



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Appeal Received from Steven J. Cottrell, Attorney at Law, on behalf of Maurice O. Ray, Regarding Notice of Public Nuisance and Order to Abate Issued by Chief Building Inspector Regarding Property Located at 1201 Edgewood Drive

MEETING DATE: February 16, 1994

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council conduct a Public Hearing on the appeal of Steven J. Cottrell, Attorney at Law, on behalf of Maurice O. Ray, regarding Notice of Public Nuisance and Order to Abate issued by the Chief Building Inspector regarding property located at 1201 Edgewood Drive, Lodi.

BACKGROUND INFORMATION: Early in 1993 the Building Division of the Community Development Department determined that Maurice O. Ray Jr. was constructing, without a building permit, a second story addition to his single-family dwelling at 1201 Edgewood Drive. He was ordered to stop construction, submit necessary plans and to obtain the required building permit. As a condition of this permit, the Public Works Department required that the water service be upgraded to include a meter box and the installation of a water meter. The water service at the site is provided from a City watermain located in a recorded 8-foot public utility easement (P.U.E.) along the rear boundary of the property. There is also an 18" storm drain in a recorded 5-foot P.U.E. along the east property line. (See Exhibit A showing the P.U.E., City facilities and building locations.)

During the week of April 12, City crews from the Water/Wastewater Department went to the site to perform the water service upgrade. It was discovered that structures including an in-ground spa, pool house and storage shed had been constructed over the City watermain in the 8-foot P.U.E. rendering the watermain and water service inaccessible. In addition, a valve on the watermain is located inside the pool house. An encroachment permit was not obtained for these structures built over the City easements. A permanent structure is not allowed over a P.U.E. Additionally, a check of City records indicates that these structures were constructed without building permits or variances to reduce setback requirements on the lot. The records also indicate that the Planning Commission had previously denied variance requests from the owner to reduce setback and lot coverage requirements for similar projects in the past.

Additional observations made at the site indicated that other improvements have been made to the property without benefit of the required permits, i.e. swimming pool, second story deck, subterranean garage, etc.

APPROVED

THOMAS A. PETERSON
City Manager



recycled paper

Maurice O. Ray Appeal of Order to Abate
February 16, 1994
Page 2

It was decided that action should be initiated to abate the unpermitted structures, zoning violations, and encroachments on the existing P.U.E.'s. The Public Works Department is very concerned about the structures constructed over the P.U.E.'s and especially the City watermain. These encroachments need to be removed to allow City crews access to the main for routine maintenance and service problems. It is currently impossible to access the main or water service for the subject parcel without demolishing at least a portion of the pool house and storage shed. The inground spa is also located over the watermain further complicating the required repairs or maintenance. Even the City's water valve on the main cannot be accessed without entering the pool house. The vertical support of the pool house is so close to the valve that it cannot be operated properly.

On August 20, 1993 the Chief Building Inspector ordered the storage shed, spa and spa/pool building to be abated by demolition and the second story deck abated by demolition or repair. The Notice of Public Nuisance and Order to abate is attached. The Order was appealed to the City Council by Mr. Ray's attorney, Steven J. Cottrell.

The Public Works Director denied Mr. Ray's request for encroachment permits for the various structures over the water line in the rear yard and the storm drain line in the east sideyard on November 23, 1993.

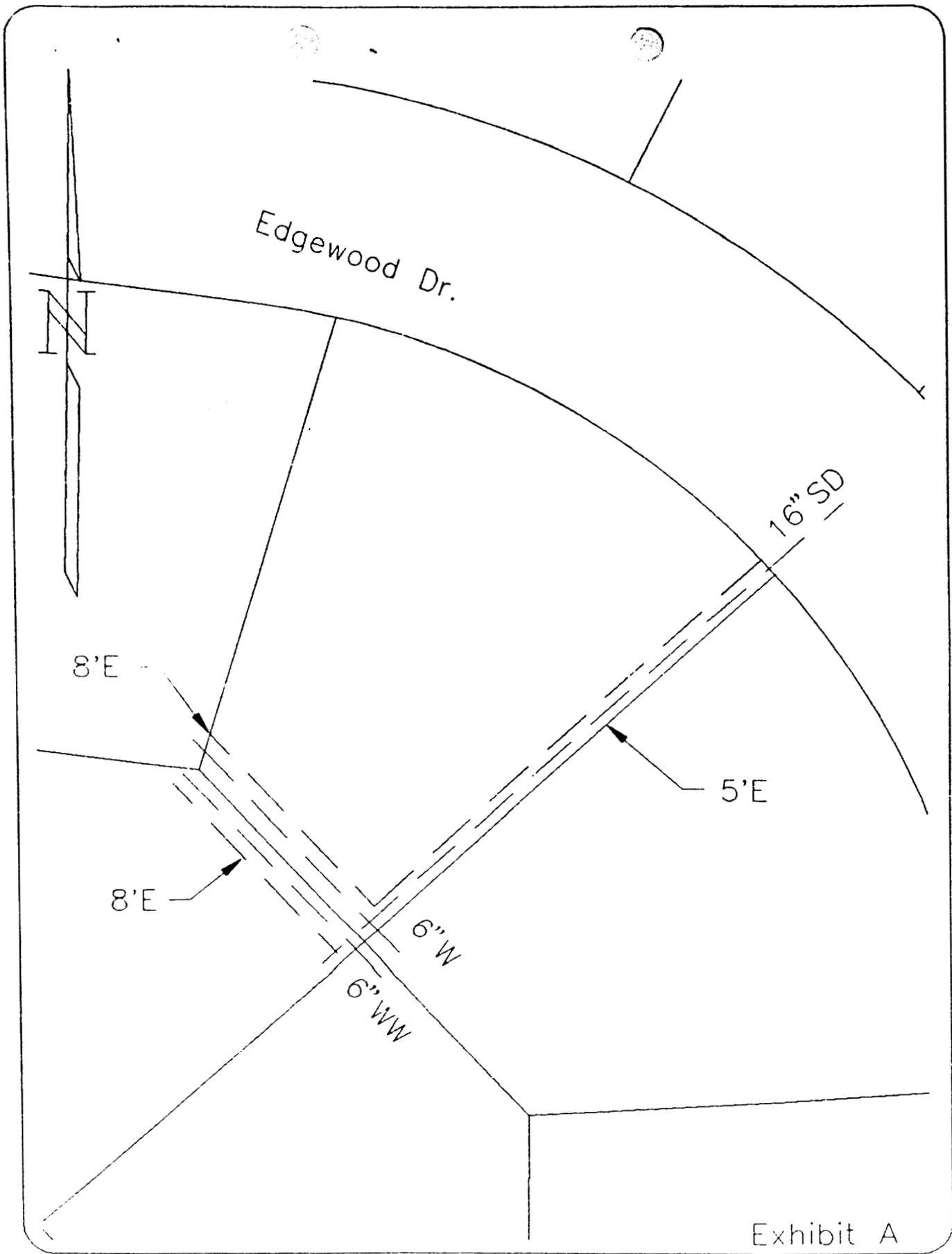
In correspondence dated January 10, 1994 Mr. Ray outlined his solutions to the various encroachments. A field inspection by the Public Works Director, Community Development Director and Chief Building Inspector on January 28, 1994 determined that Mr. Ray's proposals were beyond what they would or could approve. At this time it was suggested that the City Council proceed with its public hearing.

