



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: May 22, 2013

PLANNER: Adam Atamian, Assistant Planner 

SUBJECT: CUP 13-038, Nakachi Addition a request to consider a 470 square foot, second-story addition to a detached garage that exceeds 15 feet in height located at 121 Avenida Lucia.

REQUIRED FINDINGS

Prior to approval of the proposed project, the following findings shall be made. The draft Resolution (Attachment 1) and analysis section of this report provide an assessment of the project's compliance with these findings.

Conditional Use Permit, Section 17.16.060F

- a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed;
- b. The site is suitable for the type and intensity of use that is proposed;
- c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity;
- d. The proposed use will not negatively impact surrounding land uses;
- e. The alteration and/or expansion improves the structure's compatibility with neighboring conforming structures;
- f. The alteration and/or expansion enhances the quality of the architecture and/or site, in accordance with the City's Design Guidelines;
- g. The alteration and/or expansion improves the structure's ability to better achieve the purpose and intent of the zone in which it is located;
- h. The existing structure and proposed alteration or expansions are conforming as to use.
- i. The proposed alterations bring a non-conforming structure into conformance with required setbacks.

BACKGROUND

The applicant is proposing a second story addition to a detached garage in the rear half of the property, which requires a Conditional Use Permit to allow a detached accessory structure to exceed 15 feet in height. The existing garage is non-conforming because the structure encroaches into the side yard setback. The applicant is proposing to move the nonconforming wall to achieve the required 6 foot setback.

Development Management Team Meeting

The Development Management Team reviewed the proposed project and determined that the project meets all applicable development standards as conditioned.

Noticing

At the time this staff report was completed, staff did not receive any public comments regarding the project.

PROJECT DESCRIPTION

The property owner, Tommy Nakachi, is proposing to add a 470 square foot second-story addition and a 94 square foot deck, to the detached garage at the rear of his property. The existing garage is non-conforming due to the side yard setback, but the proposed project will modify the structure and bring it into conformance with current setback requirements.

Development Standards

Table 1 outlines the development standards and how the project is consistent with these standards.

Table 1 - Development Standards

Standard	Code Requirements	Proposed Site Plan	Complies with Code Requirements
Density:	1 dwelling unit/lot	1 dwelling unit	Yes
Building Height (Maximum)	25'*	20'6"	Yes*
Setbacks (Minimum):			
• Front (garage)	18'/20'	73'	Yes
• Side Yard	6'	6'	Yes
• Rear Yard	10'	10'	Yes
Lot Coverage (maximum)	50%	28%	Yes
Required Parking (Minimum):	2	2	Yes
Minimum Lot Area:	6000 sq ft	6717 sq ft	Yes

*Requires approval of a Conditional Use Permit for 25 foot height limit.

Architecture

The proposed addition will match the existing residence both in color and materials. Located in the rear half of the property, the addition will not be highly visible from Avenida Lucia. The applicant has proposed windows on all elevations, however the right and rear elevations, which face adjacent properties, each have only one window. The window on the rear elevation provides the required ventilation for the half bathroom. The window on the right elevation is located at the corner of the structure to capture an ocean view and is located approximately 15 feet from the neighbor's residence.

Site Design

The existing detached garage is located at the rear of the project site. Due to its location, visual impact of the addition to Avenida Lucia will be minimal. Furthermore, the project involves removing the garage's nonconforming side yard setback encroachment, improving the structure's compatibility with the neighborhood.

PROJECT ANALYSIS

Conditional Use Permit

The project requires a Conditional Use Permit because the applicant is proposing an accessory structure taller than 15 feet. The project's architecture is consistent with the residence and will be with the surrounding residential buildings. The proposed height of 21 feet is similar to other second-story additions in the area and is setback farther from the front property line.

The proposed development will not increase densities and the use will remain a single family residence. In support of the primary finding to approve an accessory structure exceeding 15 feet in height, the project will also bring a non-conforming garage into conformance with the required side yard setback.

Parking

The garage provides the two required covered parking spaces for the residence. Per the Zoning Ordinance, the addition of a guest house or a second residential dwelling unit would require a third covered parking space. Based on the Planning Commission's approval of Interpretation 11-267, this addition does not qualify as a guest house or a second residential dwelling unit because it does not include a bathtub or shower. Therefore, this project does not require the applicant to provide an additional covered parking space.

GENERAL PLAN CONSISTENCY

Table 2 summarizes how the proposed use is consistent with adopted policies outlined in the City of San Clemente General Plan.

Table 2 - General Plan Consistency

Policies and Objectives	Consistency Finding
<i>1.2.5-A high quality products and design be used.</i>	Consistent. The applicant is proposing a design consistent with the existing structure as well as meeting requirements of the new CalGreen building code.
<i>1.2-Allow for the continuation and expansion of residential uses.</i>	Consistent. This project will allow additional living space for the family.

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

The Planning Division completed an initial environmental assessment for the above matter in accordance with the California Environmental Quality Act (CEQA). It was determined that the project is categorically exempt per CEQA Guidelines Section 15301, Class 1, Existing Facilities, because the project will add 470 square feet to an existing single family residence and be consistent with the exiting architecture, and will not change or modify the existing use in any way.

CALIFORNIA COASTAL COMMISSION REVIEW

The project is not located within the Coastal Zone and therefore is not subject to their review.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and recommend approval of the proposed project.

This action would result in the adoption of Resolution No. PC 13-020, allowing the construction of the second-story addition to the accessory structure, which brings the garage into conformance with current setback requirements.

