

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No fiscal impact.

C. Departmental Fiscal Review: _____ *1-4-12*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

The is no fiscal impact as charges only affect the wording on the agreement to allow the demolition of the building.

OFMB *[Signature]* 1/17/12
 1/13/12 1/13/12

Mr. J. Jacobson (118)12
 Contract Development and Control
 1-18-12 B. Whelan

B. Legal Sufficiency:

[Signature] 1/19/12
 Assistant County Attorney

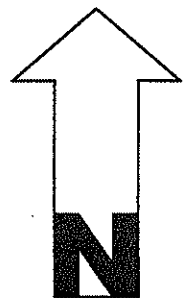
C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.



LOCATION MAP



Agenda Item #:

3H-12

A/G 7-d

R-2006-1919

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: September 12, 2006 [X] Consent [] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: a Resolution providing for the purchase of a Waterfront Preservation Easement and Declaration of Restrictive Covenants for the Boynton Beach CRA Marina.

Summary: The Boynton Beach CRA, as part of their Waterfront Preservation Program, purchased the Two Georges Marina (a/k/a Boynton Marina) in March of 2006 for \$4,775,000 in an effort to avoid loss of the existing restaurant and marina to residential development. The Marina consists of a total of 1.45 acres of upland and submerged land containing a two-story marina office, restrooms, dive shop, classroom, 24 boat slips and 42 parking spaces. The CRA requested \$2 million in funding assistance for this project which was allocated by the Board in November 2005. This Easement requires that the Marina property and all improvements be used for public marina purposes, subject to the rights of Two Georges Restaurant to use 19 parking spaces for their valet operations. The public will have the right of access to the Marina and all improvements. The CRA must make available 8 boat slips for Charter/Commercial Boat operators, and the remaining 16 slips for lease to the general public at no more than market rate. The Marina property may not be transferred to a non-governmental entity without the consent of the County. Upon approval of this Resolution and Staff obtaining a title policy evidencing satisfactory title, the County and property owner will simply exchange the Easement for payment of \$2 million. (PREM) District 7 (HJF)

Background and Justification: In November of 2004, the voters approved a \$50 million bond issue to preserve, protect and expand public access to and use of freshwater and saltwater bodies of water and to preserve working waterfronts. On March 1, 2005, the Board directed that \$35 million of the bond issue be allocated to Marinas, Boatyards and Redevelopment Projects. On November 22, 2005, the Board reviewed the potential projects identified by Staff and allocated \$2 million to this project. The Boynton Beach CRA intends to use the money received from this transaction to help fund other acquisitions in the Boynton Marina redevelopment area.

The Boynton Beach CRA obtained appraisals of the Marina at the time of its acquisition, which valued the property at \$4,775,000. No additional appraisals were obtained as this is merely a funding arrangement with the CRA and the County is funding less than half of the CRA's purchase price.

CONTINUED ON PAGE 3

Attachments:

1. Location Map
2. Resolution
3. Budget Availability Statement

Recommended By: _____

Department Director

8/28/06
Date

Approved By: _____

County Administrator

9/11/06
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	<u>2,007,575</u>	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	<u><u>2,007,575</u></u>	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund 3038 Dept 581 Unit P608 Object 8101 ^{2M}
0001 410 4240 3401 (title insur only)

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Funding for this project will be provided as follows: \$2 million from the \$50 million Waterfront Preservation Bond Issue.

Cost for title insurance estimated at **7,575.**

Included in FY 2007 Proposed Budget.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments: Transaction will not be processed until after October 1, 2006.

[Signature]
 OFMB *[Signature]*
 8/21/06 *[Signature]*

[Signature] 9/11/06
 Contract Development and Control

B. Legal Sufficiency:

[Signature] 9/11/06
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

Background and Justification continued:

The Two Georges Restaurant and Marina has operated in this location for over 20 years. The Marina is home to a drift fishing boat, several dive boats and charter boats. With the adjacent Banana Boat Restaurant, this a thriving waterfront destination. Over the years, the City of Boynton Beach has made numerous attempts at redeveloping its waterfront/marina area, with limited success. Recently, the City/CRA has made significant progress in adopting a Master Plan, acquiring land and facilitating redevelopment consistent with that plan. WCI is completing a large condominium project surrounding Two Georges Restaurant and the Marina. As part of the Marina acquisition, the CRA granted Two Georges an easement to use 19 of the Marina parking spaces for restaurant valet operations. This shared parking arrangement works well. In addition, the CRA obtained 75 additional public parking spaces in a garage constructed by WCI. This additional public parking is a key element of the CRA's program to increase public access to and utilization of the water front area. The acquisition of the Marina and working out the shared parking arrangement with Two Georges prevented WCI from acquiring the Restaurant and Marina property. This was a strategic move which should ensure that the waterfront area and Restaurants in particular remain in existence.

The CRA is negotiating to acquire 2 additional parcels adjacent to the Restaurant/Marina. One parcel is used as a fuel dock providing an important amenity to the boating public. The offering price is roughly \$500,000 and the CRA has requested funding assistance for this acquisition. While preservation of the fuel dock would benefit the boating public, Staff has informed the CRA that all bond funding is currently committed to other projects.



