ORDER RECEIVED FILING

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IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE – E/S Dance Mill Road,
401' SE of the intersection of
Steeplechase Court & Redcoat Lane
(3820 Dance Mill Road)
10<sup>th</sup> Election District
3<sup>rd</sup> Council District

Leo J. D'Aleo, et ux Petitioners

- \* BEFORE THE
- \* ZONING COMMISSIONER
- \* OF BALTIMORE COUNTY
- \* Case No. 04-112-SPHA

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Leo J. D'Aleo and his wife, Katherine M. D'Aleo. The Petitioners request a special hearing to approve access to the proposed lots by way of an easement instead of the required in-fee ownership, pursuant to Section 26-266(2) of the Baltimore County Zoning Regulations (B.C.Z.R.); to allow the subdivision of a 3.10-acre parcel of land in lieu of the required minimum 6.0 acres, pursuant to Section 1A03.4.B.1.a of the B.C.Z.R.; and, to allow two separate lots to be less than the minimum required 3.0 acres. In addition, the Petitioners request variance relief from the B.C.Z.R. as follows: 1) From Section 1A03.4.B.2.a to permit a side yard setback of 0 feet in lieu of the required 50 feet for the dwelling known as 3820-A Dance Mill Road; 2) a rear yard setback of 21 feet in lieu of the required 25 feet for the dwelling known as 3820 Dance Mill Road; 3) a front yard setback of 24 feet in lieu of the required 25 feet for the dwelling known as 3820-A dance Mill Road; 4) from Section 1A03.4.B.2.b of the B.C.Z.R. to allow front yard setbacks of 23 feet and 14 feet in lieu of the required 35 feet for the dwelling known as 3820-A Dance Mill Road; and 6) from Section 1A03.4.B.3 of the B.C.Z.R. to permit 16% of proposed Lot 1 to be covered by impermeable surfaces in lieu of the maximum allowed 10%. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Leo J. D'Aleo, property owner, and Bruce E. Doak, the Registered Property Line Surveyor who prepared the site plan.

for this property. Leanne Chadwell and Kim Curreri appeared as interested citizens. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a triangular shaped parcel located east of the intersection of Dance Mill Road and Redcoat Lane, not far from Steeplechase Court in Phoenix. The property contains a gross area of 3.10 acres, more or less, zoned R.C.4, and is improved with two-single family dwellings. Although the lot has no direct road frontage, vehicular access is provided by an easement that contains a driveway leading to the site from Dance Mill Road. Apparently, this driveway provides vehicular access to not only the subject property, but other adjacent properties.

As noted above, the property is improved with two single-family dwellings. The larger of the two buildings, known as 3820 Dance Mill Road, is a two-story frame structure located in approximately the center of the property. The smaller dwelling is also a two-story structure, known as 3820-A Dance Mill Road, and is located immediately adjacent to the northern property line. The Petitioners purchased the subject property approximately 15 years ago, at which time the site was already improved with the two dwellings as described above. Mr. & Mrs. D'Aleo now reside in the smaller house, while their son and his wife and children reside in the larger house. The site plan shows that the property is also improved with an in-ground swimming pool, gazebo, shed, and other residential accessory structures. The Petitioners are desirous of subdividing the property to create two lots, each containing one of the existing dwellings. It is anticipated that the Petitioners' son will then take title to a portion of the property and the house in which he currently resides, and Mr. & Mrs. D'Aleo would retain the other house and remaining portion of the property. As shown on the plan, Lot 1 will consist of 1.29 acres in area and contain the larger house, swimming pool and most of the outbuildings. Lot 2 will contain 1.81 acres in area and the smaller house in which Mr. & Mrs. D'Aleo reside.

A series of zoning variances and special hearing relief are requested in order to effectuate the proposed subdivision. Ms. Chadwell lives in the area and is not opposed to the request. Similarly,

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Ms. Curreri was there as a representative of a property owner in the neighborhood. She is also not opposed to the requested relief.

There are, however, adverse Zoning Plans Advisory Committee (ZAC) comments. An adverse comment recommending a denial of the request was received from the Office of Planning. Similarly, Wallace Lippincott, with the Agricultural Preservation Division of the Department of Environmental Protection and Resource Management (DEPRM), opposes the request. Advisory comments were also received from DEPRM relative to the well and septic systems. Much of the opposition of these agencies focused upon an adjacent property also owned by the Petitioners. As more particularly shown on the site plan, Mr. & Mrs. D'Aleo own an adjacent tract that abuts the north side of the subject property. Indeed, the house in which Mr. & Mrs. D'Aleo reside abuts that property line. That lot is an unimproved parcel containing over 2 acres in area and is located with frontage on Redcoat Lane. The Office of Planning and DEPRM oppose the proposed subdivision, given the fact that the Petitioners own adjacent, unimproved land.

The subject property and adjacent tract are zoned R.C.4. The R.C.4 zoning regulations are set out in Section 1A03 of the B.C.Z.R. Section 1A03.4.B.1 thereof provides that an R.C.4 zoned tract of less than 6.0 acres cannot be subdivided. Moreover, it is clear that the two existing dwellings do not comply with the requirements of Section 1A03.4.B.5 of the B.C.Z.R. That Section prohibits more than one dwelling unit on any R.C.4 zoned land, unless one of the dwellings is a tenant dwelling utilized in connection with the operation of a farm. Whether the two dwellings at issue in this case pre-date that regulation was not established at the hearing. However, it was indicated that the smaller dwelling was constructed in the late 1970s and that the larger house was built many years ago as a log cabin; however, has been modernized and expanded over the years.

Upon due consideration of all of the testimony and evidence offered in this case, two conclusions are drawn in recognition of the spirit and intent of the R.C.4 zoning regulations and the practical circumstances the Petitioners face. First, relief should be granted as is necessary to permit the continued used and occupancy of the two dwellings. Both houses are at least 20 years old, and one may be considerably older. The Petitioners purchased the lot with the existing improvements and relief

should be granted to allow their ongoing use and occupancy. Secondly, however, it is clear that the subject property is inconsistent with the spirit and intent of the R.C.4 zoning classification and that the Petitioners should be required to utilize their adjacent lot to cure, to the extent possible, the deficiency as it exists under the zoning regulations. That is, the Petitioners should combine both lots into a single parcel and then subdivide the resulting lot into two tracts to accommodate the existing buildings. Mr. D'Aleo indicated at the hearing that he wished to reserve the unimproved parcel on Redcoat Lane for use as a building lot for his daughter. I am appreciative of that desire; however, proposed uses of that lot and subdivision of the subject property are simply inconsistent with the stated requirements and spirit and intent of the R.C.4 zoning classification. Even after combining the two properties, a single parcel of less than 6.0 acres in area will result. Thus, relief would still be necessary for that subdivision; however, it would be approved given the existing circumstances. Additionally, relief as is necessary to legitimize the location of the existing houses would be granted. For example, certain variances are needed from side, rear and front yard setback requirements owing to the proposed subdivision and they would be granted. Finally, I would not require that the Petitioners provide vehicular access to the two houses from Redcoat Lane. Given the unique circumstances and longstanding use of the easement that provides current access from Dance Mill Road, that arrangement should continue.

In view of the above, I shall deny the requested relief; however, the Petitioners shall be provided the opportunity for a further review of this matter in accordance with the above. That is, the Petitioners shall have thirty (30) days from the date of this Order to submit a revised site plan depicting the combination of the two parcels as described above and the subdivision of same into two lots. Upon receipt of the revised site plan, the matter will be scheduled for further proceedings before this Zoning Commissioner. Thereafter, special hearing and variance relief shall be granted as is necessary to accommodate the new lot lines.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be denied.

