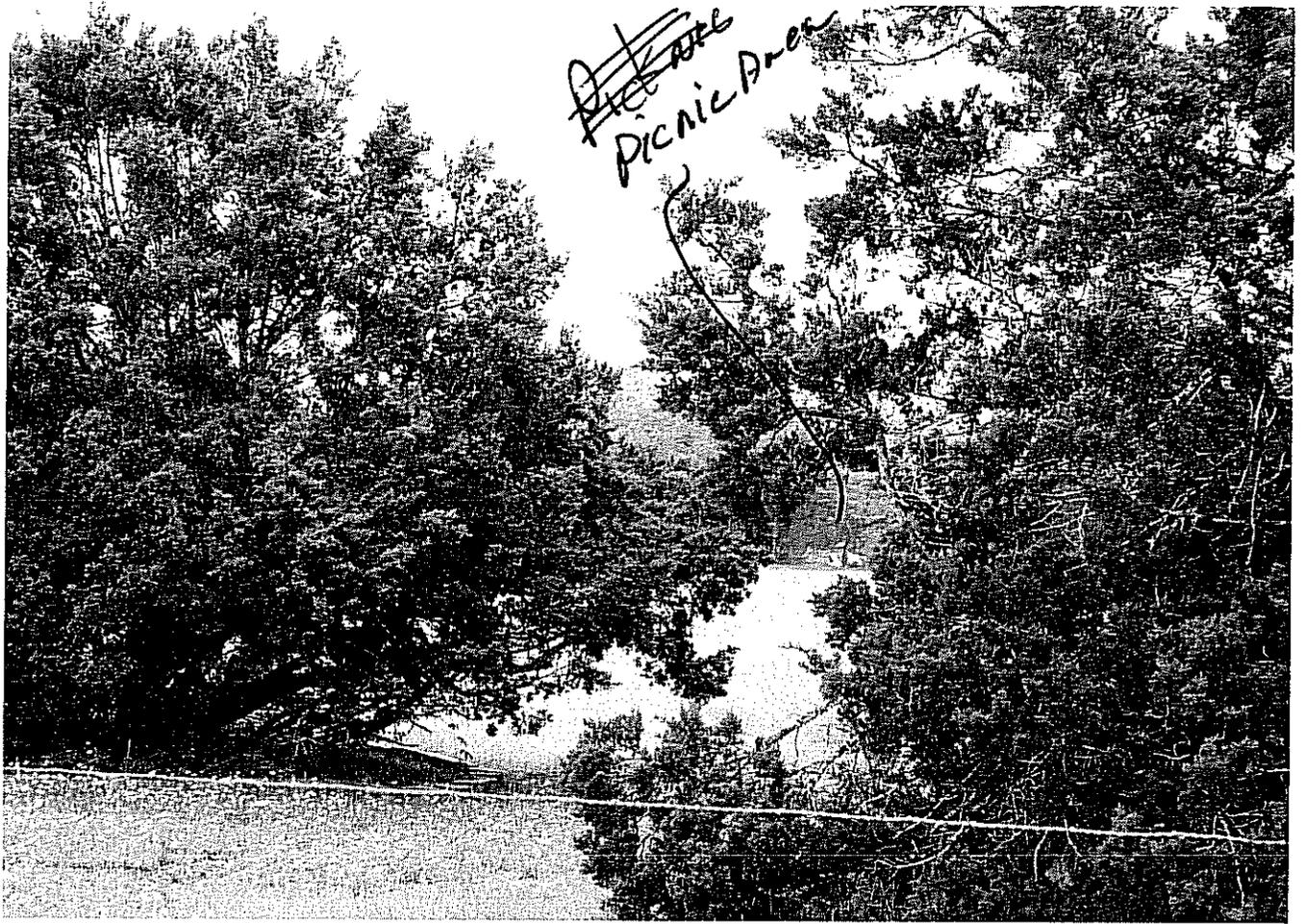
Power Pole

2

