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June 23, 2014

ORIGINAL BY U.S. MAIL

VIA E-MAIL councilmember.wesson@lacity.org

The Honorable Herb J. Wesson, Jr. - President
Los Angeles City Council
200 N. Spring Street
Los Angeles, CA 90012

Re: Council File No. 14-0617
11965-11979 West Montana Avenue
City Council Hearing Date: July 1, 2014
Support for Appeal

Dear President Wesson:

This law office represents Brentwood Stakeholders Alliance for Better Living and Sensible Planning ("Brentwood Stakeholders"). Brentwood Stakeholders is an unincorporated association comprised of individuals, including the appellant in the above-referenced matter, that live, work, shop and/or recreate in the Brentwood neighborhood. For the reasons detailed below, **Brentwood Stakeholders is opposed to the proposed 49-unit condominium development and respectfully requests that the City Council grant the pending appeal and overturn the decision of the Advisory Agency approving the Vesting Tentative Tract Map and related MND for this project.**

A. The City's Environmental Review of the Project is Inadequate.

A mitigated negative declaration may only be adopted if the initial study shows that the project's effects can be mitigated to the extent that there is no substantial evidence in light of the whole record that the proposed project may have a significant effect on the environment. Pub. Res. Code §21080(c); 14 Cal. Code Regs. §§ 15063(b)(2), 15064(f)(2)-(3), 15070. If the lead agency finds substantial evidence in the record that the project may have a significant effect on the environment that cannot be mitigated, the agency must prepare an EIR. 14 Cal. Code Regs. §§ 15063(b)(1), 15064(f)(1).

The Honorable Herb J. Wesson, Jr. - President
Los Angeles City Council
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Thus, the crucial issue in determining whether to adopt a negative declaration, and whether to approve the project on the basis of the negative declaration, is whether there is a fair argument backed by substantial evidence in the record that the project may have a significant effect on the environment. An EIR is required if such a fair argument can be made.

1. The Project's Potential Geotechnical Impacts Are Unmitigated.

Here, there is substantial evidence in the record that the proposed project will have a substantial effect on the environment in a number of areas. As detailed in the letter dated June 3, 2014 by Feffer Geological Consulting, attached hereto as Exhibit "A," the project is located within the Santa Monica Fault Zone and in an area with liquefaction potential. The required liquefaction evaluation and fault investigation have not been performed for the development of the subject site, and the project MND fails to analyze potential impacts relating to geology and seismology in any substantive way.

2. The Project's Potential Traffic Impacts Are Unmitigated.

Similarly, the MND's study of the project's traffic impacts is deficient. As detailed in the letter dated June 11, 2014 by Urban Crossroads, attached hereto as Exhibit "B," the MND ignores the potential impacts to the serious congestion, access and queuing conditions in the two substandard alleys on two sides of the project site. These narrow alleys represent the only vehicular access points for several buildings facing San Vicente Boulevard. Since there are no vehicular access points for these buildings, any construction activities that alter, limit or constrain access represent a significant impact. In addition, the alleys are regularly used by the neighboring nursery school to access the outdoor playground and for drop off and pickup.

Attached hereto as Exhibit "C" are a number of photographs that depict the current use of these substandard, narrow alleys. As can be seen from the photos, the alley is used as a school crossing on a daily basis. The alley is so narrow that it is difficult to pass with another car coming from the opposite direction. Trash trucks or other large trucks block the thoroughway entirely.

The MND fails to specifically analyze the continued usability and safety of the alley during construction and after. No mitigation measures related to the safety of the school crossing or to the access or monitoring of alley traffic have been considered or adopted. No traffic study has even been conducted. There is clearly a fair argument that the project will have a significant impact on access and circulation and as such, an EIR must be prepared.

The Honorable Herb J. Wesson, Jr. - President
Los Angeles City Council
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3. The Project's Potential Noise Impacts Are Unmitigated.

As discussed in the Urban Crossroads letter attached hereto as Exhibit "B," the MND's analysis of noise impacts is also faulty. There are a number of sensitive uses within 500 feet of the project site, including the Brentwood Presbyterian School and Church and a medical office center, yet the MND fails to adequately quantify the ambient noise levels, the duration of construction activities, or even measure the distance from the proposed construction activities to these sensitive uses.

4. Other Construction-Related Impacts Have Not Been Studied.

Finally, given the close proximity of these sensitive uses to the project site, impacts relating to greenhouse gases, dust asbestos and other related impacts must be further studied. See letter dated June 3, 2014 from Brentwood Stakeholders, attached as Exhibit "D."

B. Conclusion.

Substantial evidence in the record exists that supports a fair argument that the project may have a significant effect on the environment. As such, the adoption of the MND was in error, and the City must prepare an EIR. 14 Cal. Code Regs. §§ 15063(b)(1), 15064(f)(1).

Based upon the foregoing, Brentwood Stakeholders respectfully requests that the City Council grant the pending appeal and overturn the decision of the Advisory Agency approving the Vesting Tentative Tract Map for this project.

Thank you for your consideration of this matter. As always, please do not hesitate to contact me at any time with any questions or comments you may have.

Sincerely,

GAINES & STACEY LLP

By


FRED GAINES

cc: All City Council Members (Via Email)
Sharon Gin, Legislative Assistant (Via Email)

EXHIBIT “A”



June 3, 2014

City of Los Angeles, City Council
200 North Spring Street Los Angeles, CA 90012

Subject: **GEOTECHNICAL INFORMATION**
Council File No. 14-0617 Case No. VTT-71898-CN-1A/ENV-2012-1111-MND
11965-73 Montana Avenue Los Angeles, California 90049

Dear Councilmembers,

Feffer Geological Consulting has been asked to review engineering geology and seismology issues related to the Project cited above at 11965-11973 Montana Avenue in the Brentwood area of Los Angeles, California.

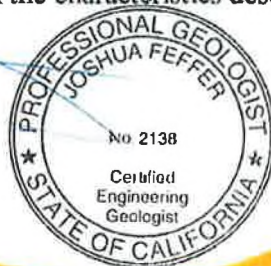
The project site is located on the north side of Montana Avenue and consists of a gently southward sloping lot with existing multi-story buildings. It is our understanding that the existing buildings will be demolished and subject site will be developed with a new multi-story residential building including subterranean parking.

According to mapping by the State of California and the City of Los Angeles the subject property is located within an area identified as being potentially subject to earthquake-induced liquefaction, and will require a liquefaction analysis per City codes (Figure 1).

Additionally, according to ZIMAS, the subject site is located within the Santa Monica Fault Zone (Figure 2). It is our understanding that the City of Los Angeles is currently requiring that a Fault Rupture Hazard Investigation be performed for properties within fault zones. The Fault Rupture investigation must determine that the site is free from potential surface rupture hazards before development will be allowed.

It is also our understanding that the required liquefaction evaluation and fault investigation have not been performed for the development of the subject site to date. The outcome of these investigations may have a substantial impact on the viability of the proposed development as well as its environs. In my opinion and my experience the liquefaction evaluation and fault investigation should be completed and properly reviewed and approved by the City of Los Angeles Building and Safety Department before the City grants any approval for the project. Furthermore, it may be advisable that the California Geological Survey perform a careful review of the seismic issues for the Project given the characteristics described above.

Joshua R. Feffer
Principal Geologist
C.E.G. 2138



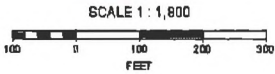


Figure 1. Aerial photograph with overlay of potential liquefiable area (colored area). The subject site is designated with a red star.

500 ft Plank Zone	
Assessor Information	
Assessor Parcel ID: 0040	428207940
APN Area (Co. Public Works):	0310-100
Use Code	0800 - 5 or more units (6 stories or less)
Assessed Land Val	\$2,669,070
Assessed Improvement Val	\$518,786
Land Owner Change	07/2015
Last Sale Amount	\$4,800,000
Tax Rate Area	07
Demol Ref No (City Clerk)	79864
	3-222
	5-720
	200004
	261000
	000000
	051107
	020004
	140000
	0-752
Building 1	
Year Built	1953
Building Class	07
Number of Units	20
Number of Bedrooms	21
Number of Bathrooms	20
Building Square Footage	14,147 (sq ft)
Building 2	No data for building 2
Building 3	No data for building 3
Building 4	No data for building 4
Building 5	No data for building 5
Additional Information	
Airport Hazard	None
Coastal Zone	None
Farmstead	Area Not Mapped
Very High Fire Hazard Severity Zone	No
Fire District No. 1	No
Flood Zone	Outside Flood Zone
Watershed	Yes
Hazardous Waste / Border Zone Properties	No
High Wind Velocity Areas	None
Special Overlay Area (BCE Basic Ord Map A, No. 1537)	No
City View	None
Seismic Hazards	
Active Fault Near -Source Zone	Within Fault Zone
Nearest Fault Distance in km	South Mount Fault
Region	Transverse Ranges and Los Angeles Basin
Fault Type	E
Site Rate (mm/yr)	1.0000000
Site Category	Let Levels - Reverse - Oblique
Site Type	Moderate / Heavy Construction
Drift (m Weight (kg))	33.0000000

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© 2014. All rights reserved. City of Los Angeles County's Public Works - Flood Control, Beach & Recreation.

Figure 2. ZIMAS for subject property. Yellow highlighted area contains fault information.

EXHIBIT “B”

June 11, 2014

Los Angeles City Council
200 N. Spring Street, Room 272
Los Angeles, CA 90012-4801

SUBJECT: 11965 W. MONTANA AVENUE ENV-2012-111-MND CONSTRUCTION IMPACTS

Dear Councilmembers:

On March 13, 2014 the City of Planning Commission adopted Mitigated Negative Declaration No. ENV-2012-111-MND that failed to adequately address the construction impacts associated with the development of a 49-unit condominium project located at 11965 W. Montana Avenue. In response to the Mitigated Negative Declaration (MND), Urban Crossroads prepared a memorandum on October 30, 2013 indicating that the proposed project creates potentially significant impacts that were not disclosed in the MND and for which no meaningful mitigation was proposed. This comment letter expands on our October 30, 2013 Memorandum to identify significant construction impacts that were not fully assessed in the MND.

On January 15, 2014 the Department of City Planning prepared an Appeal Staff Report recommending that the Planning Commission DENY the appeals challenge. In paragraph 3 of Page 3, the staff report asserts that *there are no stamps identifying other "technical experts"* with State License numbers for Acoustical Engineer, Environmental Engineer...implying that the reports prepared by various City Agencies...are certified technical experts. In the State of California, Acoustical Engineer and Environmental Engineer are not protected license types by the Board of Professional Engineers, Land Surveyors and Geologists. In effect, there are no state license numbers or registration stamps for Acoustical Engineer and Environmental Engineers.

In addition, the Appeal staff report consistently (Page 5 1st Paragraph, Page 6 1st Paragraph) indicates that the appellant does not provide arguments on how the mitigation measures fail to offset potential environmental impacts. Ironically, it is the responsibility of the Lead Agency to demonstrate that the mitigation measures will reduce the project impacts to a level of less than significant. The appellant is simply making a fair argument that the construction related impacts were not adequately addressed in the MND.