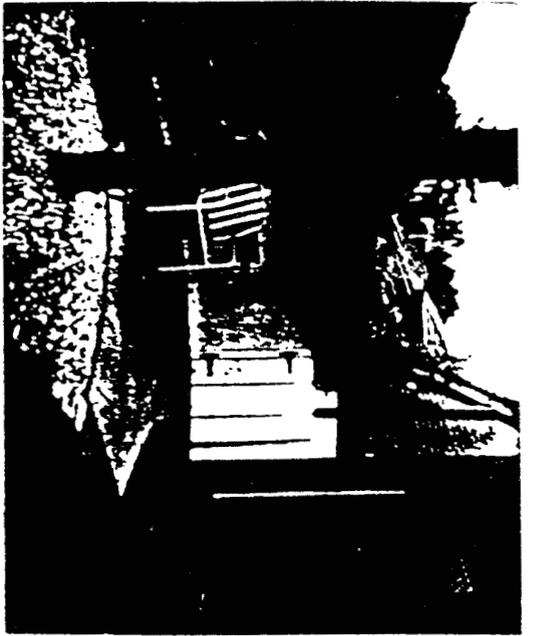
FUNDING: None required.


James B. Schroeder
Community Development Director

JBS/ck

Attachment





11/15/93 1001 A. Eisenman Dr.
View from the tunnel. The tunnel is
about 100 feet long and is a
concrete structure.



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View from the tunnel. The tunnel is
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CITY COUNCIL

PHILLIP A. PENNINO, Mayor
JACK A. SIEGLOCK
Mayor Pro Tempore
RAY G. DAVENPORT
STEPHEN J. MANN
JOHN R. (Randy) SNIDER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P. O. BOX 3008
LODI, CALIFORNIA 95241-1910
(209) 334-5634
FAX (209) 334-4798

THOMAS A. PETERSON
City Manager
JENNIFER M. PERRIN
City Clerk
BOB McHATT
City Attorney

August 20, 1993

CERTIFIED MAIL

NOTICE OF PUBLIC NUISANCE
AND
ORDER TO ABATE

Maurice O. Ray Jr.
1201 N. Edgewood Dr.
Lodi, CA 95240

NOTICE OF PUBLIC NUISANCE

Public records indicate that you are the current legal owner of the real and improved property in the City of Lodi, County of San Joaquin, State of California described as follows: Assessor Parcel Number - 039-273-33. Said Property is more commonly known as 1201 North Edgewood Drive, Lodi, California.

As the property owner, you are hereby notified that the undersigned Building Official of the City of Lodi has inspected said property and declared it to be a PUBLIC NUISANCE As defined and prescribed for by Section 202 et seq. of the Uniform Code for the Abatement of Dangerous Buildings of the City of Lodi.

INSPECTIONS

As a condition of construction permit number 24324, you were required to upgrade your water service with a meter box.

During the week of April 12, 1993, City crews from the Water/Wastewater Department went to the site to perform the water service upgrade. It was discovered that structures including an in-ground spa, pool house, and storage shed had been constructed over the City water main in the 8-foot P.U.E. rendering the water main and water service inaccessible. In addition, a valve on the water main is located inside the pool house. An encroachment permit was not obtained for these structures. Additionally, a check of City records indicates that these structures were constructed without building permits or variances to reduce setback requirements on the lot. The records also indicate that the owner had been previously denied variances to reduce set back and lot coverage requirements for similar projects in the past.

In addition to the structures at the rear of the property, a second story deck has been constructed at the last East property line. The deck extends to the property line and over a five (5) foot easement.

VIOLATIONS

Finding:

The spa, spa/pool house, storage shed, and second story deck were all constructed without plans, permits or inspections; in violation of Section 203 of the 1991 Uniform Code for the Abatement of Dangerous Buildings. In addition all of the structures are constructed in the required zoning setbacks and are over public utility easements.

