

**TOWNHOUSE VI HOMEOWNERS' ASSOCIATION  
SPECIAL BOARD MEETING  
Monday, February 10, 2025 12:00 Noon  
East Center**

**CALL TO ORDER – Mark Spence - President**

- The meeting was called to order at 12:00 Noon. Twenty people, including 8 Board members, were in attendance. No one participated by Zoom

**ROLL CALL – Pat O’Leary – Secretary**

- The following Board members were present:  
Mark Spence (2027)  
Pat O’Leary (2026)  
Sandy Cooney (2026)  
Jerry Deno (2026)  
Rick Oliveira (2028)  
Yvonne Morris (2027)  
Margaret O’Leary (2028)  
Kathleen Edwards (2028)
- The following Board member was absent  
Sharon Gaipman (2027)

**APPROVAL OF AGENDA**

- Motion to approve the Agenda was made by Jerry Deno and seconded by Margaret O’Leary. The Board approved the motion.

**PURPOSE OF THE MEETING AND MEETING PROCESS**

- **President Mark Spence**  
This meeting was being held to consider the challenge by Tom and Nora Knox to the Landscape Committee’s (“LC”) decision to prune and trim the Palo Verde (“PV”) tree at the south end of Camino Del Monte near the Knoxes’ property. The LC had made its decision in response to an August 14, 2024 written request submitted by Dan and Shawneen Schmitt of Los Zafiros to enhance and improve their Santa Rita Mountains view.

The process for the meeting will be as follows:

- (1) LC Presentation – 15 minutes maximum
- (2) Appellants Presentation – 15 minutes maximum
- (3) Residents Comments – 3 minutes maximum per person
- (4) Board Decision – The appeal may be either granted or denied. The Board will vote by secret ballot to be jointly counted by the Secretary and one other Board member.

## OVERVIEW OF THE ISSUES

- **President Mark Spence**

The PV tree in issue is located on the Townhouse VI Homeowners Association's ("HOA") common area. Therefore, any trimming or pruning of the PV tree is governed by the HOA's Landscape Guidelines ("LGs").

To start, the LGs set out a Vision of "provid[ing] the residents with .... A balance between views of the mountains and valleys with occasional trees and more frequent trees offering privacy and reduced noise".

In maintaining the common area, the LC is assigned responsibility to "12. Navigate the issue between views and trees using the special comments under the Homeowners Input Process."

The LGs contain this "Special direction on the issue of Views and Trees" to the LC: "Many, if not most homes in Townhouse VI are situated to facilitate a view of the Santa Rita Mountain's sky islands and most homeowners desire this view. There is no guarantee of a clear view as occasional trees are common to our area. However, as trees grow and mature, they may block this prime view decreasing the homeowner's enjoyment and property value. Good planning, pruning and in some cases removal of plants and trees blocking views is important to mountain views. This should be balanced with the desire of other homeowner(s) to have a more private and quieter yard. Neighbors should respect each other's opinions and compromise in a friendly manner. The Landscape Committee and homeowner/s cannot take a stance in favor of only trees or only views."

In the instant case, the LC decided in favor of pruning and trimming the PV tree. The LGs provide homeowners, who "strongly disagree with the committee's [i.e. LC's] decision" the ability to ask the Board for reconsideration. The Knoxes have exercised this right and have asked for reconsideration of the decision to allow pruning and trimming of the PV tree.

There is no right or wrong at issue in this case. The task for the Board is to simply make a decision on whether to permit the pruning and trimming of the PV tree at the south end of Camino Del Monte.

## LANDSCAPE COMMITTEE PRESENTATION

- Committee Chairman Bob Laux – Bachand

The background information for LC's decision has been submitted to the Board and is included in this Meeting's file.

Bob Laux – Bachand discussed the decision, particularly the process leading up to it. The LC concluded that only a small amount of pruning and trimming would be needed to improve the Schmitts' view. At the same time, such limited pruning and trimming would not harm other interests, such as the Knoxes' view, the health of the tree, and the safety of people moving through the area.