ACCESS AND CIRCULATION ISSUES

As stated in the October 30, 2013 Urban Crossroads memorandum, the Negative Declaration provides no quantitative analysis related to the construction-related passenger car and truck trips that will be required during both demolition and construction of the proposed project. Instead of providing meaningful analysis of the significant construction staging, hauling, stockpiling and demolition activities, the Appeal Staff Report attempts to deflect the City's responsibility as a lead agency to the applicant suggesting that the appellant did not provide arguments on how the mitigation measures fail

to offset potential environmental impacts. Appeal Argument 1 (Page 3 last paragraph) focuses on the significant access and circulation problems in the alleyways. However, the staff response completely fails to address these concerns and instead focuses on air quality impacts. No adequate response was provided to remedy the existing alleyway and access circulation problems that will be exacerbated with the Project construction. In addition, the MND ignores the potential impacts to the serious congestion, access and queuing issues associated with the two substandard narrow alleys on two sides of the Project site. These alleys represent the only vehicular access to several buildings facing San Vicente Boulevard. Since there are no alternative vehicular access points for these buildings, any construction activities that remotely alters, limits, constrains, or inhibits access represents a significant impact. New development today typically requires multiple access points to address the fire safety issues associated with a single point of ingress and egress. In addition, the narrow alleys are regularly used by the neighboring nursery school to access the outdoor playground and for drop off and pickup.

The proposed demolition of two large buildings will generate a substantial amount of debris to be hauled off-site with the use of large haul trucks, which can result in significant traffic impacts to nearby street segments and intersections. The MND identifies only one mitigation measure to control the transportation related construction impacts. The Construction Staging and Parking Plan (MM-11) defers mitigation using standard mitigation measures that do not adequately assess or describe the potential for impacts on the neighboring circulation system. While the MM-11 requires the preparation of a plan, it does not specifically quantify the impacts of the where the contractor, subcontractor, and laborers will park their vehicles or where the construction material, trucks and heavy equipment will be stored throughout each phase of project construction. The MND does not indicate the number of vehicles by phase of construction or evaluate the potential for these activities to further impact the significantly constrained circulation system. No technical studies were provided to support the less than significant finding of the MND.

NOISE STUDY COMMENTS

The City of Los Angeles initial study checklist (based on guidance provided by Appendix G of the California Environmental Quality Act (CEQA) Guidelines) indicates the project impacts are potentially significant unless mitigation is incorporated if the Project is determined to result in or cause:

- a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies;
- b. Exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels.
- d. A substantial temporary or periodic increase in ambient noise levels in the Project vicinity above noise levels existing without the proposed Project.

While the CEQA Guidelines and the City of Los Angeles General Plan Guidelines provide direction on noise compatibility and establish noise standards by land use type that are sufficient to assess the significance of noise impacts under thresholds a and b, they do not define the levels at which increases

are considered substantial for use under threshold d. Under CEQA, consideration must be given to the magnitude of the increase, the existing ambient noise levels and the location of noise-sensitive receptors in order to determine if a noise increase represents a significant adverse environmental impact.

To determine the significance of the project construction noise impacts, the City of Los Angeles CEQA Thresholds Guide requires an evaluation of several screening criteria. This evaluation includes a review of the project description, information on construction activities, and a map showing the location of noise sensitive uses within 500 feet of the project site. Noise sensitive uses include residences, transient lodgings, schools, libraries, churches, hospitals, nursing homes, auditoriums, concert halls, amphitheaters, playgrounds, and parks. Unfortunately, the MND does not provide detailed information on the type of construction activities or a map showing the location of noise sensitive uses within 500 of the project site. If the City of Los Angeles construction noise screening criteria were applied to the project, then noise sensitive uses would have been identified for the Brentwood Presbyterian school and church located less than 100 feet from the project site and the medical office center located less than 50 feet from the project construction site. Additional noise sensitive land use may also exist within 500 feet of the project site, but this information is not provided in the MND.

To determine significance, the Thresholds Guide indicates that a project would normally have a significant impact on levels from construction if, construction activities lasting more than one day would exceed existing ambient exterior noise levels by 10 dBA or more at a noise sensitive use. With Presumed Ambient Noise Levels (Exhibit I.1-3) of 50 dBA for noise sensitive land use and construction noise levels ranging from 77 to 86 dBA, the project construction impacts will approach 36 dBA. This project construction noise impacts far exceed the existing ambient exterior noise level significance threshold of 10 dBA.

The MND fails to adequately quantify the ambient noise levels, the duration of construction activities, identify the type, amount, and scheduling of construction equipment to be used during each construction phase, or measure the distance from construction activities to noise sensitive uses.

CONCLUSIONS

Our review of the MND makes a fair argument that the project will have a significant traffic and noise impact that were not adequately addressed in the MND and therefore, requires either the revision or recirculation of the MND or the preparation of an Environmental Impact Report. If you have any questions, please contact me directly at (949) 660-1994 x203.

URBAN CROSSROADS, INC.



Bill Lawson, P.E., INCE
Principal
URBAN CROSSROADS, INC.
41 Corporate Park, Suite 300
Irvine, CA 92606
(949) 660-1994 x203
blawson@urbanxroads.com



EDUCATION

Master of Science in Civil and Environmental Engineering
California Polytechnic State University, San Luis Obispo • December, 1993

Bachelor of Science in City and Regional Planning
California Polytechnic State University, San Luis Obispo • June, 1992

PROFESSIONAL REGISTRATIONS

PE – Registered Professional Traffic Engineer – TR 2537 • January, 2009
AICP – American Institute of Certified Planners – 013011 • June, 1997–January 1, 2012
PTP – Professional Transportation Planner • May, 2007 – May, 2013
INCE – Institute of Noise Control Engineering • March, 2004

PROFESSIONAL AFFILIATIONS

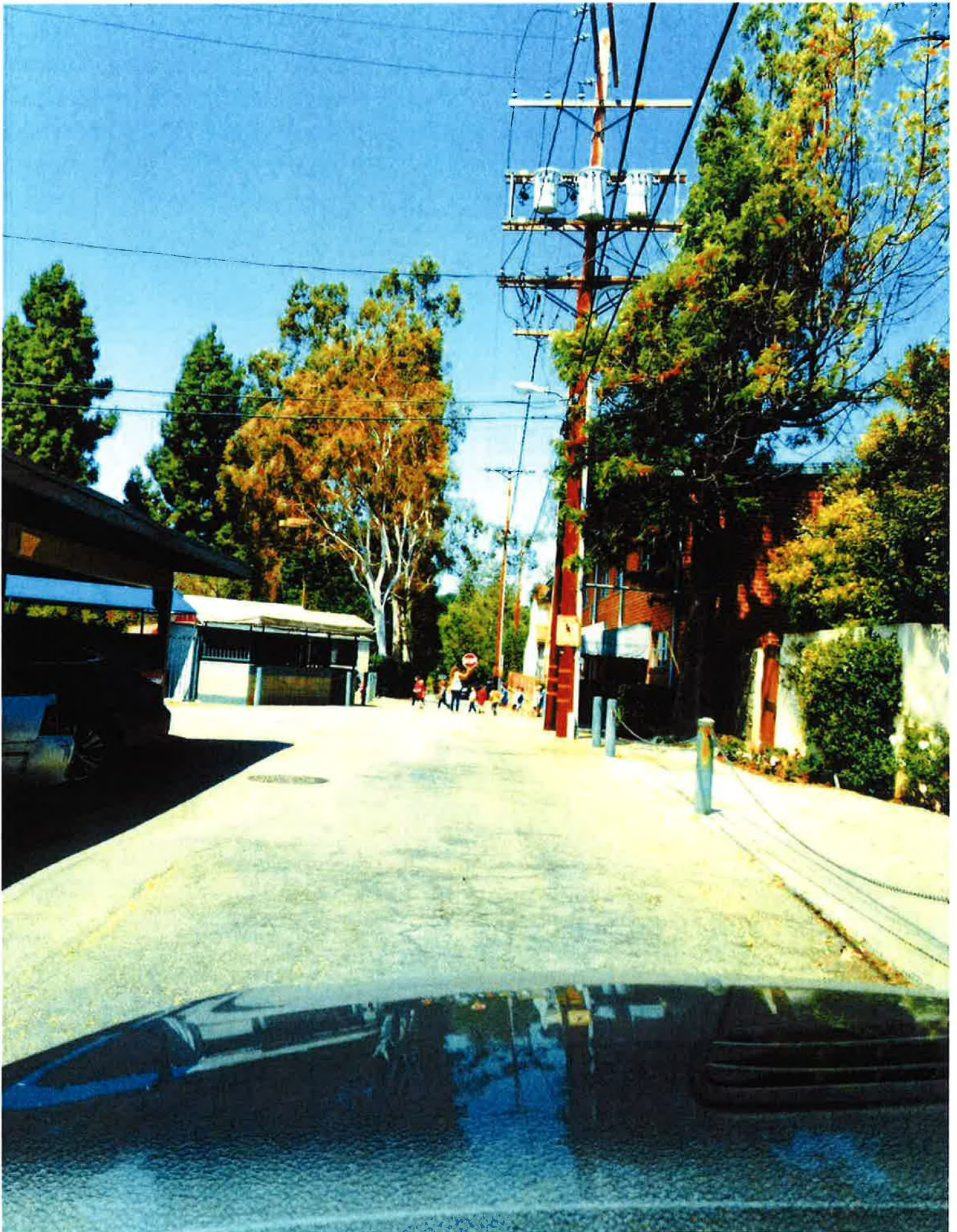
ASA – Acoustical Society of America
ITE – Institute of Transportation Engineers

PROFESSIONAL CERTIFICATIONS

Certified Acoustical Consultant – County of Orange • February, 2011
FHWA-NHI-142051 Highway Traffic Noise Certificate of Training • February, 2013

EXHIBIT “C”







