

C15-2011-0104 – 609 Oakland Avenue

Clarksville Neighborhood Characteristics

Clarksville neighborhood is located in western downtown area and is an eclectic "Austin Unique" community with most housing built in the early 1900's although it's central Austin location has created a high demand for affordable houses so many have been renovated over time and some torn down with new houses currently being built throughout neighborhood. The smaller, quaint houses are a mixture of single family and multi-family uses located in neighborhood interior with offices located on edge of neighborhood along W. Sixth Street that have parking behind offices accessed from streets like Oakland Ave., Pressler St and Highland Ave. The neighborhood is a mixture of SF-3, MF-4, LO and GO zoning districts on a lot-by-lot basis zoned according to existing land uses (see attached Neighborhood Zoning Map).

Variance Request History

I, Ross Frie, a former City Planning Director and Building Official, was hired by the Barkley's to assist them in bringing their nearly 100 year old property into compliance with current Austin City Codes. To date, we have received a amnesty permit on the duplex located on front of the property, have completed some remodeling after City inspectors noted issues to address for compliance and have now received a Certificate of Occupancy on the duplex. We attempted to get an amnesty permit for the rear structure located near back of property since it existed long before 1986, but in working with the City, we could find no documentation to substantiate the existence of the structure. Therefore, we were told that we would need the three variances, i.e. minimum lot size, rear setback and stacked parking variances prior to getting a permit for the City to inspect, us to complete any necessary remodeling to bring unit into compliance so we could receive a Certificate of Occupancy for this building also.

We postponed our BOA case C15-2011-0104 on October 10, 2011 because we wanted time to meet with the Clarksville Neighborhood Association to explain our variance requests since there seemed to be a lot of confusion when the City sent the Notice of Public Hearing to all nearby property owners based on initial opposition letters. The 609 Oakland Avenue property owner John Barkley met with the neighborhood association on 10/8 and to allow us time to gather letters of support for our variance requests after the neighborhood association meeting. Following that meeting, we have received a neutral recommendation from the neighborhood association as they presented at the 11/14 BOA meeting by their neighborhood representative and we have received six letters of support from neighbors most directly affected by these variance requests.

At the 11/14 BOA meeting, our minimum lot size variance was approved 7-0. Our rear setback and stacked parking variance was not approved by vote of 5-2. Commissioner Hawthorne requested that I make a trip to the Austin History Center to validate the rear structure existed prior to 1986 and then request reconsideration for the 12/12 BOA meeting.

Rear Setback Variance

The small 400 sf structure near the rear of property was improved from an existing unsafe dilapidated storage building on the original building footprint that has had a 1.5' rear setback ever since property was first built in 1912. The owners improved and renovated the dilapidated structure back in 1982 but never altered the location of original structure (see attached email and photos). Therefore, when the City of Austin adopted their

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subdivision regulations and zoning ordinance with a minimum rear setback of 10', the ordinance created the unreasonable use and hardship and granting this variance does not alter the character of the property or area since property has been located there for nearly 100 years and none of the neighbors have opposed the structure in past. In addition, many lots in the neighborhood have the similar situation with existing buildings within the city's setback requirements (see attached Sanborn Maps). These buildings were in existence prior to the City's adoption of subdivision and zoning ordinances thereby, creating the noncomplying structures. Our visit to the Austin History Center validates the rear structure has been in existence since at least 1935 according to the attached Sanborn Maps.

According to Austin City Code Chapter 25 Land Development, Article 8 Noncomplying Structures Section 25-2-961 Noncomplying Defined states "noncomplying means a building, structure or area, including off-street parking or loading areas, that does not comply with currently applicable site development regulations for the district in which it is located, but did comply with applicable regulations at the time it was constructed." According to the 1935 Sanborn maps, structure was located on the rear property line and meets the definition of noncomplying.

In addition, Section 25-2-962 Structures Complying on March 1, 1984 (A) states "a structure that complied with the site development regulations in effect of March 1, 1984, is a complying structure." (B) states "a structure that complies with the site development regulations does not become a noncomplying structure as the result of a change in the use, zoning or development of property." Therefore, even if the use of structure was changed, it's still a complying structure.

Furthermore, Section 25-2-963 Modification and Maintenance of Noncomplying Structures (F) states "a person may modify a building that is a noncomplying structure based on a yard setback requirement of this title if the modified portion of the building does not extend further into the required yard setback than the existing noncomplying portion of the building." Therefore, the modified dilapidated structure, renovated in 1982, did not extend further into rear yard setback since 1935 Sanborn Maps shows structure on rear property line.

Lastly, we have reviewed all the letters in opposition to the rear setback variance request received prior to Oct 8th and since the neighbors didn't quite understand the variance request they received in mail, we met with neighborhood association on 10/8 to explain the rear setback variance which was not a variance request to build new living unit, which is permitted in MF-4, but the variance is for the existing structure that has been there for decades and has not been opposed by the neighbors since its existence. Following that meeting, we have received a neutral recommendation from the neighborhood association as they presented at the 11/14 BOA meeting by their neighborhood representative and we have received six letters of support from neighbors most directly affected by these variance requests.

