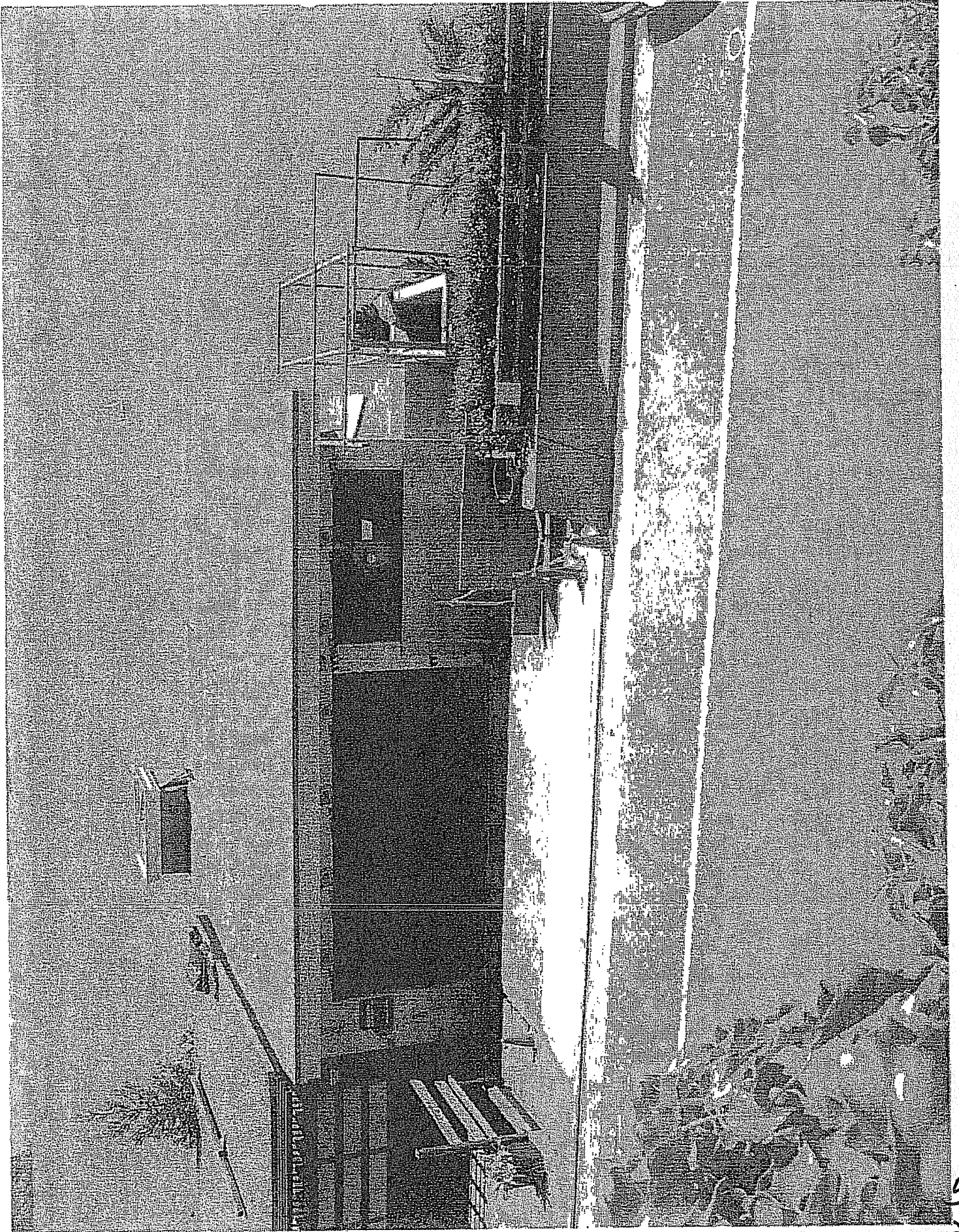
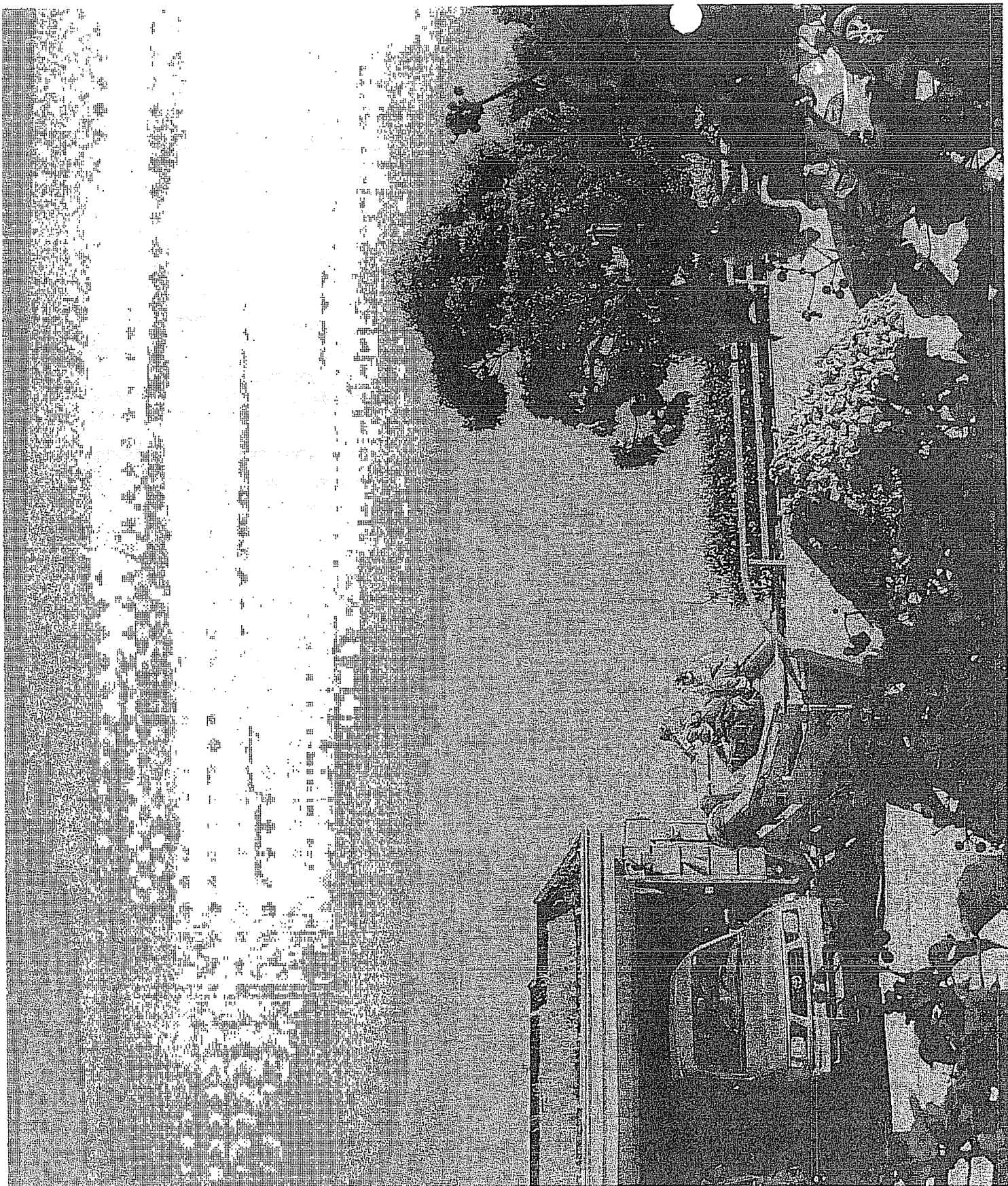