This existing condition is in direct violation of Section 203 of the Uniform Code for the Abatement of Dangerous Buildings of the City of Lodi which reads:

Sec. 203. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

DETERMINATION

As a result of the foregoing violations, the undersigned Building Official has declared the following buildings to be PUBLIC NUISANCES under Section 203 and Section 302 of the Uniform Code for the Abatement of Dangerous Buildings and has therefore made the following determination:

- (a) The storage shed, spa, and spa/pool building shall be abated by demolition.
- (b) The second story deck shall be abated by demolition or repair. Repair shall be in accordance with Section 301 of the 1991 Uniform Building Code.

Appropriate building, plumbing, mechanical, electrical, demolition, or other permits shall be obtained from the City of Lodi prior to the commencement of any work required herein.

All repair and/or demolition work required herein shall begin within 60 days from the date of this Notice and shall be completed within 180 days of the date of this Notice.

ORDER TO ABATE

Pursuant to Section 201 of the Uniform Code for the Abatement of Dangerous Buildings of the City of Lodi, This Notice constitutes an ORDER to you, the owner of the property in question, TO ABATE the substandard conditions listed herein in a manner and within the times determined above.

APPEAL

Any person aggrieved by an order of the Building Official hereunder to repair, vacate and repair, or demolish any building or structure, or portion thereof, may appeal such order to the City Council. The appeal shall be in writing and which shall state the substance of the order appealed from, shall be submitted to the City Council, in care of the City Clerk (221 West Pine Street, Lodi, CA 95240), within 10 days of the date of personal service or mailing of the order which is being appealed.

Ray
August 20, 1993
Page 4

FAILURE TO COMPLY

In the event of your failure to comply with the requirements set forth above, the following may apply:

1. A citation shall be issued.
2. Any person violating the provisions of the Uniform Code for the Abatement of Dangerous Buildings is guilty of a misdemeanor for each day such violation continues.
3. Any person convicted of a misdemeanor for violation of this code is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment for each violation.

Should you require additional information, please contact this office - (209) 333-6714.



ROGER G. HOUSTON
Chief Building Inspector

cc: Community Development Director
City Attorney
City Manager
Public Works Director
Assistant City Engineer
Sharon Welch
Water/Wastewater Superintendent

Law Offices of
STEVEN J. COTTRELL
A Professional Law Corporation

123 NORTH PLEASANT AVENUE
P.O. BOX 2877
LODI, CALIFORNIA 95241-2877
(209) 369-8212
FAX (209) 369-3088

RECEIVED
AUG 30 1993
CITY CLERK
CITY OF LODI

August 30, 1993

City Council of Lodi
c/o Lodi City Clerk
221 West Pine Street
Lodi, CA 95240

Re: Appeal of NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE.

A.P.N.: 039-273-33
Property Address: 1201 North Edgewood Drive Lodi, CA
Property Owner: Maurice O. Ray Jr.

Ladies and Gentlemen:

Please be advised that this office has been retained to represent the interests of Maurice O. Ray Jr. in reference to the above entitled matter.

This letter is being served upon you, in response to the NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE which was served by certified mail dated August 20, 1993, and received by Maurice O. Ray, Jr., on August 21, 1993. The subject matter of said notice was Mr. Ray's residence located at 1201 North Edgewood Drive, Lodi, California. The council should be advised that the property which is subject to the NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE has been Mr. Ray's personal residence for the past 29 years.

The NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE involves various improvements that have been made to Mr. Ray's personal residence, which include a spa, spa/pool house, storage shed and a second story deck. The spa, spa/pool house and storage shed were constructed well over 10 years ago, and the second story deck was constructed over 5 years ago. Mr. Ray has lived continuously in his residence, and there has never been a problem, difficulties, or complaints from his adjoining neighbors regarding these improvements to his personal residence.

Appeal of the NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE
involving Maurice O. Ray, Jr.
August 30, 1993
Page 2

The council should also be advised, that there are other residents in Mr. Ray's neighborhood, who have outbuildings or improvements that encroach on set-back requirements and/or easements.

This letter is intended to comply with the requirements of section 501 of the DANGEROUS BUILDING CODE as amended by Lodi city ordinance number 15.28.070 which provides for the preservation of rights and a stay of the ORDER OF ABATEMENT pending an administration hearing before the Lodi City Council. Mr. Ray is appealing the NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE as issued by the office of ROGER G. HOUSTON, Chief Building Inspector which does declare that Mr Ray's spa, spa/pool house, storage shed and second story deck are dangerous and subject to abatement.

Mr. Ray does realize that this matter must be scheduled for a hearing within the near future. He would request that the undersigned be contacted regarding the date and time to schedule this matter for public hearing. During the intervening time, Mr. Ray plans on reviewing this entire situation, and having our office contact the City Attorney, to hopefully reach an agreeable resolution of this matter.

Very truly yours,


STEVEN J. COTTRELL *ker*

DELETED BY THE COUNTY CLERK
IN THE ABSENCE OF AVOID DELAY.

SJC/ks
cc: Maurice O. Ray, Jr.

CITY COUNCIL

PHILLIP A. PENNINO Mayor
JACK A. SIEGLOCK
Mayor Pro Tempore
RAY G. JAVENPORT
STEPHEN J. MANN
JOHN R. (Randy) SNIDER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 334-5634
FAX (209) 333-6795

THOMAS A. PETERSON
City Manager
JENNIFER M. PERRIN
City Clerk
BOB McNATT
City Attorney

November 23, 1993

Mr. Maunce O. Ray, Jr.
Ray Contractors, Inc.
801 S. Fairmont Avenue, Suite 9
Lodi, California 95240

SUBJECT: Public Utility Easement Encroachment
1201 Edgewood Drive, Lodi, California

I have been informed by Sharon Welch of the Development Services Division that you have requested a meeting to discuss the possibility of allowing the structures which encroach on the public water main along the rear property line at the subject address to remain in place.

