

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

[www.coastal.ca.gov](http://www.coastal.ca.gov)

**Th7**

# CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

*For the*

*July Meeting of the California Coastal Commission*

MEMORANDUM

Date: July 13, 2006

TO: Commissioners and Interested Parties  
FROM: Charles Lester, Central Coast District Deputy Director  
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the July 13, 2006 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

***REGULAR WAIVERS***

- 3-06-010-W Anastasia, Inc. (Casa Carmelkorn), Attn: Jane Gaspers (Monterey, Monterey County)
- 3-06-013-W Giovanni's Fish Market, Attn: Giovanni Degarimore (Morro Bay, San Luis Obispo County)
- 3-06-029-W Kari L. Yeater (Carmel Area, Monterey County)
- 3-06-041-W City Of Monterey, Attn: Thomas B. Reeves, City Engineer (Monterey Marina, Monterey County)

***IMMATERIAL AMENDMENTS***

- A-3-SCO-00-033-A2 Melville & Margaret Connet (North Coast, Santa Cruz County)
- 3-93-064-A4 Ehab Youssef (Pacific Grove, Monterey County)

***EXTENSION - IMMATERIAL***

- A-3-SCO-00-033-E2 Melville & Margaret Connet (North Coast, Santa Cruz County)

**TOTAL OF 7 ITEMS**

## DETAIL OF ATTACHED MATERIALS

### REPORT OF REGULAR WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13250(c) and/or Section 13253(c) of the California Code of Regulations.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
<b>3-06-010-W</b> Anastasia, Inc. (Casa Carmelkorn), Attn: Jane Gaspers	Install a maximum of 26 new pilings (cement contained within PVC forms) and a maximum of 26 new piling caps to replace existing deteriorated pilings and piling caps.	Wharf No. 1, Concession No. 3, Monterey (Monterey County)
<b>3-06-013-W</b> Giovanni's Fish Market, Attn: Giovanni Degarimore	Addition of approximately 350 sq.ft. and take out service window to an existing fish market building.	1001 Front Street, Morro Bay (San Luis Obispo County)
<b>3-06-029-W</b> Kari L. Yeater	Remodel and 477-square foot addition to an existing single family residence.	3174 Sycamore Place, Carmel Area (Monterey County)
<b>3-06-041-W</b> City Of Monterey, Attn: Thomas B. Reeves, City Engineer	Construct a 120 square foot cement and wood structure to enclose the City's existing waste oil recycling center located adjacent to the Harbormaster's Office at the marina.	Harbormaster's Office, Monterey Marina (Monterey County)

### REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
<b>A-3-SCO-00-033-A2</b> Melville & Margaret Connet	Request to amend several special conditions of the base coastal development permit (CDP A-3-SCO-00-033) to provide for a slightly modified development footprint and exterior treatment, allow for minor fencing, to allow for native Monterey pine to be used as a screening tree, and to replace the existing road crossing of a riparian area with a bridge.	Approximately ¼ of a mile inland of State Highway One at the Santa Cruz/San Mateo County border adjacent to Año Nuevo State Reserve, North Coast (Santa Cruz County)
<b>3-93-064-A4</b> Ehab Youssef	Amend project to install doors and create approximately 285 square feet of additional storage within previously approved basement area.	450 Asilomar Avenue (Asilomar Dunes area), Pacific Grove (Monterey County)

**REPORT OF EXTENSION - IMMATERIAL**

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
<b>A-3-SCO-00-033-E2</b> Melville & Margaret Connet	Request to extend the expiration date of the of the base coastal development permit (CDP A-3-SCO-00-033) by one year to September 10, 2007. CDP A-3-SCO-00-033 as amended provides for the construction of single-family residence with detached accessory structure, pool, courtyard and driveway.	Approximately ¾ of a mile inland of State Highway One at the Santa Cruz/San Mateo County border adjacent to Año Nuevo State Reserve, North Coast (Santa Cruz County)

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: June 28, 2006  
TO: Anastasia, Inc. (Casa Carmelkorn), Attn: Jane Gaspers  
FROM: Peter M. Douglas, Executive Director  
SUBJECT: Waiver of Coastal Development Permit Requirement:  
**Waiver Number 3-06-010-W**

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13252 of the California Code of Regulations.

APPLICANT: Anastasia, Inc. (Casa Carmelkorn), Attn: Jane Gaspers

LOCATION: Wharf No. 1, Concession No. 3, Monterey (Monterey County)

DESCRIPTION: Install a maximum of 26 new pilings (cement contained within PVC forms) and a maximum of 26 new piling caps to replace existing deteriorated pilings and piling caps.

RATIONALE: Proposed development, with incorporated water quality protection measures (jetting the pilings in place with use of a flexible skirt to reduce turbidity and additional best management practices), involves no significant impacts on coastal resources or public access to the shoreline.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, July 13, 2006, in San Diego. If three Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,  
PETER M. DOUGLAS  
Executive Director

By: STEVE MONOWITZ  
District Manager

A handwritten signature in cursive script that reads "Steve Monowitz".

cc: Local Planning Dept.

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: June 28, 2006  
TO: Giovanni's Fish Market, Attn: Giovanni Degarimore  
FROM: Peter M. Douglas, Executive Director  
SUBJECT: Waiver of Coastal Development Permit Requirement:  
**Waiver Number 3-06-013-W**

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13253(c) of the California Code of Regulations.

APPLICANT: Giovanni's Fish Market, Attn: Giovanni Degarimore  
LOCATION: 1001 Front Street, Morro Bay (San Luis Obispo County) (APN(s) 066-352-030)  
DESCRIPTION: Addition of approximately 350 sq.ft. and take out service window to an existing fish market building.  
RATIONALE: Proposed development is coastal related, serves visitors, and will not adversely impact coastal resources or public access to the shoreline.

**IMPORTANT:** This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, July 13, 2006, in San Diego. If three Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,  
PETER M. DOUGLAS  
Executive Director

  
By: STEVE MONOWITZ  
District Manager

cc: Local Planning Dept.

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: June 28, 2006  
TO: Kari L. Yeater  
FROM: Peter M. Douglas, Executive Director  
SUBJECT: Waiver of Coastal Development Permit Requirement:  
**Waiver Number 3-06-029-W**

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13250(c) of the California Code of Regulations.

APPLICANT: **Kari L. Yeater**

LOCATION: **3174 Sycamore Place, Carmel Area (Monterey County) (APN(s) 009-541-017)**

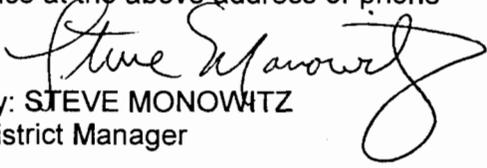
DESCRIPTION: **Remodel and 477-square foot addition to an existing single family residence.**

RATIONALE: **The proposed remodel and 477-square foot addition to the existing single family residence will not adversely impact coastal resources. The addition will be constructed on existing impermeable surfaces, and construction staging will occur on existing lawn areas. Runoff from new and remodeled portions of the residence will be directed to existing permeable areas of the site.**

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, July 13, 2006, in San Diego. If three Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,  
PETER M. DOUGLAS  
Executive Director

By:   
STEVE MONOWITZ  
District Manager

cc: Local Planning Dept.

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

**DATE:** July 6, 2006  
**TO:** City Of Monterey, Attn: Thomas B. Reeves, City Engineer  
**FROM:** Peter M. Douglas, Executive Director  
**SUBJECT:** Waiver of Coastal Development Permit Requirement:  
**Waiver Number 3-06-041-W**

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13253(c) of the California Code of Regulations.

**APPLICANT:** City Of Monterey, Attn: Thomas B. Reeves, City Engineer  
**LOCATION:** Harbormaster's Office, Monterey Marina (Monterey County) (APN(s) 001-701-012)  
**DESCRIPTION:** Construct a 120 square foot cement and wood structure to enclose the City's existing waste oil recycling center located adjacent to the Harbormaster's Office at the marina.  
**RATIONALE:** Proposed development will ensure greater protection of coastal waters through construction of a weatherproof enclosure and foundation containment barrier for the City's waste oil recycling center. Both the weatherproof enclosure and foundation containment barrier will prevent any spilled oils from migrating offsite and into the marine environment. The proposed development promotes clean boating practices and will not have any significant impacts on scenic and visual resources or public access to the shoreline.

**IMPORTANT:** This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, July 13, 2006, in San Diego. If three Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,  
PETER M. DOUGLAS  
Executive Director

By:   
STEVE MONOWITZ  
District Manager

cc: Local Planning Dept.

City Of Monterey, Attn: Richard Glenn, Agent

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**NOTICE OF PROPOSED PERMIT AMENDMENT**

**TO:** All Interested Parties  
**FROM:** Peter Douglas, Executive Director *by PM 6/28/06*  
**DATE:** June 28, 2006  
**SUBJECT:** Proposed Amendment to Coastal Development Permit (CDP) A-3-SCO-00-033  
Applicants: Melville & Margaret Connet

**Original Description:**

CDP A-3-SCO-00-033 provides for the construction of single-family residence with detached accessory structure, pool, courtyard and driveway. The project site is located approximately ¾ of a mile inland of State Highway One at the Santa Cruz/San Mateo County border adjacent to Año Nuevo State Reserve in the north coast area of unincorporated Santa Cruz County.

**Proposed Amendment:**

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

The amendment would change several special conditions of the base coastal development permit (CDP A-3-SCO-00-033) to provide for a slightly modified development footprint and exterior treatment, to allow for minor fencing, to allow for native Monterey pine to be used as a screening tree, and to install a bridge at an existing riparian area crossing. A more detailed amendment description is available for review in the Coastal Commission's Central Coast District Office in Santa Cruz.

**FINDINGS**

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled meeting. This amendment has been considered IMMATERIAL for the following reason(s):

The requested changes are generally minor in nature and do not affect the consistency of the project with the certified local coastal program and the Commission's prior approval. Certain aspects (like allowing for native Monterey pine and for the bridge) will better protect coastal resources. Specifically:

- The modified residential footprint is within the same general area (and is mostly the same) as was previously approved, and should not increase the visibility of structures as seen from any public view areas. The modified footprint is completely contained within the allowed area of site disturbance previously approved. In addition, the permit continues to include requirements for immediate screening should any development become visible from public viewing location(s) within Año Nuevo State Reserve and/or from Highway One.
- The modified exterior treatment allows for stone and hardipanel (as opposed to wood only as currently specified) and slate roofing (as opposed to copper). These materials are consistent



## NOTICE OF PROPOSED PERMIT AMENDMENT

Page 2

with the intent of the Commission's previous exterior treatment requirements, they would be subject to Executive Director review and approval, and are compatible with the natural landscape.

- The fencing will contain the horses allowed by the Commission's approval, and will avoid habitat impacts and be subject to Executive Director review and approval.
- The use of native Monterey pine (from local stock) to be planted as part of the required tree planting on the site is appropriate because the site includes a portion of one of the five native Monterey pine forests in the world (the Año Nuevo stand). It appears to have been an oversight that Monterey pine was not originally listed as one of the tree species that could be used in the tree planting plan for this project.
- The bridge crossing of the riparian area accommodates the Commission's required habitat corridor better than the culverts originally identified, and will better protect coastal resources (in this cases, habitat connectivity for the federal and state-listed endangered San Francisco garter snake and the federally threatened California red-legged frog).

In sum, the proposed amendment does not result in additional coastal resource impacts past those already understood as part of the Commission's original approval, and in some ways reduces potential impacts and/or enhances coastal resources.

If you have any questions about the proposal or wish to register an objection, please contact Dan Carl at the Central Coast District office.

cc: Tom Burns, Director, Santa Cruz County Planning Department  
Kevin Hughey, Esq., Sedgwick, Detert, Moran & Arnold



California Coastal Commission

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**NOTICE OF PROPOSED PERMIT AMENDMENT**

TO: All Interested Parties  
FROM: Peter Douglas, Executive Director *by Jm 6/28/06*  
DATE: June 28, 2006  
SUBJECT: **Permit No: 3-93-064-A4**  
Granted to: Ehab Youssef

## Original Description:

for **Single family dwelling, driveway, tree removal and utility extensions (including one new pole). Original permit 3-93-064 was issued to applicants Kenedy, Robert & Ann.**  
at **450 Asilomar Avenue (Asilomar Dunes area), Pacific Grove (Monterey County)**

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

**Amend project to install doors and create approximately 285 square feet of additional storage within previously approved basement area.**

FINDINGS

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled meeting. This amendment has been considered IMMATERIAL for the following reason(s):

**The proposed development does not involve any grading or excavation and will occur within the approved building footprint and therefore has no potential for any adverse impacts on coastal resources or public access to or along the shoreline.**

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson at the Central Coast District office.

cc: Local Planning Dept.