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed project or conditions.

This action would result in any modifications being incorporated into the project.

3. The Planning Commission can recommend denial of the proposed project.

This action would result in denying the second-story addition to the garage. This would require staff to draft a new resolution for denial of the project. The Commission should cite reasons or findings for its denial. This action is appealable to the City Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve Conditional Use Permit 13-038, Nakachi Addition, a 470 square foot, second-story addition to a detached garage that exceeds 15 feet in height, subject to the attached Resolution.

Attachments:

1. Resolution No. PC 13-020
Exhibit 1 - Conditions of Approval
2. Location Map
3. Photos of Project Site
4. Photos of surrounding neighborhood
Plans

ATTACHMENT 1

RESOLUTION NO. PC 13-020

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 13-038, NAKACHI ADDITION, A REQUEST TO ADD 470 SQUARE FEET FOR A HALF BATH AND BONUS ROOM ABOVE AN EXISTING DETACHED GARAGE LOCATED AT 121 AVENIDA LUCIA

WHEREAS, on January 31, 2013 an application was submitted, and on April 22, 2013 completed, by John Jacobs, 27371 Via Santiliana, Mission Viejo, CA 92692, to allow a 470 square foot, second story addition to a detached garage located at 121 Avenida Lucia, the legal description being Lot 10 and a portion of Lot 9, of Block 8, of Tract 900, APN 060-103-24; and

WHEREAS, on April 18, 2013, the City's Development Management Team reviewed the application for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

WHEREAS, the Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has recommended the Planning Commission determine that the project is categorically exempt from CEQA in accordance with CEQA Guidelines Section 15301(e)(1) as a Class 1 exemption because it involves the addition of 470 square feet to an existing single family residence and will not change or modify the existing use in any way; and

WHEREAS, on May 22, 2013, the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: The Planning Commission finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) as a Class 1 exemption because it involves the addition of 470 square feet to an existing single family residence and will not change or modify the existing use in any way.

Section 2: With respect to CUP 13-038, the Planning Commission finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed, in that the project will maintain the use of the site as a single family residence located within the Residential Low Density

zoning district. Furthermore, the addition does not meet the criteria for a second residential dwelling unit or guest house, and thus does not increase the number of parking spaces required for the site.

- B. The site is suitable for the type and intensity of use proposed, in that the proposed addition meets all applicable setbacks and the second story addition is located at the rear of the property. The project involves making the existing garage conforming as to setbacks. Furthermore, the addition is for the sole use of the residents of the single family dwelling, and will not intensify the residential use of the site.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that the project will meet all of the City's codes and standards, and the project will be constructed in compliance with all required Building, Safety and Fire codes.
- D. The proposed use will not negatively impact surrounding land uses, in that the project, as conditioned, will be consistent with the architecture of the existing structures on site, and will meet all applicable setbacks. Many of the surrounding residences have second-story additions and the proposed project will be in character with the neighborhood.

Section 4: The Planning Commission hereby approves Conditional Use Permit 13-038, Nakachi Addition, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on May 22, 2013.

Chair

TO WIT:

I **HEREBY CERTIFY** that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on May 22, 2013, and carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT 1

CONDITIONS OF APPROVAL*
Conditional Use Permit (CUP) 13-038
Nakachi Addition

GENERAL CONDITIONS

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive]* (PInG.)_____
2. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PInG.)_____
3. CUP 13-038 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. The use shall be deemed to have commenced on the date the use becomes legally operational, including

issuance of a Certificate of Occupancy from the City of San Clemente. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)_____

A use shall be deemed to have lapsed, and CUP 13-038 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.)_____

4. The owner or designee shall have the right to request an extension of CUP 13-038 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)_____
5. The applicant shall develop the proposed structure consistent with design and details as approved by the Planning Commission on May 22, 2013. Any deviation from the approved site plan, floor plans, elevations, details, or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Zoning Administrator. *[Citation - Section 17.12.180 of the SCMC]* (PIng.)_____
6. The applicant shall develop the project with architecture to be consistent with the existing residence, in terms of materials, colors and finishes, with the exception of the Hardee Siding on the front elevation at the second story, which shall be consistent with the existing residence in color. ■■ (PIng.)_____
7. The addition is for the sole use of the residents of the single family dwelling on site. The addition shall not be used as a guest house or second residential dwelling unit. ■■ (PIng.)_____

Building

8. A separate Building Permit is required. Plans to construct new building, add or alter the existing building configuration, change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process. *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]* (Bldg.)_____
9. Prior to issuance of building permits, applicant shall secure all utility agencies approvals for the proposed project. *[S.C.M.C – Title 15 Building Construction]* (Bldg.)_____

10. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, Grading Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, Green, and Fire Codes. *[S.C.M.C – Title 8 – Chapter 8.16 – Fire Code, Title 15 Building and Construction Chapters 15.08, 15.12, 15.16, 15.20, 15.21, Title 16 Subdivisions, Title 17 Zoning]* (Bldg.)_____
11. Prior to the issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, Regional Circulation Financing and Phasing Program (RCFPP), park acquisition and development, water and sewer connection, drainage, Public Facility Construction, transportation corridor, Avenida La Pata Supplemental Road Fee and school fees, etc. *[S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]* (Bldg.)_____
12. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the approved plans. *[S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24]* (Bldg.)_____
13. Proposing to add habitable story above the existing single family dwelling detached garage. Fire sprinkler system required throughout the existing garage and new constructed story above. *[S.C.M.C – Title 15 – Chapter 15.08]* (Bldg.)_____