The water main in question serves your property as well as adjacent properties to the south. The encroaching structures currently make it virtually impossible for City crews to access the water main in this area. It is the policy of the Public Works Department to prohibit the encroachment of any permanent structure over underground City utilities. While it is understandable that you would wish to retain the encroaching improvements, it does not appear that the City can adequately fulfill its maintenance and service responsibilities to all the residents served by this water main if the structures are allowed to remain in place.

If you would like to discuss this matter with me, please contact me at (209) 333-6706 to schedule an appointment.


Jack L. Ronsko
Public Works Director

JLR/SAW

cc: City Attorney
City Manager
Community Development Director
Assistant City Engineer
Water/Wastewater Superintendent
Associate Civil Engineer

RAY ENTERPRISES

Maurice O. Ray, Jr.
755 South Fairmont Avenue, Suite A-1
Lodi, California 95240
Phone (209) 368-3717 • Fax # (209) 334-6729

January 10, 1994

Roger G. Houston
Chief Building Inspector
City of Lodi

Re: Certified letter of August 20, 1993
Property address: 1201 Edgewood Drive, Lodi
Owner: Maurice O. Ray Jr.

It is the intent of the owner of said property to basically comply with section 203 of the 1991 uniform code in the following manner.

1. "In Ground Spa" The bottom of the spa is only 28" below ground level. The deck is installed with screws and easily removed, and there is a crawl hole access area under the table. The spa has floated up twice and can be easily removed if and when necessary. I would hope said spa could remain as is.

2. "Pool House" I will remove all roof structure Lattice, Plexiglass, etc. that is attached to the house to where the acceptable overhang set backline is, which I believe is 30", and will remove any Lattice which is over eight feet in height along the fence line, which I also believe is acceptable.

3. "The Sauna" which you did not mention I will detach said Sauna and reduce it to a freestanding area of not more the 120 square feet.

4. "The Storage Shed" which is now approximately 200 feet, I will cut off the west 2.5 feet which is approximately 19 square feet, leaving an area of approximately 5 feet. To install the required water meter leaving the storage shed with an area of 181 square feet. If this is not satisfactory I will divide said storage area into two separate areas one of 84 square feet, and one of 97 square feet.

5. "The Water Main Valve" currently this value is covered by a wood access cover and is not inside the pool house. If the City will provide me "with or without cost" a cover that is acceptable, I will install same at my expense.

6. This area is not the area in which I was previously denied a variance, said denial was to install a cover over the main pool

RAY ENTERPRISES

Maurice O. Ray, Jr.
755 South Fairmont Avenue, Suite A-1
Lodi, California 95240

page -2-

Phone (209) 368-3717 • Fax # (209) 334-6729

area.

7. "Second Story Deck on East Side" I propose to remove the Lattice Walls "which are screwed on" along the property line except for 24 feet of Lattice above the Six Foot Fence which I believe is acceptable back to within 30 feet of the property line on the overhang area which I also believe is acceptable. The remaining area is below the Six Foot Fence line which I was told by the previous inspector in 1971 was acceptable.

I hope these remedies are satisfactory and I apologize for the inconvenience I have caused you. Due to the time of year and the weather I'd appreciate it if I could have until May 1, 1994 to complete these corrections. If need be, due to the time on the filing of the Notice of Completion on my Southern Addition, I believe I can make the area for the water Meter and the water main cover correction much sooner.

Thank you for your consideration.

Sincerely,



Maurice O. Ray Jr.

DECLARATION OF MAILING

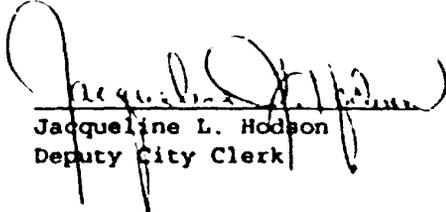
On January 20, 1994 in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a copy of the Notice attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 1994, at Lodi, California.

Jennifer M. Perrin
City Clerk



Jacqueline L. Hodson
Deputy City Clerk



CITY OF LODI
CARNEGIE FORUM
 305 West Pine Street, Lodi

CONTINUED NOTICE OF PUBLIC HEARING

Date: FEBRUARY 16, 1994

Time: 7:00 p.m.

For information regarding this Public Hearing
 Please Contact:

Jennifer M. Perrin
 City Clerk

Telephone: 333-6702

NOTICE OF PUBLIC HEARING

FEBRUARY 16, 1994

NOTICE IS HEREBY GIVEN that on Wednesday, at the hour of 7:00p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a continued public hearing to consider the following matter:

- a) Appeal received from Steven J. Cottrell, Attorney, on behalf of Maurice O. Ray, regarding Notice of Public Nuisance and Order to Abate issued by Chief Building Inspector regarding property located at 1201 North Edgewood Drive, Lodi

Information regarding this item may be obtained in the office of the Community Development Director at 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order Of the Lodi City Council:

Jennifer M. Perrin
 Jennifer M. Perrin
 City Clerk

Dated: January 19, 1994

Approved as to form:

B W McNatt
 Bobby W. McNatt
 City Attorney

EXHIBIT B

M A I L I N G L I S T

**APPEAL FROM STEVEN J. COTTRELL, ATTORNEY, ON BEHALF OF MAURICE O. RAY, JR.
REGARDING NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE ON THE PROPERTY
LOCATED AT 1201 NORTH EDGEWOOD DRIVE, LODI**