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MARIE MCDERMOTT

OCT 3, 2006

ALEXANDER AVE

RECEIVED

SAUSALITO, CA

OCT 6 2006

94965

RE: APPLICATION # YAM/PRM 07-002

CITY OF SAUSALITO

CITY OF SAUSALITO

DEAR SIERRA RUSSELL, PLANNING COMMISSION,

I LIVE DIRECTLY ACROSS THE STREET FROM #2 ALEXANDER AVE PROJECT THAT HAS BEEN ON GOING AND EVER GROWING FOR 10 YEARS +-.

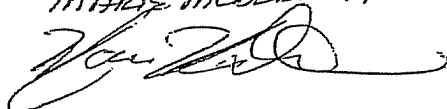
I HAVE REPEATEDLY SPOKEN TO THE COMMISSION ABOUT THE CHANGES ACROSS THE STREET AND BELIEVE THOSE CHANGES ARE IMPROPER AND ARE BAD FOR THE CITY, THE PUBLIC AND ME PERSONALLY.

I WANT THE COMMISSION TO CONSIDER ALL OF THE COMMENTS THE PUBLIC HAS MADE IN THE PAST AND CONSIDER THE VARIANCE IN ITS ENTIRETY AS ONE PROJECT, AND THE CITY PLANNING COMMISSION SHOULD DECIDE IF IT CAN MAKE THE REQUIRED VARIANCE FINDINGS AS IF THE ENTIRE PROJECT WAS PRESENTED AT ONE TIME.

PLEASE DO NOT REWARD THIS ABUSE OF THE SYSTEM. I RESPECTFULLY REQUEST THAT YOU DENY THE DESIGN REVIEW APPLICATION AND THE VARIANCE MODIFICATION THAT IS BEFORE YOU.

SINCERELY,

MARIE MCDERMOTT



MEMPHIS AIRPORT  
CITY OF MEMPHIS

OCT 4 2007

RECEIVED

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ITEM NO. 6

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**Sierra Russell**

---

**From:** bobmaloy@comcast.net  
**Sent:** Thursday, October 04, 2007 7:01 PM  
**To:** Sierra Russell  
**Cc:** Ed Fotsch  
**Subject:** Dr.Ed Fotsch # 2 Alexander Ave  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Planning Commission:**

I live and own at 17 Alexander Ave. I understand that the only remaining issue is that the Contractor Built the Garage 10" over the approved plan. There should be no major concern as the neighbor is the US PARKS SERVICE, OUR GOVERNMENT TAKES SO MUCH FROM US, IT IS NICE TO HAVE THE CHANCE TO TAKE A FEW INCHES FROM THEM..

I think that Dr.Ed Fotsch has done a superb job increasing parking space with his new garage. Please approve this new plan and let him finish his project..

Sincerely,

Bob Maloy

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**Sierra Russell**

---

**From:** Dennis Fecteau [fecteau@interf.com]  
**Sent:** Wednesday, October 03, 2007 3:26 PM  
**To:** Sierra Russell  
**Subject:** 2 Alexander

Sierra,

I see that there is yet another meeting regarding our neighbor's construction at 2 Alexander Ave.

As we reside at 12 Alexander Avenue we have a real interest in seeing this project completed. So far the improvements we see have added a great deal to the street side look of our 5 connected garages. The addition of 2 off street parking spaces in this area is also a blessing.

I urge you to clear a path for Mr. and Mrs. Fotsch so that they can close in their vulnerable interior construction before the rainy weather sets in and does serious damage to their property.

Having recently completed a two year renovation of our own property I assure you that we have great respect for those departments who regulate and manage the developments that improve the looks and reputation of our wonderful community. I am pleased that your office ensures that all of us stay on a positive track and adhere to the rules and regulations that keep Sausalito on the right path. However, there does come a time when those who do follow the rules are entitled to the support that they have earned by doing so and I believe that the history at 2 Alexander now places in that category.