Land Use

14. Prior to the issuance of any permits, if applicable, the owner or its designee shall submit for review, approval, and recordation a lot merger with the adjoining parcel in order to meet the requirements of the Engineering, Planning, and Building Departments. The lot merger certificate shall be recorded at the Orange County Recorder's Office prior to issuance of the building permit. *[Citation – Section 16.44 of the SCMC]* ■ (Bldg.)_____ (Eng.)_____(Pln.)_____

Fee

15. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, plan check fees shall be submitted for the Engineering Department plan check of soils reports and grading plans. *[Citation – Fee Resolution No. 08-81 and Section 15.36 of the SCMC]* (Eng.)_____

Reports –Soils and Geology

16. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a soils and geologic report prepared by a registered geologist and/or geotechnical engineer which conforms to City standards and all other applicable codes, ordinances and regulations. *[Citation – Section 15.36 of the SMC]* (Eng.)_____

Grading

17. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the City Engineer shall determine that development of the site shall conform to general recommendations presented in the geotechnical studies, including specifications for site preparation, treatment of cut and fill, soils engineering, and surface and subsurface drainage. *[Citation – Section 15.36 of the SMC]* (Eng.)_____
18. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the owner or designee shall submit for review, and obtain the approval of the City Engineer, a precise grading plan, prepared by a registered civil engineer, showing all applicable onsite improvements, including but not limited to, grading, building pad grades, storm drains, sewer system, retaining walls, water system, etc., as required by the City Grading Manual and Ordinance. *[Citation – Section 15.36 of the SMC]* (Eng.)_____

NPDES

19. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the owner shall demonstrate to the satisfaction of the City Engineer that the project meets all requirements of the Orange County National Pollutant Discharge Elimination System (NPDES) Storm Drain Program, and Federal, State, County and City guidelines and regulations, in order to control pollutant run-off. The owner shall submit for review, and shall obtain approval of the City Engineer for, plans for regulation and control of pollutant run-off by using Best Management Practices (BMP's). *[Citation – Section 13.40 of the SMC]* (Eng.)_____

Improvements

20. Prior to issuance of any permits, if applicable, the owner or designee shall submit for review and shall obtain the approval of the City Engineer or designee for frontage improvement plans, including but not limited to the following provisions: *[Citation – Section 15.36, 12.08.010, and 12.24.050 of the SCMC]* ■(Eng.)_____
- A. Per City Municipal Code Section 12.08.010 (A), when building permit valuations exceed \$50,000, the owner or designee shall construct sidewalk along the property frontage. This includes construction of compliant sidewalk up and around drive approach to meet current City standards when adequate right-of-way exists. If necessary, a sidewalk easement may be required to be granted to the City prior to final of permits for any portion of sidewalk within the property needed to go up and around the drive approach or other obstructions.
- B. An Engineering Department Encroachment Permit will be required for all work in the public right-of-way.

Financial Security

21. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the owner shall provide surety, improvement bonds, or irrevocable letters of credit for performance, labor and materials as determined by the City Engineer for 100% of each estimated improvement cost plus a 10% contingency, as prepared by a registered civil engineer as required and approved by the City Attorney or the City Engineer, for each applicable item, but not limited to, the following: grading earthwork, grading plan improvements, retaining walls, frontage improvements; sidewalks; sewer lines; water lines; storm drains; and erosion control. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____

* All Conditions of Approval are standard, unless indicated as follows:

- Denotes modified standard Condition of Approval
- ■ Denotes project specific Condition of Approval