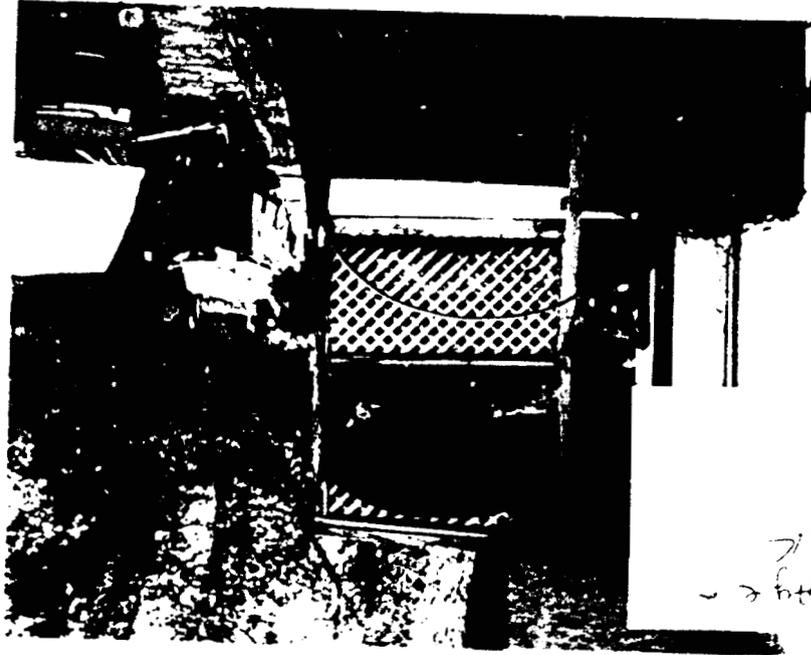
**Mr. Maurice O. Ray, Jr.
1201 N. Edgewood Drive
Lodi, California 95240**

**Steven J. Cottrell
Attorney at Law
P. O. Box 2677
Lodi, California 95241-2677**

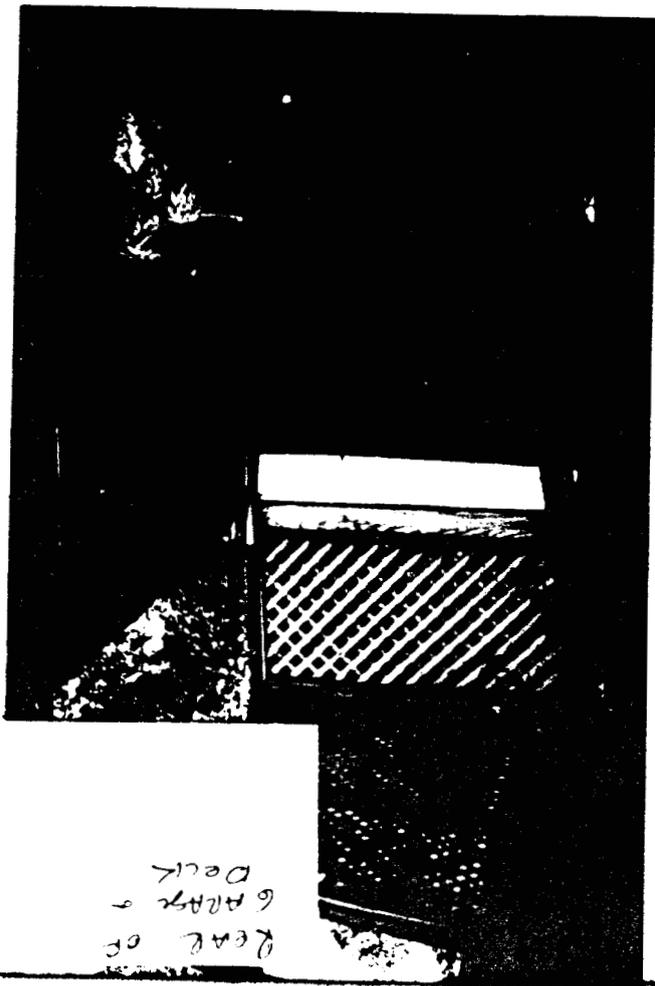
**JIM SCHROEDER
Community Development Director
City of Lodi**







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Deck
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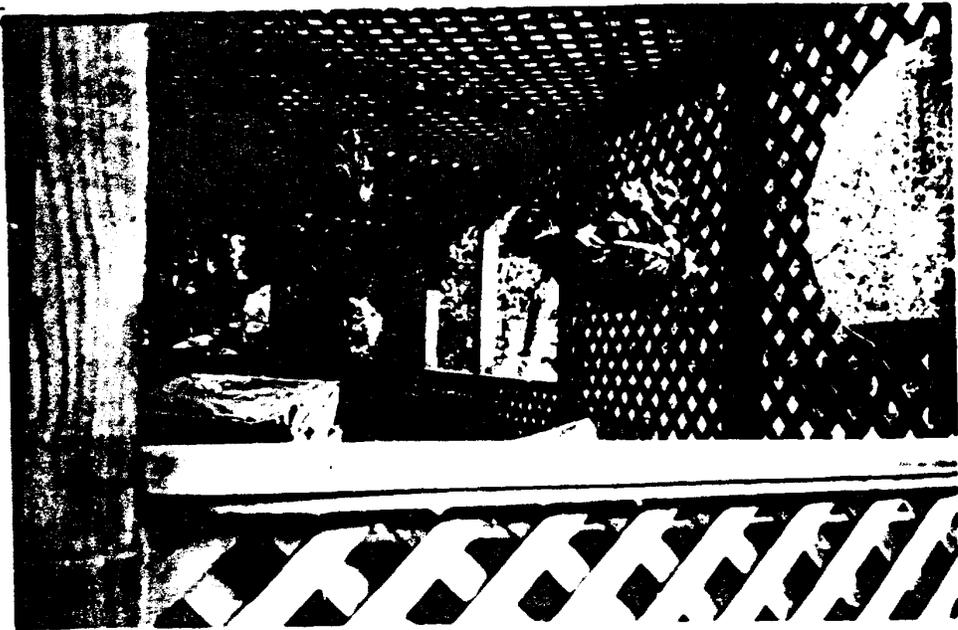