As part of their request, the Schmitts have offered to pay for the tree work. A tree service provider, Danny Johnson, and his associated arborist have been contacted and have provided a preliminary bid of \$500 to do the work. A photo of Danny Johnson's proposed work has been appended to the LC's decision. A color photo of Danny Johnson's proposed work, labelled "Pic 1 – A" was also submitted by Tom Knox prior to the Meeting. This photo shows a red line, drawn about 2/3rds of the way up the PV tree, suggesting that the tree would be topped. "Pic 1 – A" is included in the Meeting File.

#### **APPELLANTS' PRESENTATION**

- **Tom Knox of 955 S. Camino Del Monte**

The Appellants objections to the trimming and pruning were set out as follows

- (1) In 2008, they purchased their house because of its proximity to foliage, including the PV tree, which provides shade from the hot afternoon sun.
- (2) The "Pic 1-A" photo shows that topping will significantly reduce the PV tree's size. In turn, the topping is likely to result in the tree's death.
- (3) The LGs say nothing about cutting trees to improve a homeowner's view
- (4) Granting the Schmitts' request could result in the HOA effectively conveying a constructive easement in favor of all homeowners seeking a tree's pruning or trimming to enhance their view.
- (5) The PV tree has not grown significantly in 16 years.
- (6) The PV tree currently reduces the Schmitts' view only by about 10%.
- (7) Besides photo "Pic 1 – A", Tom Knox also submitted three additional photos, labeled "Pic 1", "Pic 2" and "Pic 3", in support of his position. These photos are included in the Meeting file.

#### **RESIDENTS COMMENTS**

- **Mark Batterman of 845 S. Placita Toba**

He was concerned about the PV tree's health. He said the Schmitts currently have a pretty good view. Pruning and trimming of lower branches are generally desirable and

necessary for a variety of reasons. However, pruning and trimming of upper branches will only result in such branches growing back quickly in 2 or 3 years. As a result, the Schmitts' view will likely decrease again soon.

- **Shawneen Schmitt, One of the Requesters, of 919 S. Los Zafiros**

She provided the following response to Appellants' objections:

- (1) The LC decision says nothing about topping of the PV tree, only pruning and trimming.
- (2) Trees obtain nutrients from the roots, not the foliage and upper branches.
- (3) The Schmitts have lived in Townhouse Vi for 7 years, during that time the tree has grown a lot.
- (4) The Schmitts filed the request for pruning and trimming the PV tree about 2 years ago. No action was taken until after they re-filed the request on August 14, 2024.
- (5) The assertion of only a 10% view impairment is irrelevant

- **Jane O'Leary, An LC Member, of 685 S. Los Diamantes**

There is considerable confusion about Tom Knox's "Pic – 1A". The confusion, which involves the line drawn across the PV tree, was not caused by Tom Knox. Rather, the line was drawn by Danny Johnson at the HOA's request to illustrate the area where the tree would be pruned and trimmed. There has been no discussion with Danny Johnson about topping the PV tree.

- **Tom Knox, Appellant**

In response to Jane O'Leary's comment, he suggested that a basis for compromise might be found.

## **BOARD DISCUSSION**

- **Yvonne Morris, Board Vice President**

Since the Knoxes did not know the background behind "Pic – 1A", the Board should see if a compromise can be reached here.

- **Jerry Deno, Board Member**

He agreed with Yvonne Morris' suggestion. He further suggested that, as part of the compromise, the LC Chairman, Bob Laux – Bachand, should further consult with Danny Johnson on the work to be done

## **MOTION TO END DEBATE**

- Pat O'Leary moved that debate and discussion on the appeal be terminated and that the Board proceed with a vote on the appeal. Sandy Cooney seconded the motion. The motion was approved unanimously.