Regards,  
Dennis Fecteau  
12 Alexander Ave,  
Sausalito, CA 94965  
415-331-9190

Dennis E. Fecteau  
President  
Chairman  
Interferometrics Inc.

***Subsidiaries***

CODE 9000 INC.  
Transmitter Location Systems, LLC.  
415-331-9009 (V) Sausalito, CA Office  
415-331-9008 (F)

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ITEM NO. 6 PAGE 144

October 3, 2007

Re. Application # VAM/Drm 07-002

Members of the Sausalito Planning Commission:

First of all and for the record, I would like to emphatically state that my wife and I have never had any objection to Ed Fotsch completing his garage and stair project as originally approved and permitted. In fact, we were the first to support it.

Since then there have been many problems. After numerous appearances before this body to obtain after the fact approvals of changes to his project after the changes have already been made, Fotsch is back again, seeking yet another after the fact approval and "variance modification". As before, the need for the variance is self-inflicted. You will recall that on June 7, 2006, applicant Fotsch represented to you (in response to our that question as to whether the as-built project was as depicted on the plans and specifications) that the project was "within an inch in every aspect" and that his compliance had been established by City officials. (We document this for your review below.) As you know, Sausalito Planning Staff has confirmed what we have long suspected: as-built, the Fotsch structure encroaches not only into the permitted and variance approved 3'6" into the side yard setback, but a full 5 feet, 100% into the setback, leading to a zero (0) lot-line, exceeding what was permitted by over 42%; additionally there are encroachments onto GGNRA property, violating conditions of their variance approval.

[We have attached pertinent photos in Attachment A.]

As a matter of equity, the Planning Commission cannot possibly make the findings necessary to grant the presently requested variance modification and encroachment permit for many reasons set forth below. It is finally time to demonstrate to Ed Fotsch that there are consequences to his disregard of the planning process.

1. The Submitted Plans Are In Error and The Survey Is Incomplete.

The Fotsch application should be denied, as an initial matter, because the plans submitted are grossly in error and do not represent what is actually built on the site. Some critical dimensions are not shown, others are shown but are incorrect. The submitted plans submitted to support this application are out of date, inaccurate, and misleading. None of the plans show the encroachments onto the GGNRA, such as the stairs, planter, retaining walls, stairs, and pier footings.

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- Plan A2.0 shows the stair 6" away from the GGNRA boundary when the true difference is zero (0") setback.
- Plan A2.0 has no dimension shown from the south side of the building to the GGNRA boundary.
- Plan A3.0 shows a 6" gap between the south side of the stair and the GGNRA boundary. That distance is zero (0").
- On Don Olsen's project drawings, sheet A4.0, 10.29.04, showing "SECTION 2, BUILDING SECTION LOOKING WEST" you will observe that the piers below ground are considerably wider than the wall to the stairs they support above. It has been verified by Planning Associate, Sierra Russell (at a meeting on September 19, 2007), that the wall above has 0" setback from the boundary, therefore the piers must be encroaching onto GGNRA property.
- And, as drawn, the handrails and cap rail will extend a further 6" onto GGNRA land.

Specifically, the submitted survey does not show the location of buildings and structures such as retaining walls. The surveyor did not mark the lot corners. (The property line is not marked with a string line [Please see photos in Attachment A]: he could not mark the boundary because Fotsch's building is on and over the boundary.) The applicant must submit an accurate depiction of what has been built before this application should be deemed complete.

The piers that support the stairs encroach below the ground and slightly above it where they cannot easily be seen and could be covered over. The project is oversize in thirteen dimensions.

Nevertheless, at the Planning Commission Meeting on June 7, 2006, "Mr. Fotsch said that as far as what's been built, the building inspector came out and verified that it [the garage and stair project] is within an inch in every aspect of what was approved." [Please see Attachment B, Item 1, p.38, lines 8-10, Planning Commission Minutes, Draft/Unapproved].

## 2. Even If This Is An Oversight, A Variance Should Not Be Granted.

In a letter [Attachment C] dated September 14, 2007 Ed Fotsch's building contractor, Joaquin Fritz, claims that this is all an "oversight" in the expansion of the entire building [all levels below and not just the garage level by 1'6"], the drilling and pouring of piers that encroach approximately 6" onto the GGNRA property, and the adding of approximately 1,867 cubic feet of volume to the structure on the south side alone. (The structure is larger in 13 dimensions.) Fritz says that he assumed that the

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lot was in square when he poured the piers and foundations [on and over the GGNRA boundary]. (Please see the GGNRA letter quoted below, and attached, for why this should not have happened.) There are probably very few lots in Sausalito that are in square, this lot is not a particularly challenging shape, and builders all face this as a matter of usual business. [There is also garbled math in the letter attempting to prove "mistake". If interested, please see footnote 1.] Fritz makes no explanation of why the garage is 1'6" wider than approved.

First of all, it seems to us that this expansion may be intentional. The accuracy of the builder's inaccuracy is remarkable. He managed to build the wall and stairs exactly on the GGNRA boundary. The piers that support the stairs encroach below the ground and slightly above it where they cannot easily be seen and could be covered over. But in no way can this "mistake" be deemed accidental. Requirements on the part of the City and the GGNRA, had Fotsch complied with them, would have made the "mistake" impossible.

The attached March 11, 2003 letter to Fotsch from the GGNRA [Attachment D], states:

We concur with your request for a variance from the City of Sausalito's required 5 foot setback to a no less than 1 foot setback for your property if the following conditions are met [Underlining and bold mine].