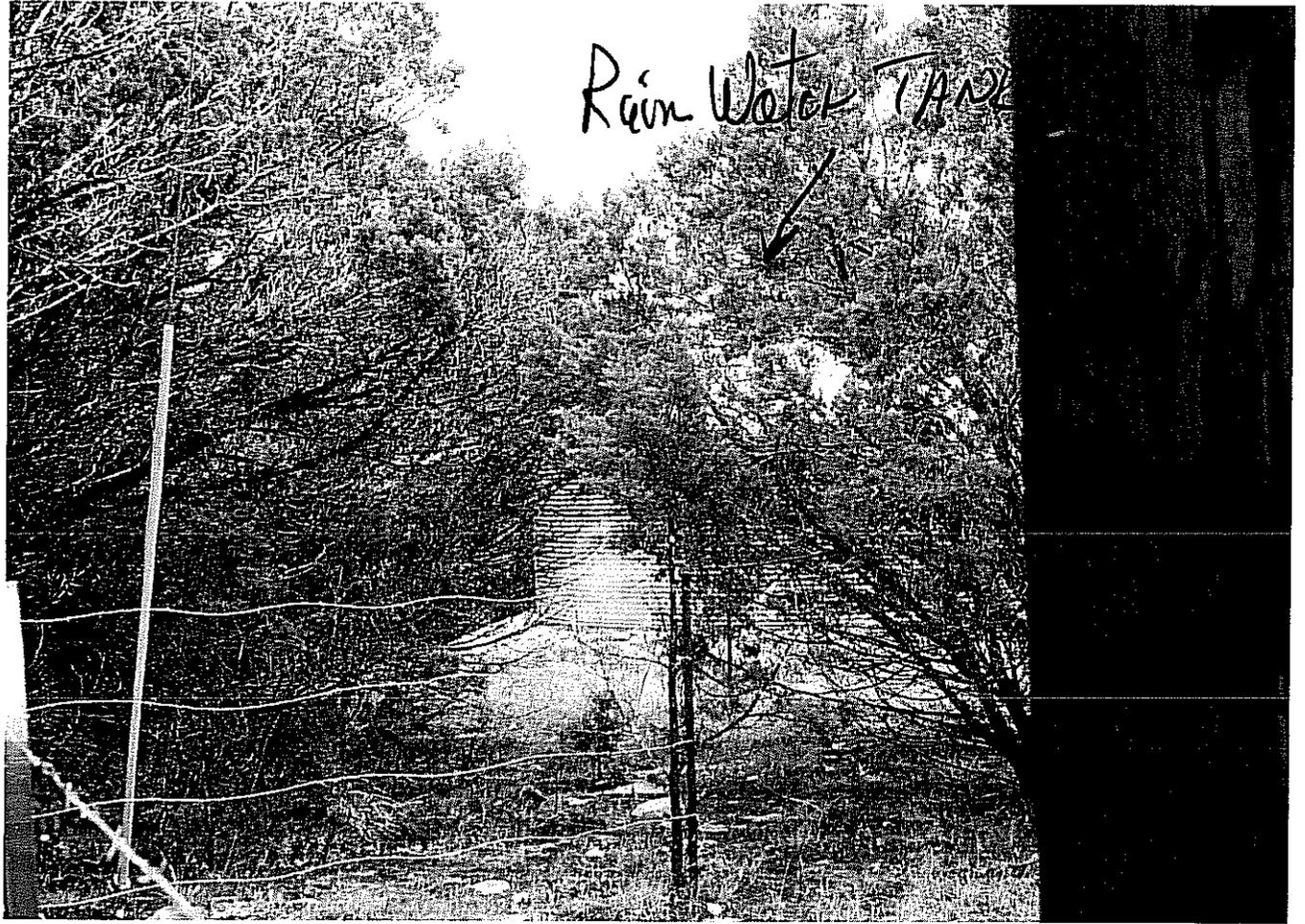


East Side

4



3



6



5