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June 28, 2006

## NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT

Notice is hereby given that: **Melville & Margaret Connet**  
has applied for a one year extension of Permit No: **A-3-SCO-00-033-E2**  
granted by the California Coastal Commission on: **May 7, 2001**

for **Request to extend the expiration date of the of the base coastal development permit (CDP A-3-SCO-00-033) by one year to September 10, 2007. CDP A-3-SCO-00-033 as amended provides for the construction of single-family residence with detached accessory structure, pool, courtyard and driveway.**

at **Approximately ¾ of a mile inland of State Highway One at the Santa Cruz/San Mateo County border adjacent to Año Nuevo State Reserve, North Coast (Santa Cruz County)**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,  
PETER M. DOUGLAS  
Executive Director

  
By: STEVE MONOWITZ  
District Manager

cc: Local Planning Dept.

Sedgwick, Detert, Moran & Arnold, Attn: Kevin Hughey

**CALIFORNIA COASTAL COMMISSION**

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**Memorandum****July 12, 2006****To:** Commissioners and Interested Parties**From:** Charles Lester, Deputy Director, Central Coast District**Re:** **Additional Information for Commission Meeting Thursday, July 13, 2006**

<u><b>Agenda Item</b></u>	<u><b>Applicant</b></u>	<u><b>Description</b></u>	<u><b>Page</b></u>
<b>Th10a, A-3-06-011</b>	<b>Freeland</b>	<b>Correspondence</b>	<b>1</b>

July 5, 2006

**RECEIVED**

JUL 06 2006

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

The Honorable Members of the California Coastal Commission  
c/o Mr. Mike Watson  
Central Coast District Office  
725 Front Street, suite 200  
Santa Cruz, CA 95060

Dear Commissioners:

I urge you to protect the water quality of coastal waters by not allowing additional Nonpoint Source Pollution to be consciously, knowingly and deliberately discharged into coastal waters.

On July 13, 2006 you will be asked to decide if a Substantial Issue exists regarding the development of a new residence at 334 Indio Drive, Pismo Beach, CA. The proposed new house will have its 1<sup>st</sup> floor below ground level by 3 to 4 feet. This will require a sump pump system to be installed to pump ground water out into the storm drain system. The storm drain empties onto a tidepool area a block away.

Best Management Practices are planned for the surface management of storm water including infiltration in to the ground. The design then calls for this same water and additional ground water to be pumped out, untreated, into the storm drains from less than 10 feet below the ground surface. I believe that pumping so near the ground surface defeats the purpose of using infiltration to control Nonpoint Source Pollution.

Furthermore, the quality of the ground water in this area needs to be determined. At this time no study has been done. Potential sources of pollution and contamination on this site are as follows: 1) This site is downhill from Highway 101 and may contain highway runoff, 2) this is the site of an oil depot/refinery in the early 1900's; and 3) the area has numerous natural sulfur springs.

The Sunset Palisades Homeowners Association had a study conducted as to the suitability of using ground water to irrigate 6 acres of park. A copy of the study is not available but several members of the Board recall that the ground water, as pumped from the ground, would not be suitable for irrigation of the lawns! This raises the question of what would the impact be to the tidepool habitat by increasing the amount of groundwater pumped out and dumped on the tidepool area via the storm drains.

I urge you to find that a Substantial Issue exists and call for a de novo hearing on this matter.

Issues to be addressed at a de novo hearing should include:

- What is the quality and composition of the water in wet weather?
- What is the potential impact on the tidepool habitat?
- If groundwater is to be pumped, can this water be treated on site before it is discharged into the storm drains?
- Can the structure be redesigned to eliminate the need to pump out groundwater utilizing design techniques that replicate pre-existing hydrologic site conditions?  
This is a flat lot and an above ground home could be built.

The developer should fund unbiased reports by certified professionals as to the qualities and composition of the ground water during wet weather; and the impact of the water properties upon the tidepool habitat?

Preventing Nonpoint Source Pollution requires due diligence of any potential contribution source because all the little sources do add up to a big problem.

Thank you for your attention to this matter.

Sincerely,



Mary Chalmers

(805) 627-1751

PO Box 2593  
Avila Beach, CA 93424

Email: [marychalmers@earthlink.net](mailto:marychalmers@earthlink.net)

Th 10a

**The Law Office of Marshall E. Ochylski**

Post Office Box 14327  
1026 Palm Street, Suite 210  
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Telephone: (805) 544-4546  
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E-mail: MOchylski@SLOlegal.com

**RECEIVED**

JUN 22 2006

CALIFORNIA  
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CENTRAL COAST AREA

**Transmittal via Email**

**Overnight Delivery via FedEx to Follow**

June 19, 2006

Mr. Mike Watson  
Central Coast Area Office  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

**Subject: California Coastal Commission  
Appeal Number A-3-PSB-06-011  
334 Indio Drive  
Pismo Beach, California  
(APN 010-191-002)**

This office represents Matthew Freeland and Bill Blackledge, the owners of the above-referenced real property, in all matters related to the above-referenced Coastal Commission Appeal.

This letter addresses that appeal filed by Mary Chambers of a Coastal Development Permit for the demolition of an existing single-family residence and construction of a new single-family residence on the inland side of Indio Drive in Pismo Beach.

We respectfully request that the California Coastal Commission find that no "substantial issue" exists because the final actions taken by the City in this matter are consistent with the policies of the certified Local Coastal Plan of the City of Pismo Beach and the public access policies of the Coastal Act.

The applicant has a number of concerns regarding both the facts and the analysis contained in the appeal since there are a number of conclusions which lack a basis in either fact or law; and although the appellant alleges a number of violations of the certified Local Coastal Plan, she provides little, if any, documentation to support her allegations.

**Background:**

The City of Pismo Beach Planning Commission held duly noticed public hearing consistent with Zoning Code section 17.54.020 on November 8, 2005, at which time the Commission unanimously approved the Coastal Development Permit.

On January 17, 2006, the City Council unanimously upheld the action by the Planning Commission, subject to all of the conditions of the original Planning Commission Permit, finding that:

1. The request complies with all Zoning Code provisions applicable to the proposed use.
2. The proposed use is permitted within the One Family Residential (R-1) zone and complies with all of the applicable provisions of the Zoning Code.
3. The proposed use is consistent with the General Plan/Local Coastal Plan.
4. The approval of the coastal Development Permit for the proposed project is in compliance with the California Environmental Quality Act (CEQA) consistent with section 15301.
5. The location and operating characteristics of the proposed use are compatible with the existing and anticipated future land uses in the vicinity.

It is that approval that is the subject of this appeal to the Coastal Commission.

**Discussion:**

There are a number of allegations in the appeal, none of which supports a determination of "substantial issue" as demonstrated in the following analysis.

**1. The City's Approval Of The Development Does Not Conform To The Standards Of The LCP/LUP Policies For Measuring Site Grade And The Subsequent Height Of Buildings.**

The applicable LCP/LUP policies and code sections alleged by the appellant include:

*LU-A-7 Height of Structures*

*a. El Portal Drive, Indio Drive*

*No structure shall exceed 15 feet in height when measured from the highest point of the site natural grade to the highest point of the*

*structure; nor shall any such structure exceed 25 feet, in height, when measured from the highest point of the roof above the center of the building foot print to the elevation of the natural grade directly below that point.*

The applicable Code Sections as alleged by the appellant include:

*17.006.0908 Site Grade: Phrase used in the Zoning Code ordinance to establish lot grade for the purpose of determining building heights and other development criteria. Site grade is determined as follows:*

*a. For subdivided properties existing as of the time of adopting of the October 12, 1976 Zoning Ordinance, site grade shall be the existing topography of each parcel as of October 12, 1976.*

*17.081.010 Purpose of Zone: The Height Limitations (HL) Overlay Zone is intended to set special restrictions on maximum building heights in designated area a/the City in order to preserve access to extraordinary scenic views and vistas, as well as to preserve and maintain bulk, and scale relationships for selected areas. These regulations are intended to preserve and protect the existing character of certain districts, according to stipulations established in the General Plan/Local Coastal Program Land Use Plan.*

The following discussion addresses this allegation and is in a large part excerpted from the City's staff reports.

The subject property was subdivided in 1950 and the existing single-family residence was constructed prior to October 12, 1976. Site grade is therefore considered to be the existing topography of the site as of that date. Because the City does not have grading records of the original subdivision nor does it have records of what the grade was on October 12, 1976, the City establishes grade based on the existing topography of the site. The existing topography is used because there is no way to accurately determine what the grade was back in 1976. The City has consistently utilized this method of establishing grade since the adoption of this code section.

In order to establish the high point of the lot, the applicant was required to provide a topographic survey for the entire site. The survey established the high point at the 105.5' elevation. The survey utilizes an assumed datum and does not use elevations numbers based on sea level. (Applicable cut sections from that survey are provided in Attachment "A.")

As staff notes in its report, "The topographic survey that was provided for the project is fairly typical of surveys the City receives. The lot slopes gently up toward the left hand corner or northern corner of the lot. The overall slope of the lot is fairly minimal at 2% with no drastic change in elevation. It would be fairly odd to have a lot with a completely flat

backyard, as this type of situation would create drainage issue. Lots are typically graded to drain to the street where possible.”

The following is a copy of an excerpt from the City’s Consistency Analysis that is included in its original staff report.

<b>C. DEVELOPMENT STANDARDS CONSISTENCY CHART:</b>				
<b>Item</b>	<b>Permitted/Required</b>	<b>Code Section</b>	<b>Proposed</b>	<b>Complies?</b>
Max bldg height	15' from highest point of site grade, 25' above the center of the building footprint at site grade	17.102.010	15' above high point @ 105.5' = 120.5', 22.5' at center from grade @ 98.0' = 120.5', where 120.5' max. is allowed	yes

Although the appellant alleges that the high point of the grade being used to measure the 15-foot height limit was lower on October 12, 1976, the appellant has never provided any evidence that refutes the survey that established the high point of the lot at the 105.5' elevation and bases this section of her appeal on unfounded allegations. Each of which allegation is easily refuted by the facts.

Although the appellant alleges that the natural and site grade has been artificially raised as a result of grading in the 1980’s on the adjacent lot at 371 Encanto, appellant provides no substantiation to that allegation.

In fact, if one actually examines the specific site conditions in this area, as shown on the photograph included in Attachment “B,” it is clear that there has been little if any erosion from the adjacent property given that the bottom of the existing chain link fence and the concrete footings of the fence posts are visible. The attached photograph details the litter that has been retained by the fence on the appellant's side of the fence. In addition, if there had been any soil erosion in this area, it would have caused the fence posts to move which would be result in either the alteration of the horizontal alignment of the fence or a tipping of the posts, neither of which is evident from the existing site conditions.

In addition, the photograph included as Attachment “C” shows the relationship of the existing grade to an existing concrete retaining wall. The approximately three to four inches between the existing grade and the top of the retaining wall is typical of the relationship of finish grade to top of wall and is illustrative that the grade has not been significantly altered.

These facts confirm that despite allegations to the contrary, the survey was taken from the high point of existing grade and not an artificially raised point or a debris pile as the appellant further alleges.

Further, the photograph in Attachment "D" clearly show that the rear of the driveway at 334 Indio is approximately 12 inches lower than the adjacent grade, which demonstrates that it could be postulated that the natural grade of the property is actually 12 inches higher than that shown on the topographic survey.

Finally, the soils report prepared for the site by GSI Soils Inc. on August 22, 2005 does not mention any concern about slope stability at the rear of the lot, nor does it make any reference to any type of soil migration from adjacent lots. If soil migration had occurred, it certainly would have been noted in the report since test borings were made in the rear yard for a retaining wall proposed at the rear of the lot; a retaining wall that would be substantially impacted by any type of soil instability.

The City has clearly followed all the requirements of the applicable policies and code sections in this regard and no convincing or legally sufficient evidence is provided to the contrary.