- A survey is completed prior to the start of the project to confirm and permanently mark your property line and the GGNRA boundary along the south side of your property.
- Prior to construction, a temporary fence will be installed along that boundary line that clearly defines the boundary line and contains all construction activity to your property.
- All stairway structure, footings, etc. will be placed no less than one foot [Underlining mine.] from the GGNRA boundary that adjoins your property on the south side.
- The design of the additions on your property satisfies the City of Sausalito Community Development Department regarding avoidance of any potential impact on slope stability [Underlining mine.]
- You will have any existing construction on your property that is found to extend onto GGNRA property removed, as well as any construction debris that was previously deposited on GGNRA land adjoining your land. We would further ask that no additional materials of any kind be deposited on GGNRA property in the

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future [Underlining and bold mine.]. (Please see footnote 2.)

The boundary was clearly not set and marked. Ed Fotsch violated the conditions of the GGNRA's variance approval. Such conditions are imposed to prevent exactly what happened here: someone falsely claiming that this was all a "mistake". Despite GGNRA governmental restriction, conditions, and warnings, Ed Fotsch encroached by constructing his building 1 1/2 feet beyond the approved variance into the setback, and pouring the pier footings of his building over the boundary of the GGNRA property. If the boundary was set and marked, there could have been no additional encroachment. The need for the "variance modification" is self-imposed, and must be denied [Please see Attachment E.1, Resolution Design Review Finding 2 regarding self-imposed hardships].

It is important to note that this is not the first time Ed Fotsch has encroached onto GGNRA property with his construction projects. (Please see footnote 3.)

3. The Encroachment Was Clear On the Ground.

As the enclosed photographs show, there is a surveyors permanent mark (pin) in the road on Alexander Avenue that has been there for some time. According to Don Olsen's plans (permit copy), that pin should align exactly with grid 4, which should be the south side of the garage. It can be clearly seen with the naked eye that the garage wall has been built about 1'6" further south than shown on the plans, and this survey pin is further proof that the claim of "mistake" does not stand up. In addition, Fotsch has also cut off 3 feet of length from the three and a half foot high concrete public wall and guard rail on the public road, where a red zone is marked, to accommodate straight entrance into his "mistakenly" widened garage. At some point, a long time ago, someone would have had to say, "What's going on here? Something is not right!" (We are presently trying to determine whether this was built by the Golden Gate Bridge and Highway District or another public agency.)

4. The Design Review Application Must Also Be Denied.

In addition to the self-imposed encroachment, the building does not conform to applications, approvals, and approved plans and specifications. This expansion (hardly a mistake) has created an increase in bulk volume of 1,867 cubic feet on the south side alone. We object to the increased bulk and further extension south as it looms hugely over us, affects our safety, and takes more of our privacy and afternoon sun than the approved project. The bulk increase alone warrants design review, and we are at a loss as to why the Planning Department chooses to ignore this and continues to downplay this massively overbuilt project.

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The information presented by Fotsch and Olsen is nothing more than an arrogant and deliberate attempt to mislead the Planning Commission and the City Council. Instead of encroaching only into the permitted and approved 3'6" into the side yard setback, Fotsch has gone a full 5 feet, 100 % into the setback and exceeding what was permitted by over 42%, and further, has encroached onto GGNRA property with piers/footings, and built in violation of the GGNRA variance conditions.

5. Concerns for Safety

We are concerned for our safety. Fotsch's development of six parcels on Edwards Avenue and encroaching onto the GGNRA, across and on the uphill side west of Alexander Avenue, precipitated a landslide on March 7, 2002 causing damage to homes at 1 and Alexander Avenue directly above us, damaged cars parked across the street, and closed Alexander Avenue, the main artery into Sausalito. The City of Sausalito deemed 1 Alexander Avenue too dangerous for human habitation (a condition that remains to this day). Alexander Avenue, the main artery into Sausalito, was closed. The blue tarp and slide area can still be seen above Alexander Avenue.

Directly below this slide, Fotsch has loaded the hillside on the east side of 2 Alexander Avenue immediately above us with his overbuilt house. Additionally, he has brought in massive amounts of fill to put behind unengineered, unreinforced, and stack block retaining walls (which also encroach onto the GGNRA), and an unpermitted hot tub sits on top of several terraces of these, creating the surcharge of an 18 foot unreinforced retaining wall. We have appealed to the Planning Department about these, but nothing has been done. [Please see footnote 4, and photos in Attachment H.] We have asked that they send out the Building Inspector, and to point them out if necessary, but Planning has given us no response, and the rainy season is beginning. Also, there have been no plans submitted showing drainage from this project, which is of paramount importance to us as it surely must be to the GGNRA. There is a risk of landslides affecting our property, which would have the potential for loss of life, injury, and economic damage to ourselves and our neighbors. (Please see footnote 5, and Attachment E, regarding November 8, 2006 Resolution Design Review Board Findings, General Plan Objective HS-1.0.)

6. Conclusion

In conclusion, we request that this application be denied and the applicant compelled to remove encroachments into the setback and onto the GGNRA and abide by the terms of the variance granted and the approved plans. None of the mandatory

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findings needed to approve this application can be made, and self-imposed hardship is certainly not grounds for approval.

I wish to reiterate for the record that my wife and I have never had any objection to Ed Fotsch building or completing the originally approved and permitted garage and stair project. What we have objected to is his building continuously above us for over ten years in a pattern of creep development, without approvals, permits, beyond the approvals he did receive, and without inspections.

At the Planning Commission Meeting of October 25, 2006, a member of the Planning Commission said that Fotsch, "...has lived in this community a very long time, he's been before the Planning Commission many times on different projects, and knows how the system works and he's sorry to say the applicant knows how to work the system" ( Attachment F, Planning Commission Minutes, Draft/Unapproved, p. 25, lines 6-8). On that occasion, you sent a message to Fotsch and all others who seek to abuse the system and engage in project creep by seeking incremental approvals, or simply building now and seeking approvals after the fact (if caught) or not at all: you denied Fotsch's application. You have a chance to send that message again. Please do not reward this type of builder for their self-imposed problems. We respectfully request that you deny both the variance modification and the design review application that is before you tonight. Thank you.