Stacked Parking Variance

The property has an existing 70' long concrete parking strips sufficient for compliance with Austin City Code Chapter 25 Land Development Section 25-6 Transportation Appendix A which requires for 1.5 spaces/unit for the 2 one-bedroom multifamily units and 1 space/unit for an efficiency multifamily unit minus urban core reduction of 20% for a total of 3 parking spaces required. According to Table 9-1, required parking spaces are 9' x 17' 6". Therefore, 3 spaces is 9' x 53' and we are in compliance with parking requirements (see attached Neighborhood

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Parking Map). However, the issue is that MF-4 only allows 2 parking space stacking. We completed a parking analysis of neighborhood along Oakland Ave and discovered there is no uniformity in the existing parking in area. The properties range from no off-street parking, caliche and gravel driveways, 3 car stacked driveways or parking strips, 2 car parking strips, 1 car concrete driveway with one car garage, 1 car parking strip with carport, to standard concrete driveways. The majority of these various driveway configurations allow ample parking for the residents. Therefore, since most driveways in neighborhood are noncomplying according to City regulations, we are only requesting a variance to the stacking requirement as ample parking exists on-site to meet City 3 parking spaces requirement (see attached 70' Parking Strip Photos). Granting the variance will not increase traffic volumes, will keep all parking on-site, actually decrease parking on public streets and will not create a safety hazard. It will run with use which is a permitted multi-family use.

In addition, when the City of Austin adopted their subdivision regulations and zoning ordinance with a maximum 2 parking space stacking requirement, it created the unreasonable use and hardship and granting this variance does not alter the character of the property or area since this 70' concrete parking strips have been located there for decades and none of the neighbors oppose the stacking requirement and many lots in the neighborhood has the similar situation. This driveway has been in existence prior to the City's adoption of subdivision and zoning ordinances thereby, creating the noncomplying parking requirement.

Furthermore, according to Austin City Code Chapter 25 Land Development, Article 8 Noncomplying Structures Section 25-2-961 Noncomplying Defined states "noncomplying means a building, structure or area, **including off-street parking** or loading areas, that does not comply with currently applicable site development regulations for the district in which it is located, but did comply with applicable regulations at the time it was constructed. According to the 1935 Sanborn maps, structure that required third parking space meets the definition of noncomplying which includes off-street parking.

Lastly, we have reviewed all the letters in opposition to the parking variance request received prior to the Oct. 8th and since the neighbors didn't quite understand the variance request they received in mail, we met with neighborhood association on 10/8 to explain the parking variance. They actually opposed more on-street parking which granting this variance to the 3-car stacked driveway actually addresses and satisfies their concern by allowing all 3 cars required to park on site on existing parking strips that has been there for decades. Not approving this variance means one of the three existing cars will be forced to park on the street which is exactly what the neighbors are opposed to. Following that meeting, we have received a neutral recommendation from the neighborhood association as presented at the 11/14 BOA meeting by their neighborhood representative and we have received six letters of support from neighbors most directly affected by these variance requests.

Variance Request Summary

In summary, we are requesting a favorable ruling on the existing 1.5' rear setback and a parking variance that allows use of existing 70' parking strips for 3-car parking requirement to allow what has already existed since at least 1935 to continue while we work with City to bring property into compliance either City of Austin codes and ordinances.