CONSTRUCTION PHASING EXHIBIT
 BOYNTON BEACH C.R.A.
 BOYNTON HARBOR MARNIA

Scale: 1" = 100'

PROJECT: BOYNTON BEACH C.R.A. MARNIA
 PREPARED BY: MSCW CONSULTANTS, INC.
 4750 NEW BRAND SUESS CIRCLE, SUITE 100
 OCEAN RIDGE, FLORIDA 32134

4750 New Brand Suesst Circle, Florida 32134
 Tel: 407.422.8330 | Fax: 407.422.9323 | www.MSCW.com





September 27, 2011

RECEIVED

Mr. Ross Herring, Director
Property and Real Estate Management Division
Palm Beach County
301 N. Olive Avenue
West Palm Beach, FL 33401

SEP 28 2011

Re: Waterfront Preservation Easement and Declaration of Restrictive Covenants for Boynton Beach Marina

Dear Mr. Herring,

Pursuant to Article II of the Waterfront Preservation Easement (See Attachment 1-Easement and Declaration of Restrictive Covenants), the Boynton Beach CRA is requesting approval to demolish the two-story structure located at the Boynton Beach Marina.

The reason for the request is twofold; first, the existing structure is not cost efficient to renovate due to its age, setbacks and condition (See Attachment 2-Site Analysis Report/Architectural Issues). Secondly, the CRA has designed a master plan (See Attachment 3-Marina Master Plan) for the Marina that includes a new building that will have public restrooms, changing areas and ships store (See Attachment 4-Marina Building). Currently, the Marina does not have public restrooms. The CRA is paying Two Georges Restaurant for the use of their restroom facilities for use by the Marina businesses and their patrons. The new building will be located due east from the existing building along the waterfront.

To date, the CRA has invested over \$9.4 million dollars into the Boynton Beach Marina, (now renamed the Boynton Harbor Marina through a public renaming contest). This includes land at \$7.7 million and \$1.7 million in construction of new docks, piers, fish cleaning stations, dredging and an entry feature at Ocean Avenue (See Attachment 5-Photos of Completed Work). This fiscal year the CRA will undertake two more phases of the Marina Redevelopment Project; the redevelopment of the area where the existing building currently sits into a green space and an entry feature at Boynton Beach Boulevard and Federal Highway (See Attachment 6) for an additional investment of \$620,000.

Page Two/Request for Demolition

The CRA Marina has 19 boat slips with one available to a water taxi service and 16 leased to commercial marine businesses. Our slip rent of \$14 per linear foot is the lowest of all municipal marinas in Palm Beach County. The CRA Board recently voted to maintain this rate during these hard economic times to assist the marine businesses.

Additionally, the CRA owns 126 public parking spaces within the adjacent Marina Village Condominium project that are utilized by the marine businesses. It is the intent of the CRA to preserve this working waterfront for the benefit of the marine businesses, tourists and County residents. We look forward to hearing from you soon regarding our request.

Sincerely,



Vivian L. Brooks
Executive Director

Enclosures

cc: Mayor Jose Rodriquez, City of Boynton Beach
Lori LaVerriere, City Manager, City of Boynton Beach
Commissioner Steven L. Abrams, Palm Beach County

ATTACHMENT 1
WATERFRONT PRESERVATION EASEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS



CFN 20060578708
 OR BK 20953 PG 1812
 RECORDED 10/11/2006 16:34:09
 Palm Beach County, Florida
 Sharon R. Bock, CLERK & COMPTROLLER
 Pgs 1812 - 1823; (12pgs)

Prepared by:
 Howard J. Falcon, III
 Assistant County Attorney
 Palm Beach County Attorney's Office
 301 North Olive Avenue, Suite 601
 West Palm Beach, Florida 33401-4791

Return To:
 David Douglas
 Palm Beach County
 Property & Real Estate Management Division
 3200 Bovevedere Road, Building 1169
 West Palm Beach, Florida 33406-1544

Property Control Number: 08-43-52-03-0000-0071

This is not a certified copy

WATERFRONT PRESERVATION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

**FOR
 BOYNTON BEACH CRA MARINA**

THIS IS A WATERFRONT PRESERVATION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS FOR BOYNTON BEACH CRA MARINA made _____, granted by the BOYNTON BEACH COMMUNITY REDEVELOPMENT AGENCY ("Grantor"), a public agency created pursuant to Chapter 163, Part III Florida Statutes, with an address of 639 Ocean Avenue, Suite 103, Boynton Beach, Florida 33435 in favor of PALM BEACH COUNTY, a political subdivision of the State of Florida, with an address of Governmental Center, 301 N. Olive Avenue, West Palm Beach, Florida 33401 ("County").

WITNESSETH

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida (the "Board") has determined that it is in the best interest of the County to acquire real property or interests therein that preserve, protect or expand public access to and use of freshwater and saltwater bodies of water, to construct capital improvements that facilitate public access to and use of such bodies of water including, but not limited to, boat ramps, public parking and governmentally approved waterway dredging, and to acquire real property or interests therein that preserve working waterfront areas (the "Projects") in order to maintain and improve the quality of life of residents of and visitors to the County, to preserve the marine industry in the County, to maintain the present intensity of development of the working waterfront and to enhance tourism in the County; and

WHEREAS, the Board has determined that the Projects will serve valid paramount public purposes; and

WHEREAS, Grantor is the owner of the Property, as hereinafter defined, including the Submerged Land, if any, as hereinafter defined, and the buildings and other assets and improvements located thereon in Boynton Beach, Florida, known as Boynton Beach CRA Marina; and

WHEREAS, Grantor has agreed to grant an easement to County and impose certain easements, covenants and restrictions upon the Boynton Beach CRA Marina, as hereinafter set forth for the preservation of certain existing uses and amenities and public use of and access thereto; and

WHEREAS, Grantor has agreed to declare that the Property as hereinafter defined, shall be held, transferred, sold, conveyed and occupied subject to the easements, conditions, covenants, restrictions and reservations, hereinafter set forth.