Sincerely,  
Ian and Janeane Moody

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Footnotes:

1. Inaccuracies in the Fotsch's submitted letter from Fritz:

A. The lot "narrows by 18" from the bay to the street". Wrong: It narrows by about 5".

B. The lot "narrows the better part of a foot from ny control point to the street". Wrong: It narrows by about 1 1/2 ".

C. The lot "is not square, and the 12" [Remember, it is actually 18"; not 12".] overbuilt and resultant less than one foot side yard [It's zero setback] is the result." Wrong: The lot is not in square but the divergence between the critical north and south boundaries is 0 degrees twenty minutes

and 29 seconds; slightly more than 1/3 of a degree.

2. Fotsch has repeatedly dumped construction excavation and debris onto the GGNRA, from projects on this property and from the project above Alexander

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Avenue and we've had to call Park Rangers twice because Fotsch was cutting down trees on the GGNRA without permission.

3. In the period of May 1991 through 1993, Fotsch developed six parcels at 15, 21, 25, 27, and 35 Edwards Avenue which included a reduction in the sideyard setback and encroachments onto the GGNRA land, and which resulted in a lawsuit (filed March 7, 2005) against Fotsch, the GGNRA, the Golden Gate Bridge and Highway District and others, due to a landslide.

4. The Planning Director, when coming out to measure Fotsch's garage, "couldn't find" the three plus dumpsters of added fill, delivered by a large truck off-loading it on rails and leaving scratches on the street. This fill and new retaining walls were added to the steep slope during the week of June 4-8 while a red tag was in effect, as seen in Attachment F photos.

5. November 8, 2006, Resolution 2006-44, of the Sausalito Planning Commission:

#### DESIGN REVIEW FINDINGS

1. The proposal is not in conformity with the City's Design Review Permit.

Finding 1:

*The proposed project is inconsistent with General Plan Objective HS-1.0, which states that development shall minimize the potential for loss of life, injury damage to property, economic and social dislocation and unusual public expense due to natural and man made hazards. The Planning Commission has determined that the proposed project jeopardizes public safety due to hillside stability...The subject parcels located in an area of know landslides. Intensifying development with the subject property by converting the upper landing area to habitable space increases the possibility of further destabilization of the hillside. This destabilization would jeopardize public safety for both the property occupants and adjacent properties. (Attachment A to Design Review Findings, p. 3, #1.)*

This finding was an important part of the Planning Commission's unanimous denial of Fotsch's Application DR 05-074, and it appears that it was not considered when Fotsch withdrew and resubmitted the decision to the Planning Commission and, when he redesigned his security gate, his project was then approved. Perhaps the Commission relied on the Staff Report submitted for that appeal which inadequately

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addressed this finding by reducing it to only one sentence which stated:  
"Other concerns cited by the Commission included hillside stability and  
traffic safety impacts with the placement of improvements near street  
frontage." (Staff Report, Planning Commission, Item 5A, Meeting Date  
5/15/07, p.2, lines 15-16.) [Please see attachment E.2]

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1 That flies in the face of the fact that this property and its immediate neighbors to the  
 2 north were all required to observe the special setback when they were originally built.  
 3 They are built that way because they had to deal with the setbacks.

4  
 5 Finding F refers to harmony with the General Plan. It says the project would not have an  
 6 immediate impact on the current circulation pattern. The 10-foot special setback  
 7 addresses future possibilities, not the immediate ones.

8  
 9 At the May 10 hearing, Commissioner Keller said, "the likelihood of widening that road is  
 10 zero percent." Commissioner Petersen said, "the use of the 10-foot setback is  
 11 impossible." Both of those statements constitute bias and prejudice and a disregard for  
 12 the zoning ordinance. If they voted in the affirmative, those observations are grounds for  
 13 a challenge to the vote.

14  
 15 Mr. Noble reported back to the Commission on his research of the file. The parcel area  
 16 is shown as 10,093, which in that zone would accommodate two dwelling units. The  
 17 floor area as shown is 3,632 square feet for a FAR of .36.

18  
 19 Vice Chair Leone asked if that included everything?

20  
 21 Mr. Noble said yes.