ORDER RECEIVED FOR FILING
Date

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THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of November, 2003 that the Petition for Special Hearing to approve access to the proposed lots by way of an easement instead of the required in-fee ownership, pursuant to Section 26-266(2) of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow the subdivision of a 3.10-acre parcel of land in lieu of the required minimum 6.0 acres, pursuant to Section 1A03.4.B.1.a of the B.C.Z.R., and, to allow two separate lots to be less than the minimum required 3.0 acres, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the B.C.Z.R. as follows: 1) From Section 1A03.4.B.2.a to permit a side yard setback of 0 feet in lieu of the required 50 feet for the dwelling known as 3820-A Dance Mill Road; 2) from Section 1A03.4.B.2.a to permit a rear yard setback of 21 feet in lieu of the required 25 feet for the dwelling known as 3820 Dance Mill Road; 3) from Section 1A03.4.B.2.a to permit a front yard setback of 24 feet in lieu of the required 25 feet for the dwelling known as 3820-A Dance Mill Road; 4) from Section 1A03.4.B.3 to permit 16% of proposed Lot 1 to be covered by impermeable surfaces in lieu of the maximum allowed 10%; and 5) & 6) from Section 1A03.4.B.2.b to allow front yard setbacks of 23 feet and 14 feet in lieu of the required 35 feet for the dwelling known as 3820-A Dance Mill Road, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

IT IS FURTHER ORDERED that within thirty (30) days of the date hereof, the Petitioners shall combine the two parcels as set forth above and submit a revised site plan reflecting the subdivision of same into two lots. Thereafter, the matter will be scheduled for further proceedings and special hearing and variance relief will be granted to accommodate the new lot lines.

IT IS FURTHER ORDERED that any appeal of this decision must be entered within thirty

(30) days of the date hereof.

LES:bjs

LAWRENCE E. SCHMIDT Zoning Commissioner

for Baltimore County

# Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



# **Baltimore County**

James T. Smith, Jr., County Executive Lawrence E. Schmidt, Zoning Commissioner

November 19, 2003

Mr. Bruce E. Doak Gerhold, Cross & Etzel 320 E. Towsontown Boulevard, Suite 100 Towson, Maryland 21286

RE: PETITIONS FOR SPECIAL HEARING & VARIANCE
E/S Dance Mill Road, 401' SE of the intersection of Steeplechase Court & Redcoat Lane
(3820 Dance Mill Road)
10<sup>th</sup> Election District — 3<sup>rd</sup> Council District
Leo J. D'Aleo, et ux - Petitioners
Case No. 04-112-SPHA

Dear Mr. Doak:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been denied, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc: Mr. & Mrs. Leo J. D'Aleo

3820 Dance Mill Road, Phoenix, Md. 21131

Ms. Leanne Chadwell, 13312 Redcoat Lane, Phoenix, Md. 21131

Ms. Kim Curreri, 17 Patricks Court, Parkton, Md. 21/20 Office of Planning; DEPRM; People's Counsel; Case/File



Visit the County's Website at www.baltimorecountyonline.info



# Pethion for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at REZO DANCE MILL RUAD

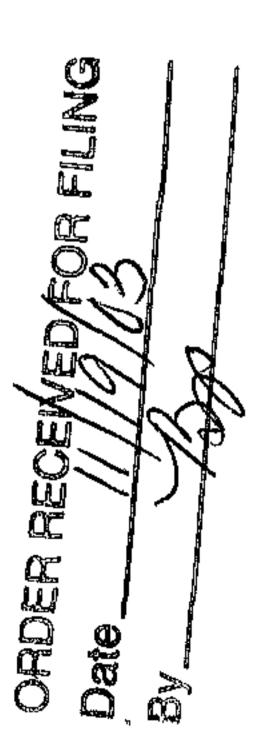
	which is presently zoned R.C.4
<ul> <li>owner(s) of the property situate in Baltimore County and</li> </ul>	Permits and Development Management. The undersigned, legal d which is described in the description and plat attached hereto and aring under Section 500.7 of the Zoning Regulations of Baltimore issioner should approve
SEE ATTACH	ED
	•
Property is to be posted and advertised as prescribed by I, or we, agree to pay expenses of above Special Hearing, according regulations and restrictions of Baltimore County adopted	y the zoning regulations. divertising, posting, etc. and further agree to and are to be bounded by the ted pursuant to the zoning law for Baltimore County.
	I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:	Legal Owner(s):
Name - Type or Print	Name - Type of Print
Signature	Signature
Address Telephone No	Name: Type oppoint  Name: Type oppoint  A TAILED  Name: Type oppoint  Name: Type oppoi
City State Zip Code	
Attorney For Petitioner:	3820 DANCE MILL ROAD (400) 752-784 Address Telephone No.
Name - Type or Print	PHOLENIX MD ZII31 City State Zip Code
Signature	Representative to be Contacted:
Company	BRUCE DUAK (GERHOLD, CROSS, 4 ETZEL) Name
Telephone No.	320 E. TOWSONTOWN BLUD SUITE 100
State Zip Code	TOWYN MD 410-823-447
	OFFICE USE ONLY ESTIMATED LENGTH OF HEARING
Case No. 04-112-SPHA	UNAVAILABLE FOR HEARING
	Reviewed By D:THOMPSON Date 9/3/03
REV 115/98	

# SPECIAL HEARING REQUESTED

To allow access to the proposed lots by way of an easement instead of the required in fee ownership per section 26-266(2) B.C.D.R.

To allow a subdivision of a parcel of land consisting of 3.10 acres of land, more or less, in lieu of the required 6.0 acres per section 1A03.4Bla B.C.Z.R.

To allow two separate lots to be less than the three acres each per section 1A03. 4Bla B.C.Z.R.





# Petition for Variance

# to the Zoning Commissioner of Baltimore County

for the property located at <u>3820 DANCE MILL ROAD</u> which is presently zoned <u>R.C. 4</u>

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

Property is to be posted and advertised as prescribed by the zoning regulations.

If or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

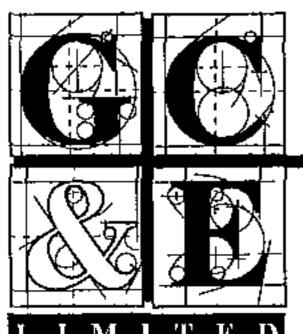
I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purc	haser/Lessee:		Legal Owner(s):									
Name - Type or Print	ţ	<u>-</u>	Name - Type on Print									
Signature	<del></del>	······································	Signature  KATHERINE M. D'ALEO									
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City	State	Zip Code	Signature									
Attorney For F	Petitioner:		38ZO DANKE MILL ROAD (40)752-7848 Address Telephone No.									
Name Type or Plini		<del></del>	PHOENIX MD 21/31 City State Zip Code									
Signature		<del></del>	Representative to be Contacted:									
Somp <b>a</b> ny		······································	BRULE DOAK (GERHOLD, CROSS, + ETZEL)									
Address		Telephone No.	320 E TOWSON TOWN BLVD. SUTE 100									
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# VARIANCES REQUESTED

- 1. To allow a side yard setback of 0 feet in lieu of required 50 feet per section 1A03. 4B2a B.C.Z.R. (#3820A northern side)
- 2. To allow a rear yard setback of 21 feet in lieu of the required 25 feet per section 1A03. 4B2a B.C.Z.R. (#3820)
- 3. To allow a front yard setback of 24 feet in lieu of the requested 25 feet per section 1A03. 4B2a B.C.Z.R. (#3820A)
- 4. To allow 16% of the proposed Lot 1 to be covered by impermeable surfaces in lieu of the required 10% per section 1A03. 4B3 B.C.Z.R.
- 5. To allow a front yard setback of 23 feet in lieu of the required 35 feet per section 1A03. 4B2b B.C.Z.R. (#3820A)
- 6. To allow a front yard setback of 14 feet in lieu of the required 35 feet per section 1A03. 4B2b B.C.Z.R. (#3820A)





# Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286 Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