NOW THEREFORE, for good and valuable consideration paid to Grantor by County, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant to County, its successors and assigns, a perpetual non-exclusive easement in, on, through, and across the Property, as hereinafter defined, and for parking incident to such uses as are established by Grantor and located upon the Property, as hereinafter defined, together with ingress and egress thereto, for use by the public subject to the terms of this Easement. Grantor further hereby declares that the Property, as hereinafter defined, shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions and reservations hereinafter set forth.

ARTICLE I **DEFINITIONS**

1.1 "County" means Palm Beach County, Florida, a political subdivision of the State of Florida.

1.2 "Easement" shall mean and refer to this document entitled "Waterfront Preservation Easement and Declaration of Restrictive Covenants for Boynton Beach CRA Marina".

1.3 "Grantor" shall mean and refer to the Boynton Beach Community Redevelopment Agency, and its successors or assigns.

1.4 Marina shall mean the marina, Structure(s), docks, boat slips and parking located within the Property.

1.5 "Property" means the real property described on Exhibit "A" attached hereto.

1.6 "Restaurant Parcel" shall mean the property which is legally described on Exhibit "B" attached hereto and incorporated herein by reference and upon which a restaurant known as The Two Georges Restaurant is currently being operated.

1.7 "Structures(s)" shall mean that which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words "or part thereof."

ARTICLE II
RESTRICTIONS APPLICABLE TO
PROPERTY AND STRUCTURES

There is an existing two-story Structure located on the Property. This Structure is used for the marina related uses including, without limitation, a marina office, public restrooms, dive shop and classroom. Use of such Structure, and the Property generally and all Structures located thereon hereafter, is hereby restricted to public marina related uses. No use other than public marina related uses shall be allowed on the Property.

ARTICLE III
PUBLIC ACCESS TO MARINA

There is currently a Marina with docks and twenty-four (24) boat slips at the Property. Grantor hereby grants to County, on behalf of the general public, the right of access to and use of the Marina. Grantor reserves the right to establish all rules and terms or conditions of operation of the Marina, but when open during normal hours of operation, the Marina shall be open to the public and the public shall have access thereto. Grantor may restrict access to the Marina after normal business hours for security reasons. Nothing contained in this Easement shall prohibit Grantor from implementing reasonable security measures to monitor and regulate (but not prohibit or unreasonably restrict) public access to the Marina during normal business hours.

The Grantor presently has eight (8) boat slips available, in use as Charter/Commercial Charter boat operators, and shall continue to make available a minimum of eight (8) boat slips for the purpose of Charter/Commercial operations. Charter/Commercial boat slips that are not leased within ninety (90) days of the boating season, which for the purposes hereof shall be deemed to begin October 1st

of each year, may be utilized for other public purposes by Grantor including leasing to private boat owners for the remainder of the boating season. Grantor shall exercise diligent effort at the beginning of each season to ensure it continues to make available the (8) Charter/Commercial boat slips presently occupied for continued charter commercial use. The Grantor shall make the remaining sixteen (16) boat slips available for lease to the general public, which may include boat slips leased on a transient or long term basis. In the event that more boat slips are added or constructed in the future, these additional boat slips shall also be available for lease to the general public.

The Grantor shall manage the leasing operation of the Marina and shall establish rental rates not more than market rent. However, in the event that the Grantor no longer desires to operate the Marina the Grantor must advise Palm Beach County prior to any changes in management control.

Grantor shall maintain and operate the Marina on a continuous basis subject to the right of the Grantor to temporarily close the Marina for the purpose of maintenance and/or replacement of the improvements, which constitute the Marina. Any such maintenance and/or repair shall be commenced promptly and be diligently completed.

ARTICLE IV PARKING

There are currently forty-two (42) parking spaces on the Property. Grantor shall maintain the existing number of parking spaces for the patrons of the Marina and other improvements on the Property and, provided the Restaurant Parcel remains in use as a public restaurant, for use by patrons of the Restaurant Parcel. Grantor hereby grants to County, on behalf of the general public, the right of access to and use of the parking at the Property. Such parking shall be available for public use at the Property in such locations and upon such terms, rates and conditions as may be established by Grantor from time to time. Parking for all uses on the Property shall be provided as required by the City of Boynton Beach, Florida.

It is understood and agreed that nothing contained in the easement granted herein shall be permitted or deemed to supersede, alter or interfere with the rights granted to DSS Properties L.C. by that certain Grant of Easement dated March 15, 2006, from the Boynton Beach Community Redevelopment Agency to DSS Properties, L.C., recorded in Official Records Book 20065, Pages 1142-1152 of the Official Records of Palm Beach County, Florida.

ARTICLE V
FUTURE DEVELOPMENT

Grantor agrees that no development will occur on Property other than future construction or renovation in conformance with the restrictions set forth herein. Any such future construction or renovation shall not exceed three (3) stories in height. Grantor shall not permit any development on the Property to infringe upon or intrude into the airspace above the Property. No additional development of the Property shall occur, nor shall any further improvements or alterations be made to the Property which materially alter the current Marina, or which otherwise impairs, restricts, eliminates or impacts the existing marina uses upon the Property and the access of the public thereto.