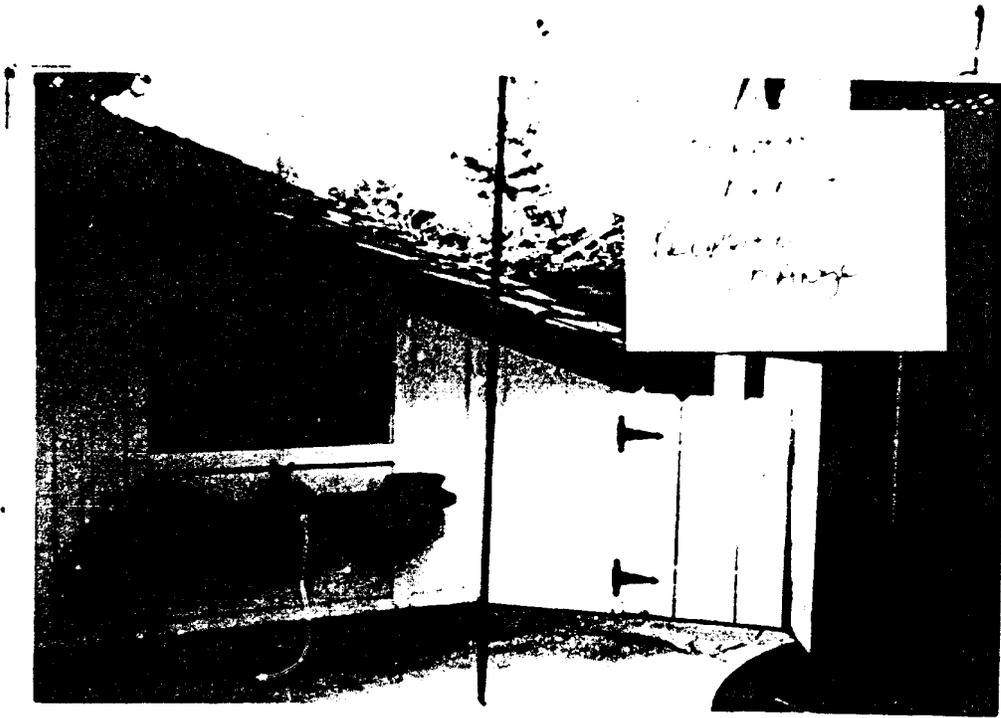


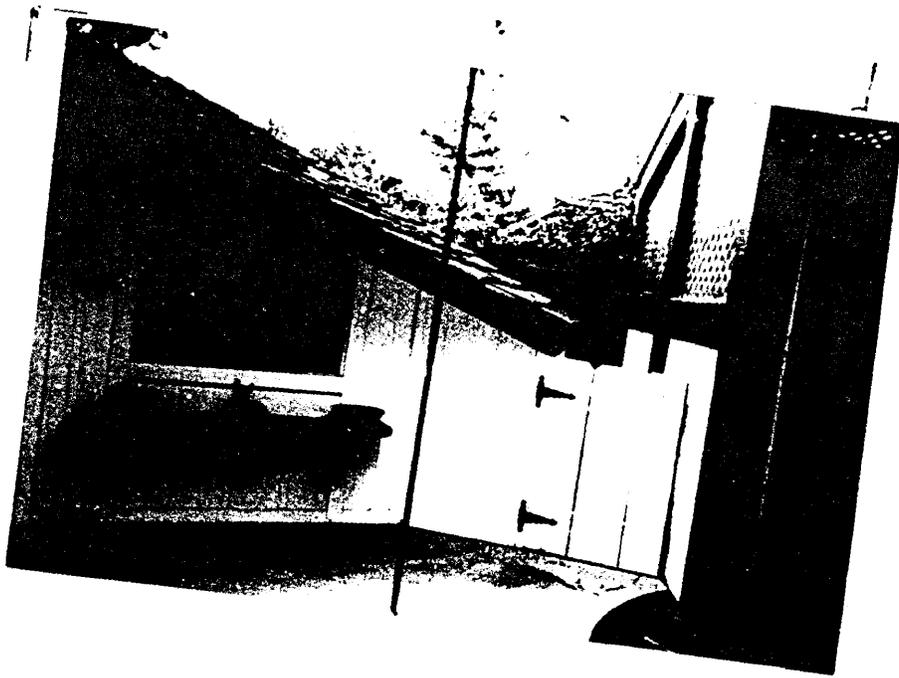
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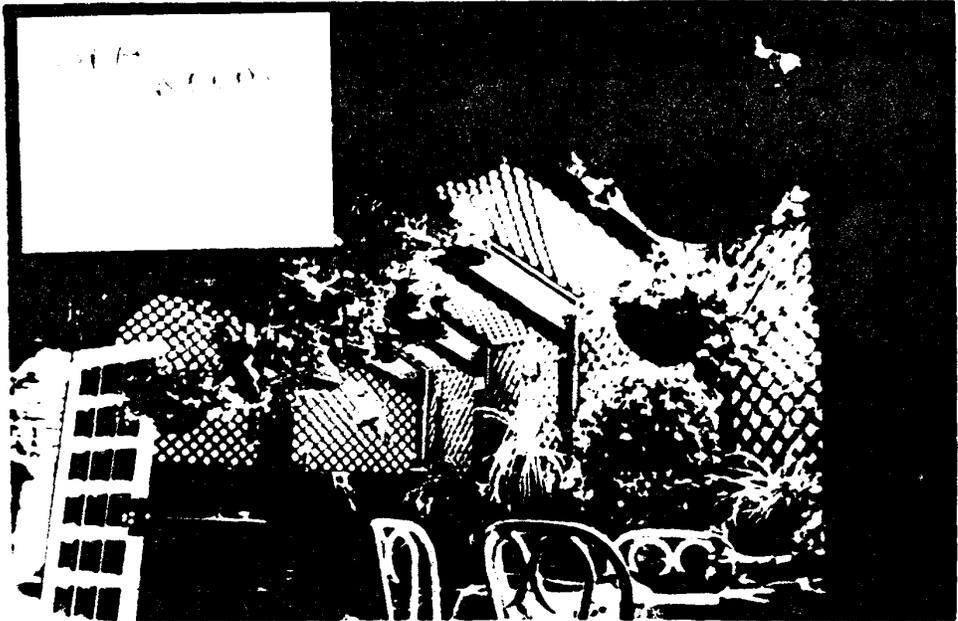