July 3, 2003

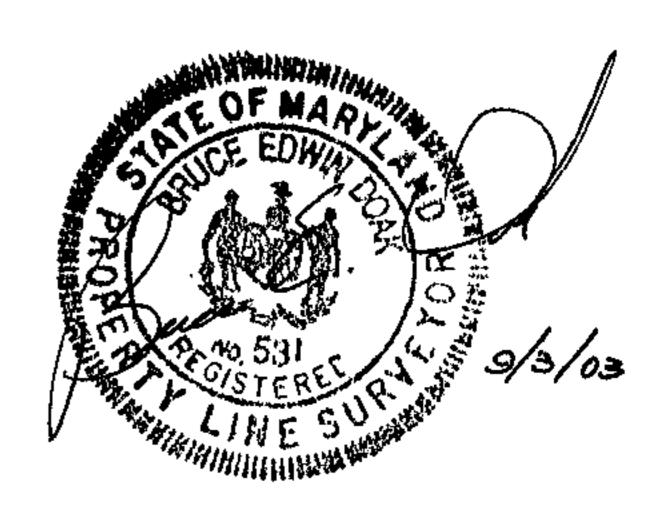
## D'ALEO PROPERTY 3820 DANCE MILL ROAD BALTIMORE COUNTY, MARYLAND

All that piece or parcel of land situate, lying and being in the Tenth Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point 401 feet, more or less, northeasterly from the center of the intersection formed by Steeple Chase Court and Redcoat Lane, thence leaving Redcoat Lane South 03 degrees 17 minutes 07 seconds East 208.59 feet to the zoning point of beginning, thence running and binding, the following nine courses and distances, viz: (1) South 65 degrees 54 minutes 48 seconds East 664.00 feet, (2) South 59 degrees 42 minutes 20 seconds West 124.38 feet, (3) South 83 degrees 15 minutes 00 seconds West 476.34 feet, (4) North 17 degrees 35 minutes 20 seconds West 101.36 feet, (5) North 08 degrees 34 minutes 40 seconds West 83.16 feet, (6) North 13 degrees 05 minutes 40 seconds East 45.87 feet, (7) North 01 degree 58 minutes 20 seconds East 23.23 feet, (8) North 16 degrees 25 minutes 40 seconds West 109.08 feet, and (9) North 43 degrees 55 minutes 55 seconds East 53.24 feet to the zoning point of beginning.

Containing 3.10 Acres of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purpose of conveyance.



FROM: RECEIVED WHITE -DISTRIBUTION OFFICE OF BUDGET & FINANCE BALTIMORE COUNTY, MARY MISCELLANEOUS CASHIER # PINK - AGENCY RECEIPT ACCOUNT AMOUNT YELLOW - CUSTOMER ₩ HHAS 0 28125 Herpi ini Biltimic Omits CASHIER'S **VALID \_3**.

# MOTIVE OF ZURING HEARING

Zoning Commissioner of Baltimore County, by ority of the Zoning Act and Regulations of Baltimore nty will hold a public hearing in Towson, Maryland on property identified herein as follows:

20 Dance Mill Road

side of Redcoat Lane, 401 feet northeast of Steeple-

rase Court bistrict—3rd Councilmanic District the Election District—3rd Councilmanic District

yield Gwner(s): Leo and Katherine D'Aleo

yield Hearing: to permit access to the propsed lots by scial Hearing: to permit access to the required in fee owner
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LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible, for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391

10/080 Oct 9.

2003

, that the annexed advertisement was published successive weeks, the first publication appearing in the following weekly newspaper published in Baltimore County, Md., THIS IS TO CERTIFY once in each of O

XI The Jeffersonian

Catonsville Times Arbutus Times

Towson Times

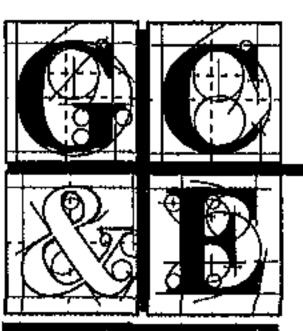
□ Owings Mills Times

□ NE Booster/Reporter

North County News

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LEGAL ADVERTISMS



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Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286 Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

# **CERTIFICATE OF POSTING**

RE: CASE NO. 04-112-SPHA PETITIONER/DEVELOPER: Leo & Katherine D'Aleo

DATE OF HEARING: October 27, 2003

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT COUNTY OFFICE BUILDING, ROOM 111 111 WEST CHESAPEAKE AVE. TOWSON, MARYLAND 21204

ATTENTION: REBECCA HART

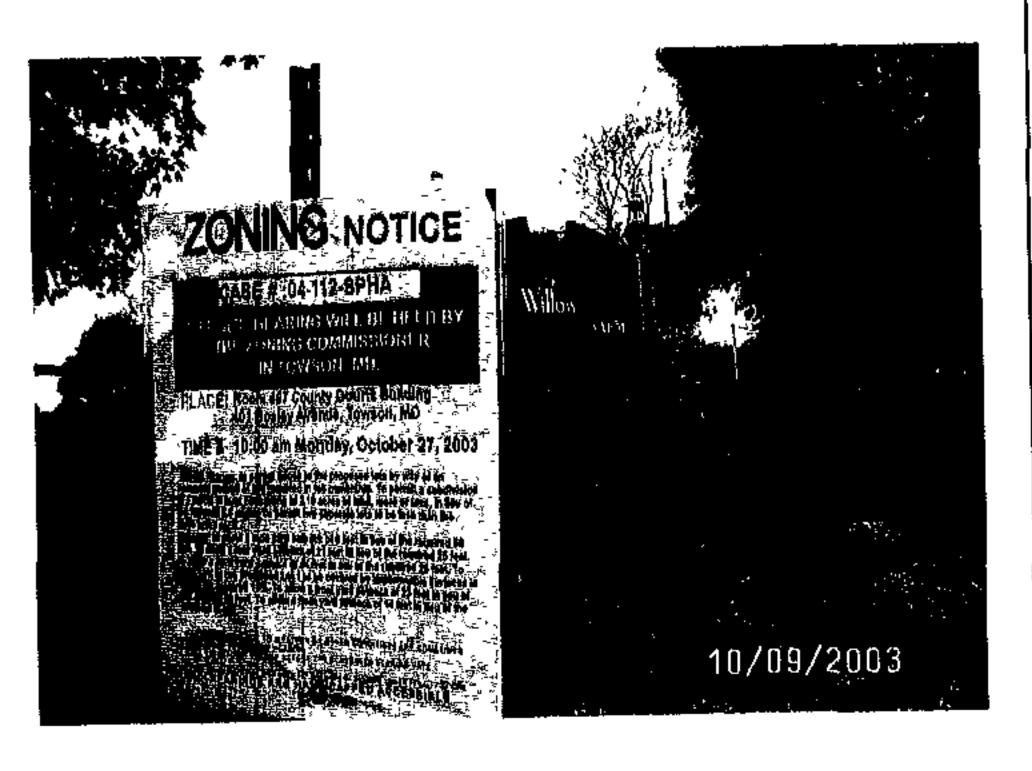
LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

October

LOCATION:

3820 Dance Mill Road



**DATE:** October 10, 2003

SIGNATURE OF SIGN POSTER

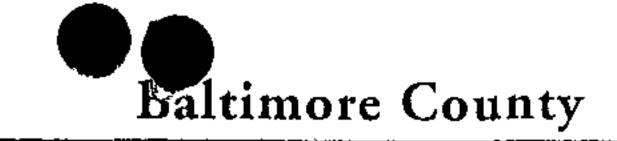
**BRUCE DOAK** 

GERHOLD, CROSS & ETZEL, LTD SUITE 100 320EAST TOWSONTOWN BLVD TOWSON, MARYLAND 21286 410-823-4470 PHONE 410-823-4473 FAX

# Department of Permits and Development Management

Director's Office County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204 Tel: 410-887-3353 • Fax: 410-887-5708





James T. Smith, Jr., County Executive Timothy M. Kotroco, Director

September 24, 2003

# **NOTICE OF ZONING HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 04-112-SPHA

3820 Dance Mill Road S/side of Redcoat Lane, 401 feet northeast of Steeplechase Court 10<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District Legal Owner: Leo and Katherine D'Aleo

Special Hearing to permit access to the proposed lots by way of an easement instead of the required in fee ownership. To permit a subdivision of a parcel of land consisting of 3.10 acres of land, more or less, in lieu of the required 6.0 acres. To permit two separate lots to be less than the three acres each. Variance to allow a side yard setback of 0 feet in lieu of the required 50 ft. To allow a rear yard setback of 21 ft. in lieu of the required 25 ft. To allow a front yard setback of 24 feet in lieu of the required 25 ft. To allow 16% of the proposed Lot 1 to be covered by impermeable surfaces in lieu of the required 10%. To allow a front yard setback of 23 feet in lieu of the required 35 ft. To allow a front yard setback of 14 ft. in lieu of the required 35 ft.