ARTICLE VI
INSURANCE

Grantor shall maintain insurance against loss or damage to the improvements to which the public has access pursuant to this Easement including, without limitation, the Marina by fire and the risks covered by insurance of the type now known as "fire and extended coverage," and including windstorm, in an amount at least equal to replacement cost or the maximum amount available, whichever is less, subject to deductibles as determined by Grantor. Grantor shall also maintain flood insurance coverage on the Marina under the federal flood insurance program in an amount at least equal to replacement cost or the maximum amount available, whichever is less, subject to deductibles as determined by Grantor. All insurance proceeds derived from casualty claims shall be used by Grantor to repair or replace the damaged improvements. In the event of any casualty, Grantor shall, at Grantor's expense, regardless of whether such casualty is covered by insurance or, if so, whether the proceeds of such insurance are sufficient to pay the cost of such repairs, promptly commence to repair any damage to the Marina, and thereafter diligently pursue such repair to completion using materials of like kind and quality or better.

ARTICLE VII
ENFORCEMENT RIGHTS

In the event of a default, breach or violation of any term, condition, covenant or restriction contained in this Easement (a "Default"), County shall be entitled to seek to enjoin the Default and seek specific performance of the terms of this Easement and shall have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise. Each right and remedy of County provided for in this Easement shall be cumulative and shall be in addition to every other right or remedy provided for in this Easement or now or hereafter existing at law or in equity or by statute or otherwise and the exercise or beginning of the

exercise by County of any one or more of the rights or remedies provided for in this Easement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by County of any or all other rights or remedies provided for in this Easement or now or hereafter existing at law or in equity or by statute or otherwise.

ARTICLE VIII
PROPERTY TRANSFER RESTRICTION

Grantor agrees not to sell, assign, convey or otherwise transfer the Property to a non-governmental entity without the written consent of the County. Grantor acknowledges that said written consent may be conditioned on, among other things, receipt of an Opinion of Bond Counsel to the effect that the proposed transaction (i) will not result in a prohibited use of Bond proceeds under the Resolution and the November 2, 2004, referendum authorizing the issuance of the Bonds, and (ii) will not adversely affect the exclusion of interest on the Bonds from the gross income of the holders thereof for federal income tax purposes. For purposes of this paragraph, all capitalized terms shall have the meanings ascribed to such terms in that certain resolution adopted by the County on February 7, 2006, authorizing the issuance of its \$50,000,000 General Obligation Bonds (Waterfront Access Projects), as said resolution may from time to time be amended and supplemented.

ARTICLE IX
GENERAL AND PROCEDURAL PROVISIONS

9.1 Declaration Runs with the Land. The covenant, reservations, restrictions and other provisions of this Easement shall run with the land and bind the Property and shall inure to the benefit of the County and shall burden Grantor, its legal representatives, heirs, successors and assigns in perpetuity.

9.2 Severability. If any term, covenant, condition, restriction or other provision of this Easement is held to be invalid in whole or in part by any Court of competent jurisdiction, then such holding shall in no way affect the validity of the remaining provisions of this Easement all of which shall remain in full force and effect.

9.3 Number and Gender. Wherever in this Easement the context so requires the singular number shall include the plural, and the converse; and the use of any gender shall be deemed to include all genders.

9.4 Title Warranty. Grantor hereby fully warrants its title to the Property and represents that it is lawfully seized of Property in fee simple and has good right and authority to grant this Easement and that the property is free and clear of any mortgage, lien or other encumbrance which may impair the enforceability of this Easement and agrees to defend County against the claims of all persons whomsoever.

9.5 Non-Discrimination. Grantor agrees that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, or sexual orientation be excluded from the benefits of, or be subjected to any form of discrimination at the facilities required to be operated by this Easement.

9.6 Recording. County shall have the right to record this Easement in the public records of Palm Beach County and to re-record this Easement as and when County deems necessary to ensure its continued enforceability. Any re-recording of this Easement shall automatically be deemed to relate back to the original recording date of this Easement and to have priority over instruments recorded subsequent to the original recording date of this Easement.

9.7 Recitals. The recitals contained herein are true and correct and incorporated herein by reference.

9.8 Notices. All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service (provided in each case a receipt is obtained), or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

9.9.1 County:

Property & Real Estate Management Division
Director
3200 Belvedere Road
Building 1169
West Palm Beach, Florida 33406-1544

Page 7 of 9

This is not a certified copy

With a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue
Suite 601
West Palm Beach, Florida 33401
Attention: Real Estate

9.9.2

Grantor:

Boynton Beach CRA
639 Ocean Avenue, Suite 103
Boynton Beach, FL 33435

With a copy to:

CRA Attorney
Kenneth G. Spillias
Lewis, Longman & Walter, P.A.
1780 Palm Beach Lakes Boulevard
Suite 1000
West Palm Beach, FL 33401

With a copy to:

City of Boynton Beach
915 South Federal Highway
Boynton Beach, FL 33435

With a copy to:

Boynton Beach Attorney's Office
915 South Federal Highway
Boynton Beach, FL 33435

Any party may from time to time change the address to which notice under this Easement shall be given such party, upon three (3) days prior written notice to the other parties.

9.9 Governing Law/Venue. This Easement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Easement shall be in a

state court of competent jurisdiction in Palm Beach County, Florida.

9.10 Entire Understanding. This Easement contains the entire understanding and agreement of the parties with respect to the subject matter hereof.

9.11 Amendment. No amendment shall be effective unless the same is in writing and signed by Grantor, its successors and assigns and County. For purposes of amendment, Grantor's successors and assigns shall not include owners of residential condominiums constructed on the Property.

9.12 Time of Essence. Time is of the essence with respect to the performance of every provision of this Easement in which time of performance is a factor.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

This is a true and correct copy

Executed and delivered this 8 day of AUGUST, 2006.