Illustrated

1000

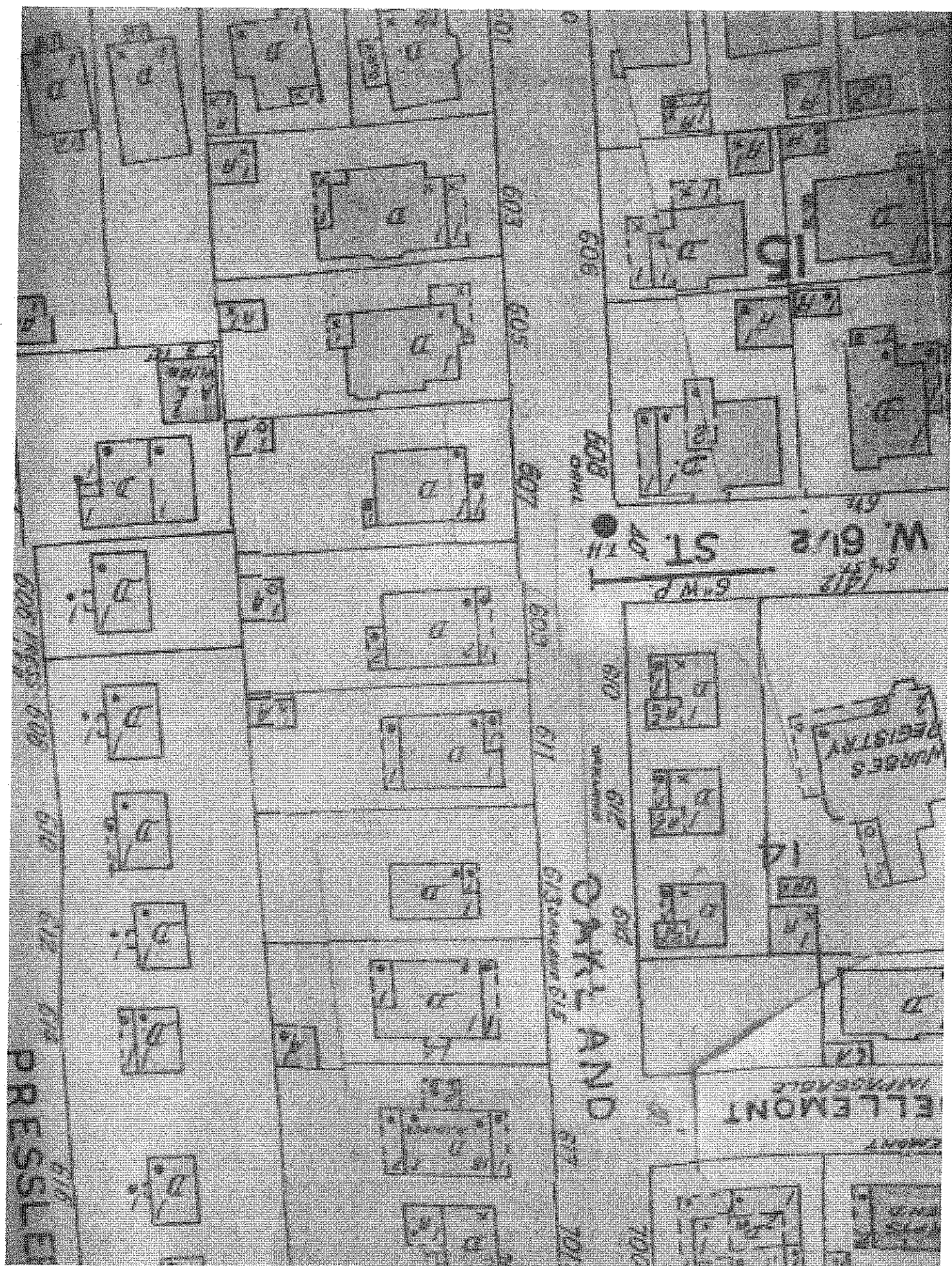
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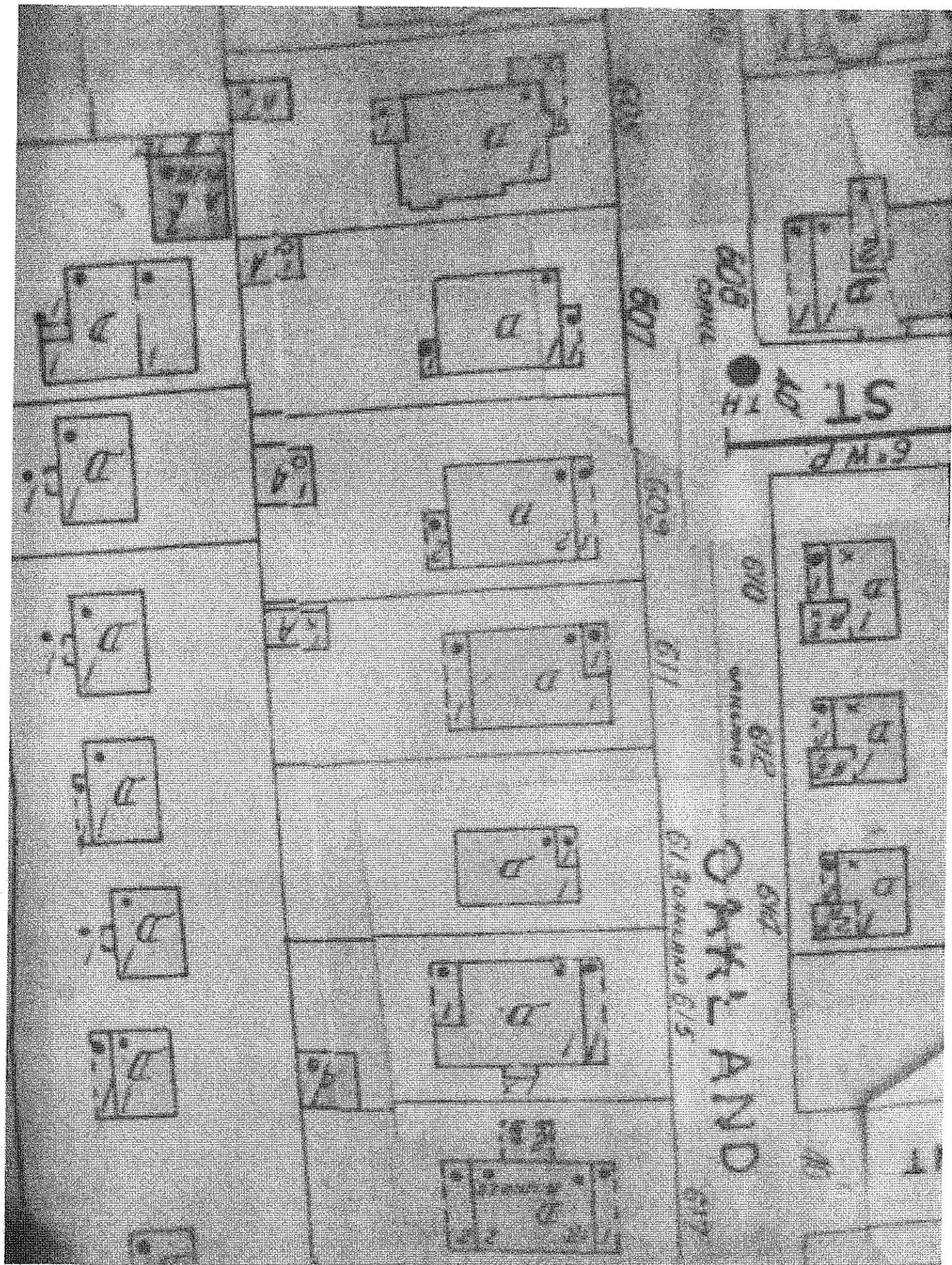
TEXAS