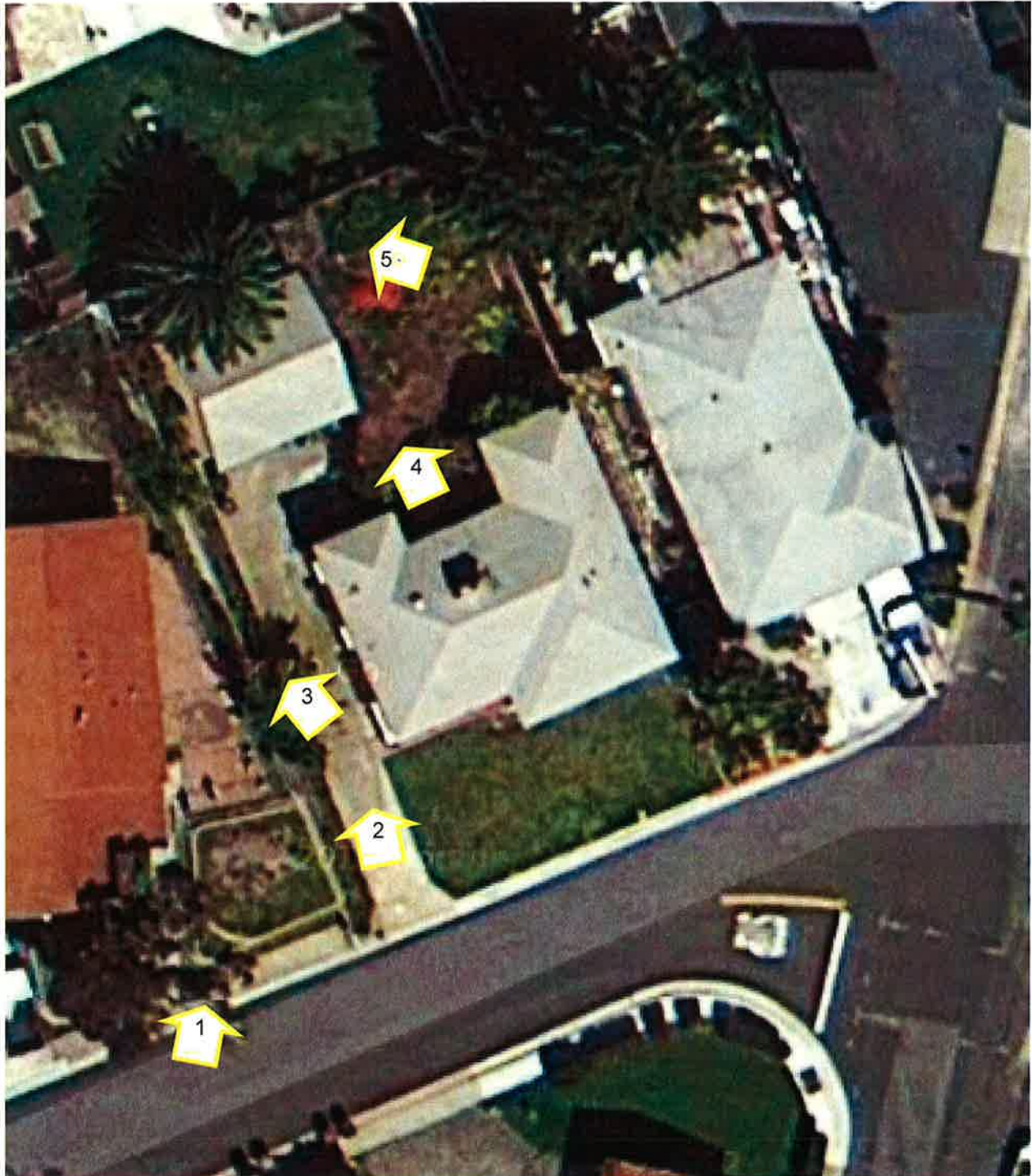
LOCATION MAP

Conditional Use Permit 13-038, Nakachi Addition
121 Avenida Lucia



ATTACHMENT 3

Photo Location Map of Project Site Photos



121 Lucia

The garage is set far back from the street and will have positive impact on the neighborhood and the house at 121 Lucia