BOYNTON BEACH COMMUNITY REDEVELOPMENT AGENCY, a public agency created pursuant to Chapter 163, Part III, F.S.

Stormet Norem
Signature of Witness

STORMET NOREM
Print Name of Witness

Robert T. Reardon
Signature of Witness

Robert T. Reardon
Print Name of Witness

By: Henderson Tillman
Signature

Henderson Tillman
Print Name

Its: CHAIRMAN
Print Title

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing was sworn to and subscribed before me this 8th day of August, 2006, by Henderson Tillman, the Boynton Beach Community Redevelopment Agency, who personally appeared before me, and he is [check one:] personally known to me OR produced the following as identification: _____

Susan E. Harris
NOTARY PUBLIC, STATE OF FLORIDA

[NOTARIAL SEAL]

My Commission Expires: 9/23/07

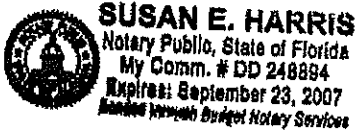


EXHIBIT "A"
LEGAL DESCRIPTION

Parcels of land lying in Section 27, Township 45 South, Range 43 East, City of Boynton Beach, Palm Beach County, Florida, said land being and lying in the Plat of Casa Loma as recorded in Plat Book 11, Page 3 of the Public Records of Palm Beach County, Florida, said land being more particularly described as follows:

Parcel 1

That portion of the West 34 feet of Lot 4 and all of Lots 5 through 12, inclusive, lying North and West of the Concrete Seawall shown on Boundary and Location Survey prepared by Sun-Tech Engineering, Inc., Job No. 05-2925 dated April 18, 2005 and signed by Mark A. Higgins, PSM No. 4439.

Together With:

The submerged lands of that portion of the West 34 feet of Lot 4 and all of Lots 5 through 12, inclusive, lying South and East of the Concrete Seawall shown on Boundary and Location Survey prepared by Sun-Tech Engineering, Inc. Job No. 05-2925, Dated April 18, 2005 and signed by Mark A. Higgins, PSM No. 4439.

Less except therefrom a portion of Lots 10, 11 and 12 described as follows: Beginning at the Southwest corner of said Lot 12; thence North 89°57'20" East, along the South line of said Lots 10, 11 and 12, a distance of 115.13 feet; thence North 0°02'40" West, a distance of 69.44 feet to a point on a line 69.44 feet North of and parallel to the South line of said Lots 10, 11 and 12; thence South 89°57'20" West along said parallel line, a distance of 117.46 feet to a point on the West line of said Lot 12; thence South 1°58'03" East along said West line, a distance of 69.48 feet to the point of beginning.

Parcel 2

The South one-half (S.1/2) of a 55.00 foot abandoned Right-of-Way of Casa Loma Boulevard, lying North and adjacent to the West 34 feet of Lot 4 and all of Lots 5 through 12, inclusive, as shown on the plat of Casa Loma, recorded in Plat Book 11, Page 3, Public Records of Palm Beach County, Florida.

EXHIBIT "B"

LEGAL DESCRIPTION

The East 16 feet of lot 4 and all of lots 1 through 3, as shown on the Plat of Cass Loma, Recorded in Plat Book 11, Page 3, Public Records of Palm Beach County, Florida.

This is not a certified copy

ATTACHMENT 2
SITE ANALYSIS REPORT/ARCHITECTURAL ISSUES

Boynton Beach Community Redevelopment Agency

04 June 2009

Boynton Harbor Marina

SITE ANALYSIS REPORT – ARCHITECTURAL ISSUES

I. Introduction:

On 9 March, 2009 the project team visited the Boynton Harbor Marina site to observe existing conditions and current recreational activities. Specifically, this report covers the architectural issues encountered relative to the Dive Shop building:

- Condition of the existing Dive Shop building
- Suitability of existing Dive Shop building for re-use
- Recommendations for adaptation of existing Dive Shop building site

Within the project area, the Dive Shop is bound by Casa Loma Boulevard on the north, Northeast 6th Street on the west, an access drive to the parking lot on the east and boat slips on the south. There are existing structures on site that have been evaluated for reuse or demolition in the Concept Plan developed by MSCW, Inc., however, certain buildings, existing park furnishings and other landscape elements will not be included in this portion of the report.

II. Condition of Existing Dive Shop Building:

The existing Dive Shop building was observed, inside and outside, where accessible, to determine the conditions and suitability for its present and anticipated use in the Concept Plan. Observations include the following:

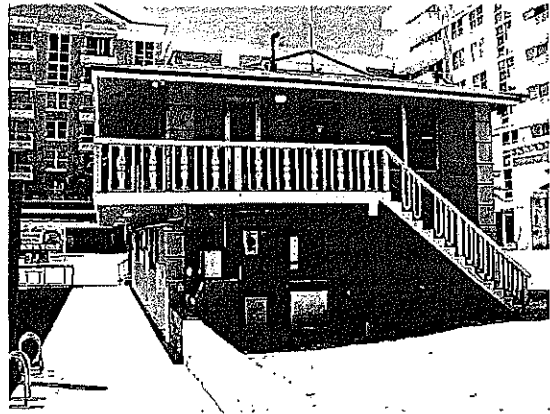
- A. This two-story approximately 2,700 square foot building is scheduled to remain on site, and fronts on the existing marina with automobile parking on two sides. The ground floor contains retail space for a Dive Shop, dive shop equipment storage area and small office for the fishing drift boat operator. Building structure appears to be concrete block/stucco walls with a precast concrete floor and wood roof trusses.
- B. It appears the building was built sometime in the 1940's and 1950's. The structure is worn, dated and does not meet the wind load requirements of the Florida Building Code.