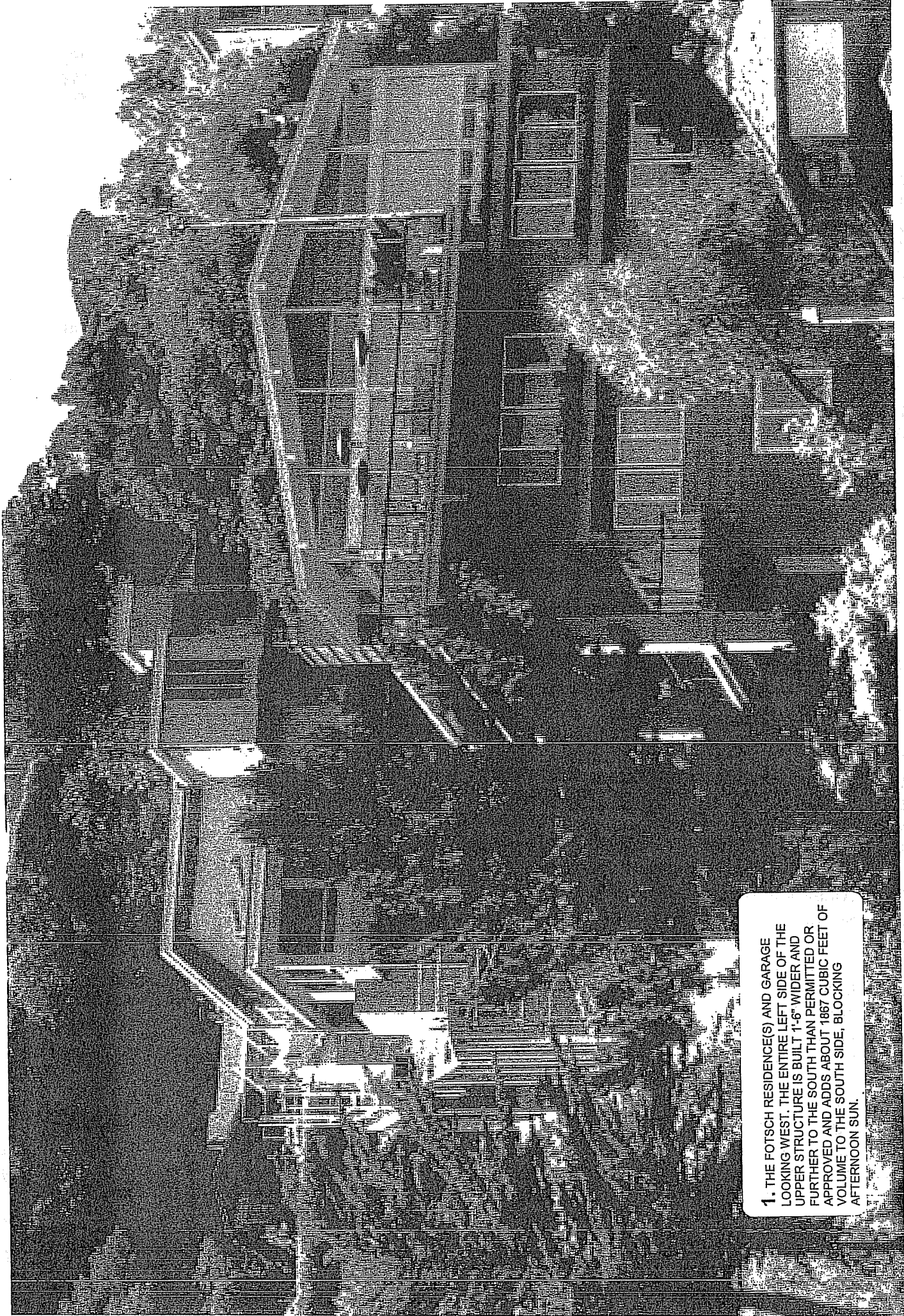
22  
 23 Vice Chair Leone said it's a big lot and it's well under the requirements which are .65  
 24 FAR and .50 building coverage.

25  
 26 **Rebuttal by Ed Fotsch**

27  
 28 → Mr. Fotsch said that as far as what's built, the building inspector came out and verified ←  
 29 that it is within an inch in every aspect of what was approved. As it relates to the  
 30 piecemeal creep complaint, he moved into that house about seven years ago. He  
 31 remodeled it and the remodel took, as they always do, longer than he would hope but it  
 32 was completed within two years. Several years went by in which they had no  
 33 construction at all, although his neighbors had construction going on, including the  
 34 Moodys, who built a garage. There's construction going on currently adjacent to his  
 35 house and frankly, he's not thrilled about it. But he wouldn't have gall to complain about  
 36 it. The constant insinuations that there is some second home or something being built  
 37 there is frankly silly. There are second unit ordinances in the town, every few years they  
 38 want them, they don't want them. He doesn't want a second unit. There's no application  
 39 for a second unit. He believes that the second unit piece of this is regulated by whether  
 40 or not he has a kitchen and he's not interested in having a kitchen or a second unit. As  
 41 planning staff has indicated, the lot is large and there is substantial additional square  
 42 footage one could build. This isn't a second unit issue. As it relates to piecemeal,  
 43 frankly, they had the option and had discussed with planning staff getting the final plans  
 44 and putting windows in. The 600 square feet were already approved. He thought that  
 45 would be a piecemeal way to go about it, he thought that was unfair. So he came in  
 46 after consulting with staff and said here's the plan for the windows. And that's the