STOP

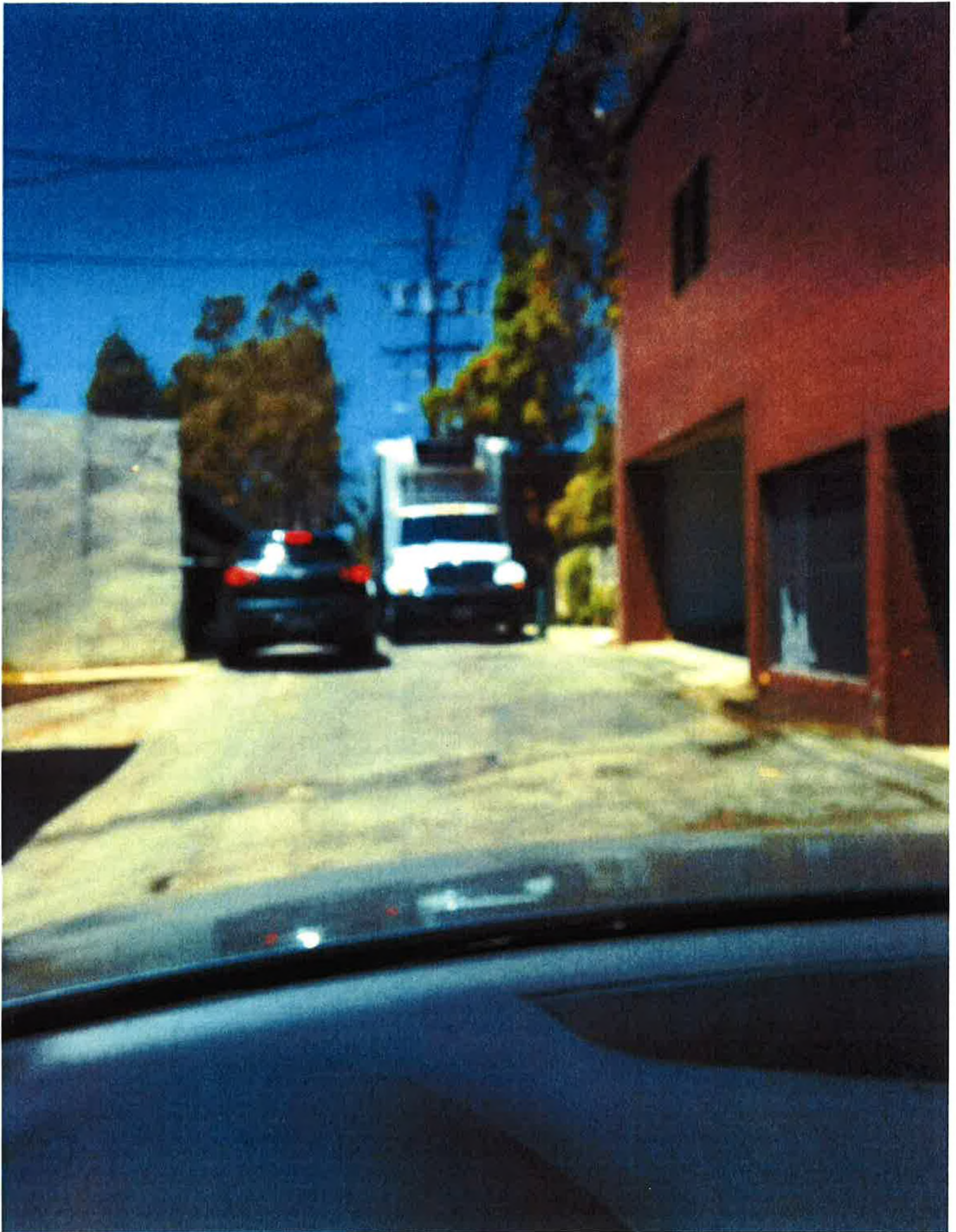
CAUTION
WALKING
CHILDREN



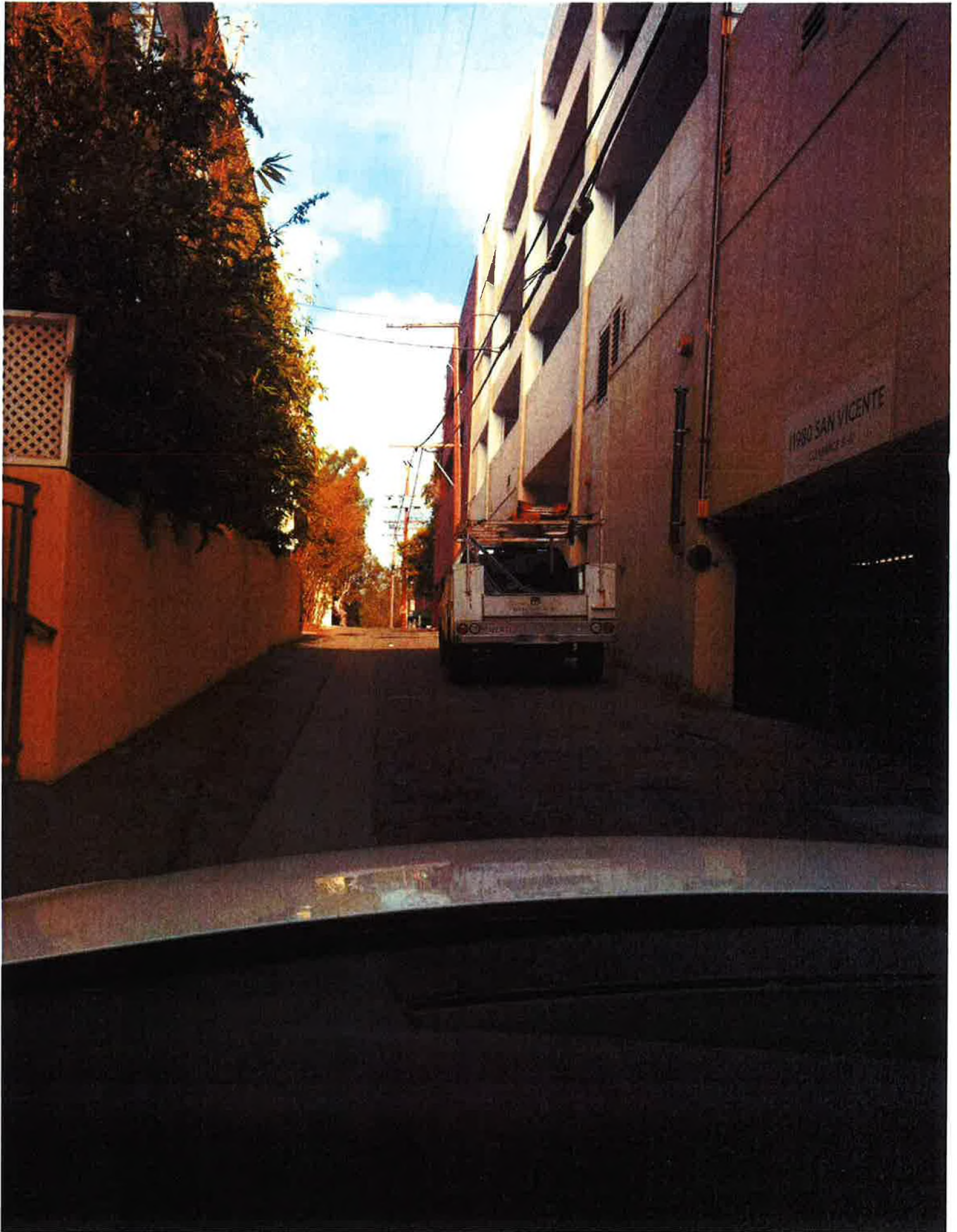