Hearings:

Monday, October 27, 2003, at 10:00 a.m. in Room 407, County Courts

Building, 401 Bosley Avenue

Timothy Kotroco

Director

TK:klm

C: Leo and Katharine D'Aleo, 3820 Dance Mill Road, Phoenix 21131
Bruce Doak, Gerhold, Cross & Etzel, 320 E. Towsontown Blvd., Ste. 100, Towson 21206

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, OCTOBER 11, 2003.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



TO: PATUXENT PUBLISHING COMPANY

Thursday, October 9, 2003 Issue - Jeffersonian

Please forward billing to:

Leo D'Aleo 3820 Dance Mill Road Phoenix, MD 21131 410-752-7848

# **NOTICE OF ZONING HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 04-112-SPHA

3820 Dance Mill Road

S/side of Redcoat Lane, 401 feet northeast of Steeplechase Court

10<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owner: Leo and Katherine D'Aleo

Special Hearing to permit access to the proposed lots by way of an easement instead of the required in fee ownership. To permit a subdivision of a parcel of land consisting of 3.10 acres of land, more or less, in lieu of the required 6.0 acres. To permit two separate lots to be less than the three acres each. Variance to allow a side yard setback of 0 feet in lieu of the required 50 ft. To allow a rear yard setback of 21 ft. in lieu of the required 25 ft. To allow a front yard setback of 24 feet in lieu of the required 25 ft. To allow a front yard setback of 23 feet in lieu of the required 35 ft. To allow a front yard setback of 23 feet in lieu of the required 35 ft. To allow a front yard setback of 14 ft. in lieu of the required 35 ft.

Hearings:

Monday, October 27, 2003, at 10:00 a.m. in Room 407, County Courts

Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

# OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspape	er Adverti	sing:				
Item Number o	r Case Nu	ımber: _		04-112-SP	HA	<del></del>
Petitioner:	1E0	J. 0'	ALEO	<del></del>		······································
Address or Loc	ation:	382	ODAN	ICE MILL RUAD	PHUENIX, MD	21131
PLEASE FORV	VARD AD	VERTIS	ING BILL	TO:		
Name:		50 J	. D'AL	EO		
Address:	3827	ODA	NEE M	ILL ROAD	· · · · · · · · · · · · · · · · · · ·	······································
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Telephone Nun		•			p-	

# Department of Permits and Development Management

Development Processing County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204



# Baltimore County

James T. Smith, Jr., County Executive Timothy M. Kotroco, Director

October 24, 2003

Leo D'Aleo Katherine D'Aleo 3820 Dance Mill Road Phoenix, MD 21131

Dear Mr. and Mrs. D'Aleo:

RE: Case Number: 04-112-SPHA, 3820 Dance Mill Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 3, 2003.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

Supervisor, Zoning Review

u. Callibal)

WCR:klm

Enclosures

c: People's Counsel

Bruce Doak, Gerhold, Cross & Etzel, 320 E. Towsontown Blvd., Ste. 100, Towson 21286



Visit the County's Website at www.baltimorecountyonline.info



700 East Joppa Road Towson, Maryland 21286-5500 410-887-4500

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 September 24, 2003

ATTENTION: Rebecca Hart

Distribution Meeting of: September 22, 2003

Item No.:

(112/, 114-122, 124, 126, 128-130, 136)

Dear Ms. Hart:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK Fire Marshal's Office PHONE 887-4881 MS-1102F

cc: File

Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor



Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 9.23.03

Ms. Rebecca Hart Baltimore County Office of Permits and Development Management County Office Building, Room 109 Towson, Maryland 21204 RE: Baltimore County

Item No. //2 DT

Dear. Ms. Hart:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division

10/27

# BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Tim Kotroco

RECEIVED

FROM:

R. Bruce Seeley RBS / TET

OCT 2 1 2003

DATE:

October 21, 2003

ZONING COMMISSIONER

SUBJECT:

Zoning Item

04-112

Address

3820 Dance Mill Road

Zoning Advisory Committee Meeting of September 22, 2003

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

## Additional Comments:

An inspection of the wells and septic systems must be done, soil evaluations are required, and hand dug wells must be abandoned and sealed.

Reviewer:

Sue Farinetti

Date:

September 29, 2003

# BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:	Tim Kotroco
FROM:	R. Bruce Seeley RBS /767
DATE:	October 21, 2003
SUBJECT	: Zoning Item <u>04-112</u> Address <u>3820 Dance Mill Road</u>
Zo	ning Advisory Committee Meeting of September 22, 2003
The	e Department of Environmental Protection and Resource Management has no nments on the above-referenced zoning item.
an	e Department of Environmental Protection and Resource Management request extension for the review of the above-referenced zoning item to determine the ent to which environmental regulations apply to the site.
X The	e Department of Environmental Protection and Resource Management offers following comments on the above-referenced zoning item:
	X If streams or wetlands occur on or within 200 feet of the property, the development of the property may need to comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).
	Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the

### Additional Comments:

Baltimore County Code).

- A variance from the regulations for the protection of water quality, streams, wetlands, and floodplains may be required for the continued existing use of some structures on this site. There are no gaurantees of variance approvals.
- 2. Septic reserve areas must be located outside any required Forest Buffers, and there must be a minimum setback from ponds and streams.

Reviewer: Paul Dennis Date: 10/21/03

# Argan 1027

# BALTIMORE COUNTY, MARYLAND

# INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and

Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

RECEIVED

**DATE:** October 17, 2003

OCT 2 0 2003

ZONING COMMISSIONER

**SUBJECT:** 

3820 Dance Mill Road

INFORMATION:

**Item Number:** 

04-112

Petitioner:

Leo J. D'Aleo

Zoning:

RC 4

Requested Action:

Variance

#### SUMMARY OF RECOMMENDATIONS:

The Office of Planning recommend that the petitioner's request be DENIED.

The petitioner owns the adjacent property (parcel 214). Although the two parcels combined would total less than 6 acres, this office is of the opinion that they should be combined and/or resubdivided to provide two lots of approximately equal size with direct access to Redcoat Lane. As a potential alternative to resubdividing the lots, the property owner may petition the County for a lot line adjustment to create two lots with frontage on Redcoat Lane.

Prepared by:

**Section Chief:** 

AFK/LL:MAC:

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: September 30, 2003

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans

Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For September 29, 2003

Item No. 112

The Bureau of Development Plans Review has reviewed the subject-zoning item.

This office strongly recommends against all the requests.

The brick dwelling must have an in-fee strip, not easement, on the site. The two lots must have in-fee access to a public road. We recommend a panhandle strip out to Redcoat Lane. The driveway must be increased to a minimum of 16 feet.