■ Stephen Boruff, AIA Architects + Planners, Inc.

- C. Entrance to building fronts on the southwest corner of the structure fronting on Northeast 6th Street and is not ADA accessible. East end of building contains a roll-up garage door to access a storage area.
- D. Existing heating, ventilation and air conditioning (HVAC) systems are extremely antiquated and will require substantial modifications to comply with the most recent Florida Energy Code.
- E. Existing electrical systems are undersized to meet required loads of Dive Shop air compressor systems and consequently has required secondary temporary electrical system upgrades.
- F. Existing front door connects to the adjacent dive boat and drift boat operations.

- G. Building appears to be non-accessible for the handicapped. Building currently has restroom facilities, however, these restrooms are not accessible to the handicap and do not conform to the Florida Accessibility requirements. Currently, the CRA has offices on the second floor and intends to relocate its offices offsite. Access to the second floor is not addressed for the physically handicapped.



- H. Exterior storage areas and space allocated for ice machines is extremely unsightly and presents public safety and potential health issues.
- I. The prominent location at the northwest corner of the site gives this building an importance that is not indicative of the intended character of the harbor master plan. The architectural massing and modest detailing has a Spanish/Mediterranean appearance without tying it to any specific historical period. There is no historical or architectural significance to this building. Much could be done to improve the appearance; however, the building is publicly owned, so little should be budgeted for improvements, other than cosmetic work to tie in with the proposed marina architectural character.
- J. Explore possibility of providing new 1,000 to 1,200 square foot structure at this location on existing pile pattern. New design should incorporate "old Florida feel". This building will be redesigned to reflect the new architectural character of the marina area.

III. Suitability of Existing Dive Shop Building for Re-Use:

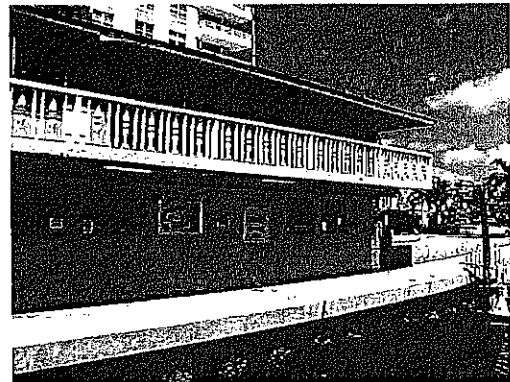
- A. Building has a low suitability for re-use. Poor visual appearance for residents of nearby Marina Village at Boynton Beach condominium.
- B. Existing activities and functions could be better integrated with proposed marina use and activities.
- C. Building has a mixture of architectural styles and construction and major cosmetic work is needed to tie building appearance into proposed overall architectural character.



- D. Architectural style is dated and not compatible with intended character for marina facilities in general.
- E. Office functions not needed for CRA, parks department support or operations.
- F. Blocks access and visibility into marina streets and parking areas from access road.
- G. Existing building footprint may be re-used for a new single story, accessible building addressing pedestrian activities, harbor needs and designed to tie in with new architectural character.

IV. Recommendations for Adaptation of Existing Dive Shop Building:

- A. Consider the following improvements to tie the existing architecture into the overall new architectural character for the marina:
 - i. Paint entire building exterior with new paint scheme to tie into marina character.
 - ii. Re-stucco entire building with horizontal lap siding on the lower level to reflect the architectural character of the marina area.
 - iii. Provide new fabric awnings/trellis sunscreens on metal frames at upper windows and over stairs.
 - iv. Replace existing precast concrete guardrails and handrails with ornamental railings of a design and color suitable for coordinating with others throughout the marina area.
 - v. Demolish existing "SeaMist" space and turn into an exterior covered porch.



■ Stephen Boruff, AIA Architects + Planners, Inc.

- vi. Create a "screening" element at east end of building to conceal mechanical equipment and service areas.
- vii. Provide new decorative light fixtures on the exterior columns to match the light fixtures in the marina area.
- viii. Remove existing roof and provide new standing seam metal roof.
- ix. Replace all exterior windows with new impact resistant windows.
- x. Add an elevator to provide access for the physically handicapped to the second floor.
- xi. Add ADA accessible handicap toilet facilities to the first and second floor of the building.
- xii. Provide accessible entrances to all spaces on the ground floor.
- xiii. Add base planting and benches to enhance pedestrian contact and use.
- xiv. Add ground lights for illumination and visibility at night.

VI. Cost Considerations

Renovate Existing Dive Shop building:

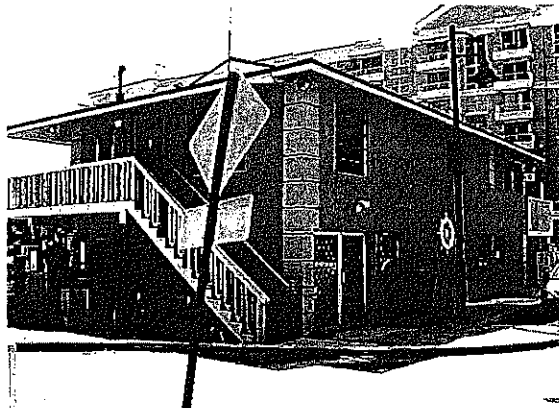
Paint Exterior of Building	\$ 17,500
Re-Stucco Building	26,500
Awnings/Trellis Sunscreens	12,000
Ornamental Handrails	11,000
Exterior Covered Porch on West Side	6,000
Visual Screen on East Side/Storage Gates	9,000
Roof Replacement	28,000
Replace all Windows	75,000
Hydraulic Elevator	25,000
ADA Accessible Toilets (4 total)	40,000
Fix Accessible Entrances	4,500
Landscaping and Site Furniture	7,500
HVAC Upgrades	9,500
Upgrade Electrical/Electrical Light Fixtures	27,000
 Subtotal	 \$ 298,500
Unforeseen Conditions (20%)	59,700
 Total	 \$ 358,200