The Board then voted by secret ballots, which were counted by Pat O'Leary and Yvonne Morris. The Board affirmed the LC's decision to allow the PV Tree to be pruned.

**MOTION PROVIDING FURTHER INSTRUCTIONS REGARDING THE PRUNING AND TRIMMING OF THE PALO VERDE TREE**

- Yvonne Morris made the following motion which was seconded by Mark Spence:

"The Board directs the Landscape Committee to obtain a bid to prune and trim the Palo Verde tree at the south end of Camino Del Monte. The Schmitts must concur with the arborist's proposed price. The Landscape Committee Chairman or his designee must supervise the arborist's work. The Board directs that the arborist use current best practices, including avoiding 'topping' of the Palo Verde tree."

The motion was approved

While not part of the motion, the Board informally agreed that neither the Knoxes nor the Schmitts should be present during the tree pruning and trimming, as well as clarifying that the LC should directly contract with the arborist for the work, with the Schmitts reimbursing the HOA for the cost.

**MOTION TO ADJOURN**

- Sandy Cooney moved to adjourn the Meeting at 1:55 PM. Yvonne Morris seconded the motion. The Board approved the motion.

Submitted by Patrick F O'Leary  
Board Secretary  
Date; February 24, 2025

## Schmitt Landscape Decision – Information from the Landscape Committee

*Email to the Board, Nov. 21, 2024*

*Submitted by R.L. Laux-Bachand*

TH6 Landscape Committee chairman

Members of the Landscape Committee met at the site of Dan and Shawneen Schmitt's proposed landscape change on the afternoon of Nov. 20, 2024. The Schmitts have requested that the large palo verde bordering the southwest corner of the townhouse property at 955 S Camino del Monte be pruned to enhance their view of the Santa Rita Mountains. The townhouse is an end unit owned by Tom Knox and Nora Braman-Knox. The tree — one of the largest palo verdes in Townhouse VI — is next to the Del Monte cul-de-sac and provides shade and other benefits cited in the Knoxes' objection to the pruning request.

Committee members inspected the condition of the tree close up, and the view from the Schmitts' patio. It was our consensus, supported by another member who was consulted on this date, that the Schmitts' request be granted. Because the Knoxes have registered their strong disagreement with such an outcome, I am submitting this report and accompanying photos and documentation directly to the board of our homeowners association for a final decision, as provided in our Common Area Landscape Guidelines.

In doing so, I offer the following comments on the background of this request and in light of selected stipulations set forth in the guidelines, as cited below. Please feel free to consult with other committee members for further details and perspectives.

- View-related requests, if granted, are typically owner-financed. In this case, I was informed that two bids were submitted, and the work, if approved, would be done by an arborist familiar with this area (See 1d and 2e).
- One of the factors we consider is length of occupancy, and it's my understanding that the Schmitts have long expressed a desire to restore and / or improve their view — and have grown weary of waiting (See 1d and 4). Pruning of two other trees — mesquites closer to their yard — were approved as part of their request. If an appeal on the palo verde proceeds, I'd personally like to see it decided in a timely fashion.
- The Schmitts have questioned the Knoxes' standing in objecting to the palo verde proposal. There are varying precedents for involving non-adjacent neighbors, but the bottom line is 2b of our guidelines — it's a committee decision. In this case, the Knoxes' property would be materially affected by either removal of the tree or pruning that exceeded best practices. In the case of pruning, the committee would be engaged as stated in 2e of the guidelines.
- Finally, I'd like to cite the language of our guidelines stating that "Neighbors need to respect each other's opinions and compromise in a friendly manner." While I am presenting this matter as an opposition appeal in order to ensure a timely decision, I still believe it may be possible for the parties to reach an agreement on the extent of pruning.

Under 'Responsibilities'

7. Obtain input from homeowners before making significant changes to the areas near their yards

12. Navigate the issue between views and trees using the special comments (see \*\* below) under the Homeowner Input Process.