**2. The City's Approval Of The Development Does Not Conform To The Standards Of The LCP/LUP Policies For The Mass Scale And Bulk.**

Although the appellant cites a series of Land Use Policies, most of them are unrelated to the redevelopment of this existing single-family residential lot and its conformance with the City's policies and codes. In fact, appellant's concerns seem to be based solely on the effect that the approved structure would have on the appellant's existing views. As staff notes in its report, "In discussing the appeal with the appellant it appears the main point of contention centers on the approved height of the structure and the likelihood that the new residence will hinder or impede some of the appellants view."

*LU-A-6 Concept*

*Sunset Palisades, an area of existing homes with scattered vacant lots, shall be designated for Low Density Residential, The emphasis is on maintaining coastal views) open space and protecting the coastal bluff and intertidal habitat area. Infill development shall be compatible with the existing community.*

This issue was considered by the City in its approval and their judgment in this purely local matter should be respected. Included in Attachment "E" are photographs of homes located within the near proximity of 334 Indio Drive which provides photographic proof that the approved structure is wholly compatible with the existing community.

It also must be specifically noted that there is minimal, if any, effect on any views other than a small interference with the view from the appellant's property.

**3. The Project Is Inconsistent With The LCP/LUP Policies On The Desirabilities [sic] Of Investment In The Neighborhood; And, The Policies Protecting Scenic And Visual Resources In Sunset Palisades Planning Area.**

The appeal item raises the same issues as those that are discussed immediately above.

**4. The City's Approval Of The Development Does Not Conform To The Standards Of The LCP/LUP For Protecting Archeological Resources.**

The Applicant has provided the required Archeological Study and the City has conditioned the project to require monitors during the construction process. There is simply no issue, much less a "substantial issue," raised by appellant in this regard.

**5. The City's Approval Of The Development Does Not Conform And Is Inconsistent In The Application Of The Standards Of The LCP/LUP For Protecting The Marine Environment Of The Sunset Palisades Area.**

The site currently is developed with a single-family residence. Replacing that structure with a new structure, a structure in full compliance with all applicable codes, will not effect the marine environment. Once again, there is simply no issue, much less a "substantial issue," raised by appellant in this regard.

**6. The City's Approval Of The Development Does Not Conform And Is Inconsistent In The Application Of The Standards Of The LCP/LUP Because It Is In A Hazard Overlay Zone And There Is No Evaluation.**

As discussed above, a soils report was prepared and submitted to the City as part of the review and approval process. Once again, and finally, there is simply no issue, much less a "substantial issue," raised by appellant in this regard.

**7. The City's Approval Of The Development Does Not Conform And Is Inconsistent In The Application Of The Standards Of The LCP/LUP For Protecting The Coastal Bluffs.**

No detail is provided, but since the property is not located on a coastal bluff, this is clearly not an issue.

**Conclusion:**

The applicant provided a survey that establishes the high point of the lot at the 105.5' elevation. The new residence was designed to meet the 15' maximum height limitation from

the established high point of the lot. The applicant also provided a soils report that does not support the assertion by the appellant that soil has migrated from her lot to the subject lot, thereby artificially raising the grade. The appellant has provided no substantive evidence to refute either the surveyor or the analysis of the soils report.

The City of Pismo Beach Planning Commission and City Council gave careful consideration to how height was measured for the project, ultimately determining that the establishment of the high point of the lot was done in a manner consistent with the Zoning Code and consistent with the City's past practices. The City recognized that the issue was more related to the potential interference with the view of a single property owner rather than a legitimate dispute about a determination of a legal height limit. The City noted that its policies do not protect private views and subsequently voted unanimously to approve the project.

The final action taken by the City in this matter is consistent with the policies of the Pismo Beach certified Local Coastal Plan and the public access policies of the Coastal Act, and no "substantial issue" exists.

Thank you for your consideration.

Very Truly Yours,



Marshall E. Ochylski,  
Attorney at Law

MEO/mf  
Attachments

cc: Matthew Freeland  
Pismo Beach, CA

Bill Blackledge  
Encinitas, CA

City of Pismo Beach  
Pismo Beach, CA



**RECEIVED**

JUN 22 2006

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

# **ATTACHMENTS**

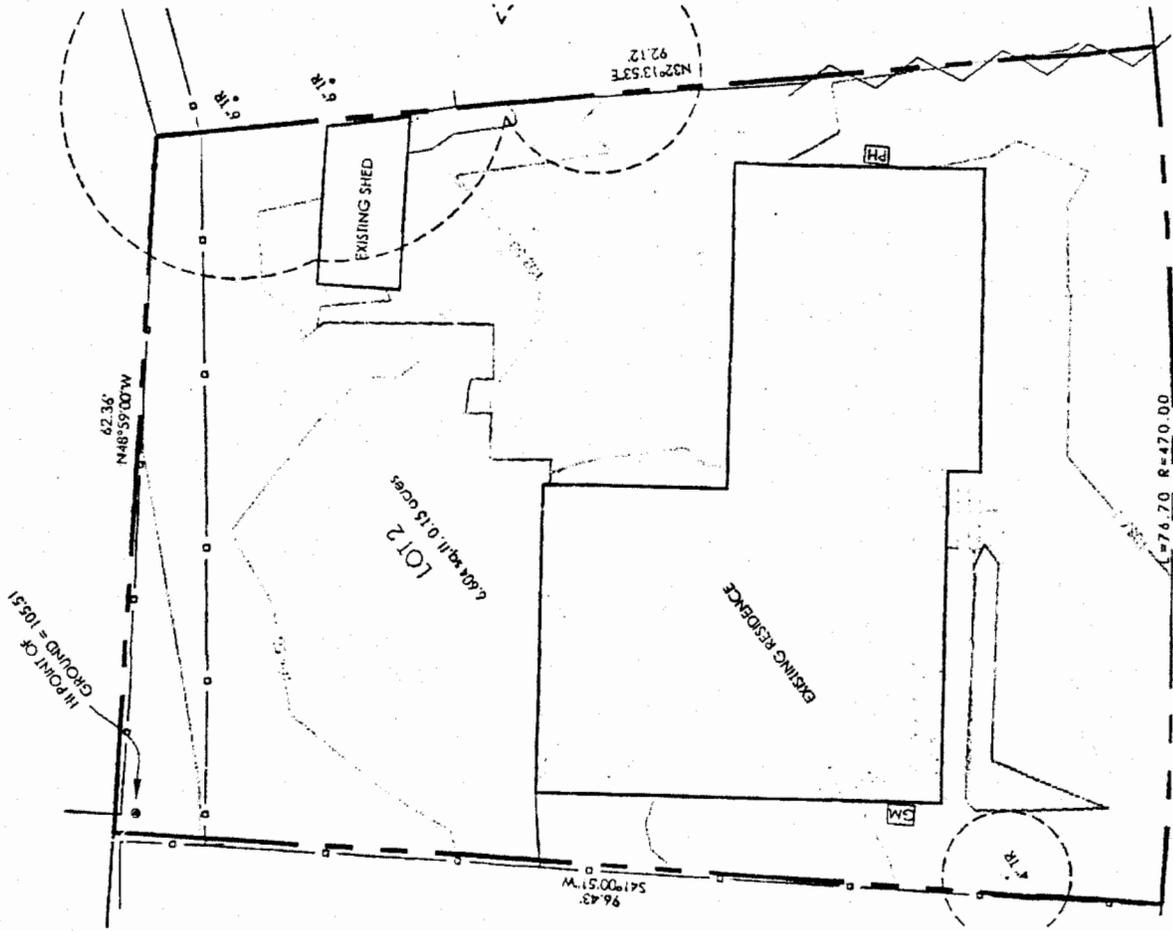
California Coastal Commission

Appeal Number: A-3-PSB-06-011



*334 Indio Drive*

*Pismo Beach, California*



Topographic Survey

Attachment "A"



5255 Traffic Way Suite 104 · Alascadero, CA 93422  
805.461.5560 · fax 805.461.5562  
www.geo-west.com



Topographic Survey

**SURVEYOR'S STATEMENT**

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION. THE BOUNDARY IS BASED ON RECORD DATA AS SHOWN PER TRACT NO. 57, FILED AS MAP BOOK 3, PAGE 76 IN THE COUNTY OF SAN LUIS OBISPO, CA. GEO-WEST ACCEPTS NO LIABILITY FOR THE CORRECTNESS OF THE BOUNDARY SHOWN. IT IS SHOWN FOR REFERENCE PURPOSES ONLY.



*Barak J. Miles*  
BARAK J. MILES 12/31/06  
EXP. 12-31-2006  
ONE 11/4/05

AS REQUESTED BY:  
**BILL BLACKLEDGE**

334 INDO DRIVE, PISMO BEACH

LEGAL DESCRIPTION: LOT 2, BLOCK 10, TRACT 57, EL  
PISMO MANOR NO. 1 AS SHOWN AT BOOK 5 OF  
MAPS, PAGE 76 IN THE CITY OF PISMO BEACH,  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA.

DATE: MAY, 2005      JOB: 023-05      APN: 010-191-002

Sheet 1 of 1



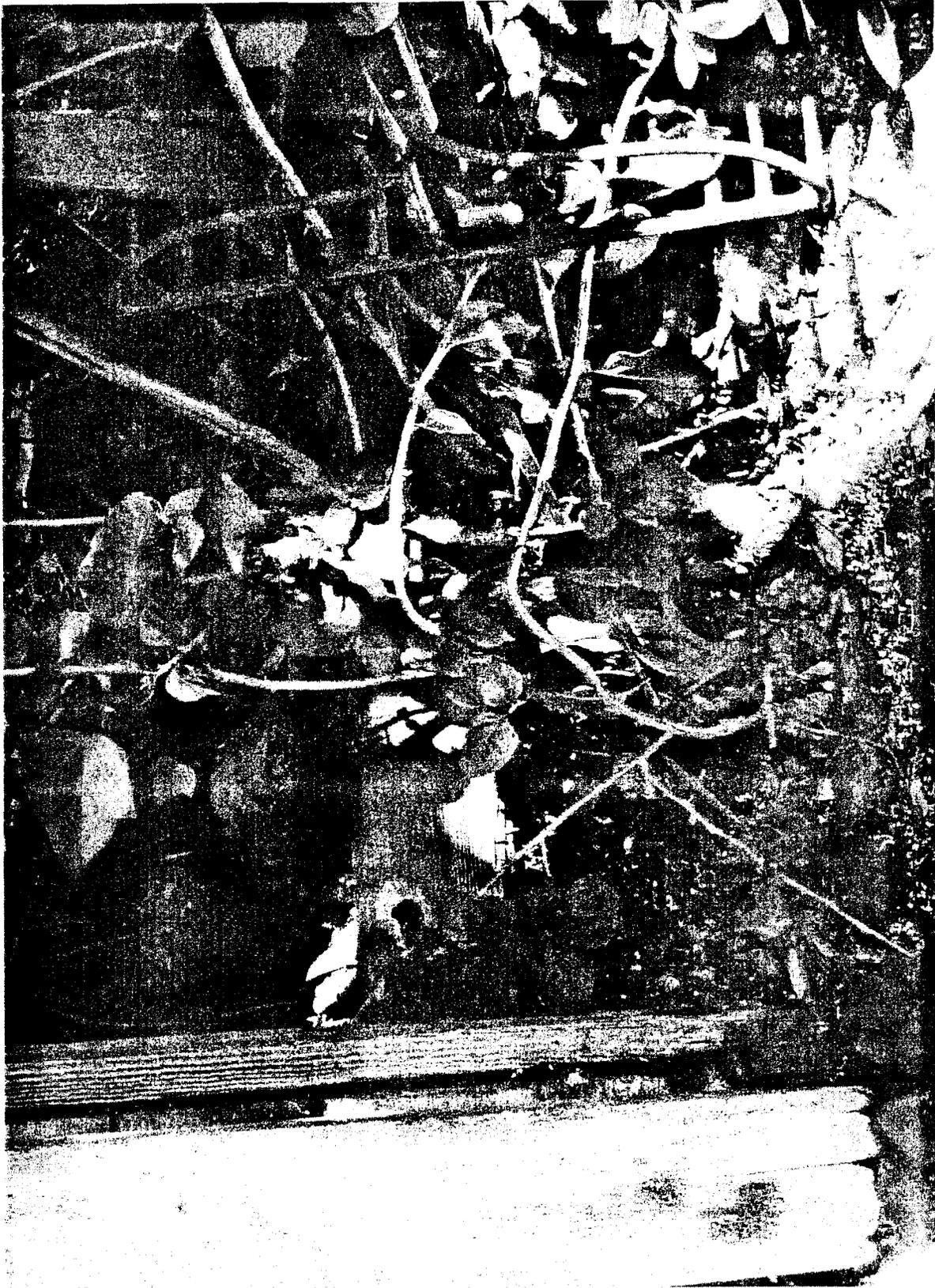
Rear Fence

Attachment "B"