New Retail Building:

1,200 square feet at \$200/s.f.	\$240,000
---------------------------------	-----------

V. Summary:

It is our recommendation that the existing Dive Shop building be demolished and a new 1,200 square foot, single story structure be constructed on the site to provide a unifying architectural character to the marina area. Located adjacent to the dive boat and charter boat dock area, this structure would provide a covered exterior social area, 800 square feet of retail/public meeting space and accessible men's and women's toilet facilities. This new structure would be built in conformance with the Florida Building Code.



Stephen Boruff, AIA Architects + Planners recommend that the existing two story 1200 square foot Dive Shop be demolished and a new Dive Shop constructed on the site best located adjacent to the dive boat and charter boat dock area where the new facility would better relate to all the water based activities. Consisting of sheltered areas for social interaction and escape from inclement weather, 800 square feet of commercial/retail space to further emphasize the waterside nature of the wharf area, public meeting space to provide options to the community to take advantage the water front and restrooms to better accommodate the people that use the development the new facility would complement the overall design intent established by the site design.

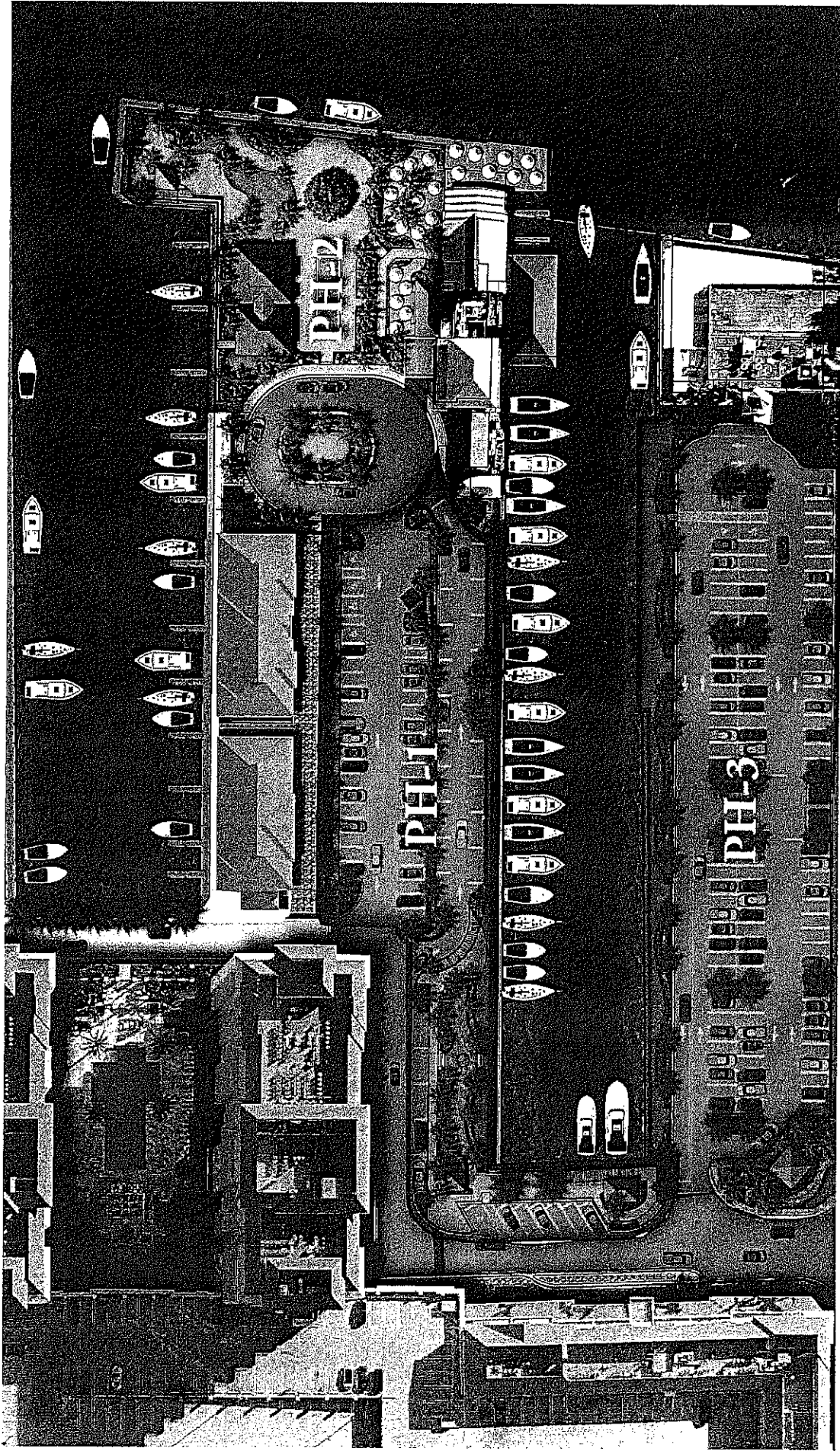
The existing building is over sixty years old and because of its age has several inherent issues that will need to be addressed if it were to be reused. The two story building will need to be fitted with an elevator to meet the ADA requirements, the windows replaced to meet the hurricane code, the structure will need to be reviewed to insure the its integrity meets today's building code, the roof will need to be replaced, the architectural "presence" of the building will need to be updated to better represent the overall visual essence of the project, the building will have to be retro fitted to meet the fire safety regulations (sprinklers, alarms, etc.) and the interiors will need to remodeled to satisfy its use.