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PLATE 35





Ross Frie

From: John Barkley [barkley@barkleyhouses.com]
Sent: Saturday, October 29, 2011 9:10 AM
To: crankin@bigcheckfactory.com
Cc: yvonne@bigcheckfactory.com; 'Ross Frie'
Subject: 609 Oakland FW: Pics for you and John of the studio when it was built

Some additional context, as it were. Jb

From: aimee bobruk [mailto:aimeebobruk@aimeebobruk.com]
Sent: Wednesday, August 17, 2011 10:06 AM
To: Medora Barkley
Subject: Pics for you and John of the studio when it was built

Medora and John:

So it turns out I met Tom Athey--the guy who built the studio in 1982.
I was getting out of my car and he happened to be on his bike.
He sent me these pics.

I've included his e-mail below:

Hi Aimee,

I'm the guy on the bike rambling on about your apartment/my studio (as it will always be in my mind) the other day. I really liked your music and your web site, all very cool. As I mentioned, I'm truly thrilled that creative things continue to happen in that space. I built it to match my own dreams at the time and had several incredible years there painting and making photographs. But I always worried that after I left it would just be somebody's apartment and its studio potential would go to waste. Glad to know that's not so...

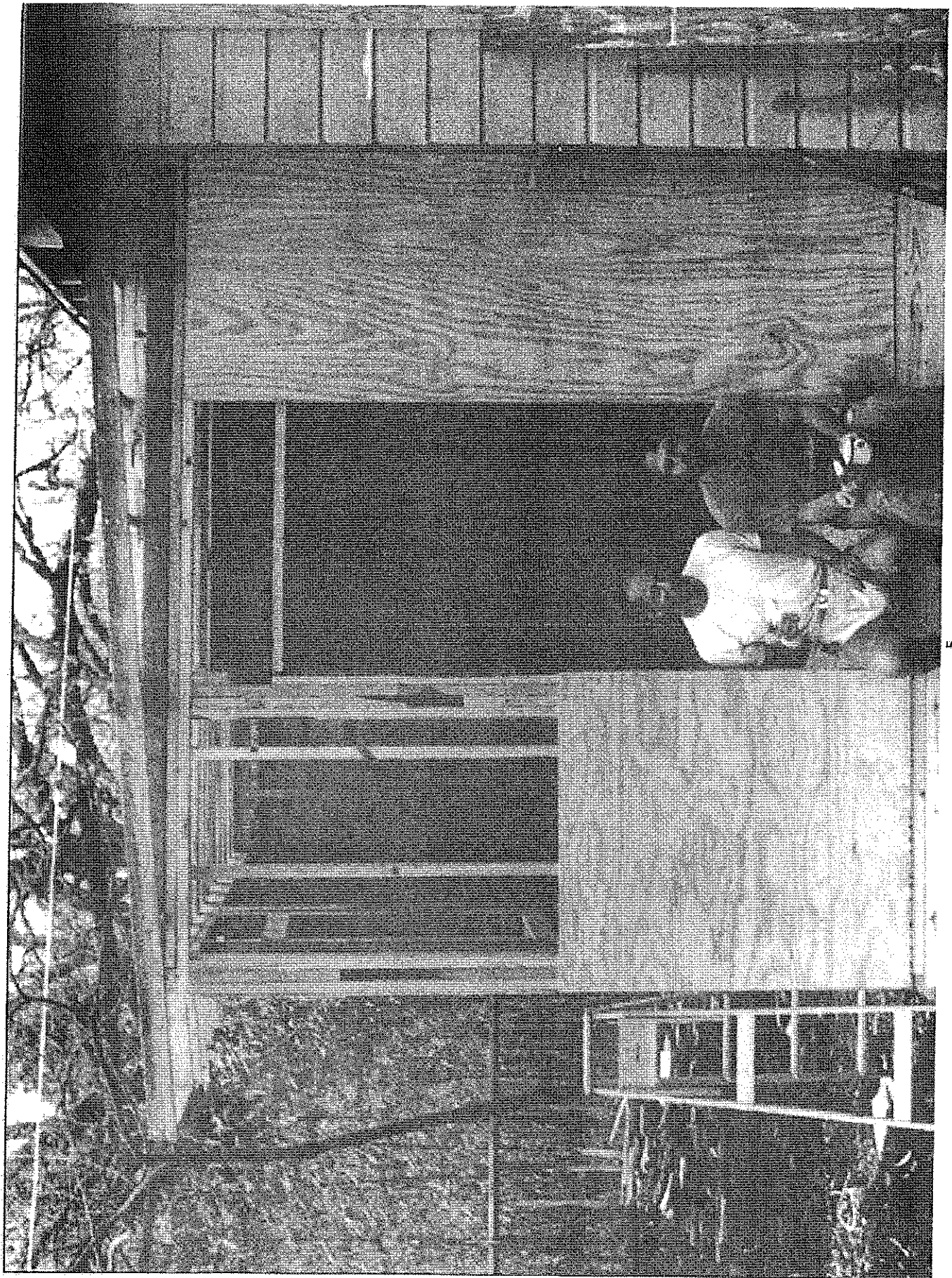
And a PIANO in there! Awesome!