BACKYARD
VIEW OF
SHED

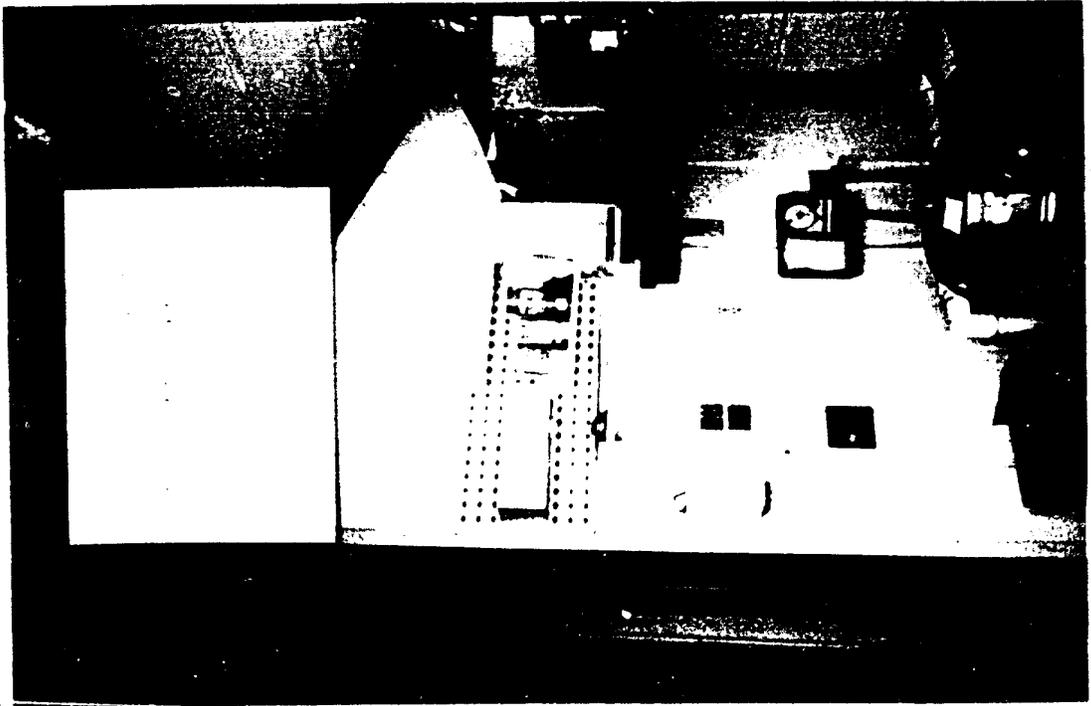
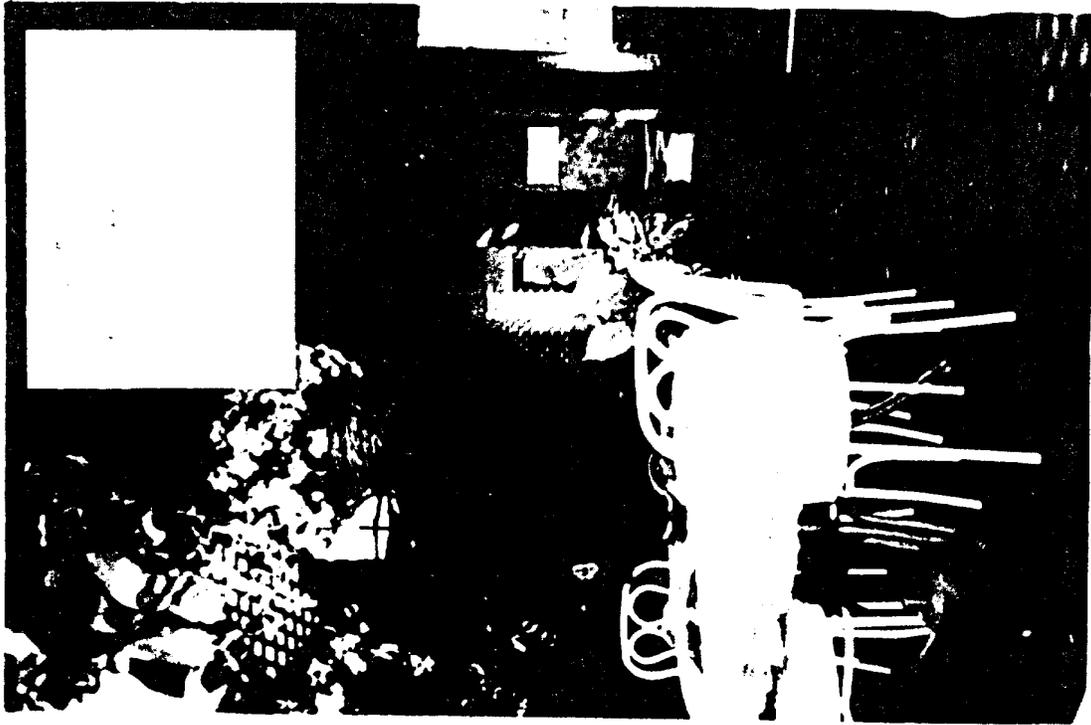