## Schmitt Landscape Decision – Information from the Landscape Committee

Under 'Process'

1d. Be aware that the Landscape Committee has limited financial and manpower resources and that the requesting homeowner/s may have to pay for the proposal. Also, If the request is made in the summer, a review of the request may not take place until the committee meets in the fall.

2b. Meet with the homeowners to see first-hand what is being proposed and modify it if appropriate. If the homeowner has not contacted all the affected homeowners, the committee needs to do so to obtain their input. The committee will determine who are the affected homeowners.

2e. Decide on the priority of the project given the available financial and manpower resources. If an outside contractor is used, an appointed Landscape Committee member will oversee the implementation.

3. If the homeowner/s strongly disagree with a decision to reject a proposal, they may ask the board for reconsideration and final resolution. The homeowner/s shall write a description of the project, why it is needed and why the Landscape Committee objected. The board may further research the issue, then hold a meeting with representation from the homeowner/s and the Landscape Committee and make a final decision. The same procedure shall apply if a homeowner or group of homeowners strongly disagree with the committee's decision to proceed with a proposal.

4. Many, if not most, homes in Townhouse VI are situated to facilitate a view of the Santa Rita Mountain's sky islands and most homeowners desire this view. There is no guarantee of a clear view as occasional trees are common in our area. However, as trees grow and mature, they may block this prime view decreasing the homeowner's enjoyment and property value. ... Neighbors need to respect each other's opinions and compromise in a friendly manner. The Landscape Committee and homeowner/s cannot take a stance in favor of only tree or only views.

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- Pruning a tree may be helpful.
- The mature height and size of trees and plants must be considered when planting, pruning or removing.
- Trees that are topped are not as attractive and may stimulate rapid vertical growth

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**Update on Narrative – February 6, 2025**

***Submitted by R.L. Laux-Bachand***

The Schmitts did complete the notification of their neighbors on Los Zafiros; all agreed to the requested work.

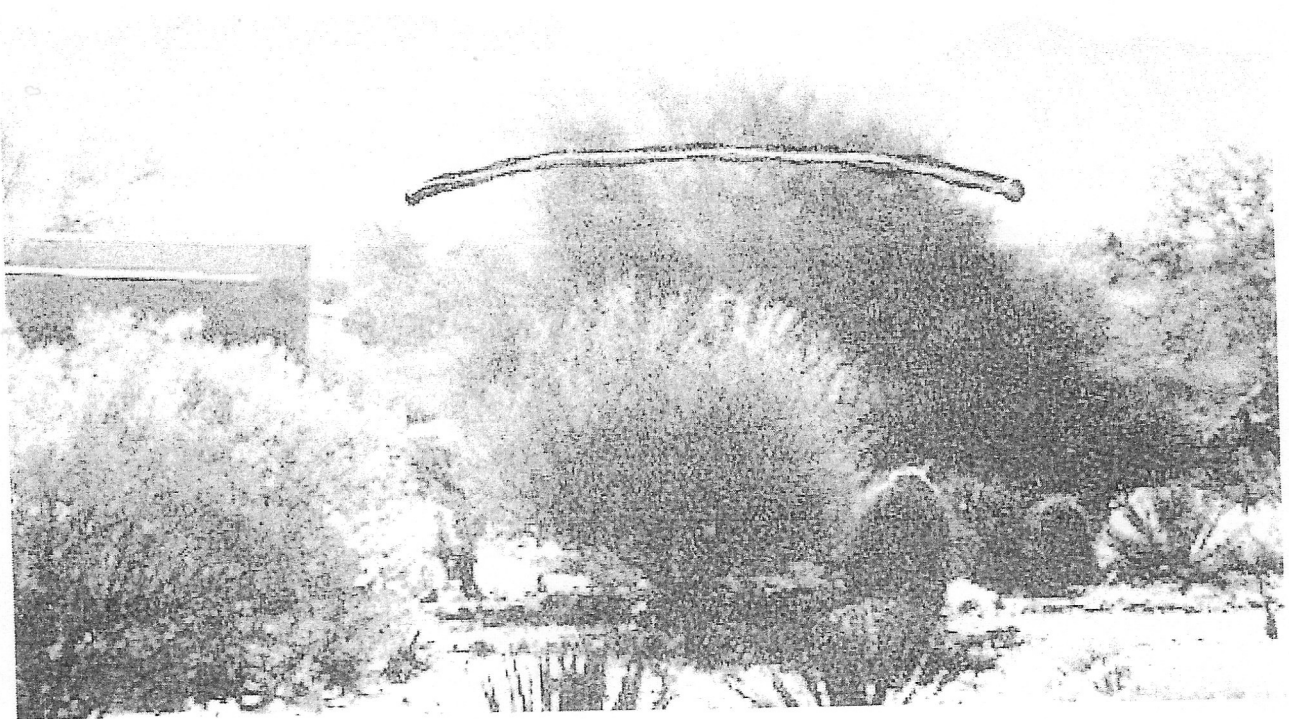
On Jan. 20, Danny Johnson, owner of Danny's Tree Service, met with Landscape Committee members to discuss what he had in mind regarding the tree trimming. We were particularly interested in having him render drawings to show the extent of the work. He drew lines on photos that showed the tree from its northwest side (as seen from the Schmitts' rear gate), and in profile looking south from the street.