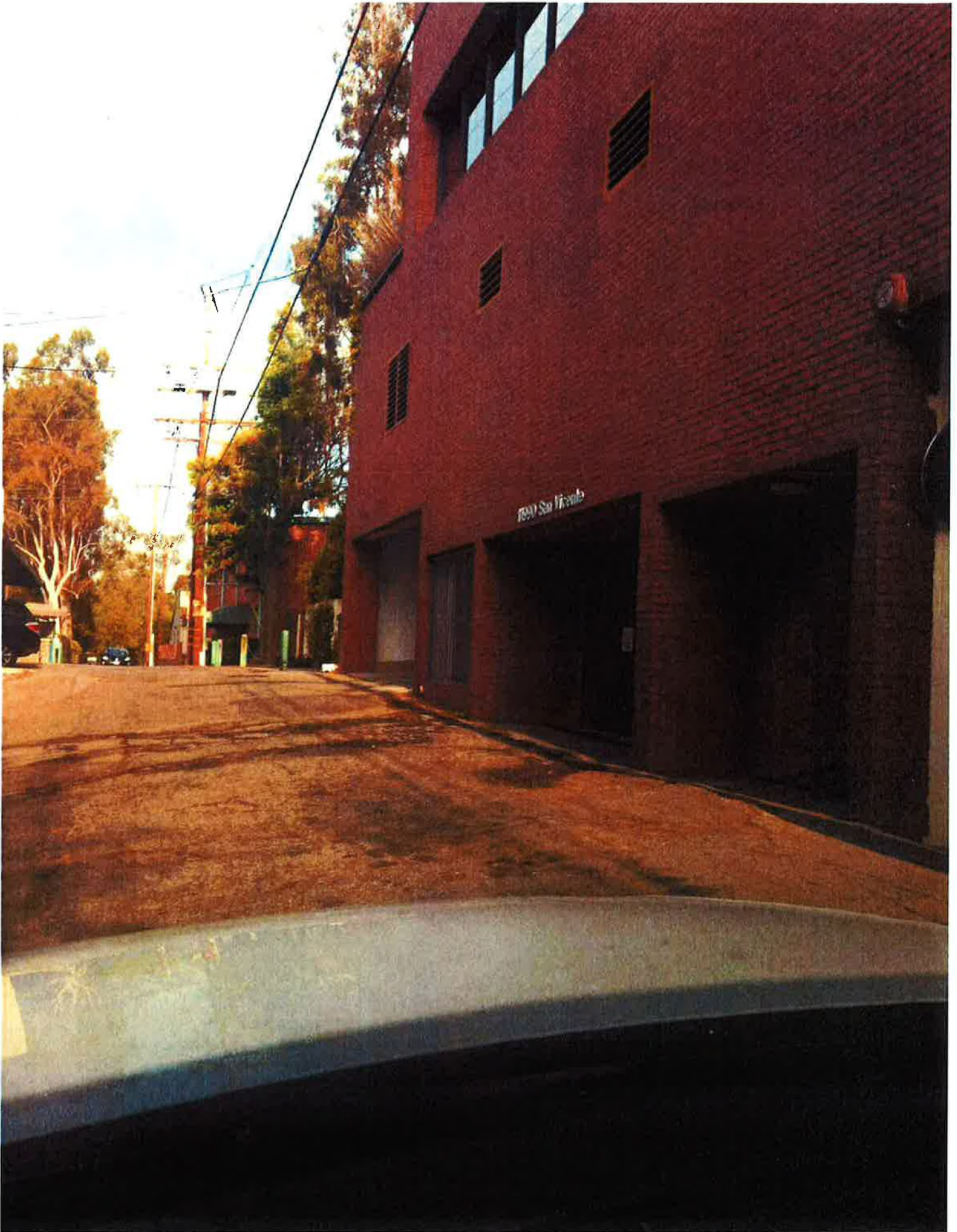


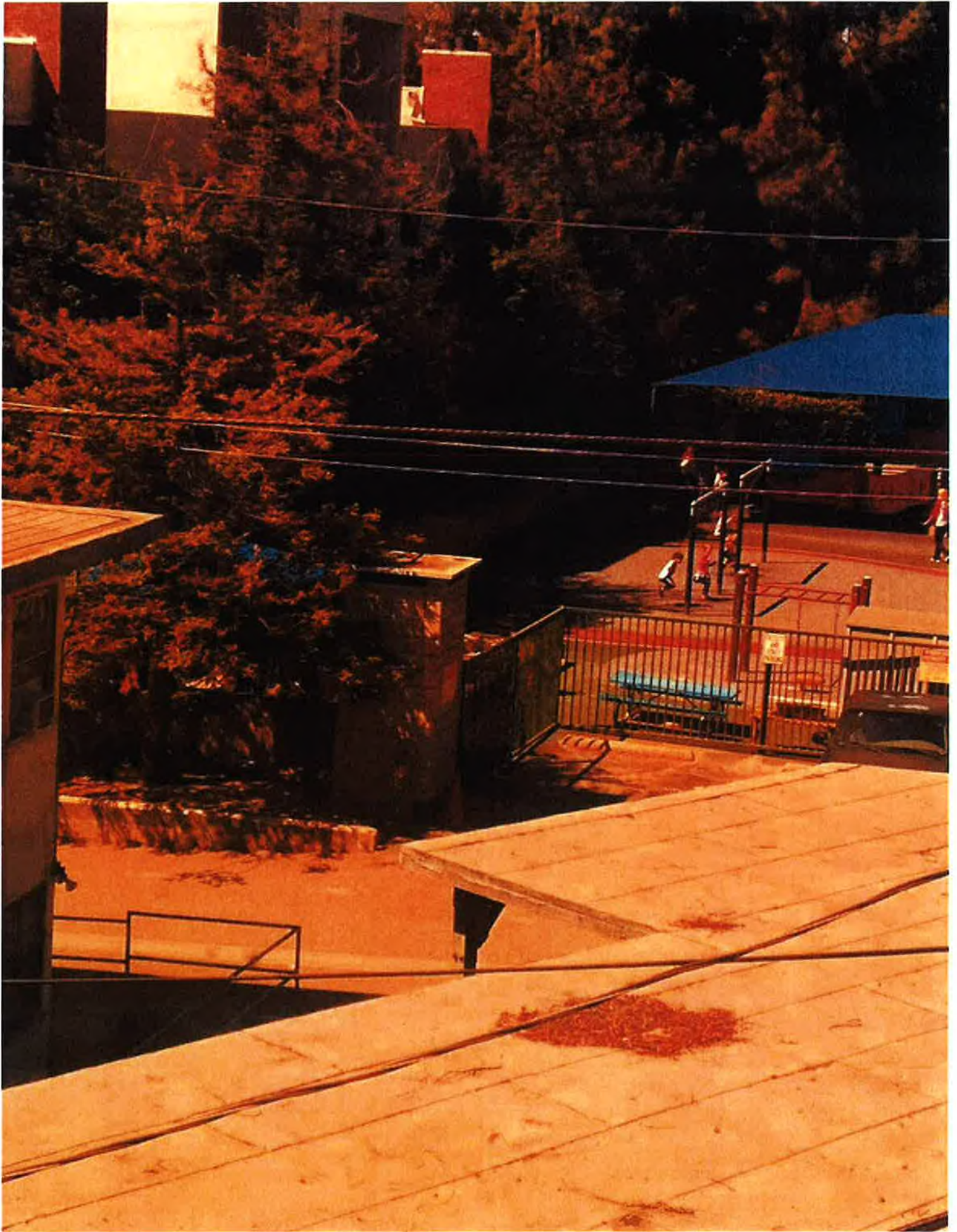


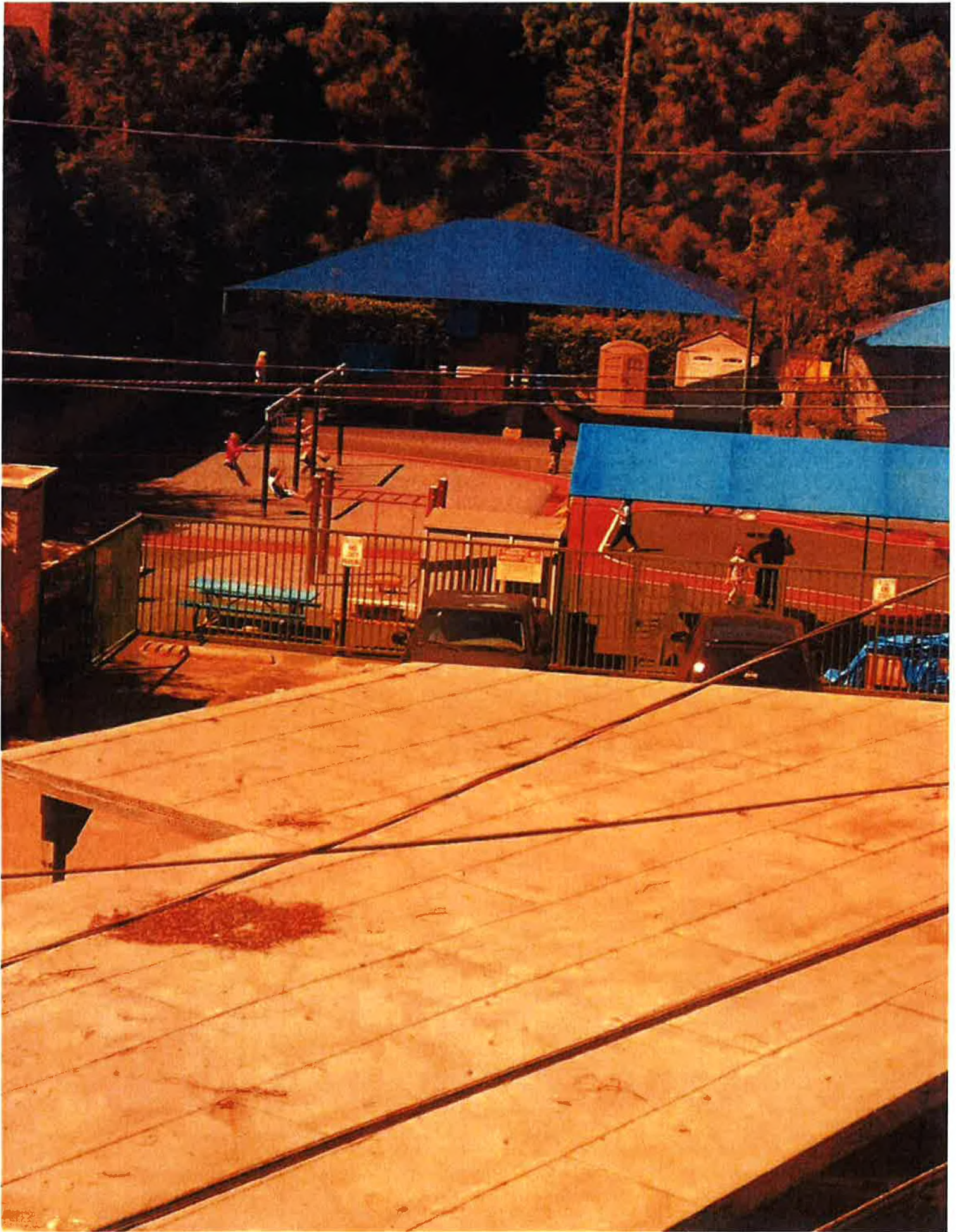
11980 SAN VICENTE
CLEARANCE 6'-6"