Attachment "C"

Existing Concrete Retaining Wall



**Grade Differential at Rear of Existing Driveway**

**Attachment "D"**

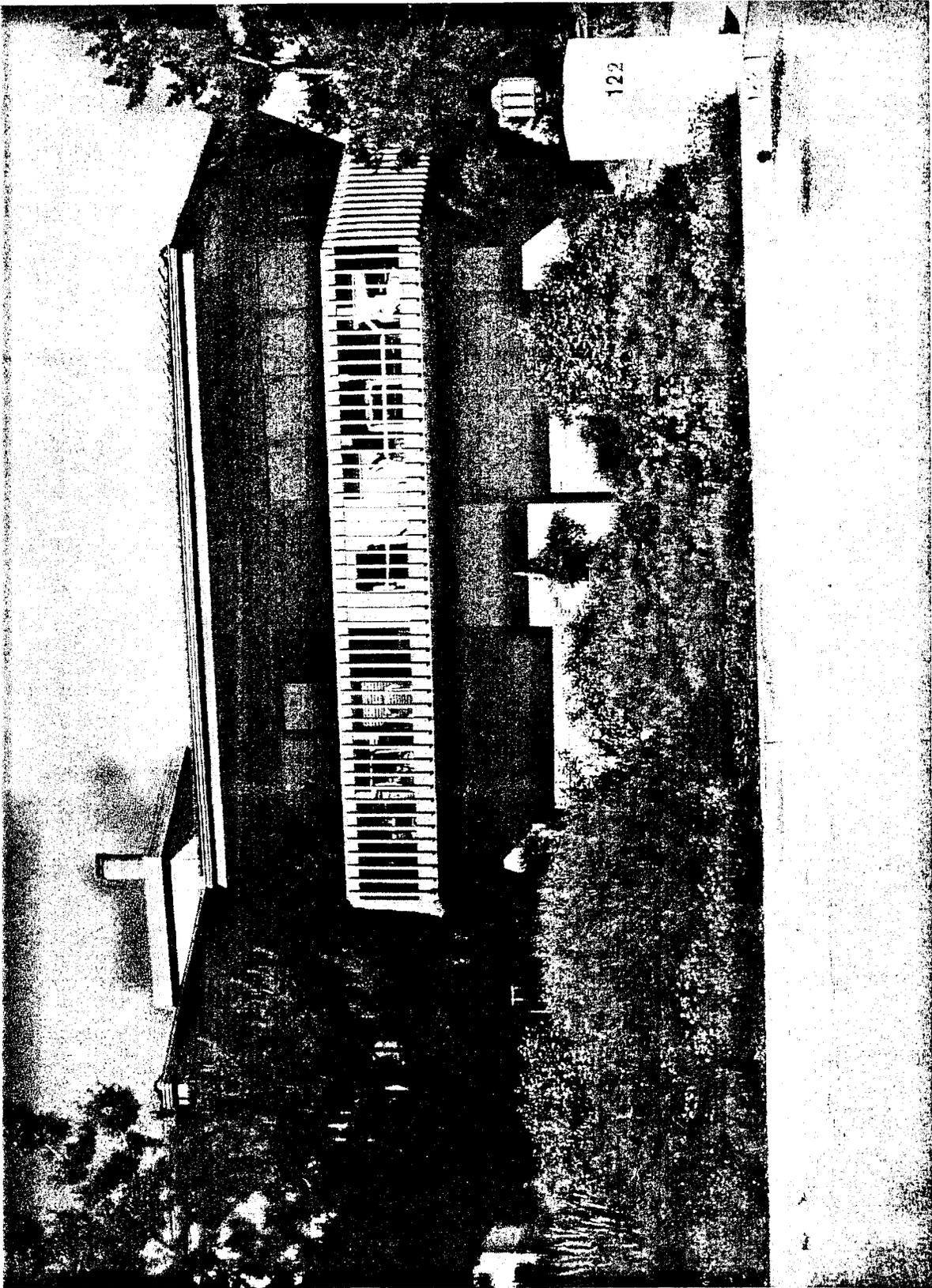


Attachment "E"