RWB:CEN:jrb

cc: File

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 3820 Dance Mill Road; S/side of Redcoat Lane, 401' NE Steeplechase Court

10<sup>th</sup> Election & 3<sup>rd</sup> Councilmanic Districts
Legal Owner(s): Leo & Katherine D'Aleo
Petitioner(s)

\* BEFORE THE

\* ZONING COMMISSIONER

\* FOR

\* BALTIMORE COUNTY

\* 04-112-SPHA

\* \* \* \* \* \* \* \*

# **ENTRY OF APPEARANCE**

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this Obday of September, 2003, a copy of the foregoing Entry of Appearance was mailed to Bruce Doak, 320 E Towsontown Boulevard, Suite 100, Towson, Maryland 21286, Representative for Petitioner(s).

RECEIVED

SEP 2 6 2003

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per.....

# STUART D. KAPLOW, P.A.

ATTORNEYS AT LAW 15 EAST CHESAPEAKE AVENUE TOWSON, MARYLAND 21286-5306 TELEPHONE 410-339-3910 FACSIMILE 410-339-3912 E-MAIL SKAPLOW@STUARTKAPLOW.COM

STUART D. KAPLOW

WWW.STUARTKAPLOW.COM

October 14, 2004

<u>Via Facsimile 410-887-3468</u> John V. Murphy, Deputy Zoning Commissioner 401 Bosley Avenue, 4th Floor Towson, Maryland 21204

Re:

Size of two lots

Case No. 04-012-SPH - 13240 Fork Road

Dear Mr. Murphy:

Accepting that the hearing in the above noted matter was postponed yesterday, I thought it necessary and proper to respond to your work product with respect to the area of the two lots.

Of course, as noted in our Motion To Dismiss, the property owner maintains this matter is not properly before you and that an approved minor subdivision exists.

That said, and intending simply to complete the academic exercise with respect to the correct area of the two lots, I respond in two ways: 1 First, having showed your work to the property owner's surveyor, and with due respect to your skills in geometry, I am advised that calculating the area by way of separating a triangularly shaped area from a rectangle would have lead you to the correct result, but for the fact that the remainder was a polygon and not a rectangle. By way of explanation, the sides of the resultant polygon (when excluding the area of the triangle) are not parallel. In this instance that difference is significant. The actual area of the combined two lots, for purposes of subdivision, is 2.04 acres.

Second, as we allege in our Motion, the inappropriately used use plan in the file (that you had before you) is a progress print of the minor subdivision plan that was later modified, including a later addition of a description of the "gross area" of the property.

In conclusion, the area of each of the two lots is more than one acre! Thank you.

Sinceret

SDK:tbm

Stuart D. Kaplow J. Carroll Holzer, Esquire, via facsimile 410-825-4923 CC:

Please note that a survey was undertaken as part of the earlier completed minor subdivision process (i.e., the plan was not prepared from an earlier deed description).

# STUART D. KAPLOW, P.A.

ATTORNEYS AT LAW
15 EAST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21286-5306
TELEPHONE 410-339-3910
FACSIMILE 410-339-3912
H-MAIL SKAPLOW@STUARTKAPLOW.COM

STUART D. KAPLOW

WWW.STUARTKAPLOW.COM

# FACSIMILE TRANSMITTAL

DATE: October 14, 2004

TO: JOHN V. MURPHY, DEPUTY ZONING COMMISSIONER

SENT TO TELEPHONE NUMBER: 410-887-3468

410-339-3912

FROM: STUART D. KAPLOW, ESQUIRE

TOTAL NUMBER OF PAGES 2 (INCLUDING THIS PAGE)

OUR TELECOPIER TELEPHONE NUMBER IS 410-339-3912

IF YOU DO NOT RECEIVE ALL PAGES OR HAVE ANY PROBLEM WITH RECEIVING, PLEASE TELEPHONE STUART KAPLOW AT 410-339-3910

MESSAGE:

# J. CARROLL HOLZER, ESQUIRE, VIA FAX 410-825-4923

HAVE YOU VISITED OUR WEBSITE, WWW.STUARTKAPLOW.COM, AND OUR 'LIBRARY' OF OVER 100 ARTICLES ON REAL ESTATE, LAND USE, AND ENVIRONMENTAL ISSUES, INCLUDING THE POPULAR ARTICLE, ADULT WEBSITE NOT SUBJECT TO ZONING LAWS