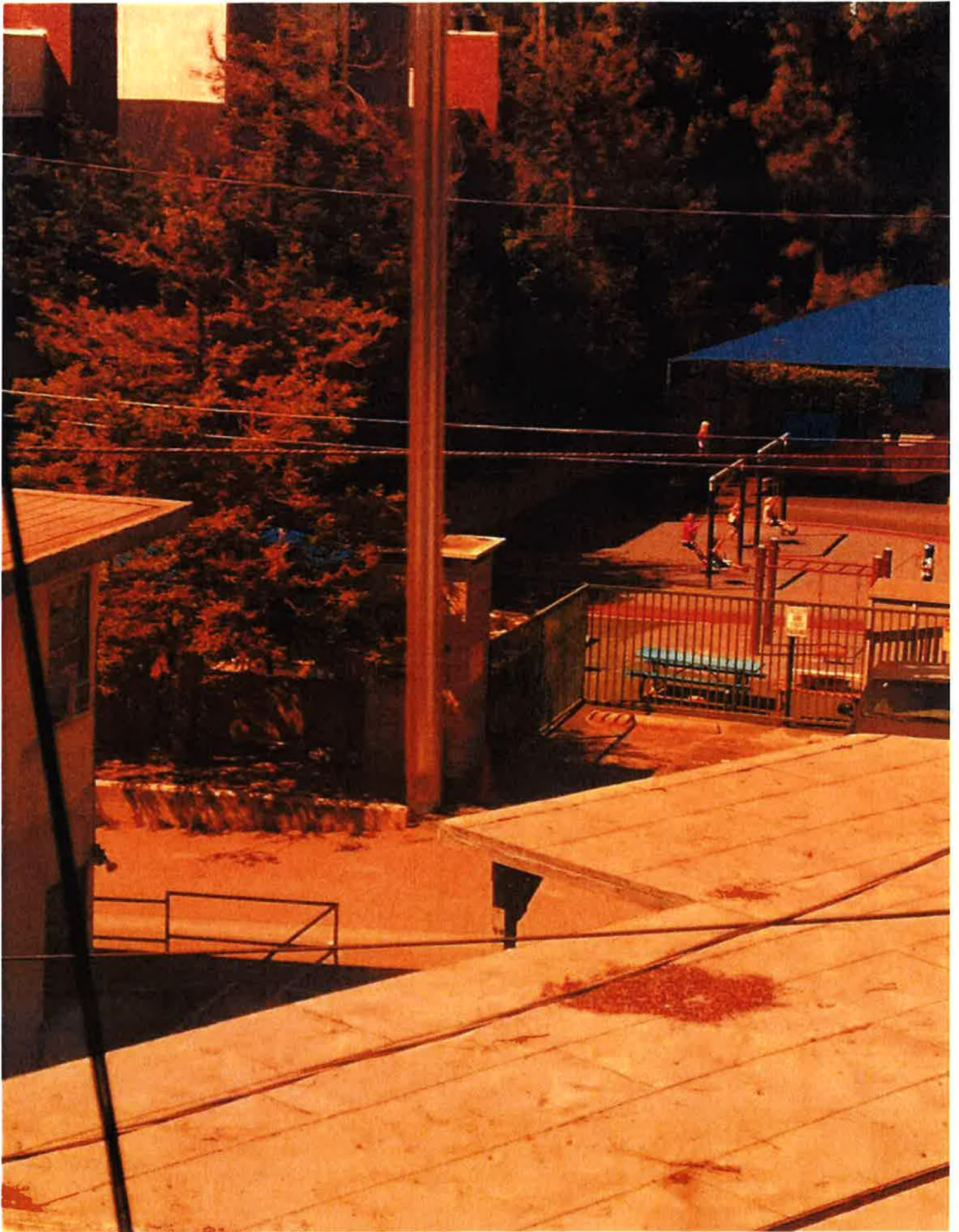
SSBB-ERE (01R)
1014 A JHOM ATHAS

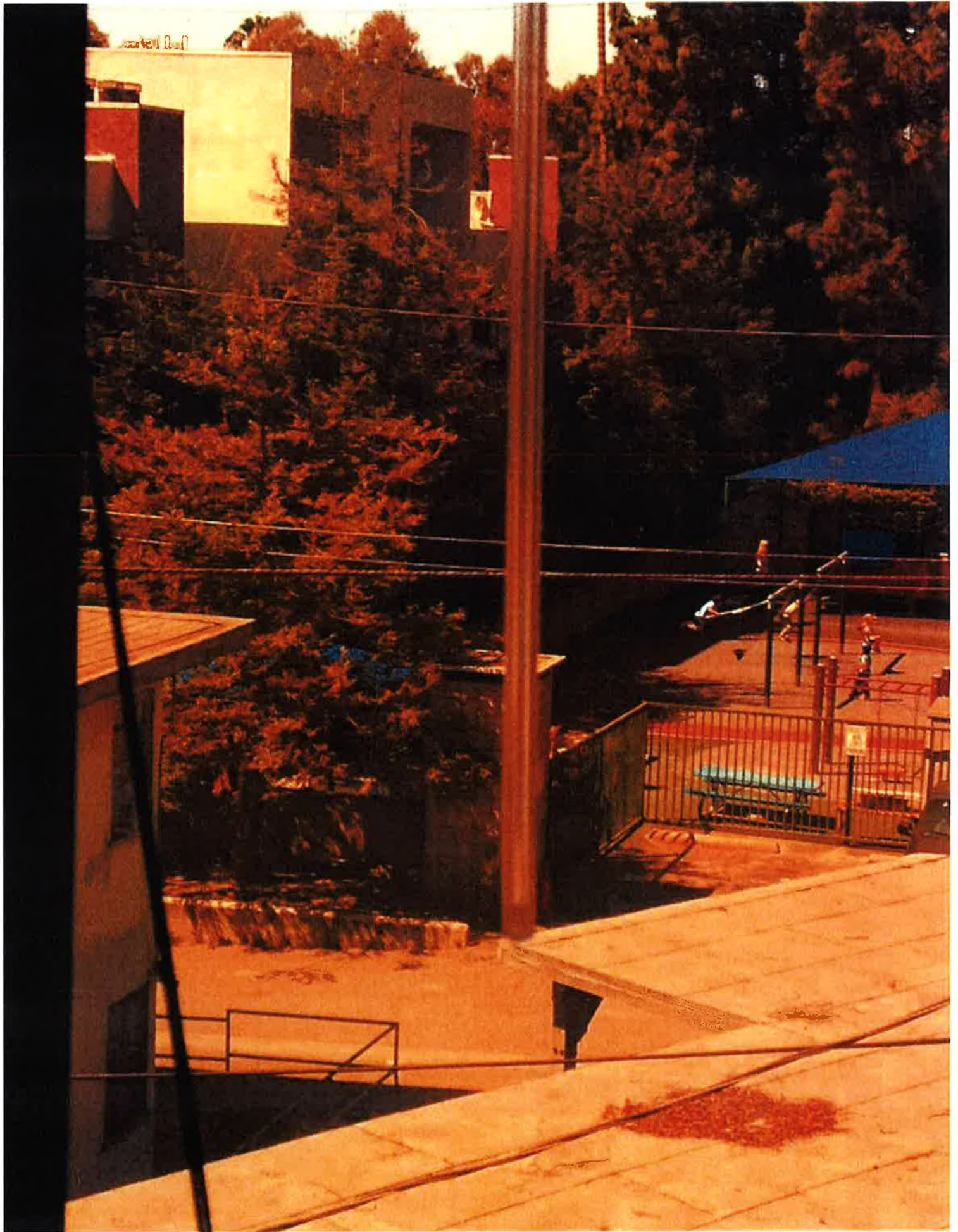


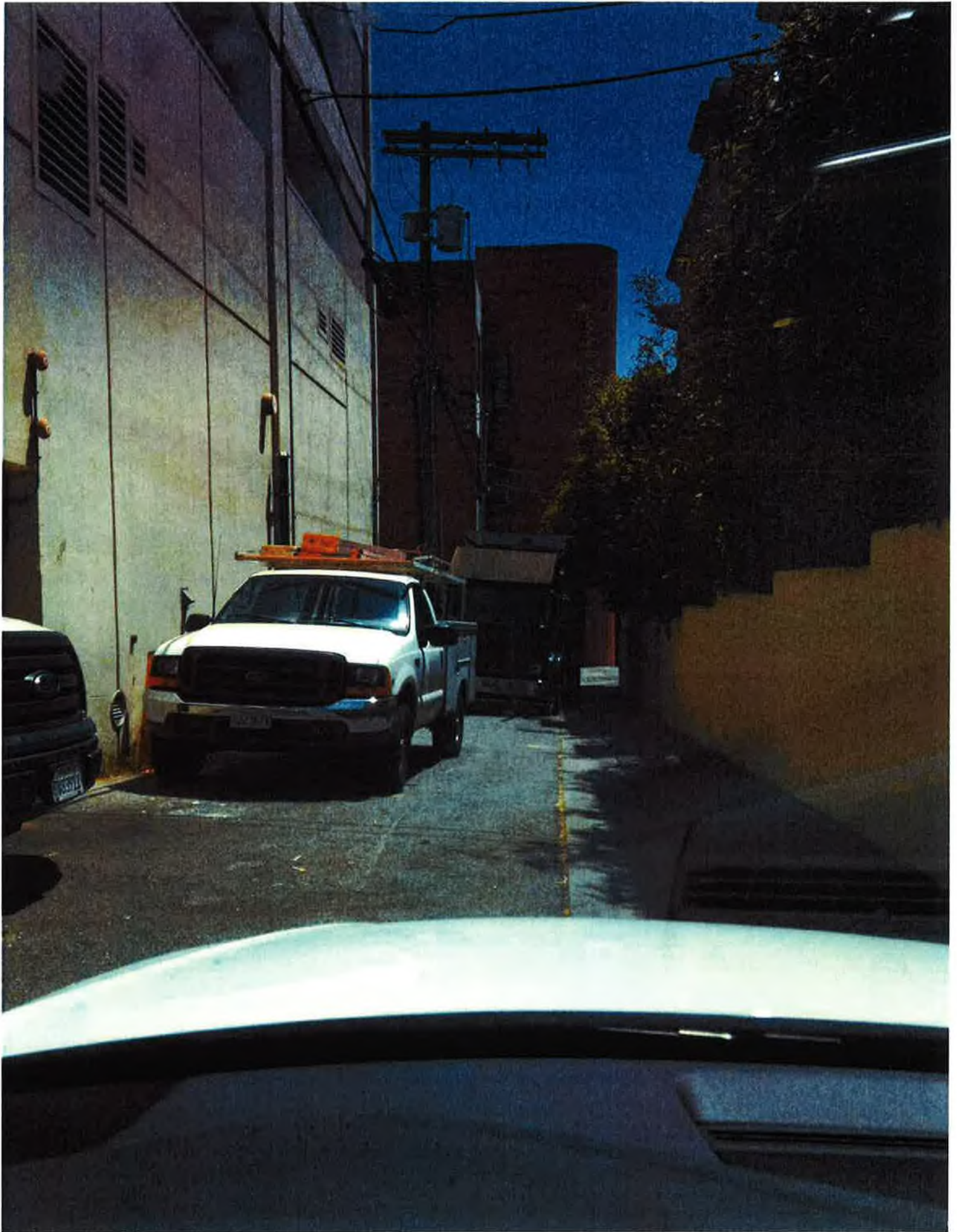


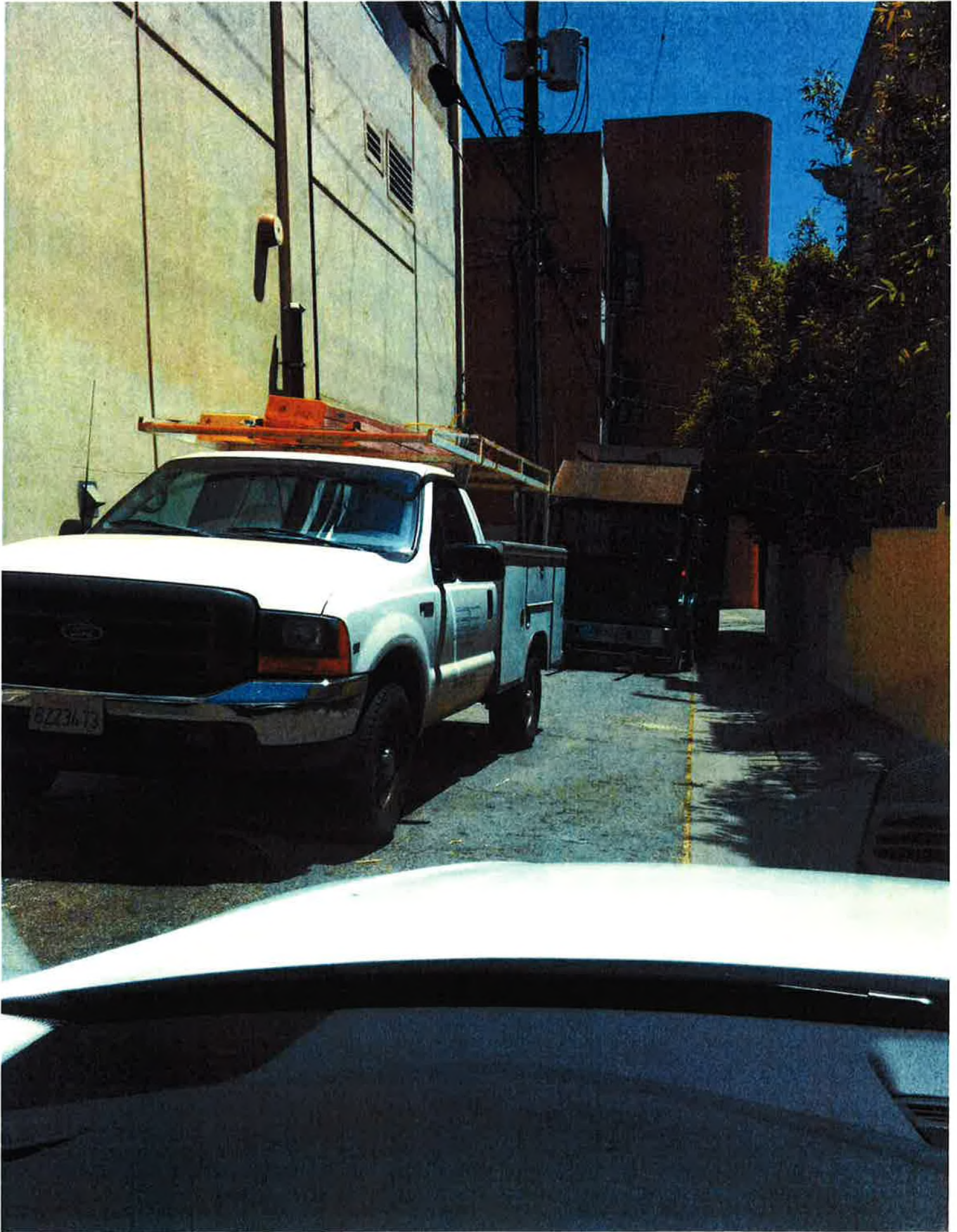


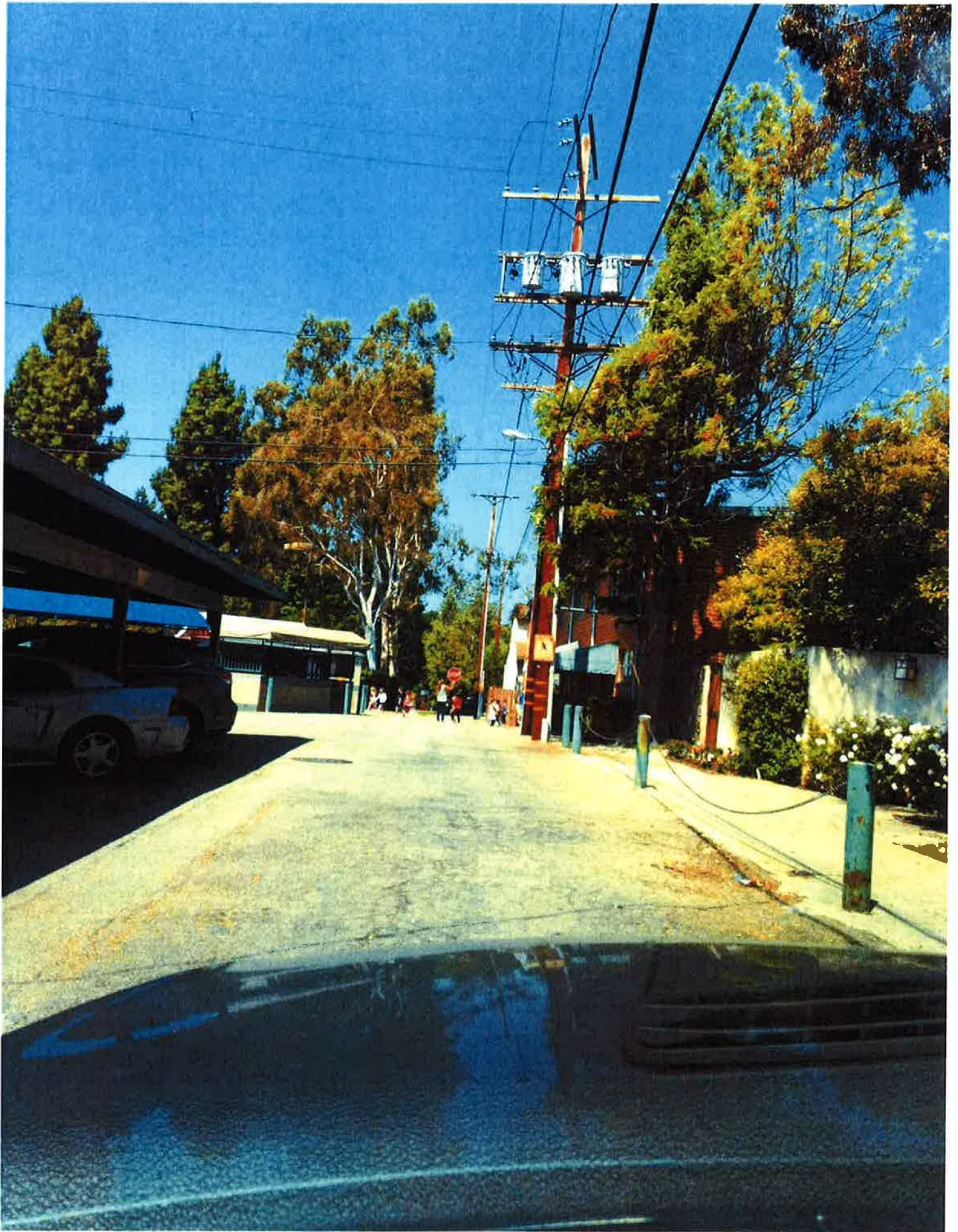


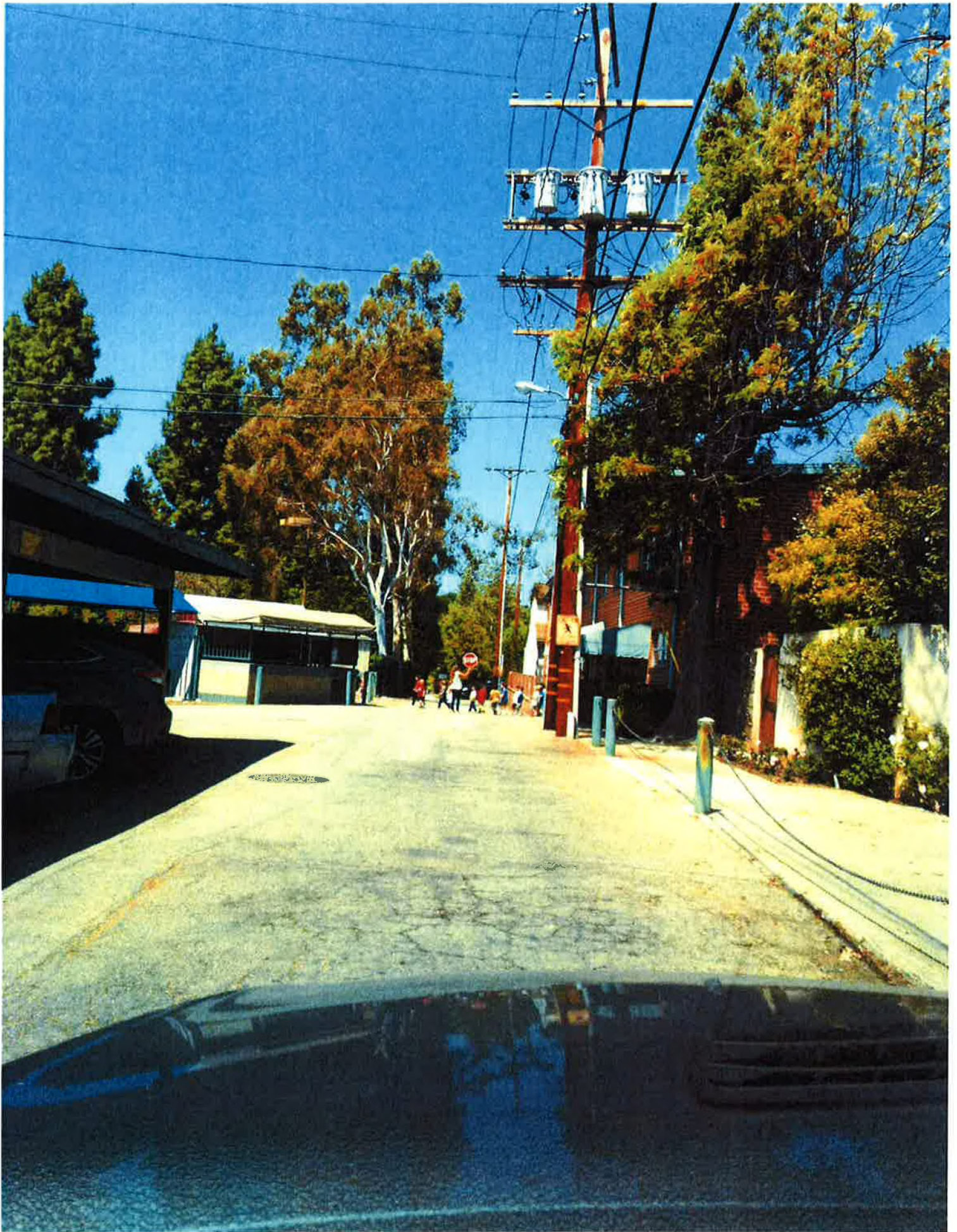




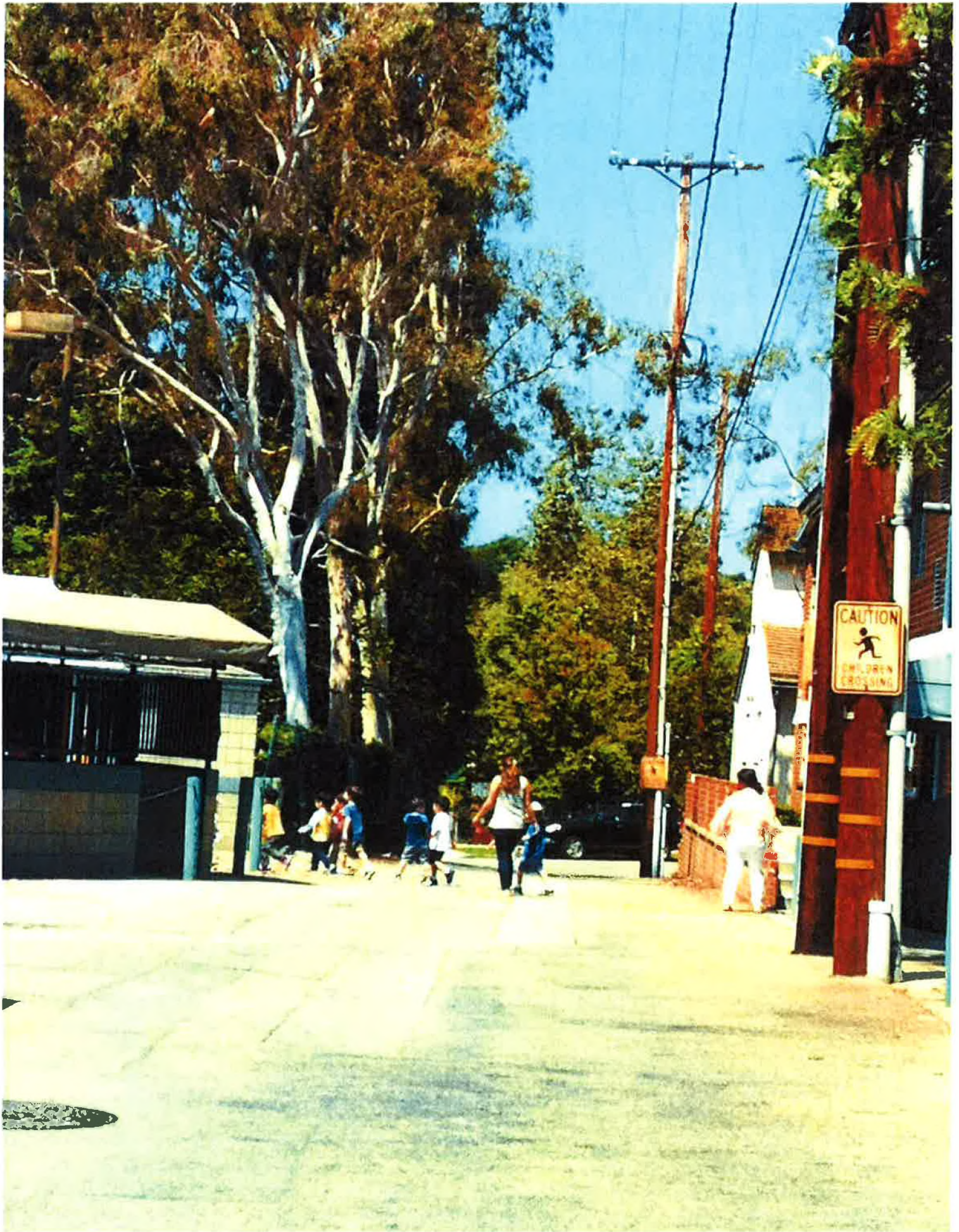




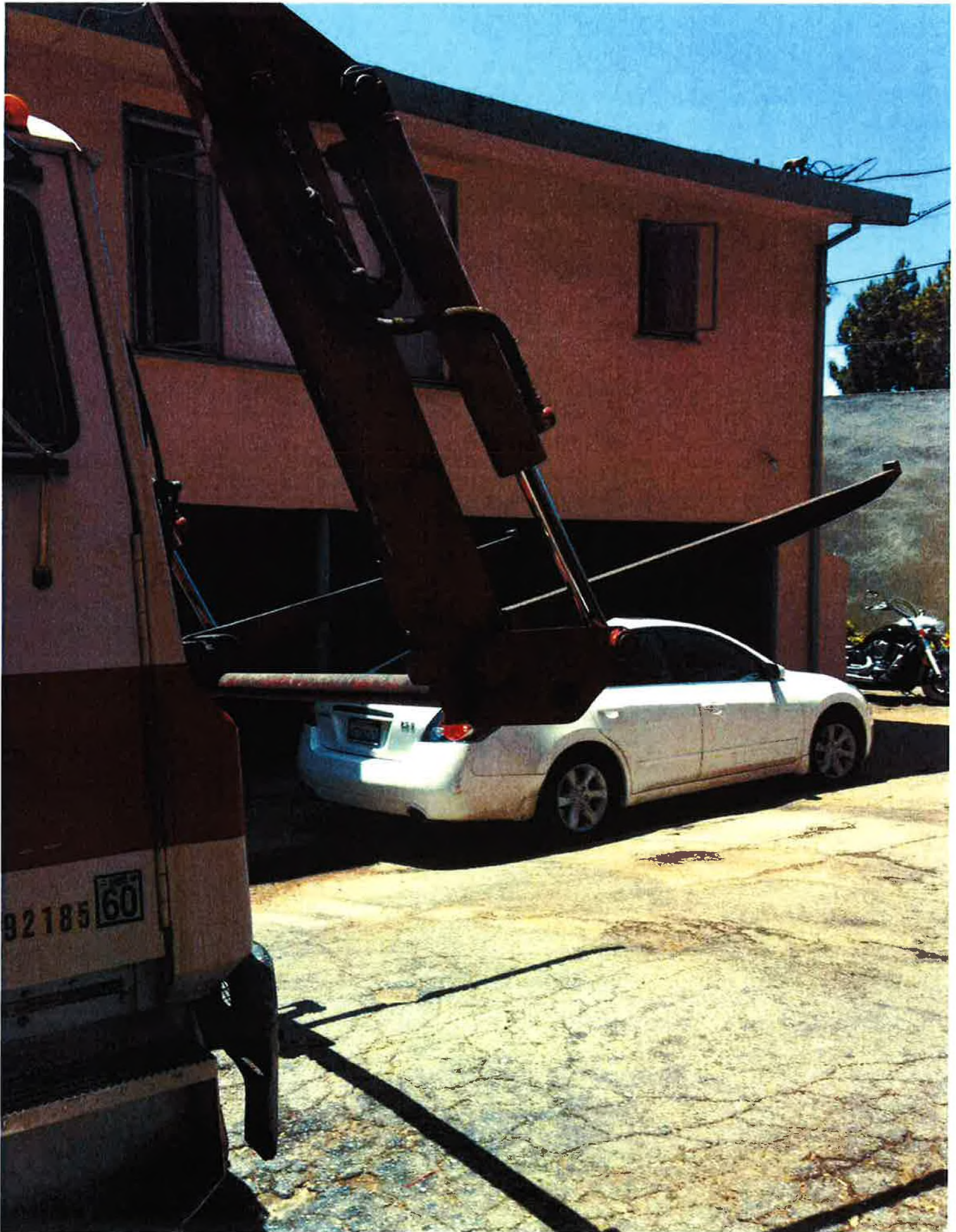


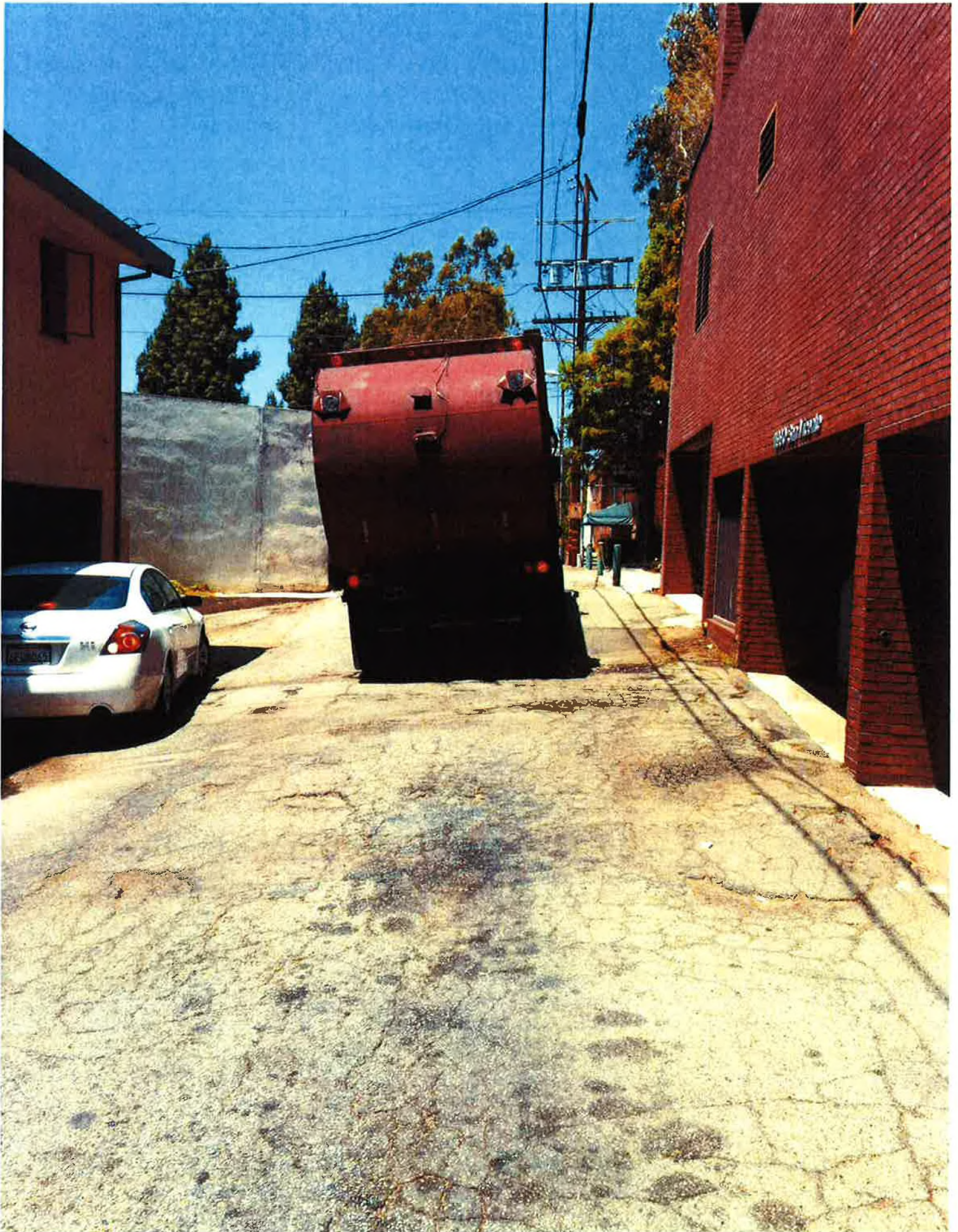


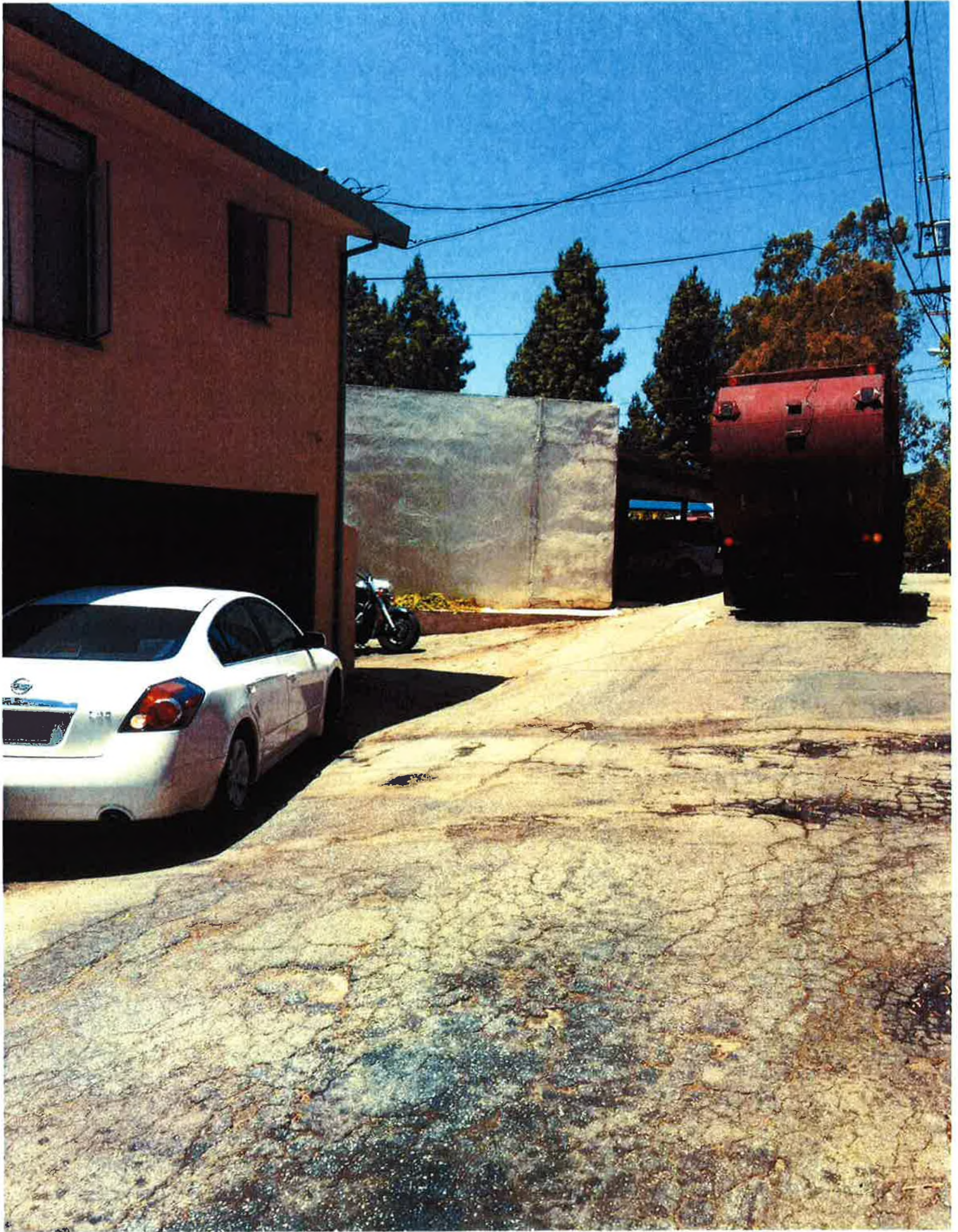












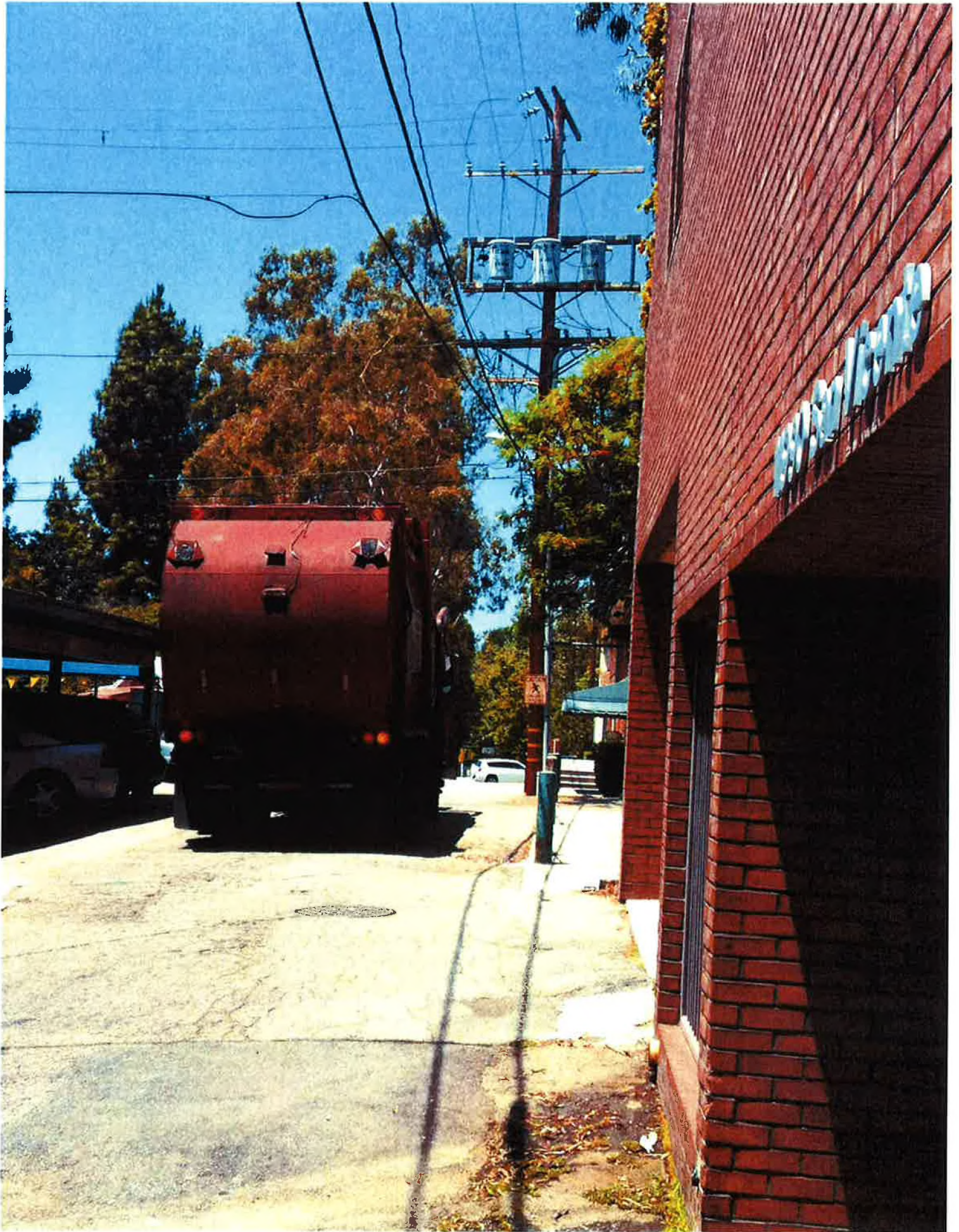


EXHIBIT “D”

**BRENTWOOD STAKEHOLDERS ALLIANCE
FOR BETTER LIVING AND SENSIBLE PLANNING**

June 3, 2014

Los Angeles City Council
c/o Planning and Land Use Management Committee
200 North Spring Street
Los Angeles, California 90012

**Re: Appeal of Case No. VTT-71898-CN-1A/ENV-2012-1111-MND
Council File No. 14-0617**

Dear Councilmembers:

We are an unincorporated association comprised of people that live, work, shop, and/or recreate in the Brentwood neighborhood of the City of Los Angeles. We write in support of the appeal of the above referenced case number regarding the proposed project at 11965-73 Montana Avenue, Los Angeles, California 90049 (the Project).

The California Environmental Quality Act (CEQA) was adopted for disclosure and transparency. The theory is that by providing a CEQA document that adequately describes the environmental consequences of a project to decision makers and the public, the decision makers will make a rational decision based upon the true environmental consequences of the project and if they do not, the electorate can hold them accountable for their decisions. At the core of this statutory structure is the adequacy of the CEQA document as an informational tool.

Unfortunately, the Mitigated Negative Declaration (the MND) for the Project fails as an informational document. The MND misleads decision makers and the public as to the extent and severity of the Project's environmental impacts. The MND is often conclusory and does not provide the analysis or examination required by CEQA to inform the public and decision makers of the analytical pathway taken from facts to conclusions.