Anyway, I've attached a couple of photos from when it was under construction, circa 1982 or so. That's me with the beard, my friend Jim in the white shirt. I hope you enjoy these.

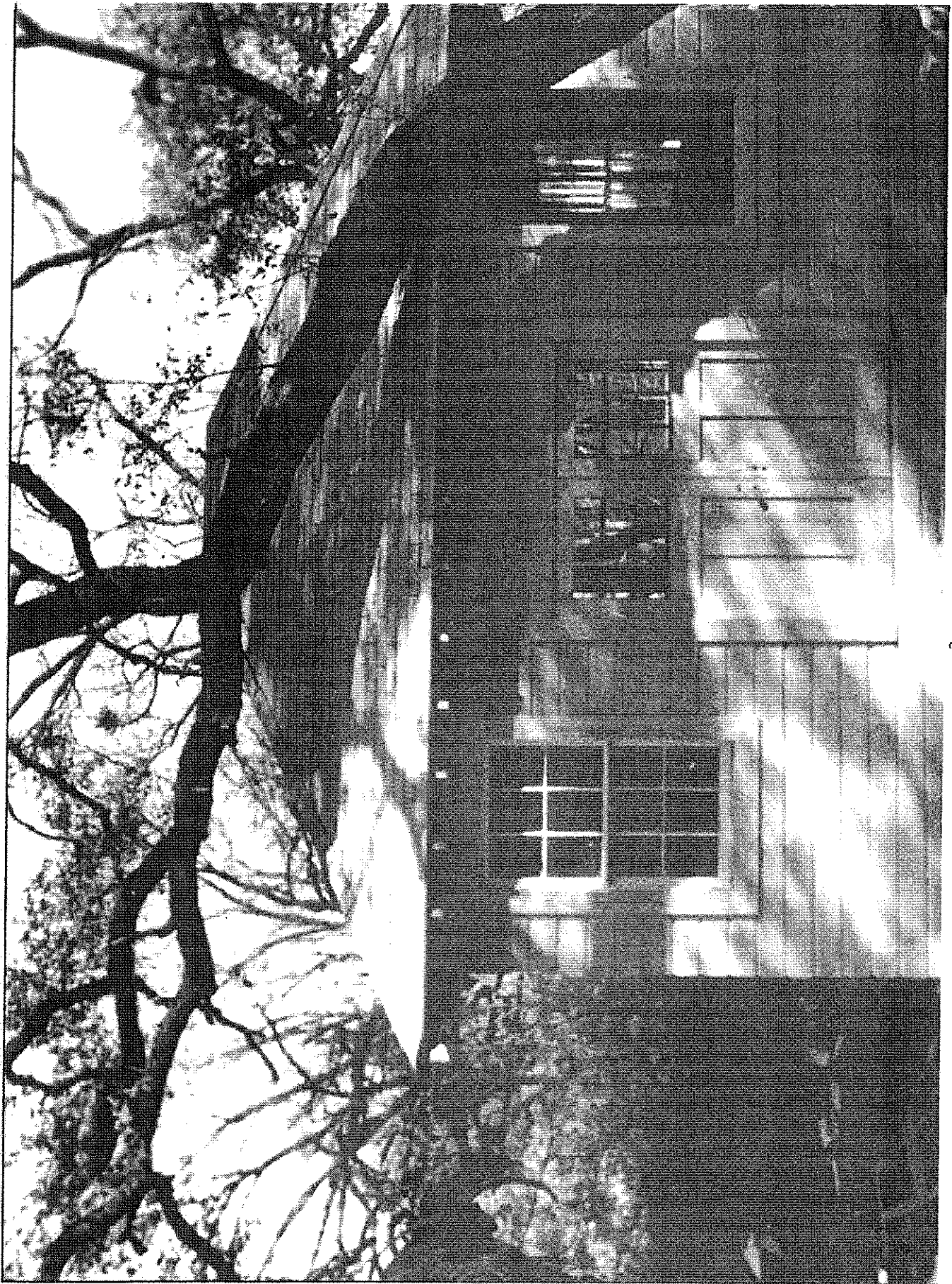
I enjoyed talking with you the other day. Keep up the good works...