HARD COPY TO FOLLOW: NO

#### CONFIDENTIALITY NOTICE

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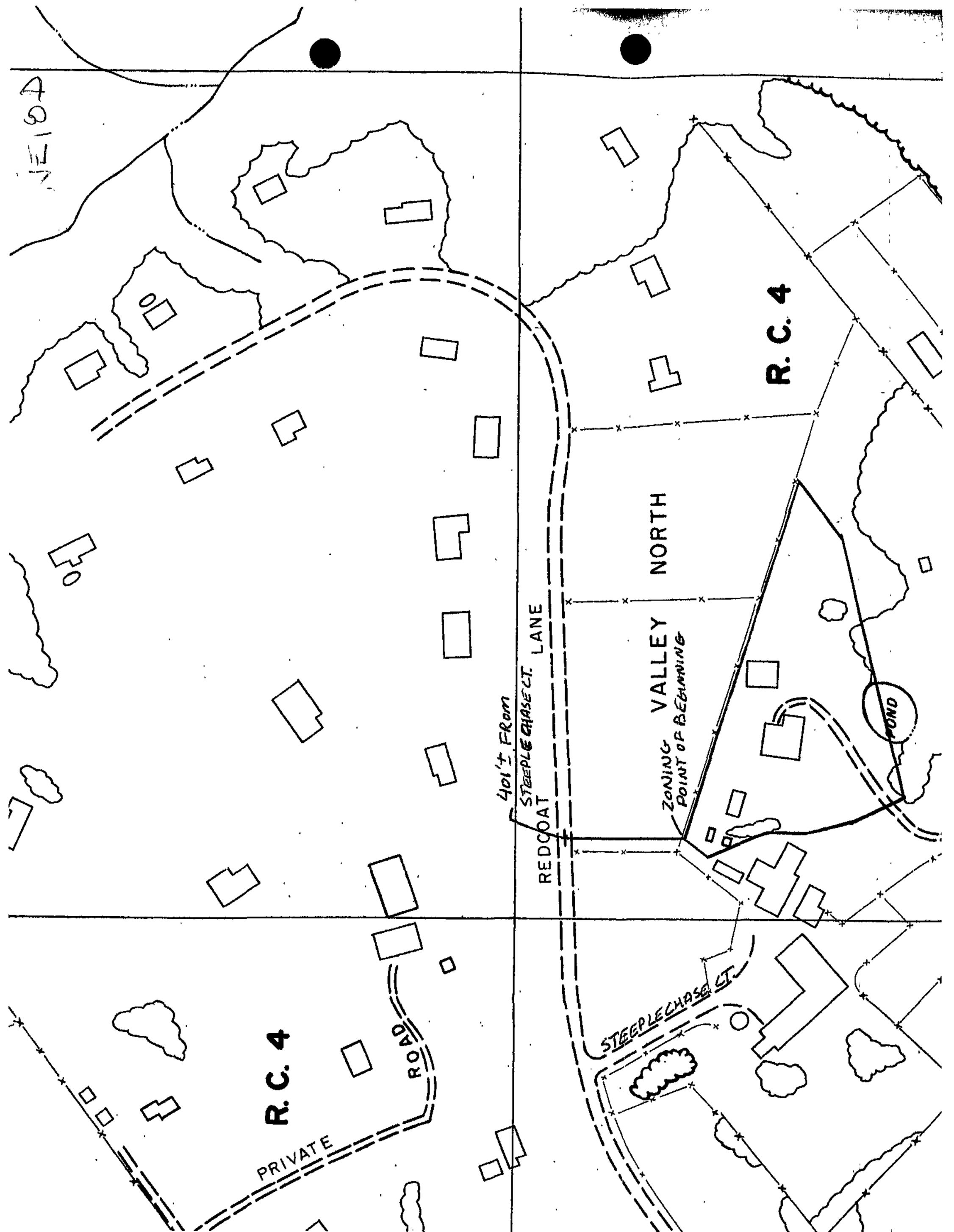
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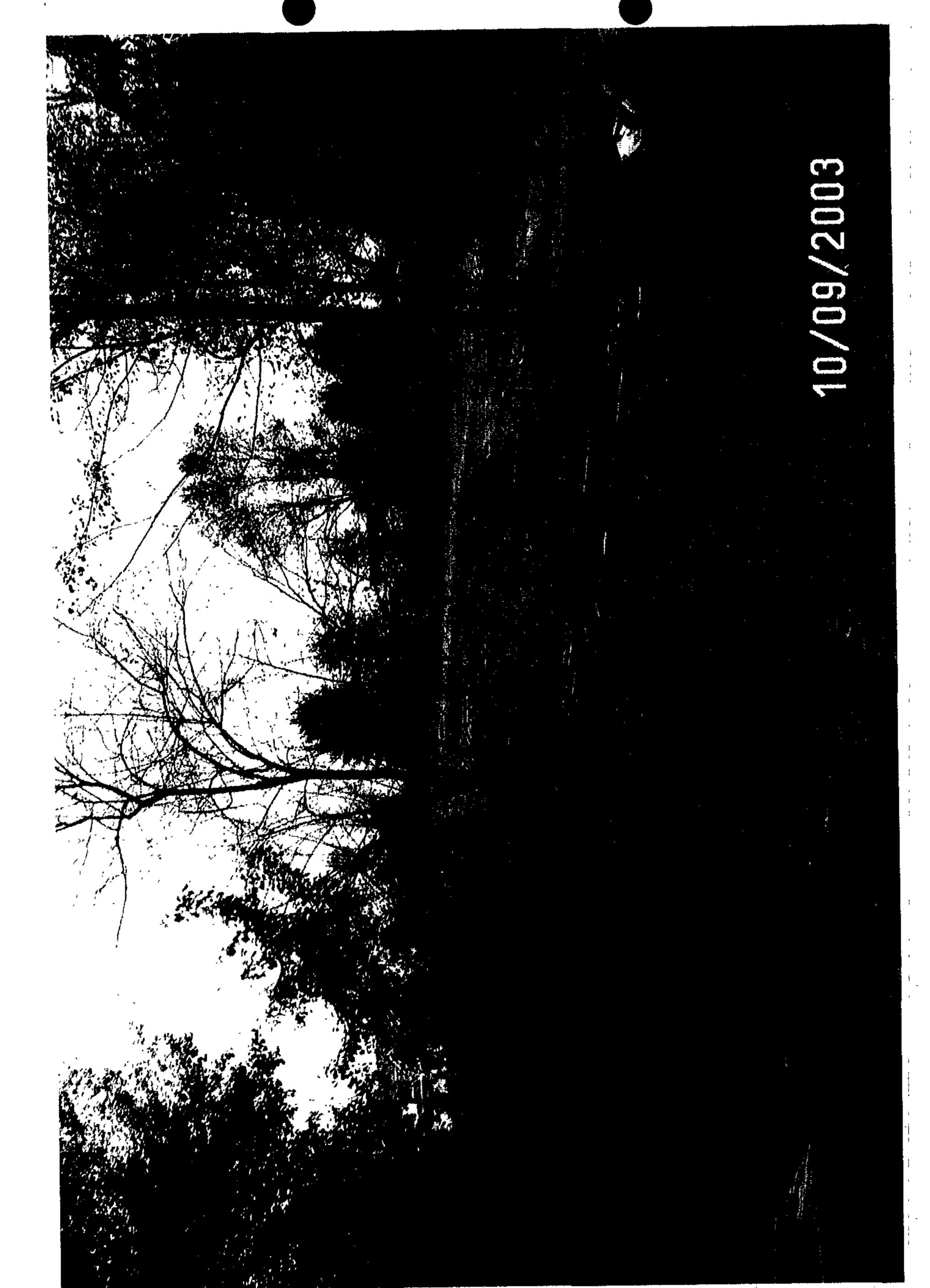
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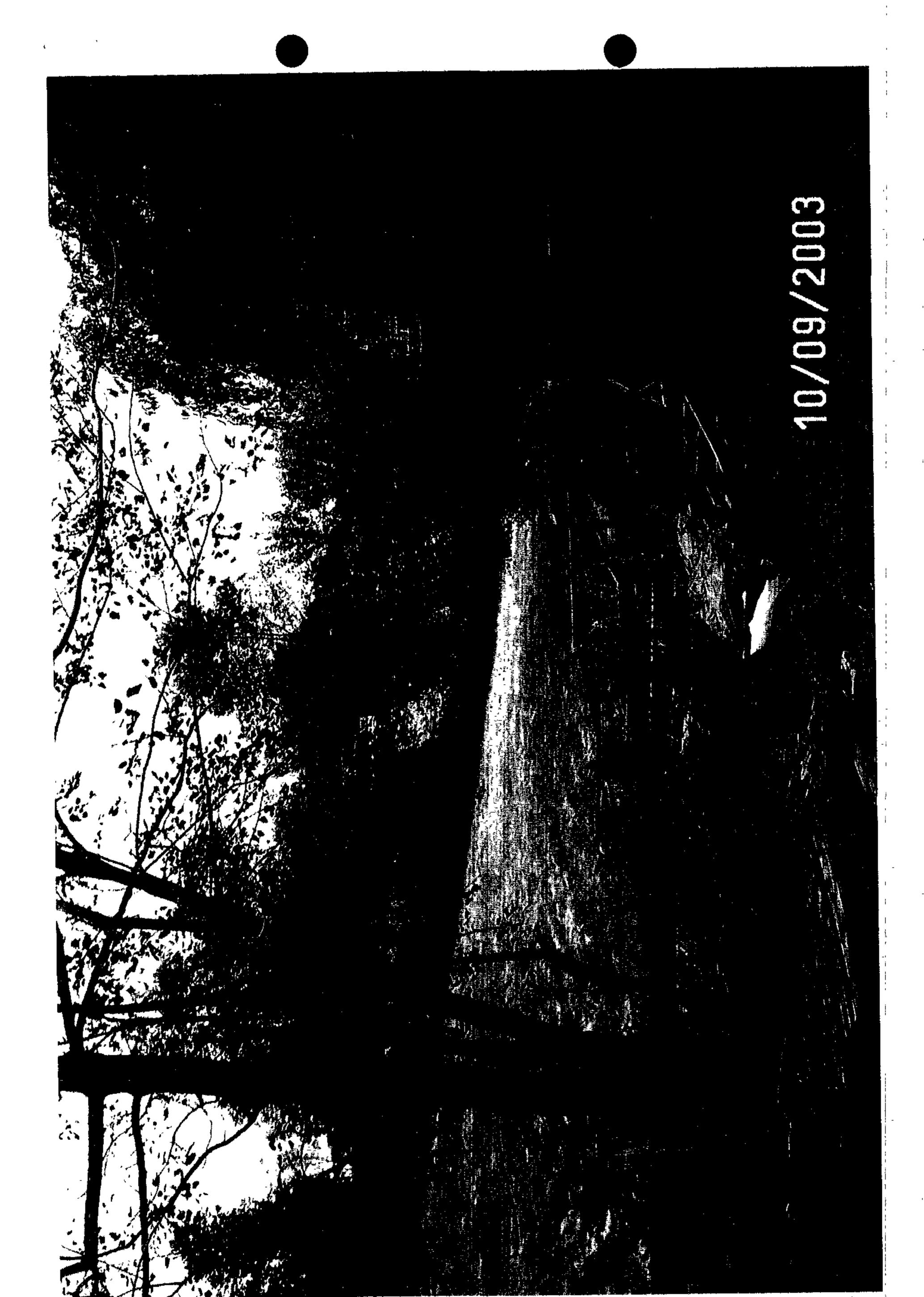