CEQA also requires that where feasible mitigation exists which can substantially lessen the environmental impacts of a project, **all feasible mitigation must be adopted**. In this way CEQA goes beyond its informational role to require that projects substantively lessen their negative effects on the environment. It is critical to proper drafting of a CEQA document that all

feasible mitigation measures be required of a project. This has not been done with this Project. Moreover, all mitigation measures required in the MND must be fully enforceable and certain to occur. This Project fails to ensure that all feasible mitigation will occur with this Project and instead provides vague, uncertain and unenforceable approximations of mitigation measures. This is unacceptable.

Geotech: According to the City's own mapping systems, the Project is in the Santa Monica fault zone and in an area with liquefaction potential. Nevertheless the MND does not study these potential impacts in any substantive way and therefore does not provide any definite or definitive mitigation measures to address these potential impacts. It simply requires the developer to follow the California Building Code and submit a geotechnical report to the Department of Building and Safety in the future. We submit that this geotechnical investigation be completed now and the report submitted prior to approval of the Project so that it can be reviewed by the public and the decision makers. Instead, the City has deferred this work and its resulting disclosures until after the project is approved. In doing so the City avoids public disclosure and consideration of the possible impacts related to the geotechnical condition of the Project site and formulation of necessary mitigation to mitigate those impacts. The analysis and mitigation offered by the MND is simply conclusory and unsupported. The MND is relying on mitigation that have not been studied, specified, identified or developed.

Traffic: The MND concludes that the Project will not cause any significant transportation impacts and lists as the only mitigation measure that the applicant install signs, limit dirt import and obtain a haul route approval subject to certain conditions. The MND ignores transportation impacts that will result during the operational phase of the Project and solely focus on impacts during the construction phase (and