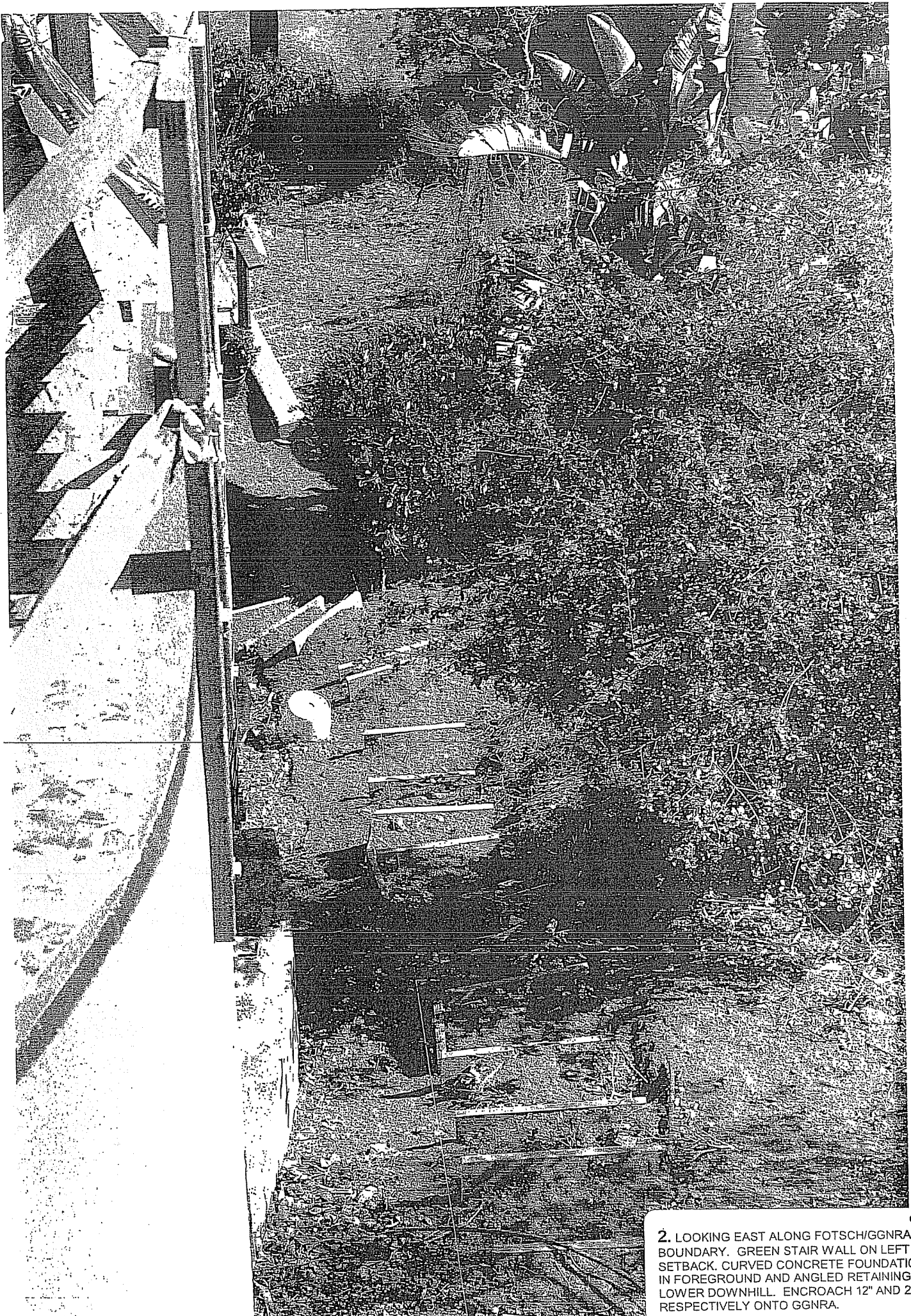
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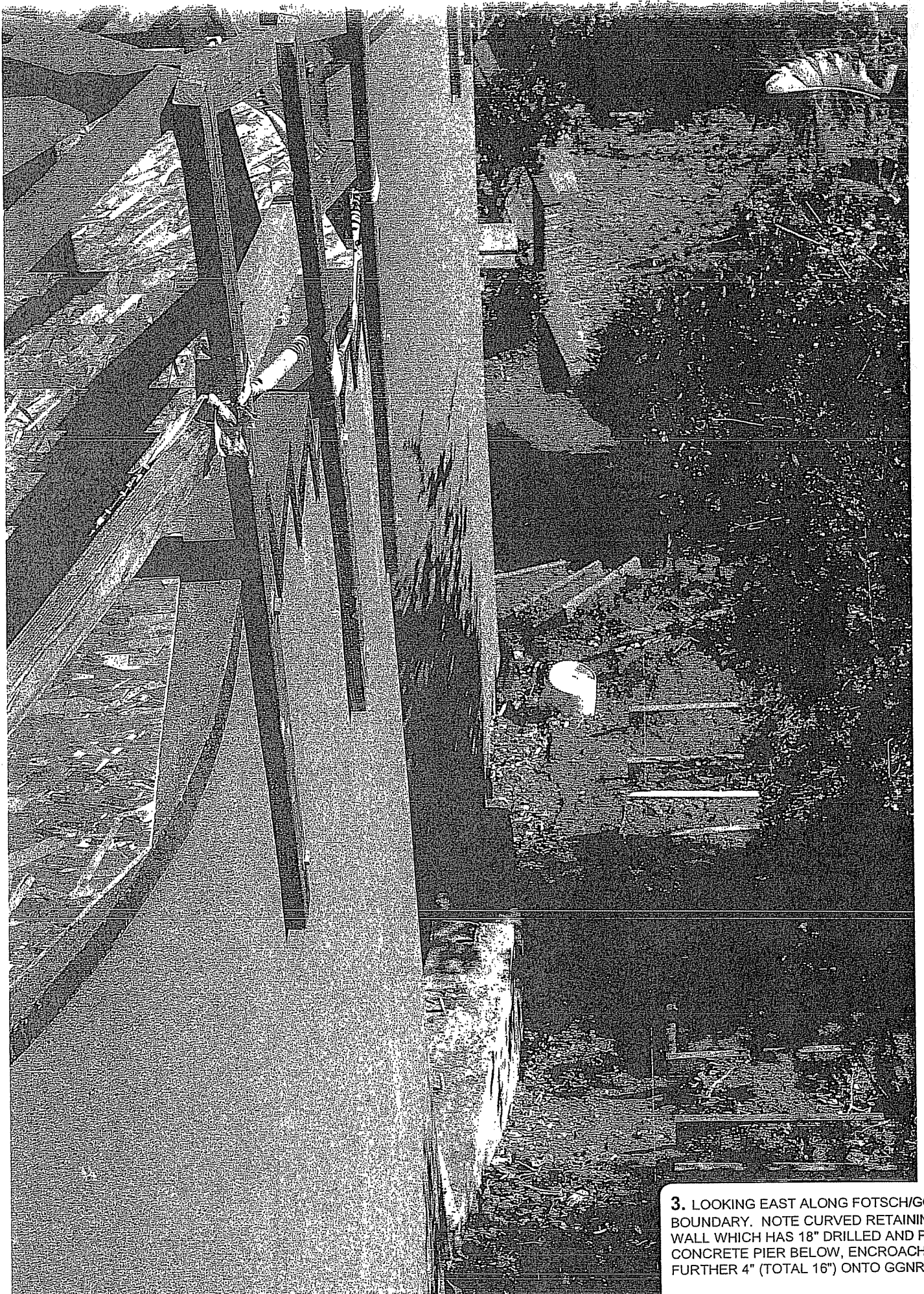


1. THE FOTSCH RESIDENCE(S) AND GARAGE  
LOOKING WEST. THE ENTIRE LEFT SIDE OF THE  
UPPER STRUCTURE IS BUILT 1'-6" WIDER AND  
FURTHER TO THE SOUTH THAN PERMITTED OR  
APPROVED AND ADDS ABOUT 1887 CUBIC FEET OF  
VOLUME TO THE SOUTH SIDE, BLOCKING  
AFTERNOON SUN.