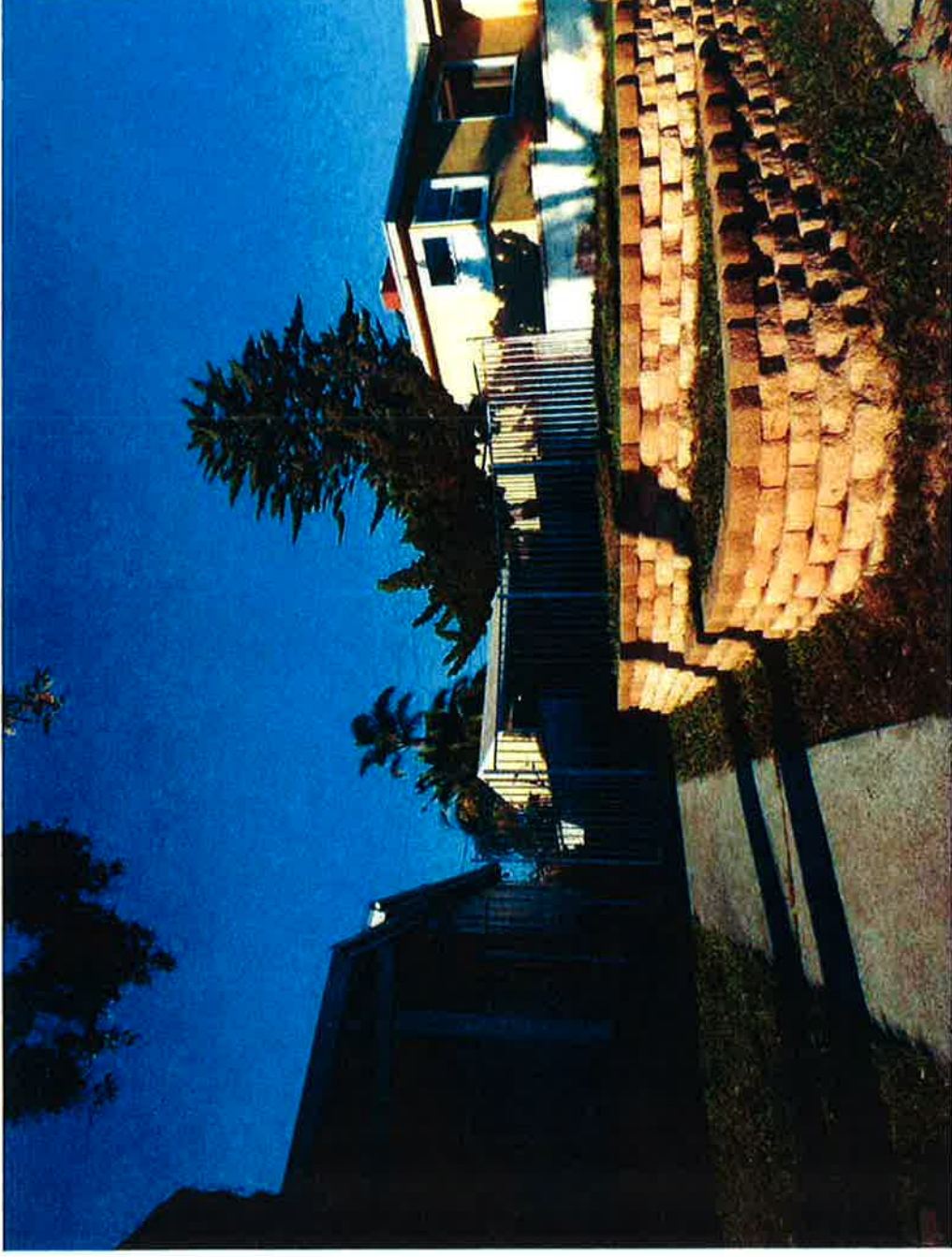


PHOTO 1

121 Lucia



PHOTO 2

121 Lucia

The area around the garage is very open and no neighboring buildings would be impacted.



PHOTO 3

121 Lucia

The rear yard adjacent to the garage is large and no neighbors will be impacted by the second story addition.