Tom Athey
tom@imagesfromhere.com

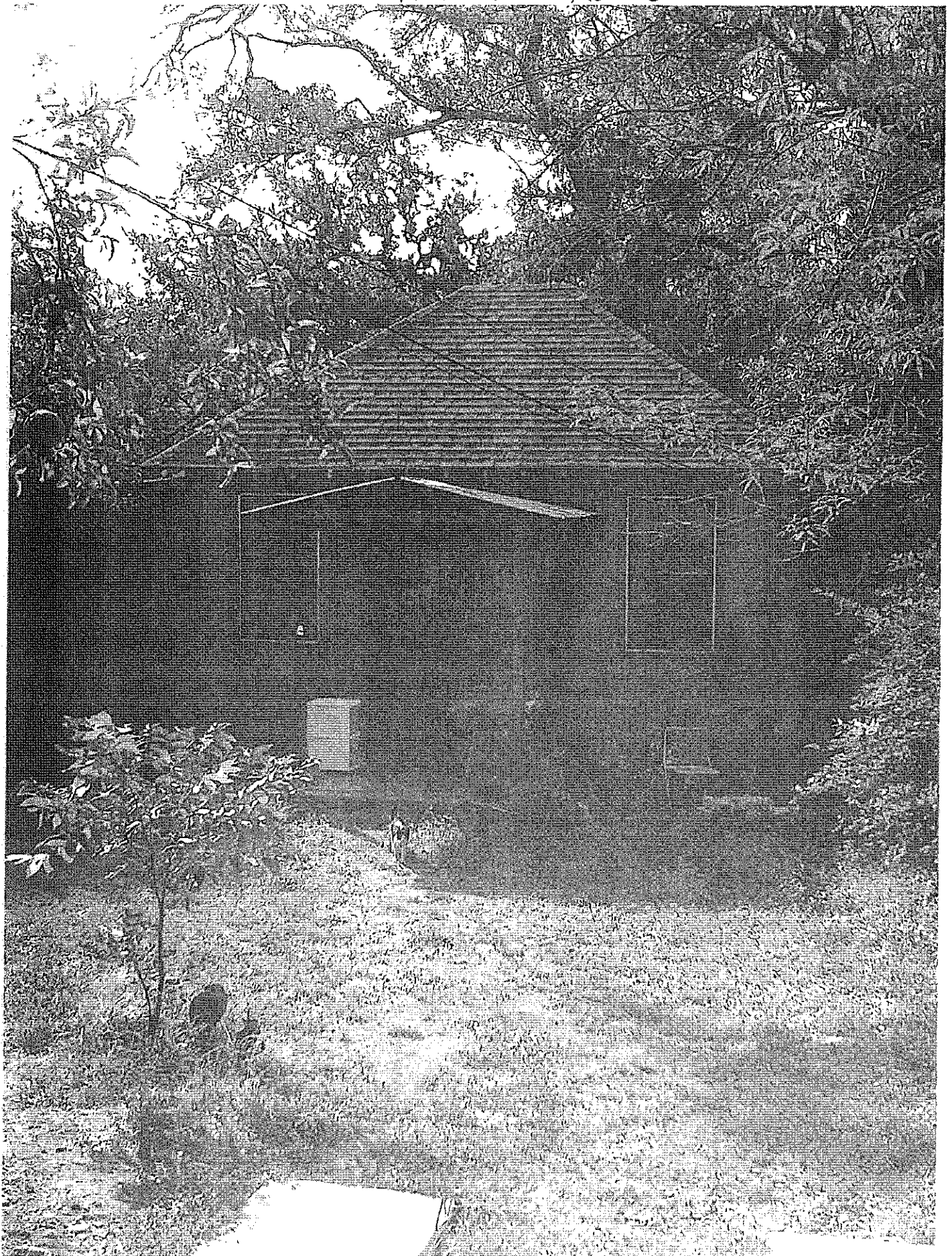
1982 REAR STRUCTURE