96 Indio Drive



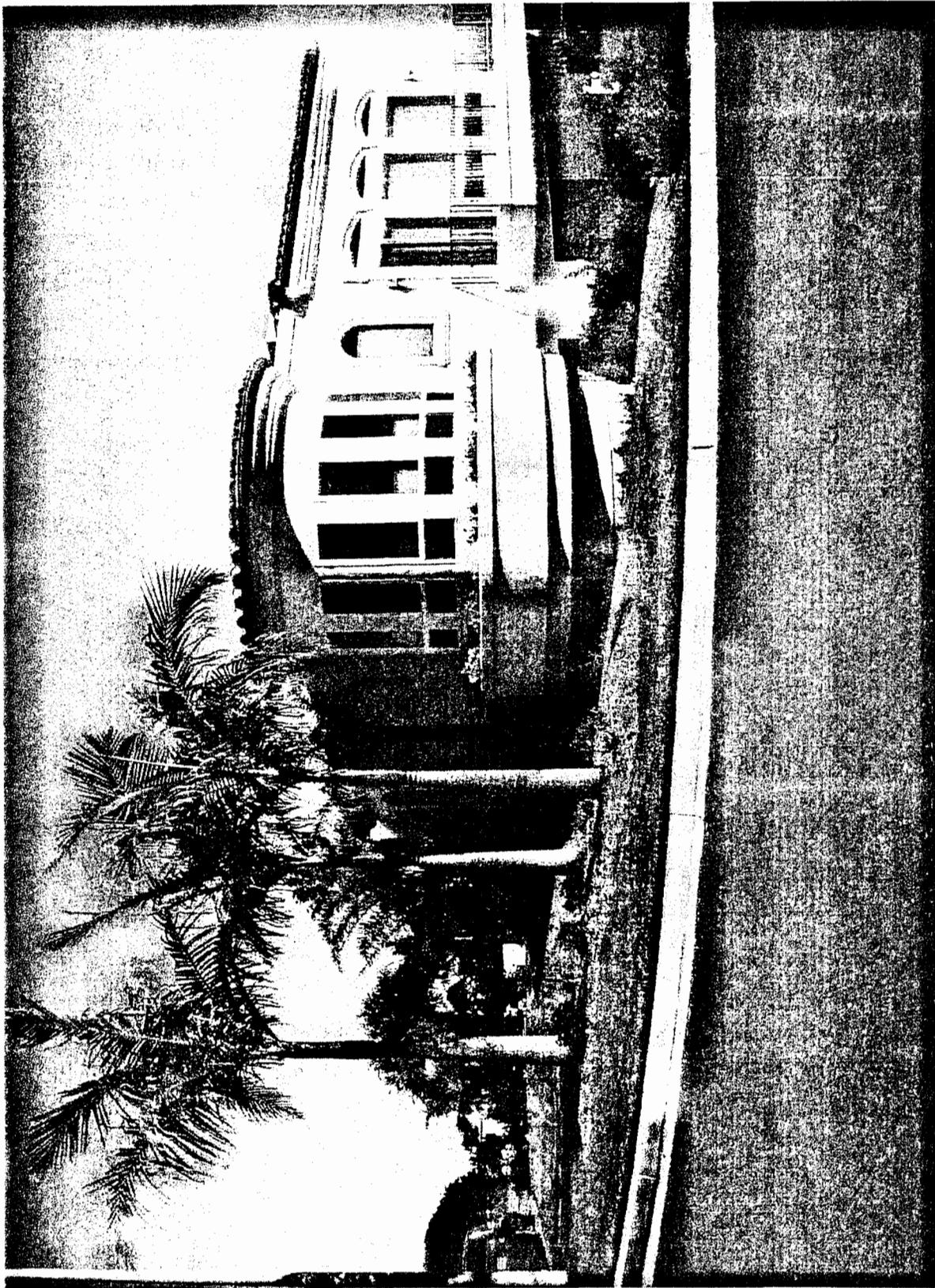
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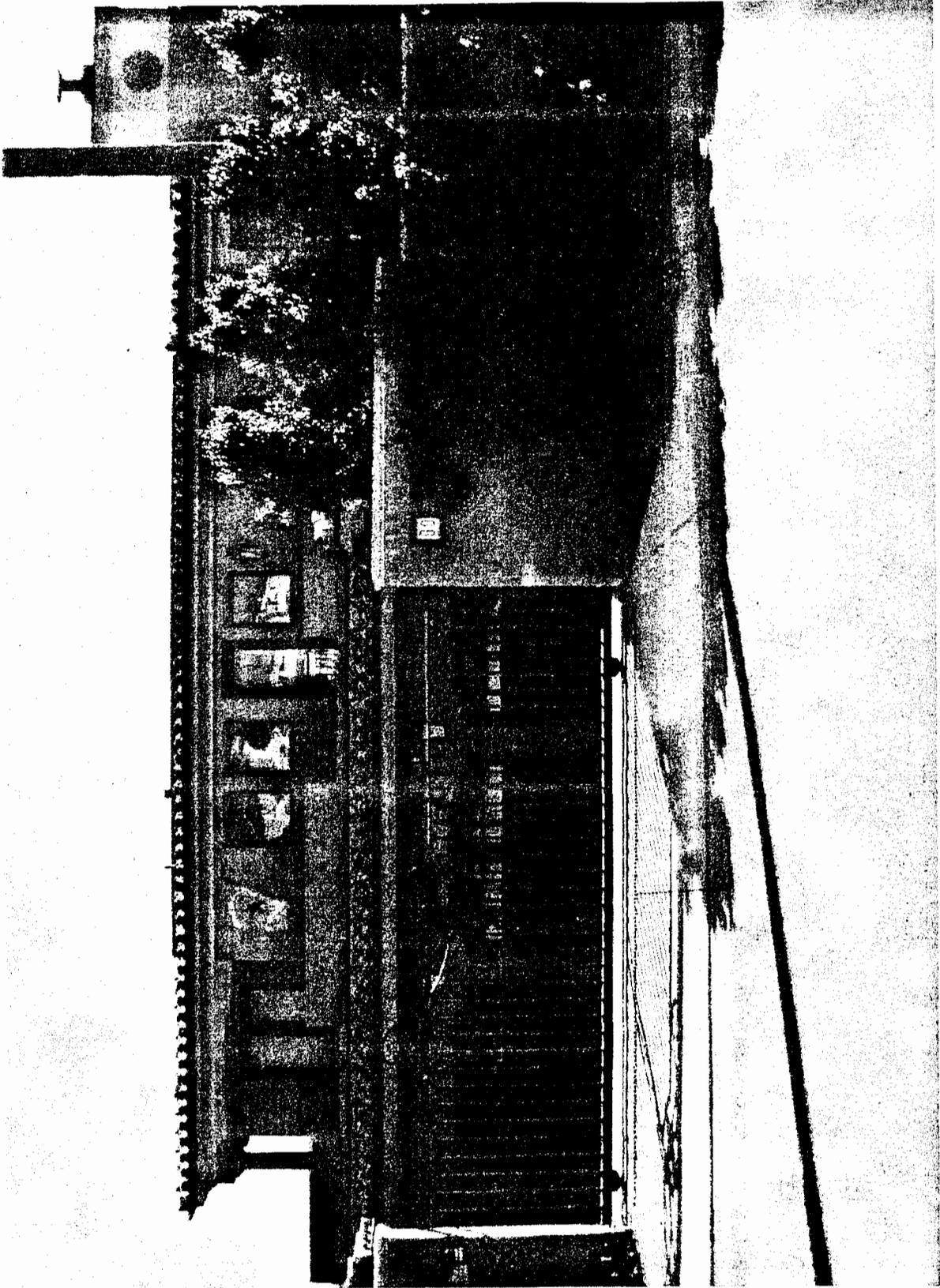
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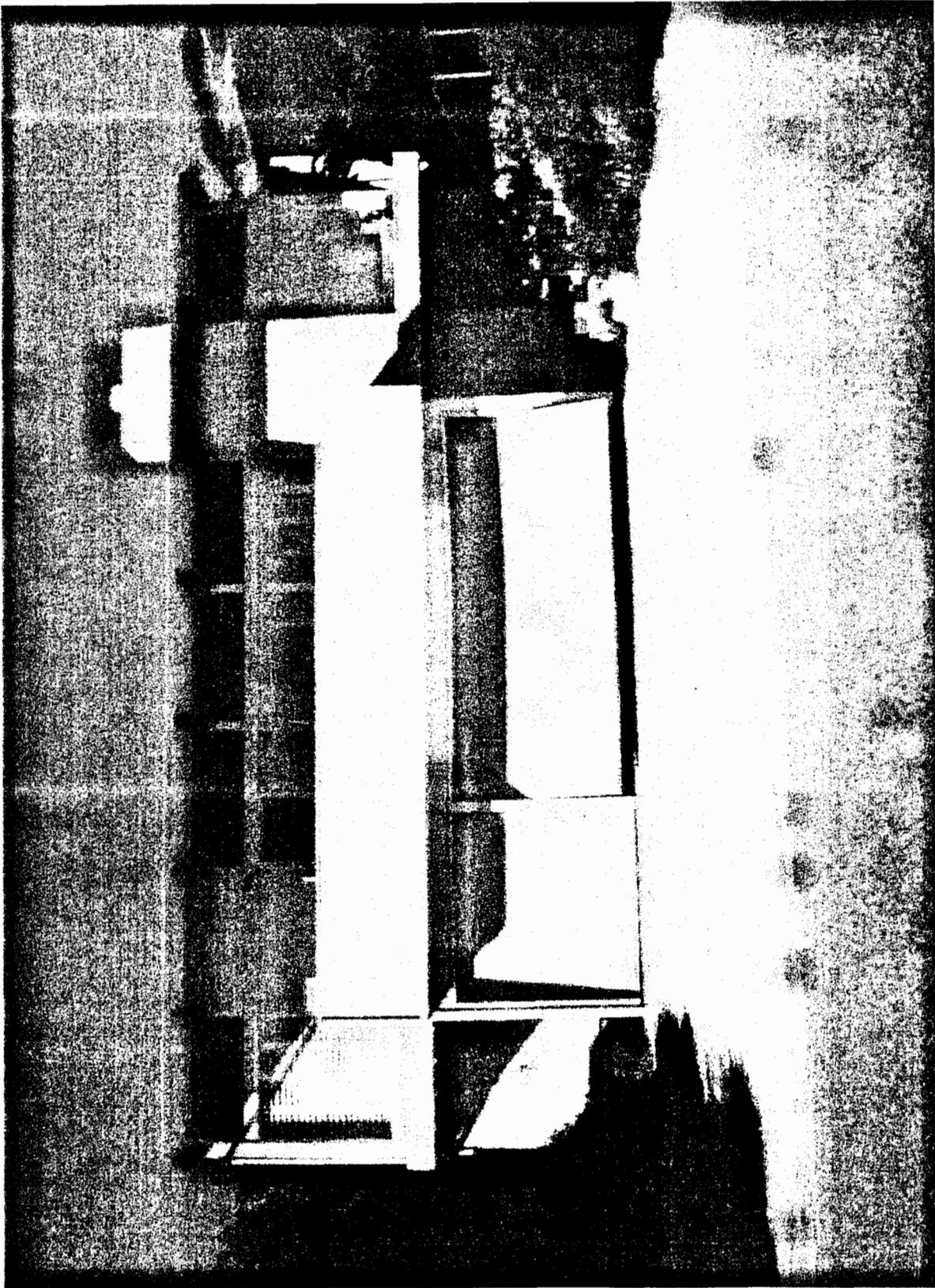
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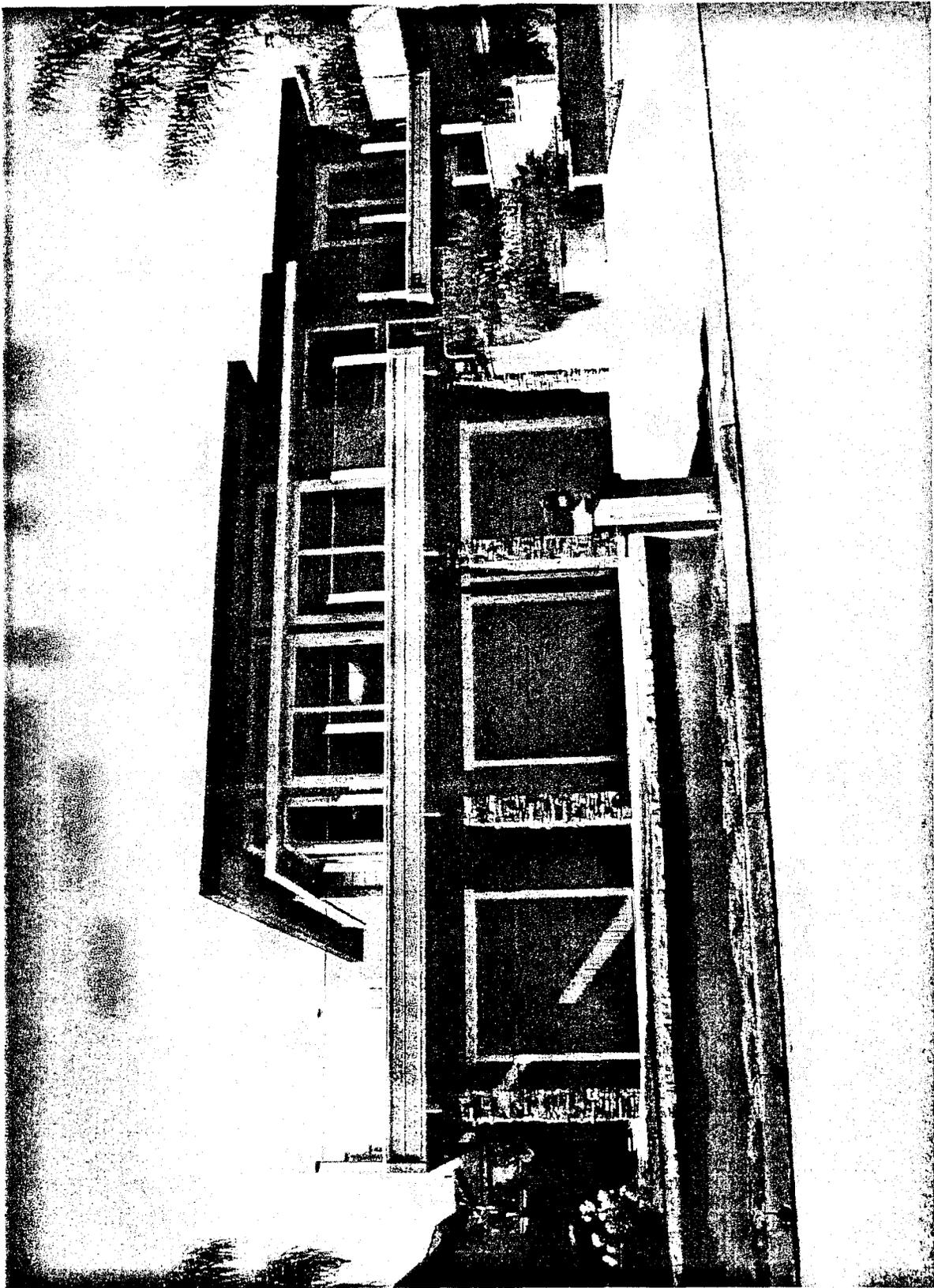
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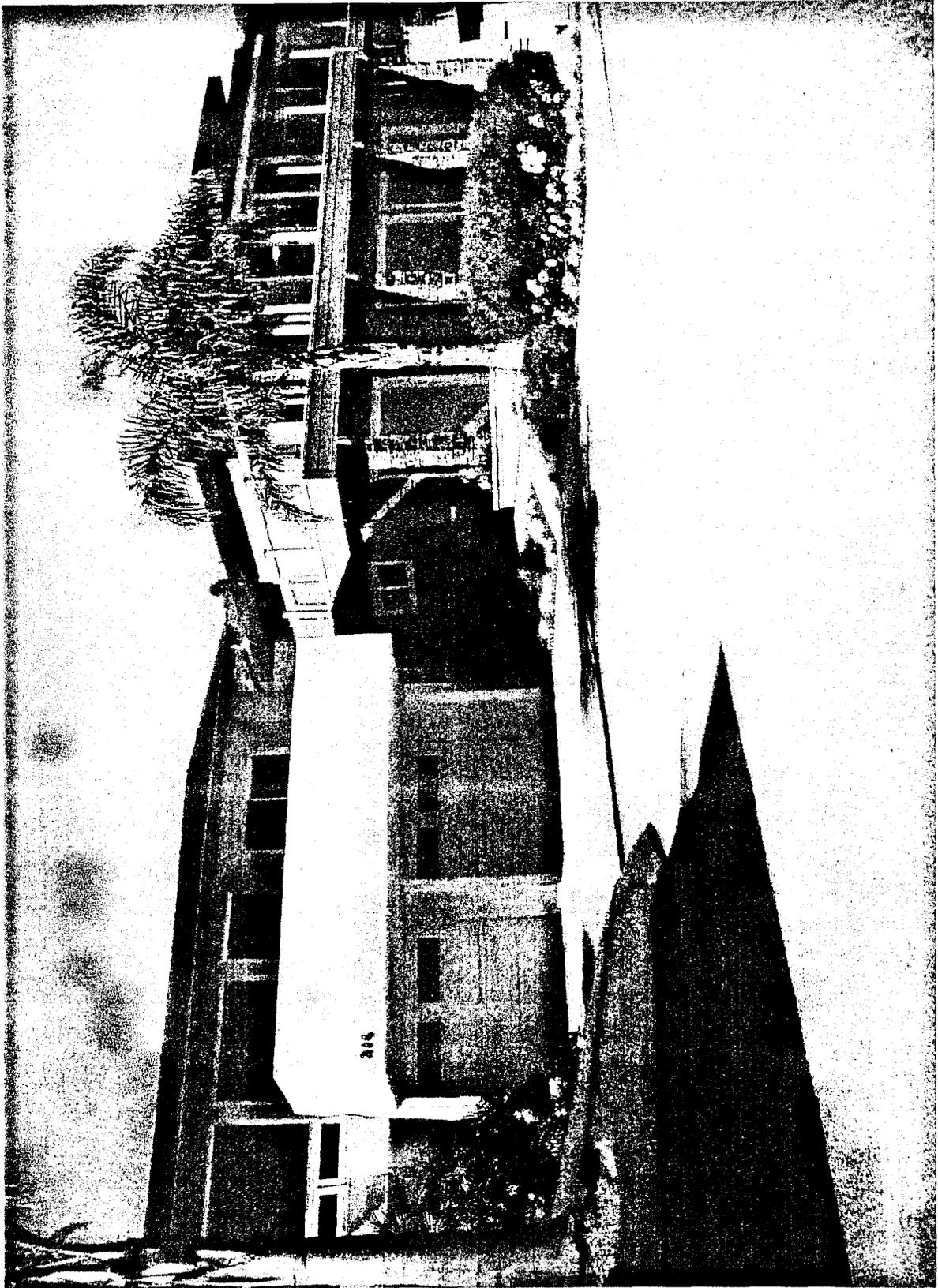
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202 Indio Drive