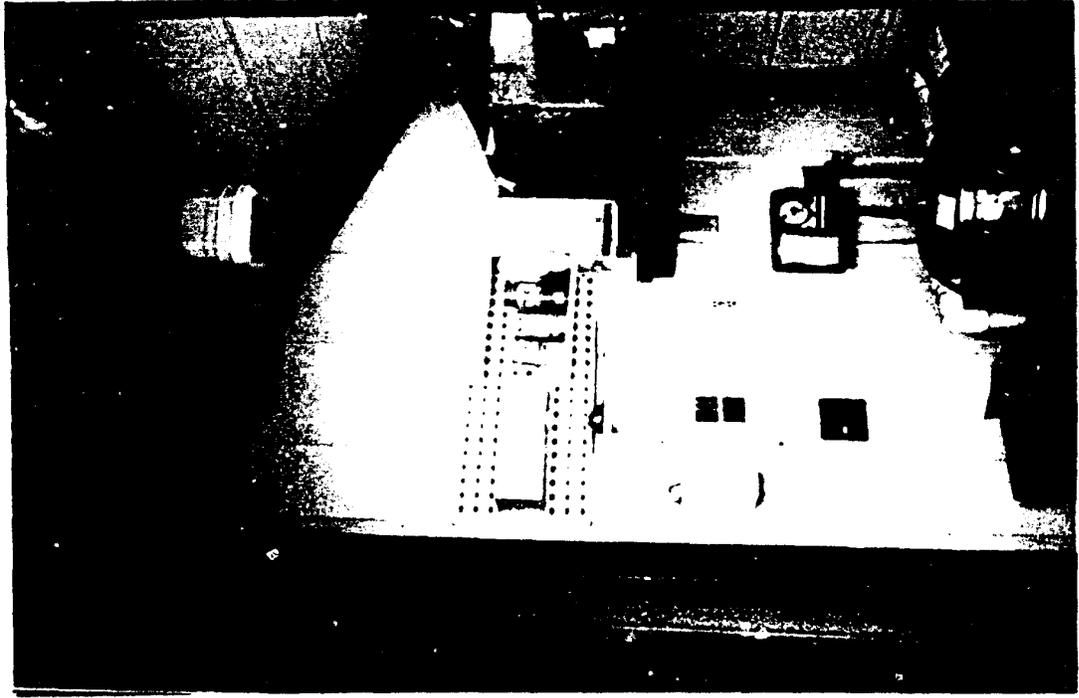
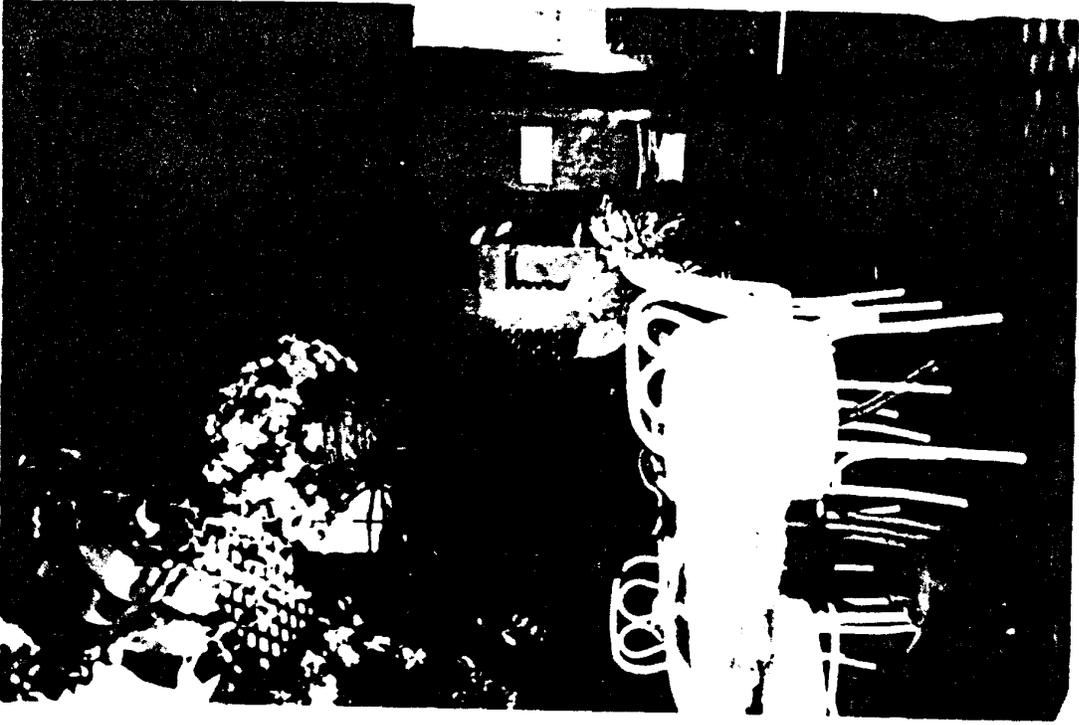












WATER MAIN
SHUT OFF
VALVE WILL
MOVE AS
NECESSARY FOR
ACCESS.