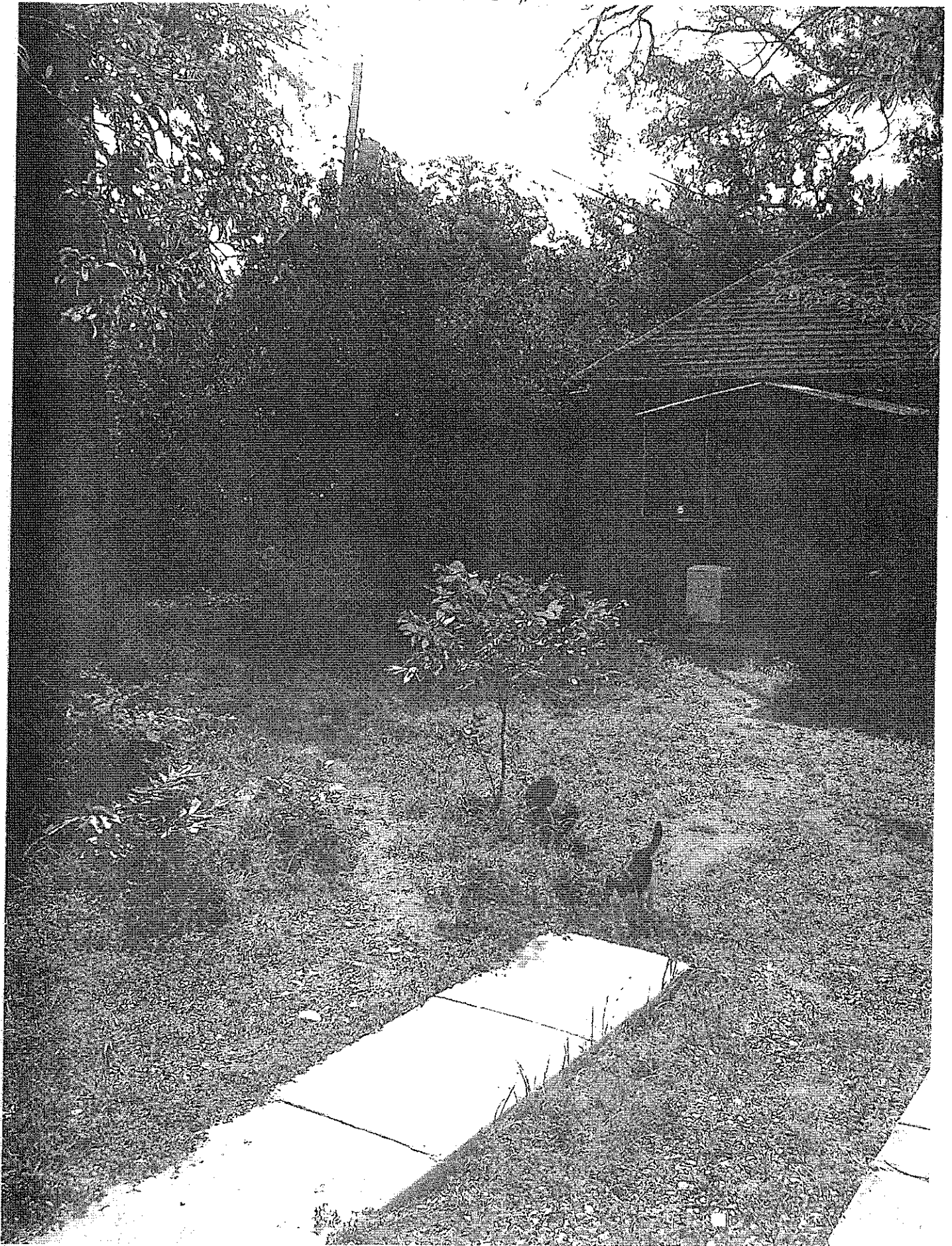
1982 REAR STRUCTURE

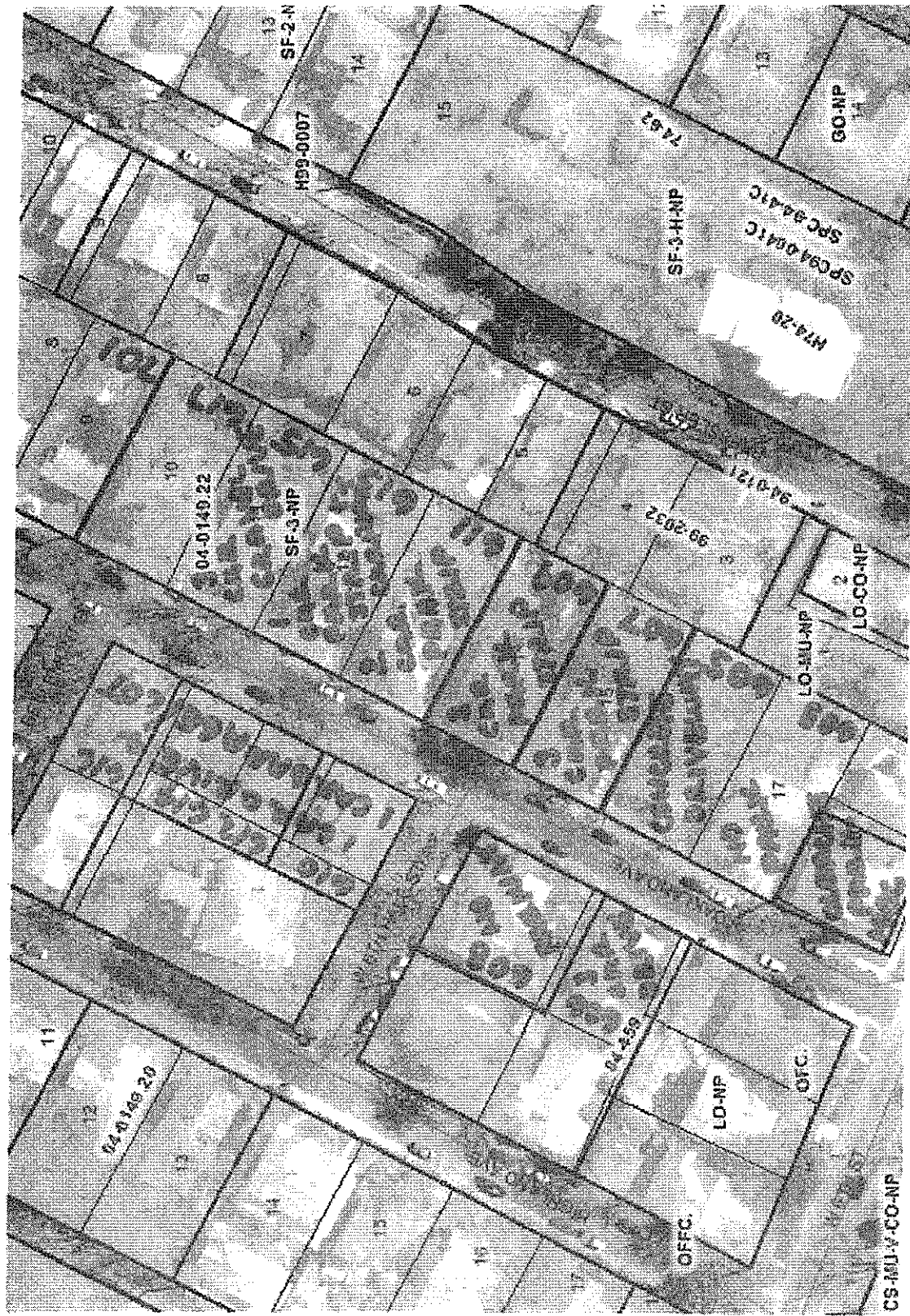


2011 REAR STRUCTURE