does a very inadequate job of that in and of itself). In fact, the only mitigation the City is requiring the applicant to provide is a tentative schedule for delivery and haul materials to the Department of Transportation and directional signs and flag men. That is not adequate mitigation and is deferred until a later date. There is also was no underlying traffic report that any of the decision makers or the public had to review during the circulation of the MND that provides any substantiation that the required traffic mitigation will mitigate the Project's potential significant impacts. This, despite the fact the

Project is in a Transportation Specific Plan Area (AKA a TIMP) and the City's only policy requires that such a study be completed. The City's initial study simply and summarily concludes that it will not cause any significant impact. Contrary to these conclusions, it is clear that the Project, will create significant access and circulation problems in the immediate area. Perhaps the biggest issue in terms of traffic impacts is that the Project would cause serious congestion, queuing and health and safety impacts in the very narrow alleys on two sides of the Project site. In several cases these alleys are the only vehicular access (in many cases both ingress and egress) to the various buildings fronting onto San Vicente Blvd. These alleys are also utilized by the immediately adjacent nursery school for drop off and pick up of young children. Young children also utilize the alley to access their playground. Despite all of these facts, issues related to the continued usability and safety of the alley during construction and afterwards have not been specifically addressed.

The MND itself also concludes, again without any analysis, that there will be no "Level of Service" problems with regard to intersections surrounding the Project. As people who regularly drive this neighborhood every day, we can testify that there certainly are many failing intersections around the Project site. Our testimony is more accurate than a mere conclusion by the City without any real analysis that there are and will be no LOS issues associated with the Project. The MND's conclusions in this regard are therefore ludicrous. This issue should at least be studied and some real traffic counts analyzed along with cumulative analysis of all other relevant projects under consideration.