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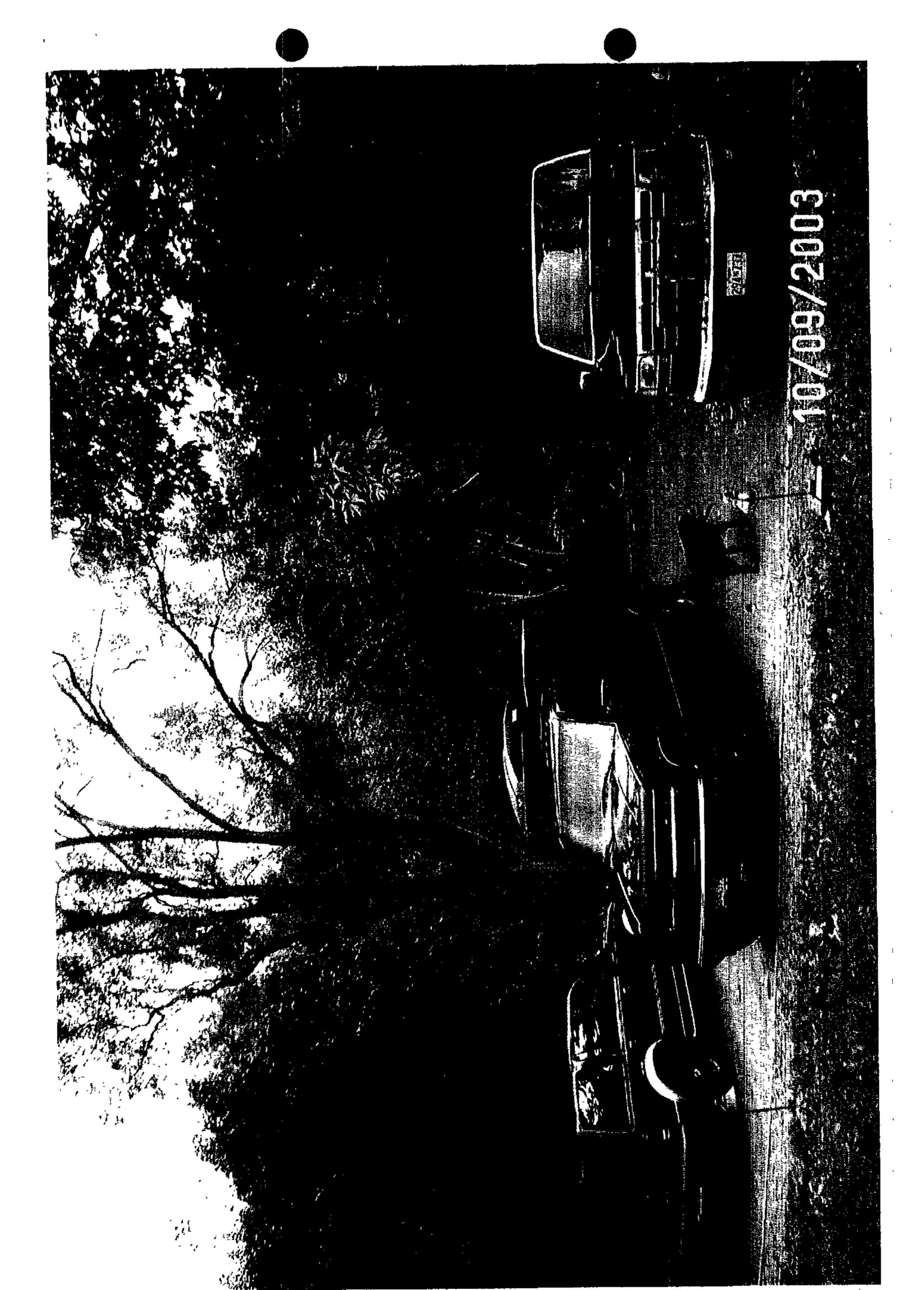
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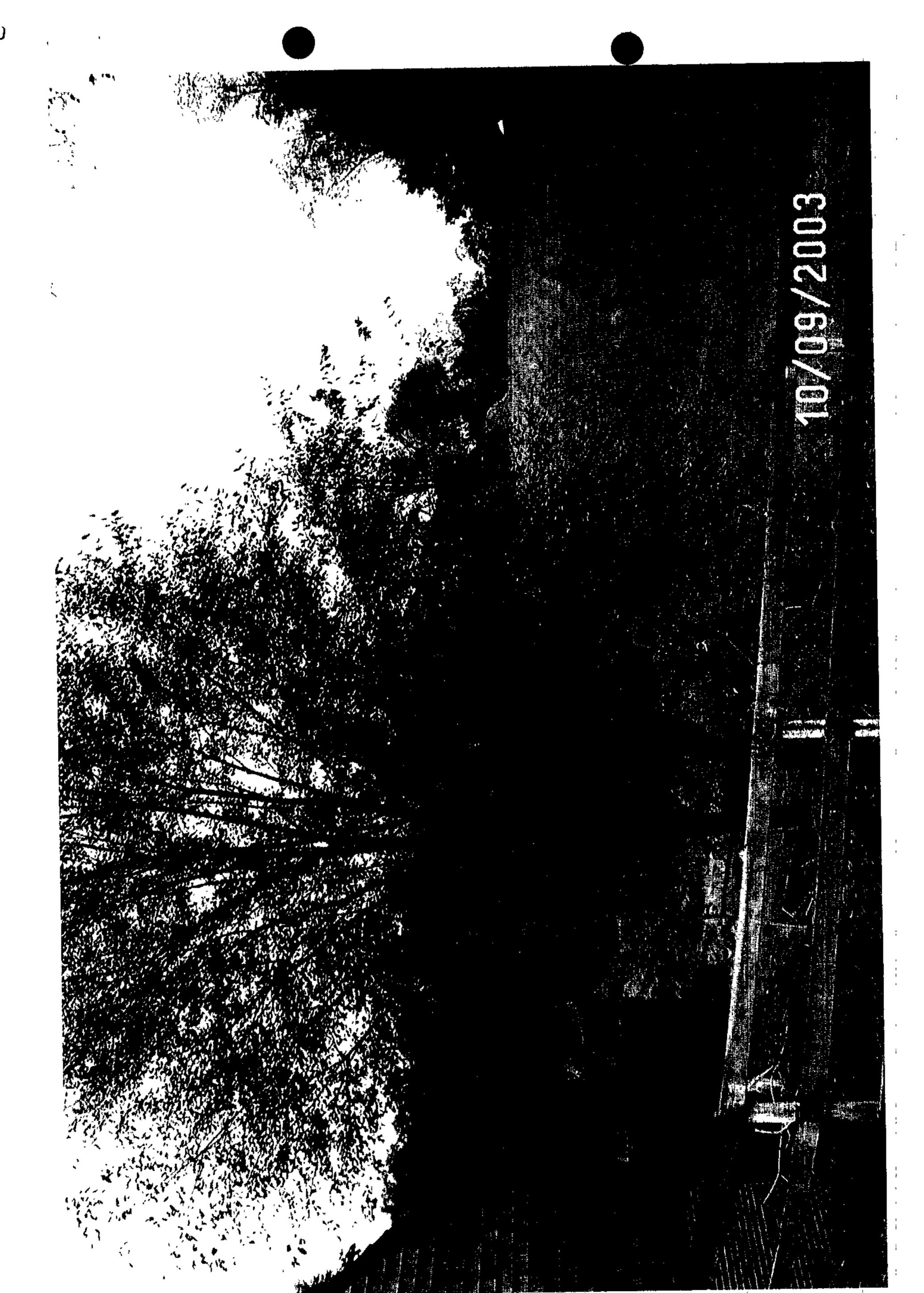
								CAGGROUP CROSS & CITER	`	Bruce E. Dane	LEO J. D. ACKE	NAME
								320 E. LOWSDUTTOWN DWS			3820 DANCE MILL PO	ADDRESS
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												E- MAIL