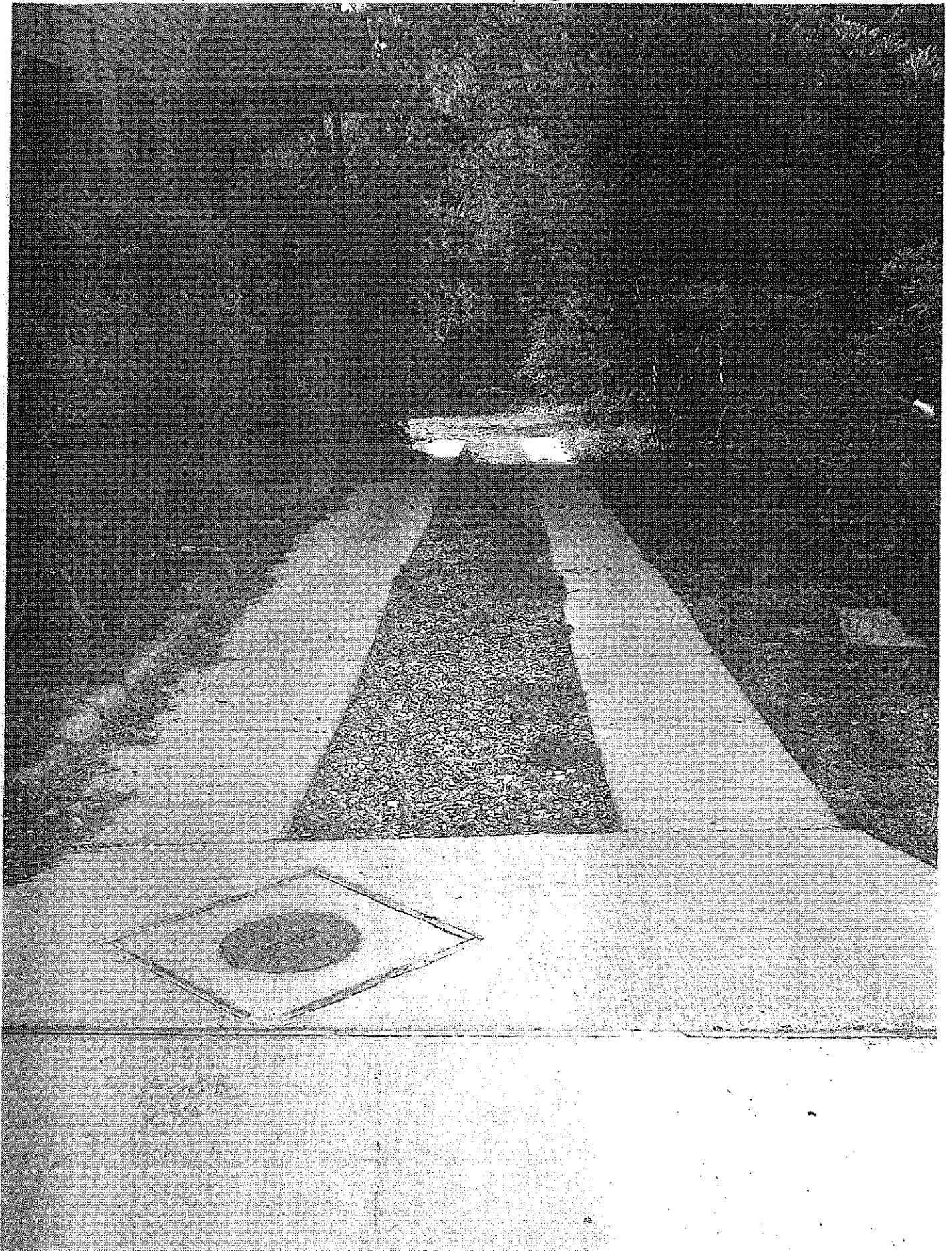


2011 REAR STRUCTURE





70' PARKING STRIPS



70' PARKING STRIPS