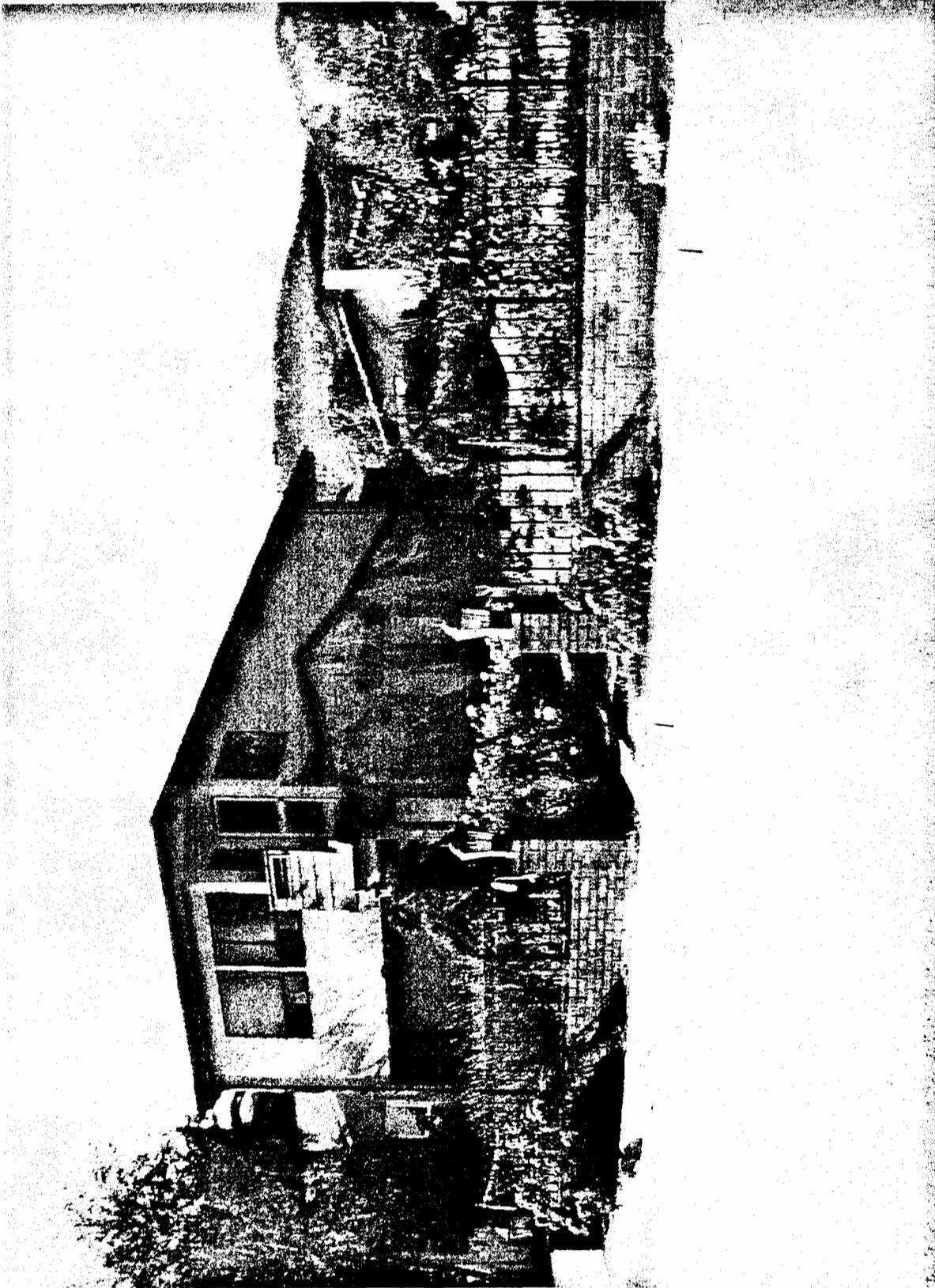
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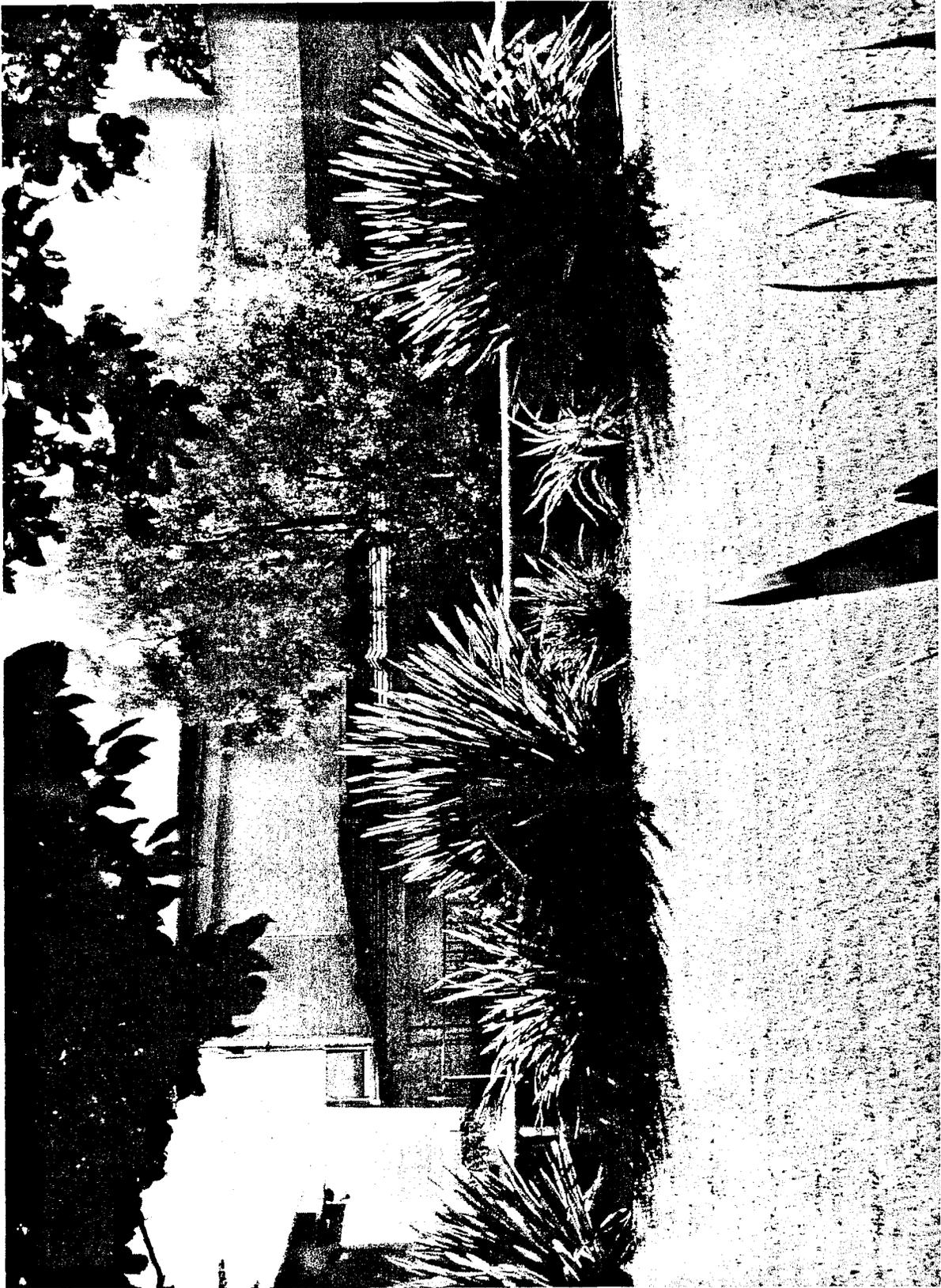
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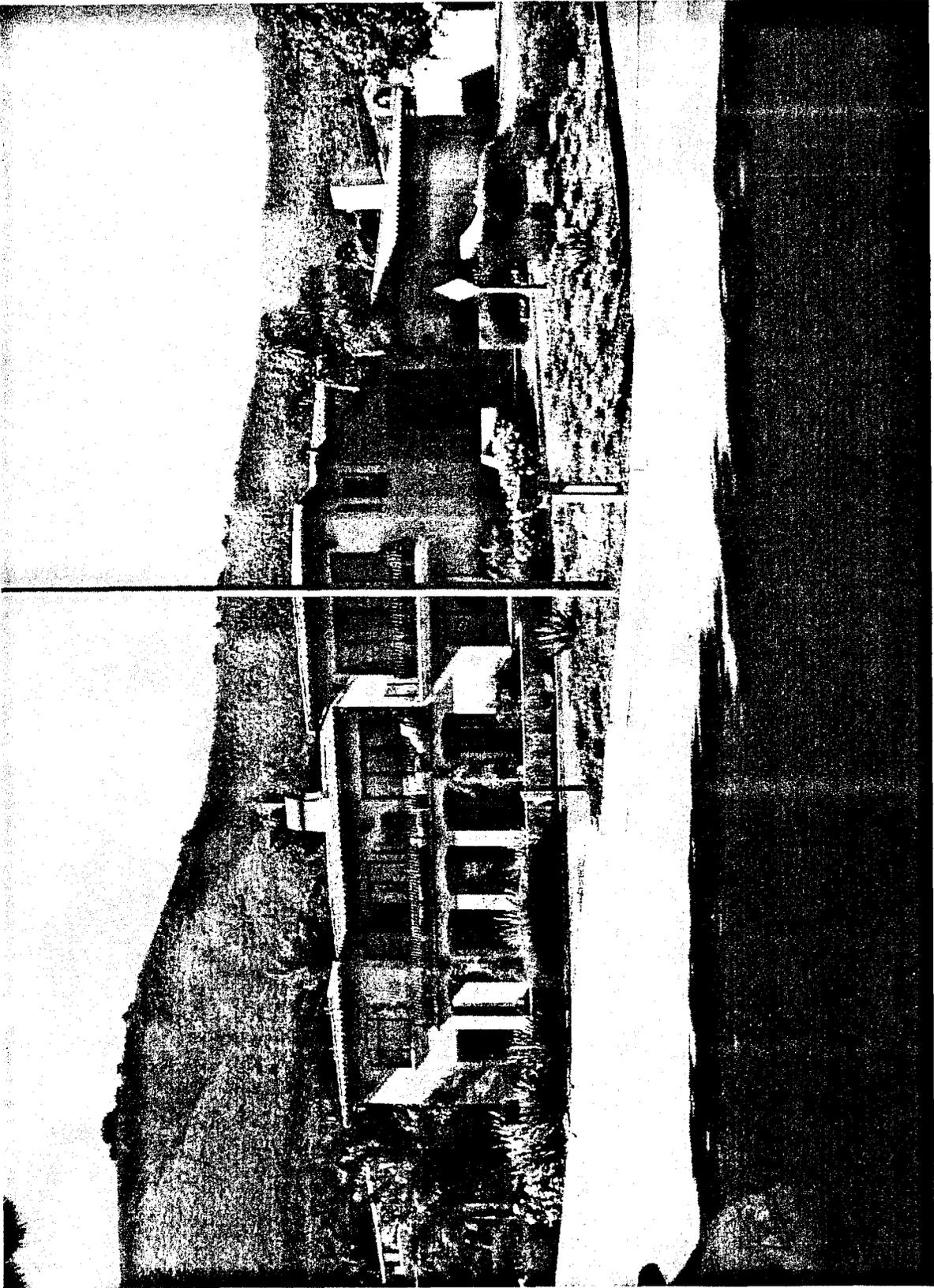
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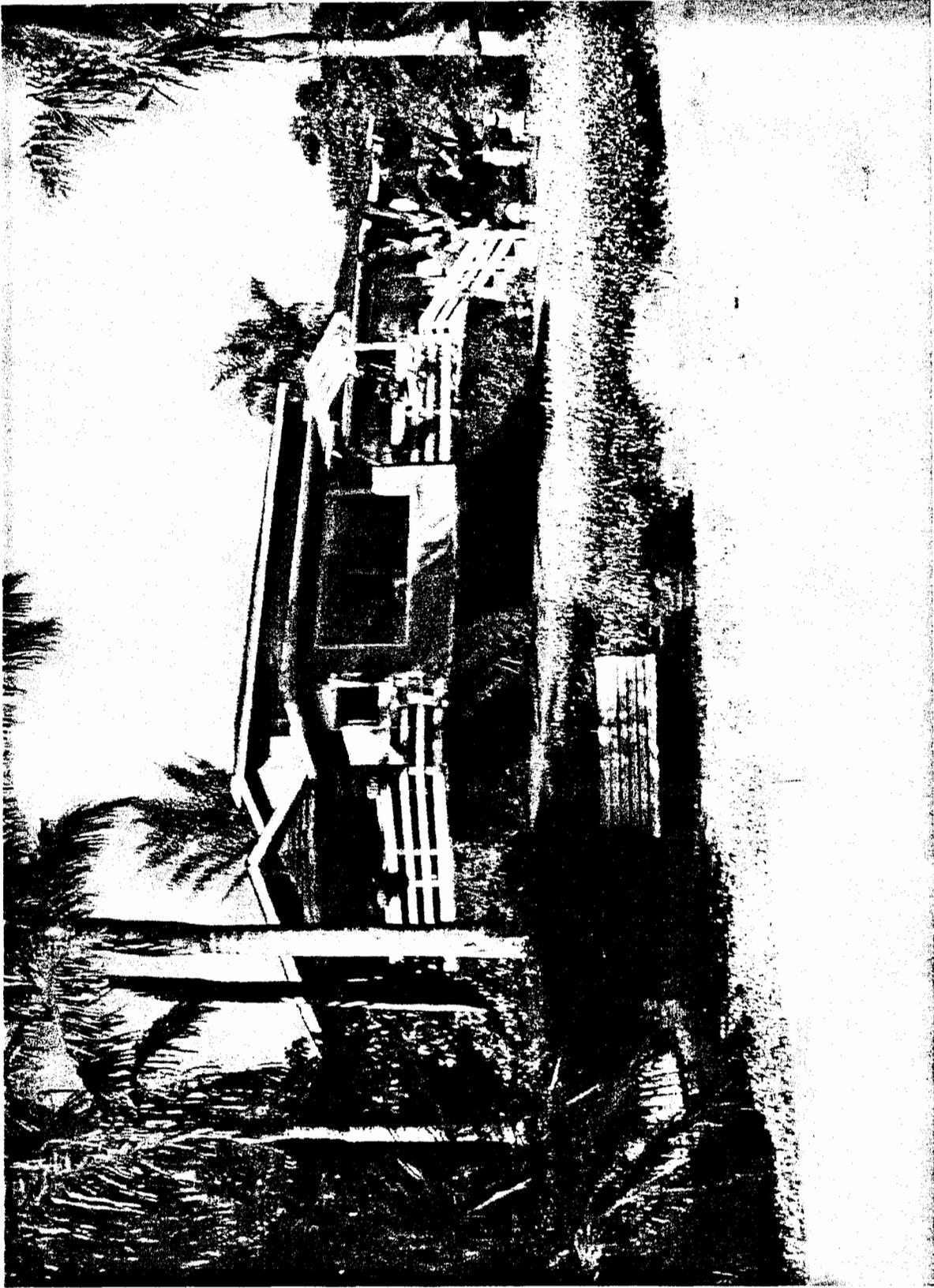
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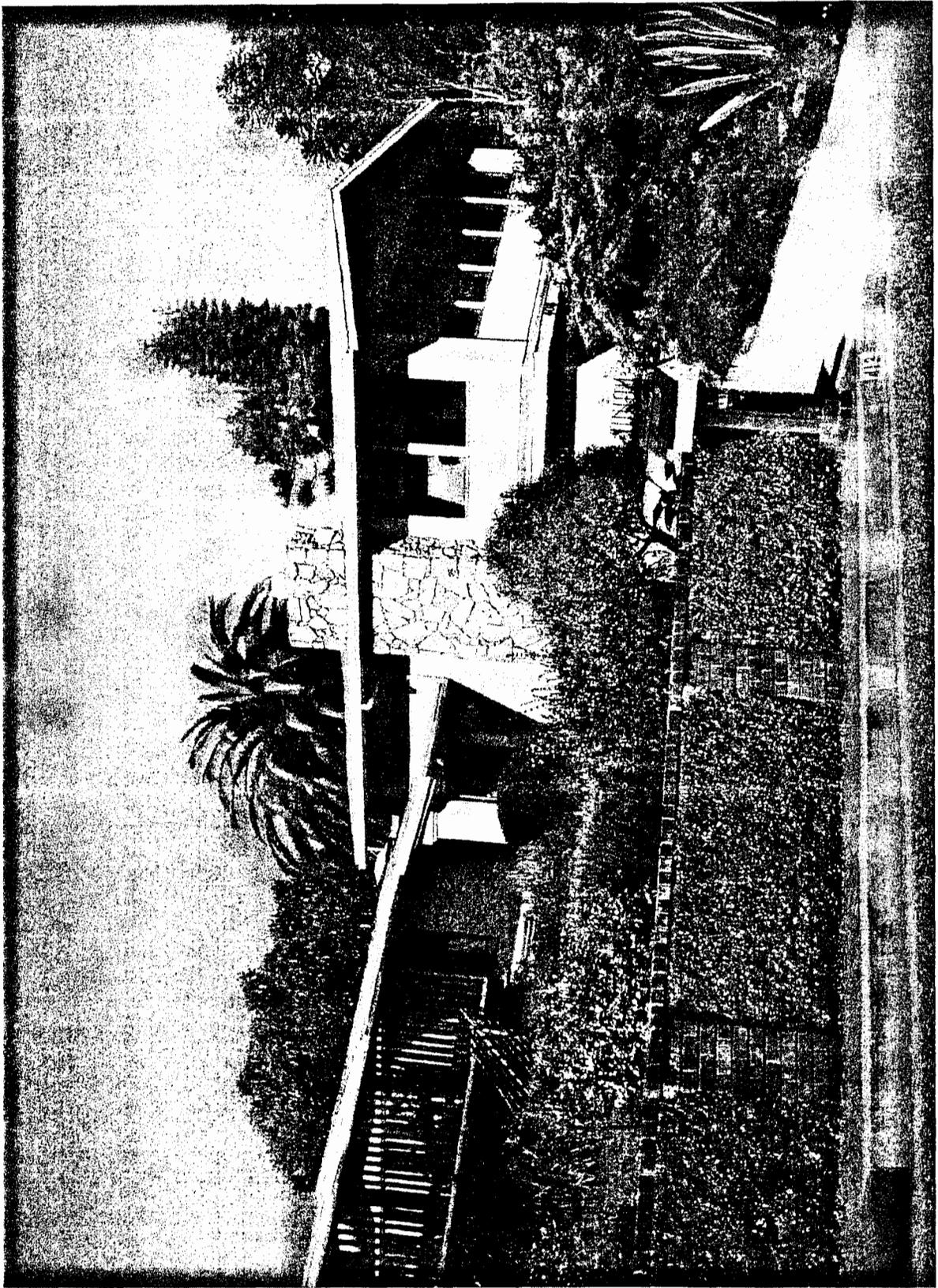
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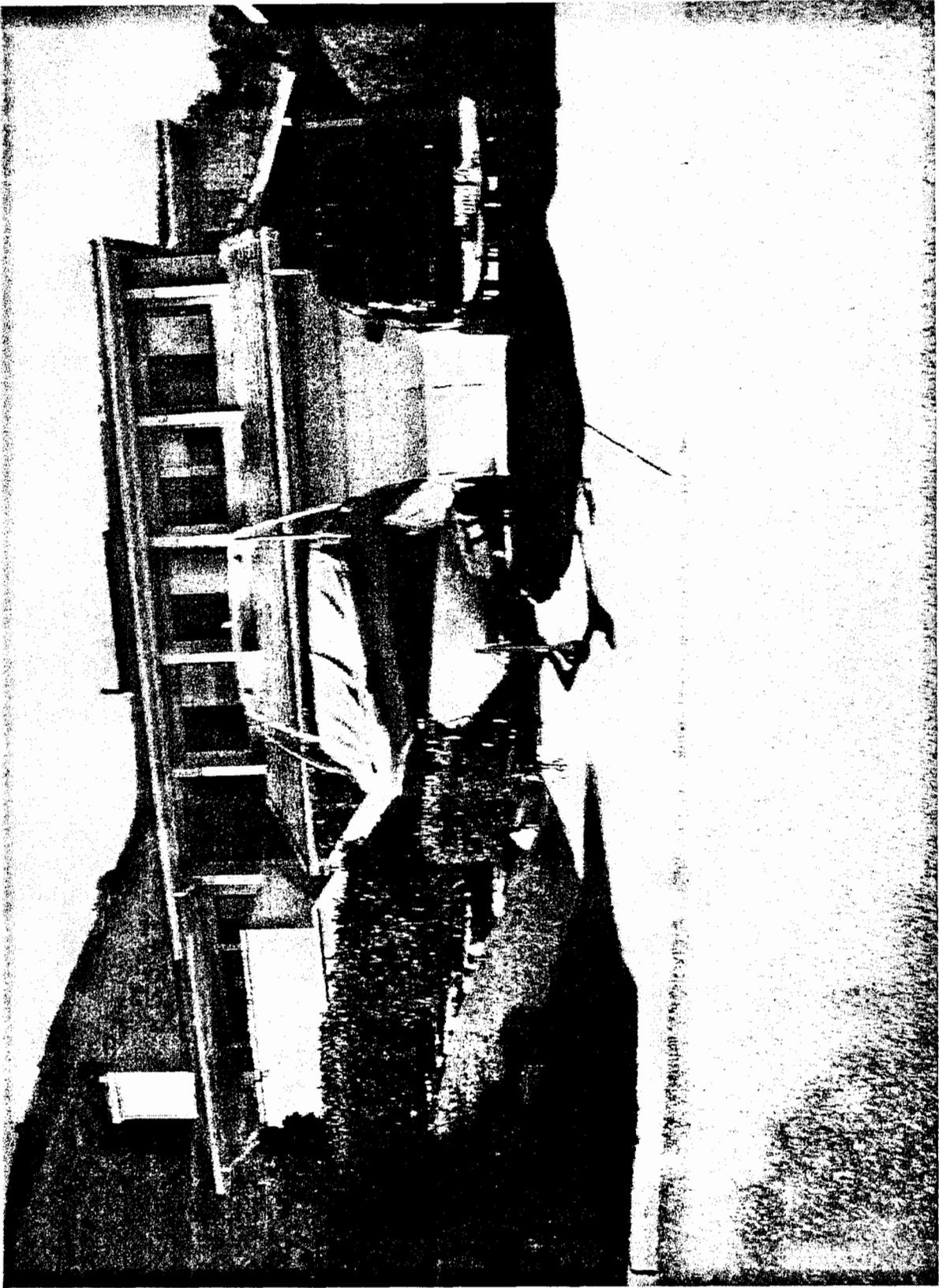
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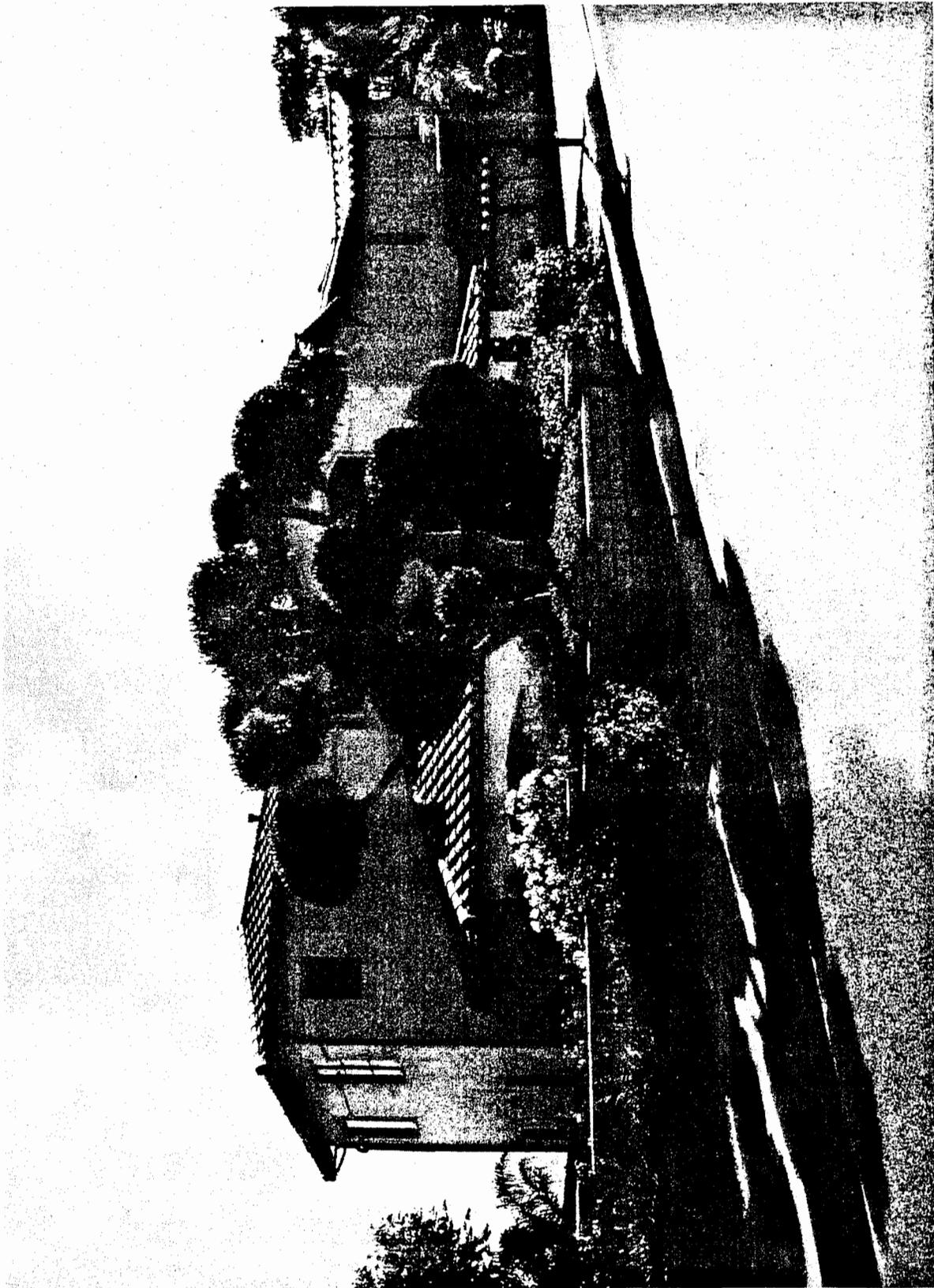
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408 Indio Drive