PHOTO 4

121 Lucia

The space behind the garage is open and no neighbor is near by



PHOTO 5

General Area of Neighborhood Photos Map

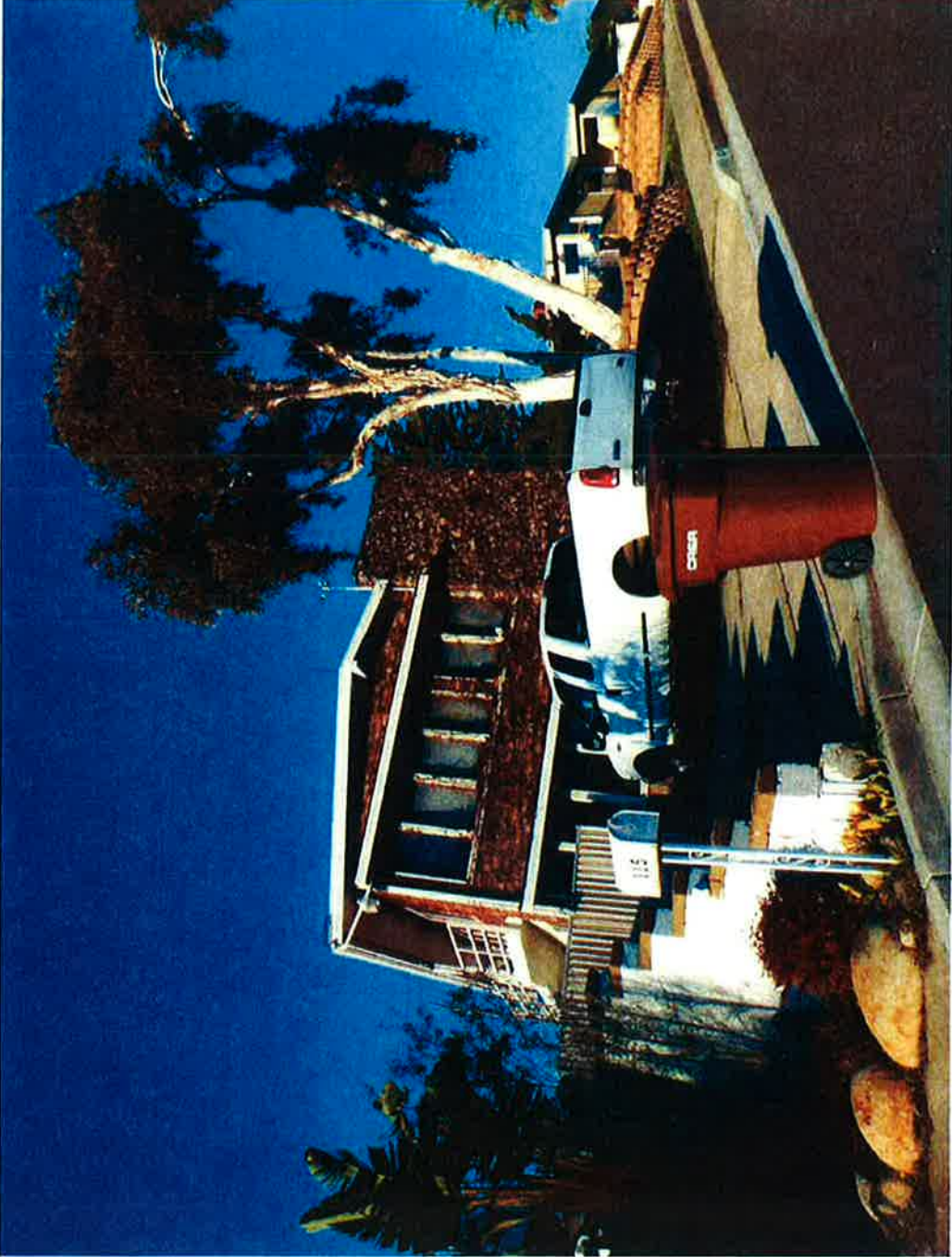


Project Site



Neighborhood Photo Site

The house next door to 121 Lucia on the left