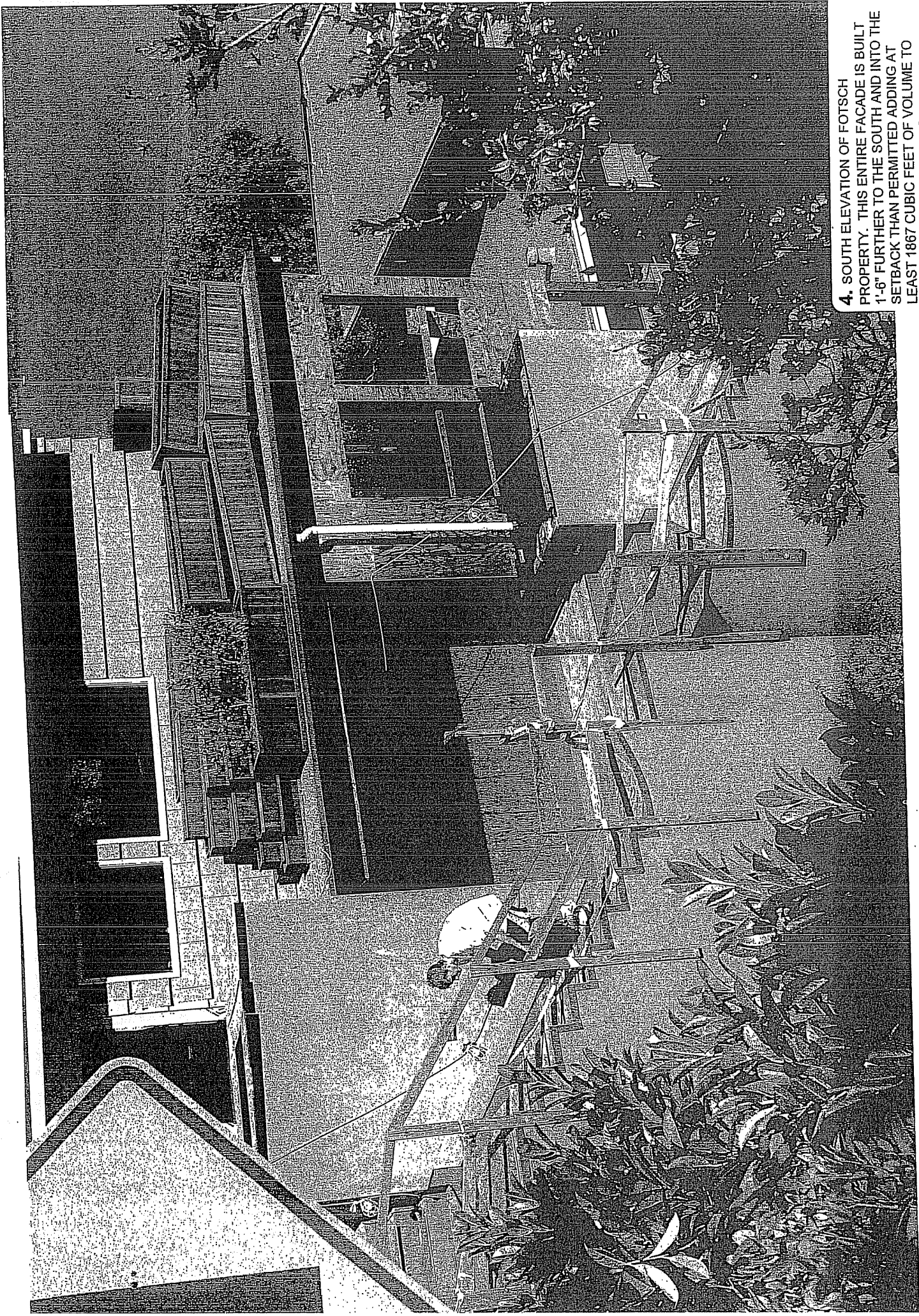


2. LOOKING EAST ALONG FOTSCH/GGNRA BOUNDARY. GREEN STAIR WALL ON LEFT HAS 0" SETBACK. CURVED CONCRETE FOUNDATION BEAM IN FOREGROUND AND ANGLED RETAINING WALL LOWER DOWNHILL. ENCROACH 12" AND 20" RESPECTIVELY ONTO GGNRA.



3. LOOKING EAST ALONG FOTSCH/GGNRA BOUNDARY. NOTE CURVED RETAINING WALL WHICH HAS 18" DRILLED AND POURED CONCRETE PIER BELOW, ENCROACHING A FURTHER 4" (TOTAL 16") ONTO GGNRA.

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4. SOUTH ELEVATION OF FOTSCH PROPERTY. THIS ENTIRE FACADE IS BUILT 1'-6" FURTHER TO THE SOUTH AND INTO THE SETBACK THAN PERMITTED ADDING AT LEAST 1867 CUBIC FEET OF VOLUME TO THIS SIDE OF THE BUILDING.

5



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**5. & 5A** (PRIOR TO OVERBUILD). SURVEY PIN VIEWED FROM ABOVE. THIS WAS TO MARK GRID 4, THE SOUTH WALL OF THE GARAGE.