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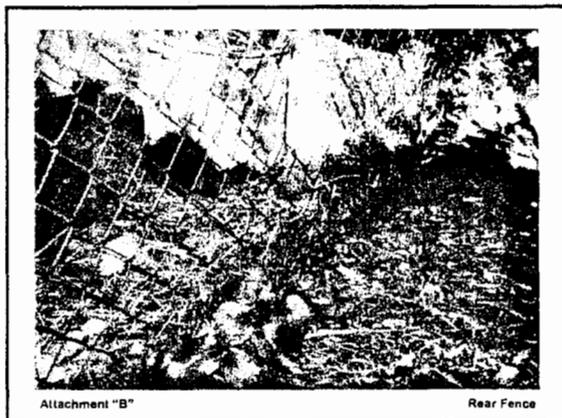
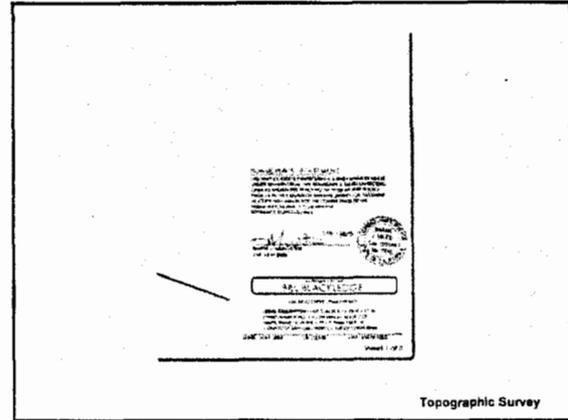
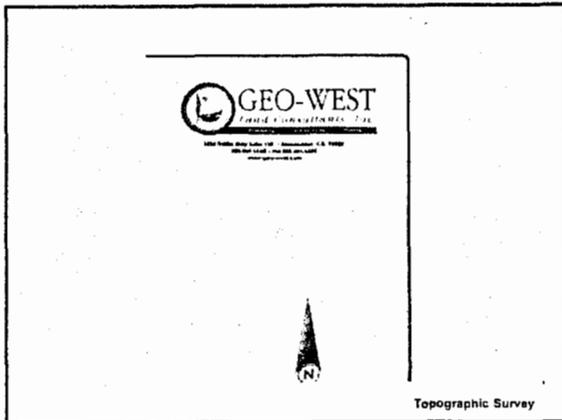
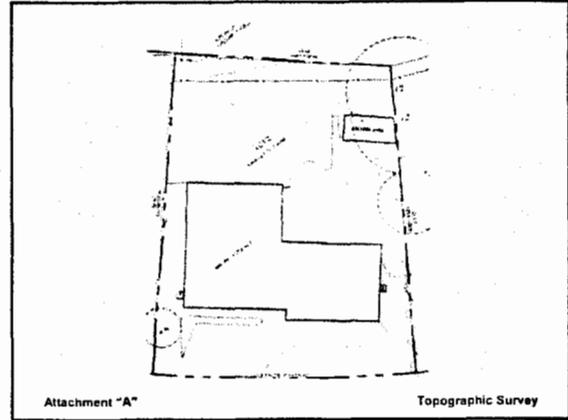