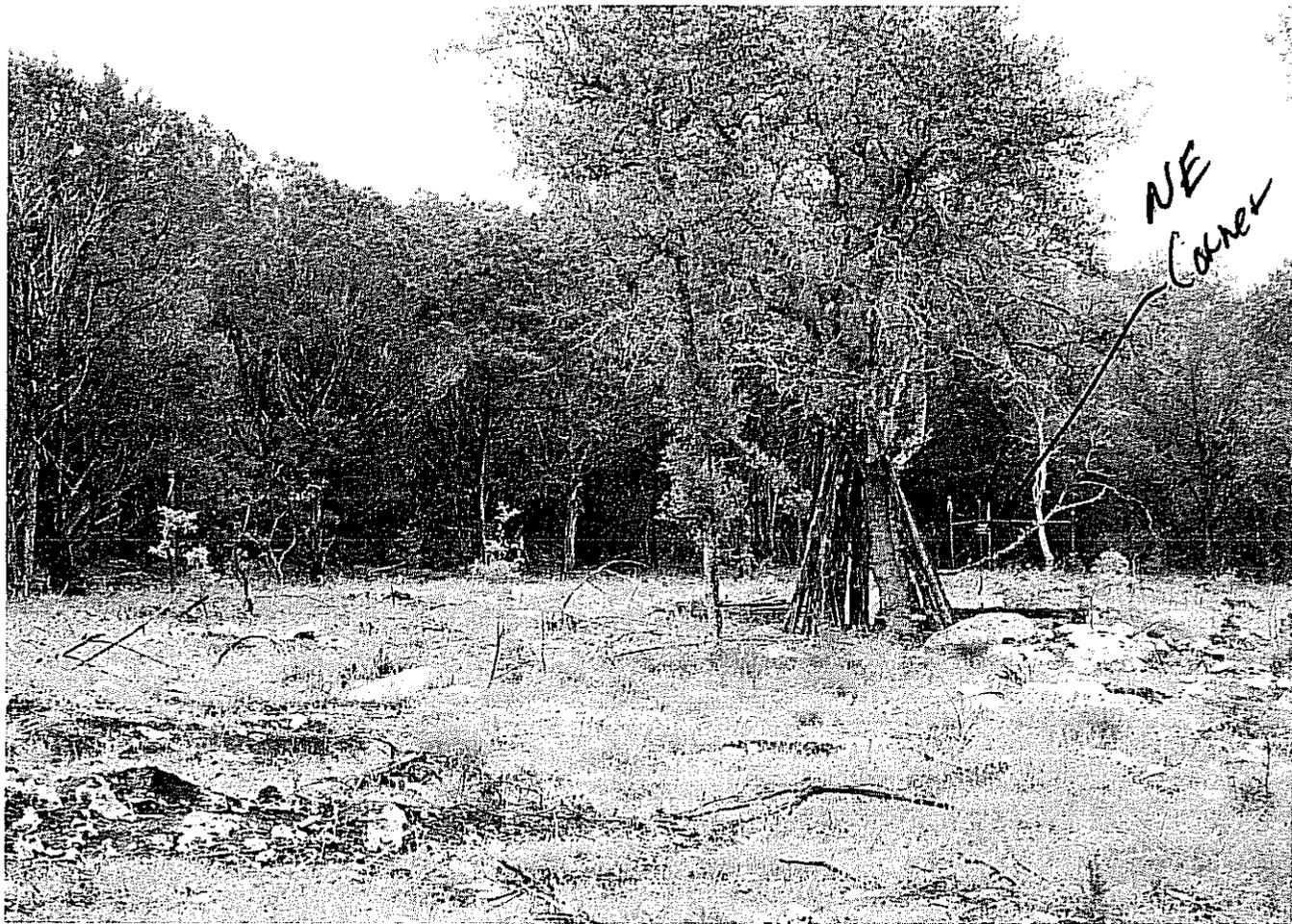


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