## Schmitt Landscape Decision – Information from the Landscape Committee

On the next Saturday, Jan. 27, Johnson and a co-worker started work on the palo verde. I drove to the cul-de-sac and got them to stop. As it turned out, this was the result of an apparent misunderstanding, as they were supposed to be at a different site in the neighborhood on that day. However, they did remove branches of the palo verde that were hanging over the pavement, with the potential to interfere with delivery trucks. I helped them put some of these cuttings on one of our brush / branch piles at the end of the cul-de-sac. Because these branches were the main subject of Johnson's south profile drawing, that rendering was no longer relevant to the appeal and is not part of the committee's presentation.

The committee paid Johnson \$50 for his time and for the drawings, which had been suggested by our HOA president.

***View of the tree in question from behind the Schmitt property showing the extent of arborist's planned pruning.***

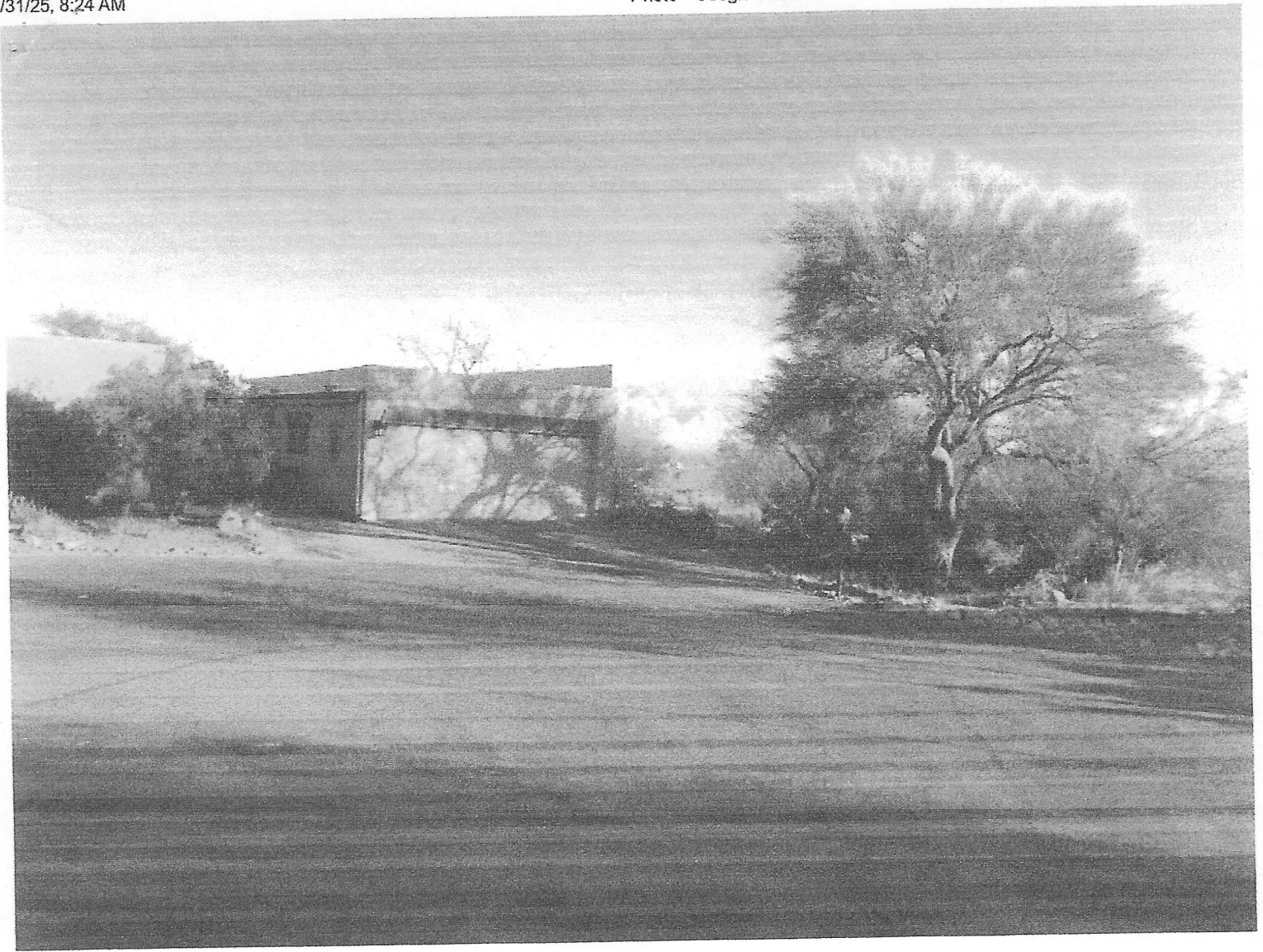


## Schmitt Landscape Decision – Information from the Landscape Committee

### Request form received by the Landscape Committee:

To be completed by Homeowner/s:	
Name/Signature: <u>Daniel/Shawna Schmitt</u>	Date: <u>8/12/24</u>
Address: <u>419 S. Los Zafiros</u>	Phone: <u>414-639-6689</u>
Additional homeowners requesting this change: sign/date/address	
Requested Change/Location/Reason:	
<u>Would like the Palo Verde (South end on Camino del Monte on Community land at entrance to pathway), and two Histigue trees on South path between Zafiros &amp; Camino del Monte) and the other behind Schmitt residence on service road to be trimmed/pruned.</u>	
Affected neighbors approval: sign/date/address <u>would like this to be done while trees are in</u>	
<u>No one affected - have requested this in the past. Noted today that a Sweet Acia tree on West end in the middle of Zafiros was cut.</u>	
Homeowner's willing to pay or help pay or work on the project: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Explain <u>back</u>	
<u>Daniel/Shawna Schmitt</u>	
To be completed by Landscape Committee:	
Date received: <u>8-28-24</u>	Tentative review date with homeowner:
Date reviewed: <u>7-5-24</u>	If the scope was modified, describe: <u>LC change request procedure will focus on the large palo verde adjacent to 455 S Camino del Monte. The owners, Tom &amp; Nora Knot, object to the pruning of this tree for view.</u>
Estimated project cost (range):	Amount to be paid by Homeowner:

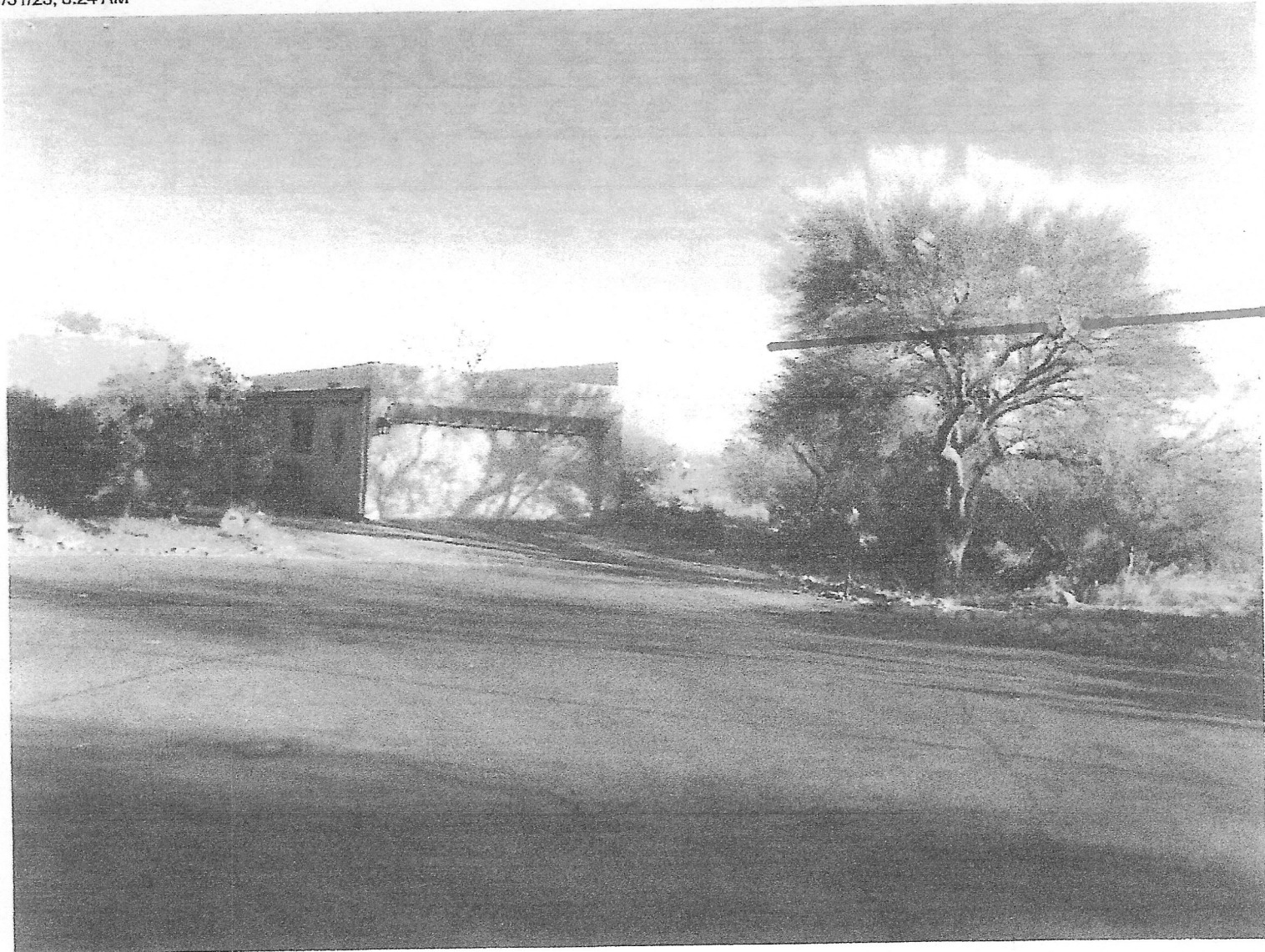




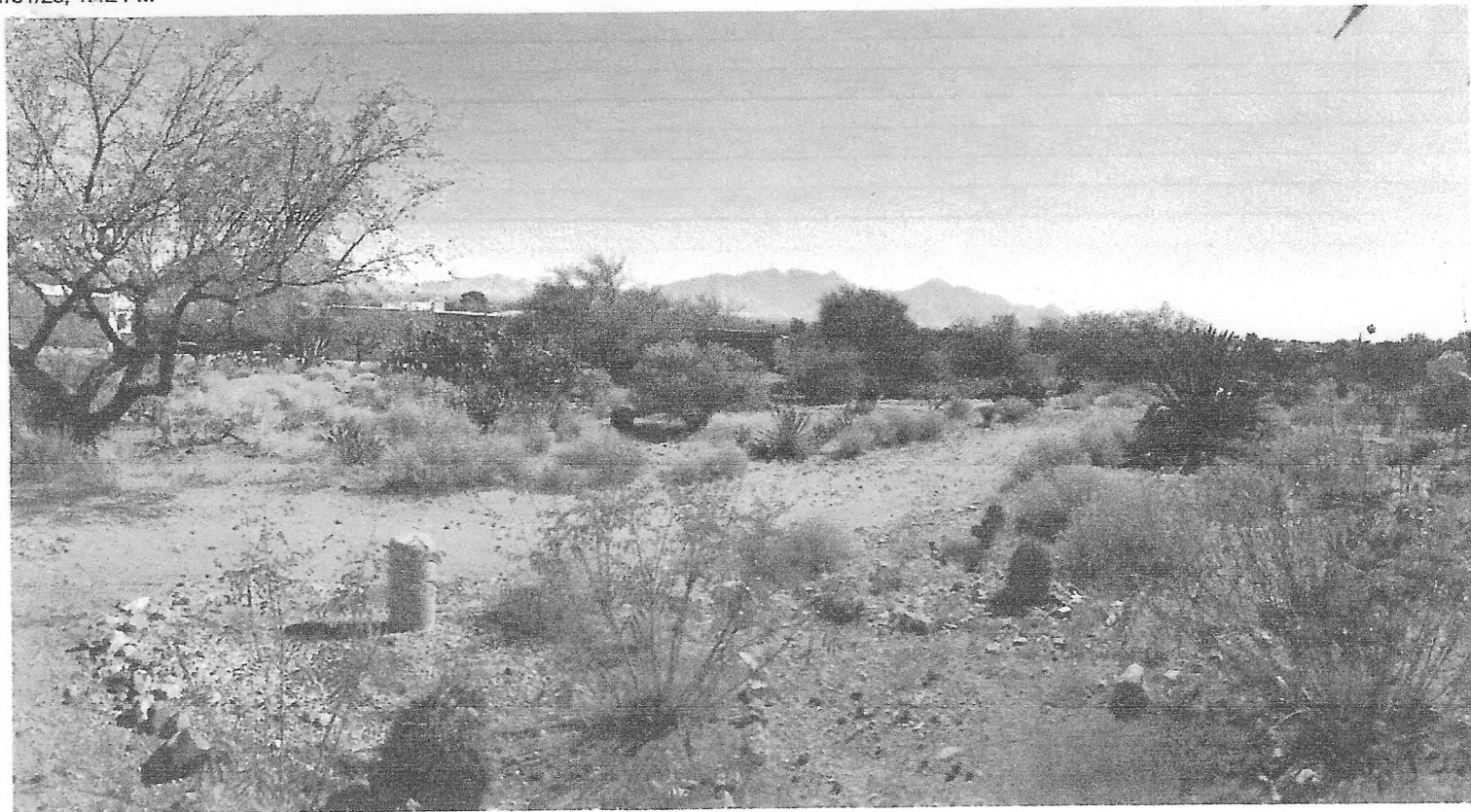
*Pic. 1*

*SUBMITTED: T. KNOX*





*Pic. 1-A*



*Pic. 2*



*Pic. 3*