Greenhouse Gases: The MND does not analyze mobile greenhouse gas emission impacts related to the Project that will occur in conjunction with its construction. It only purports to deal with such impacts as a result of the operational phase of the Project which is to say it deals only with stationary impacts. There are two schools adjacent to the Project site and the greenhouse gas and other construction related impacts to those school sites are extremely serious and deserve further analysis.

Additional Construction Impacts: In addition to all of the construction impacts discussed above it is worth noting that an open air nursery school playground is immediately adjacent to the Project site. Just across Bundy Avenue is also all of the

outdoor recreation space for the Brentwood Science Magnet school. Given these sensitive receptors and their extremely close proximity to the Project site, the CEQA evaluation should further study the effects of noise, dust, asbestos and other related impacts that will result from the Project's construction. Such analysis is totally absent from the MND.

* * *

While it is clear that City believes it can approve this Project with a MND, we believe given the fair arguments discussed above that the Project may cause significant environmental impacts and that therefore an EIR is required to be prepared. Under the fair argument standard, a project may have significant environmental effects whenever there is a reasonable possibility of such significant effects. Substantial evidence of such a reasonable possibility includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Reasonable assumptions based on our own human observation and experience in the immediate vicinity as well as expert testimony already on the record make it clear that such a significant effect is a reasonable possibility in this case. Therefore we request that an EIR, as required by CEQA be processed and considered for this Project.

Our concerns about this Project are serious and we therefore oppose this Project based on the lack of adequate analysis and mitigation completed to date.

Sincerely,



Eric Fleiss