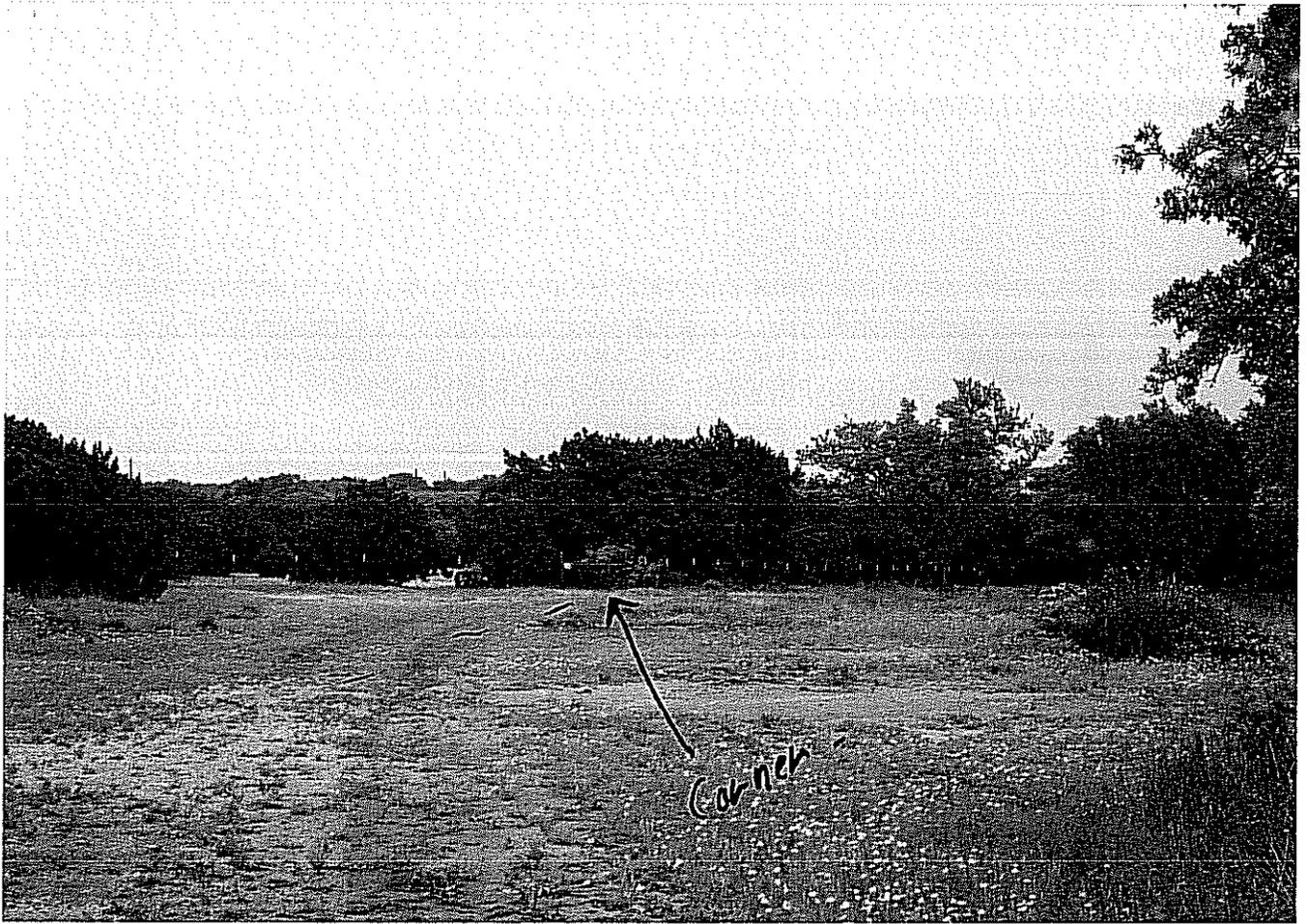


NE
Corner

7



10



9