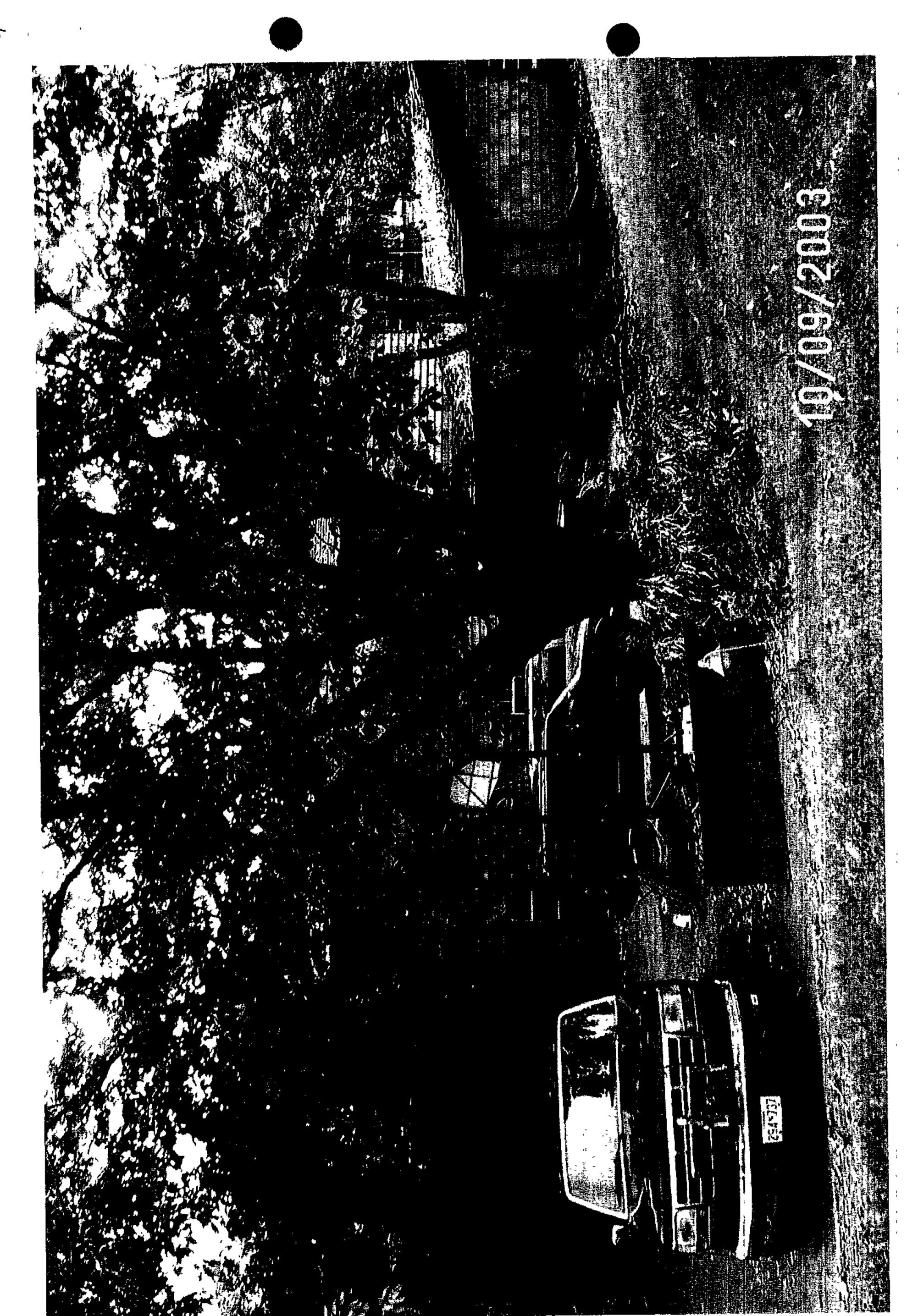


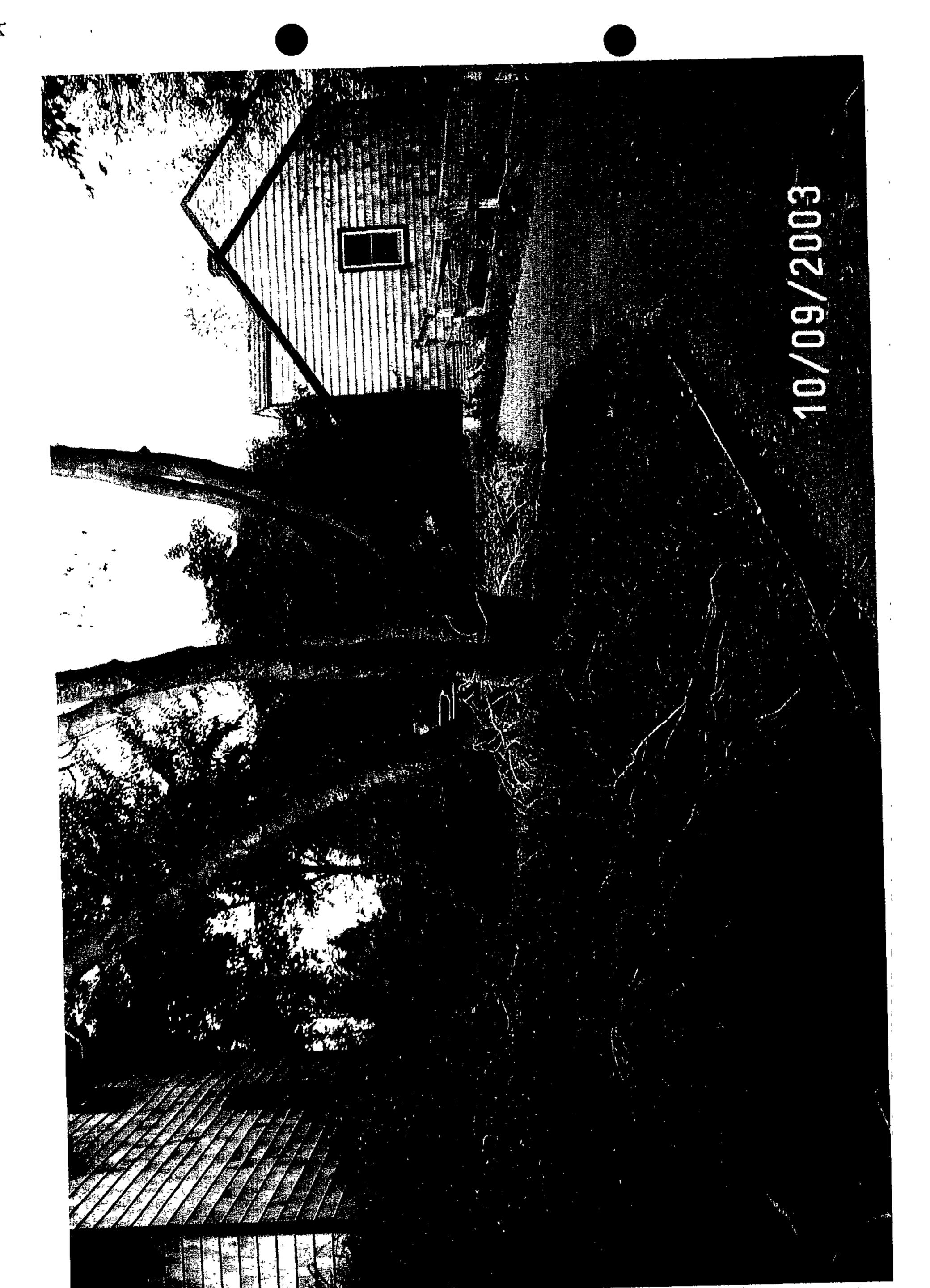












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