117 Avenida Lucia



The house directly to the West of the Nakachi house

The house next door to 121 Lucia on the left

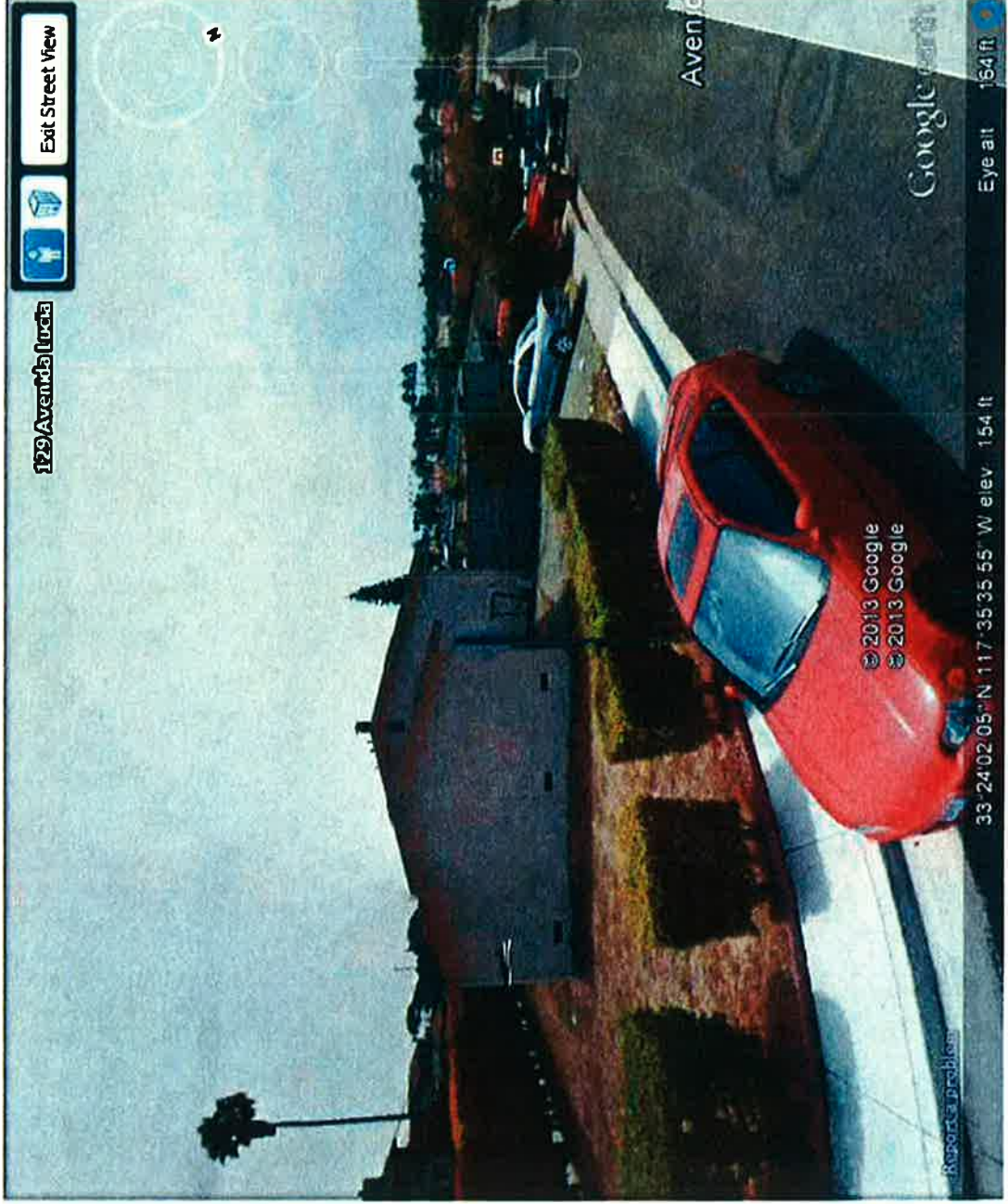
117 Avenida Lucia



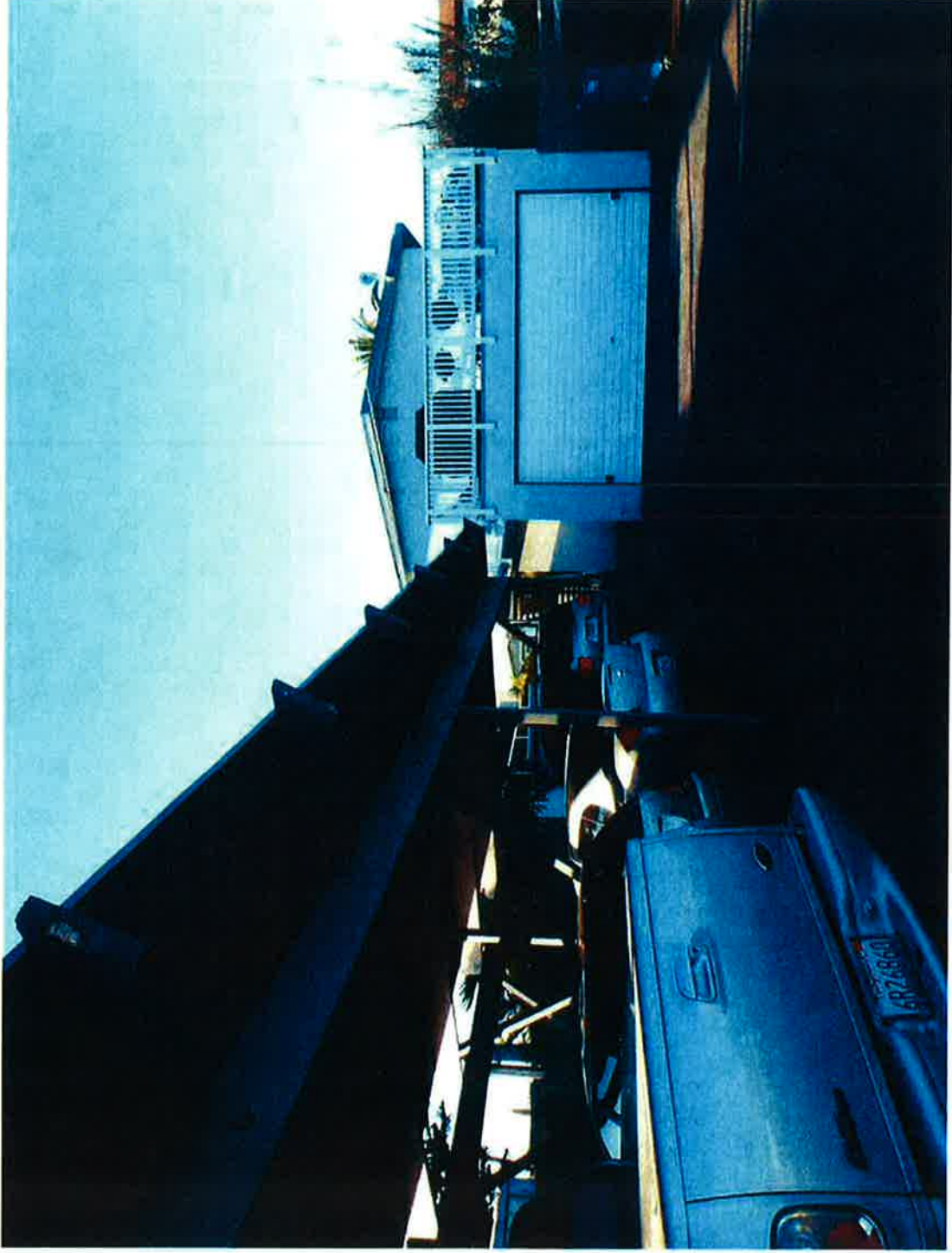
The house next door to 121 Lucia on the right