419 Indio Drive

# ATTACHMENTS

California Coastal Commission  
Appeal Number: A-3-PSB-06-011

•  
334 Indio Drive  
Pismo Beach, California





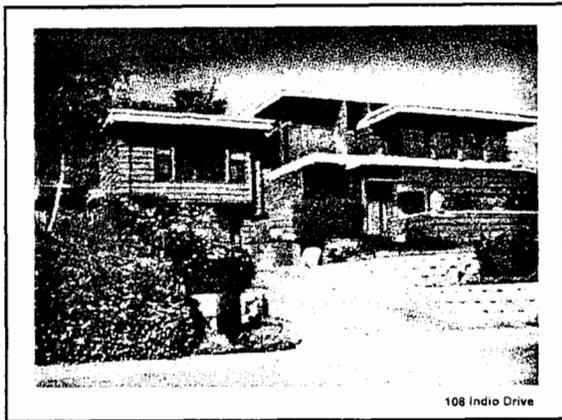
Attachment "D"

Grade Differential at Rear of Existing Driveway

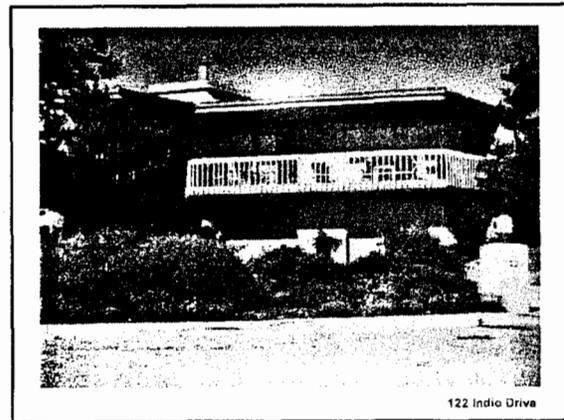


Attachment "E"

98 Indio Drive



108 Indio Drive



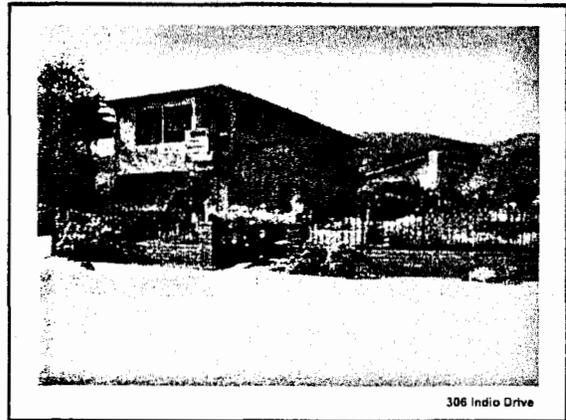
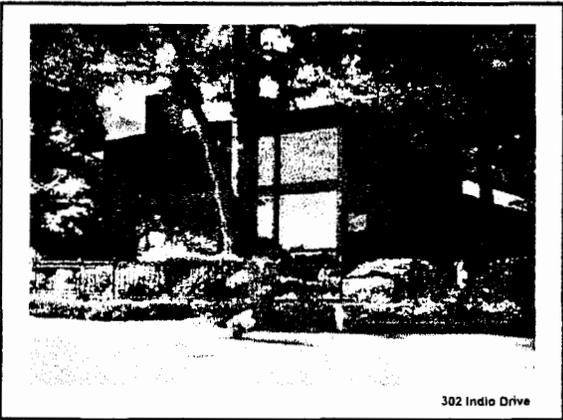
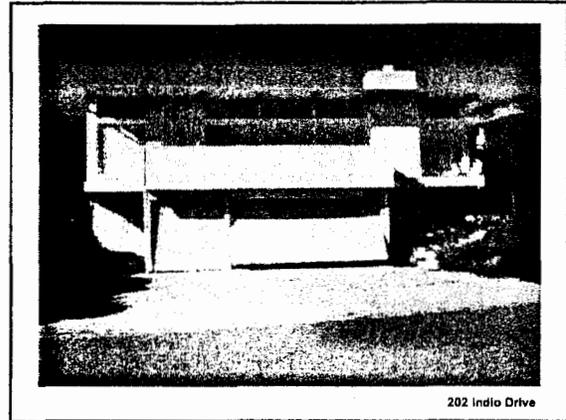
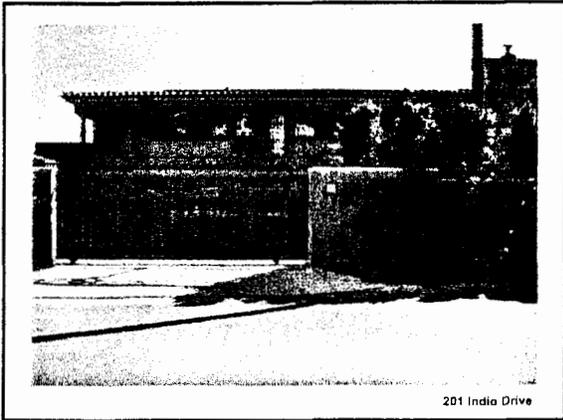
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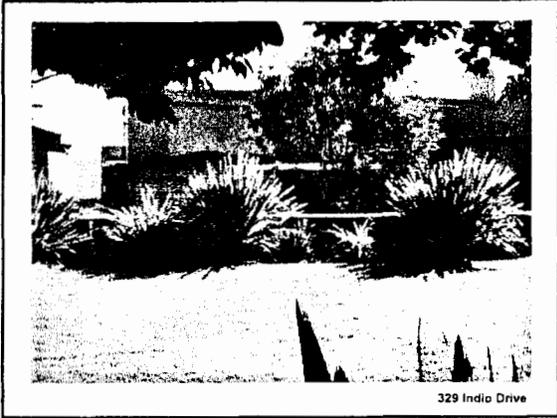


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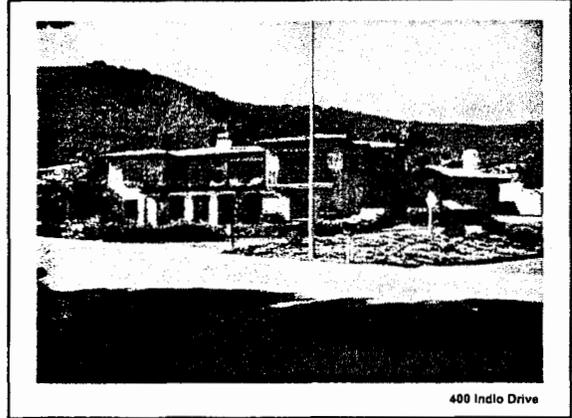


125 Indio Drive





329 Indio Drive



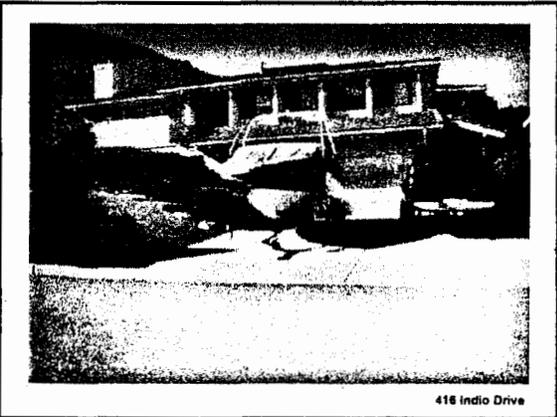
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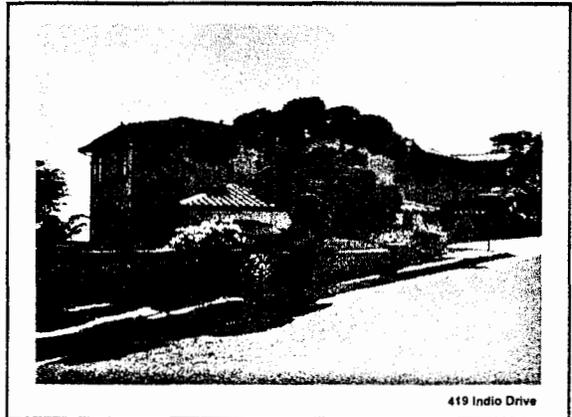
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416 Indio Drive



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