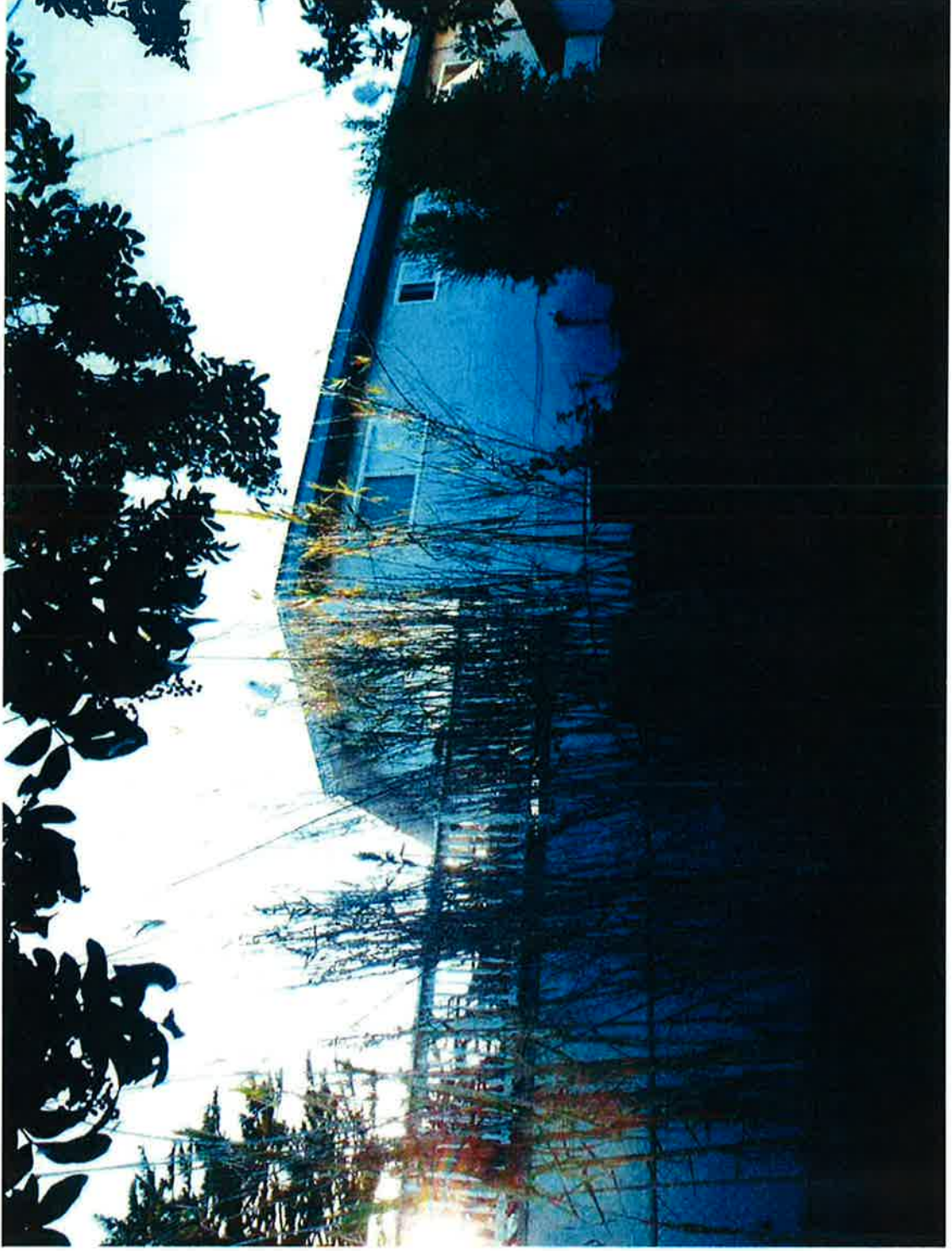
Across the street from 121 Lucia



126 Avenida San Diego
The apartments behind and one lot over



126 Avenida San Diego
The apartments behind 121 Lucia

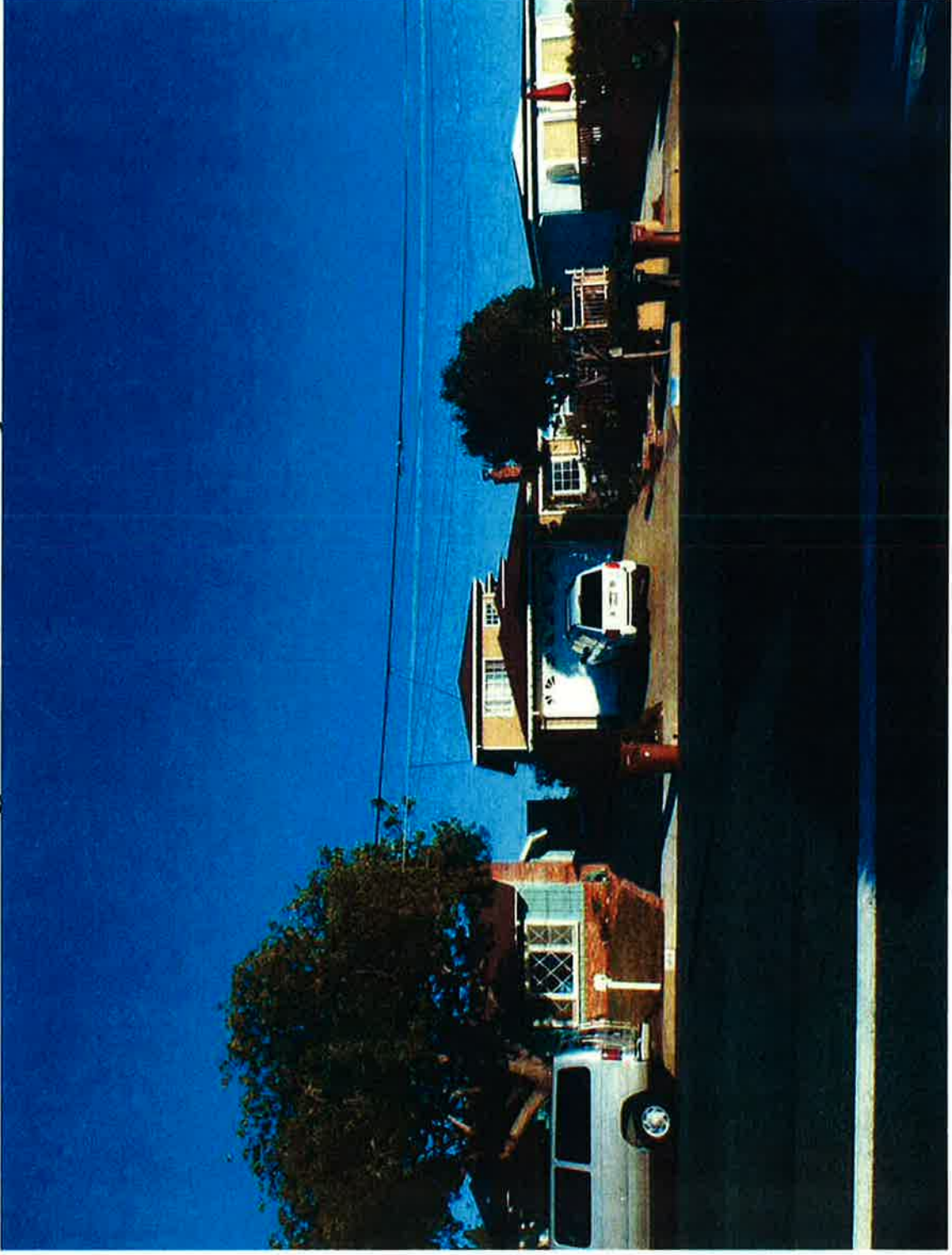


123 Avenida San Diego
The Neighborhood



142 Avenida Santa Margarita

The neighborhood is a combination of 1960's cottages and slightly newer massive apartments and massive remodeled homes that maximize the lot coverage and are extremely close to the street.



134 Avenida Santa Margarita

The neighborhood

Newer massive homes built over garages



130 Avenida Santa Margarita

The neighborhood

Large single family houses over garages close to the street



124 Avenida Santa Margarita

The neighborhood



120 Avenida Santa Margarita

The neighborhood

Huge single family home next to original cottages



114 Avenida Santa Margarita

Large massive apartments over garages and close to the street which maximize the footprint on the lot.



164Avenida Santa Margarita

A project being built very close to the street and with large massing on a very small lot



126 Avenida San Diego

Apartments built very close to the street



113 Avenida Lucia

The neighborhood

Large single family homes built over garages and looming over the street.



102 Avenida Dolores

The neighborhood
Large apartments built over garages