"Remaking" this building into facility that satisfies all the codes and regulations that govern today's construction and responds to the needs of the development comes at a cost. It is our professional opinion that this cost to refit the existing building to a level that will satisfy the needs of the community, meet the present codes and regulations and represent the design and program of the development will exceed the cost of constructing a new building designed specific to the goals and vision of the Boynton Beach Community Redevelopment Agency.

A new Dive shop is truly a win-win situation for the entire community providing a new facility that is constructed to the latest standards, an architecturally viable facility that reflects the rejuvenation of the harbor and for a cost that is less then renovation.

■ Stephen Boruff, AIA Architects + Planners, Inc.

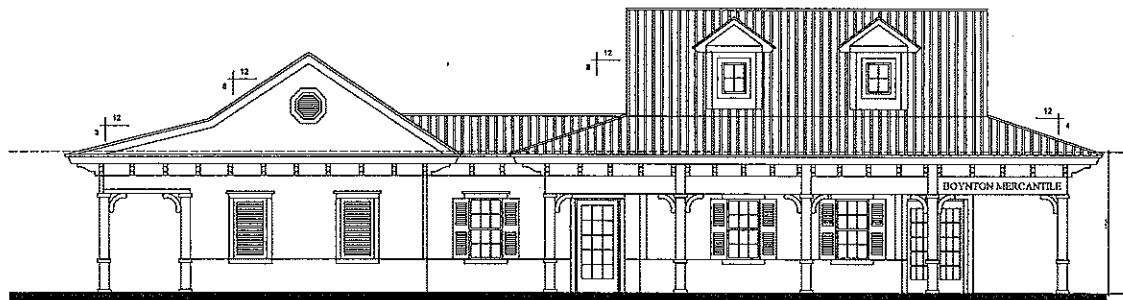
**ATTACHMENT 3
MARINA MASTER PLAN**



Scale: In Feet
 0 50 100
 PROJECT NUMBER: 000015
 DATE: 10/10/09
 4750 New Road, Suite, Chula Vista, CA 92010
 PHASE 3A
 PROJECT NUMBER: 000015
 DATE: 10/10/09
 Tel: 619.422.3339 | Fax: 619.422.3339 | www.M&CWorld.com

CONSTRUCTION PHASING EXHIBIT
 BOYNTON BEACH C.R.A.
 BOYNTON HARBOR MARNIA

**ATTACHMENT 4
MARINA BUILDING**



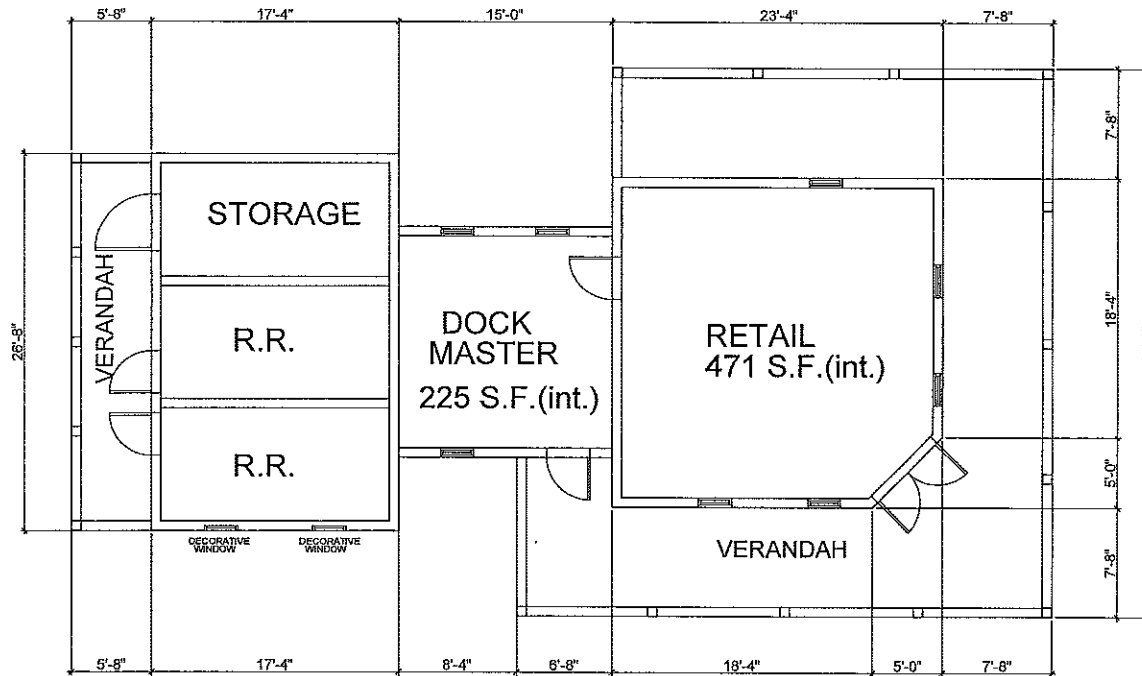
SOUTH ELEVATION

SCALE 1/4"=1'-0"

DOCK MASTER BUILDING
BOYNTON BEACH, FLORIDA
11104 - 09/15/2011



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SOUTH ELEVATION

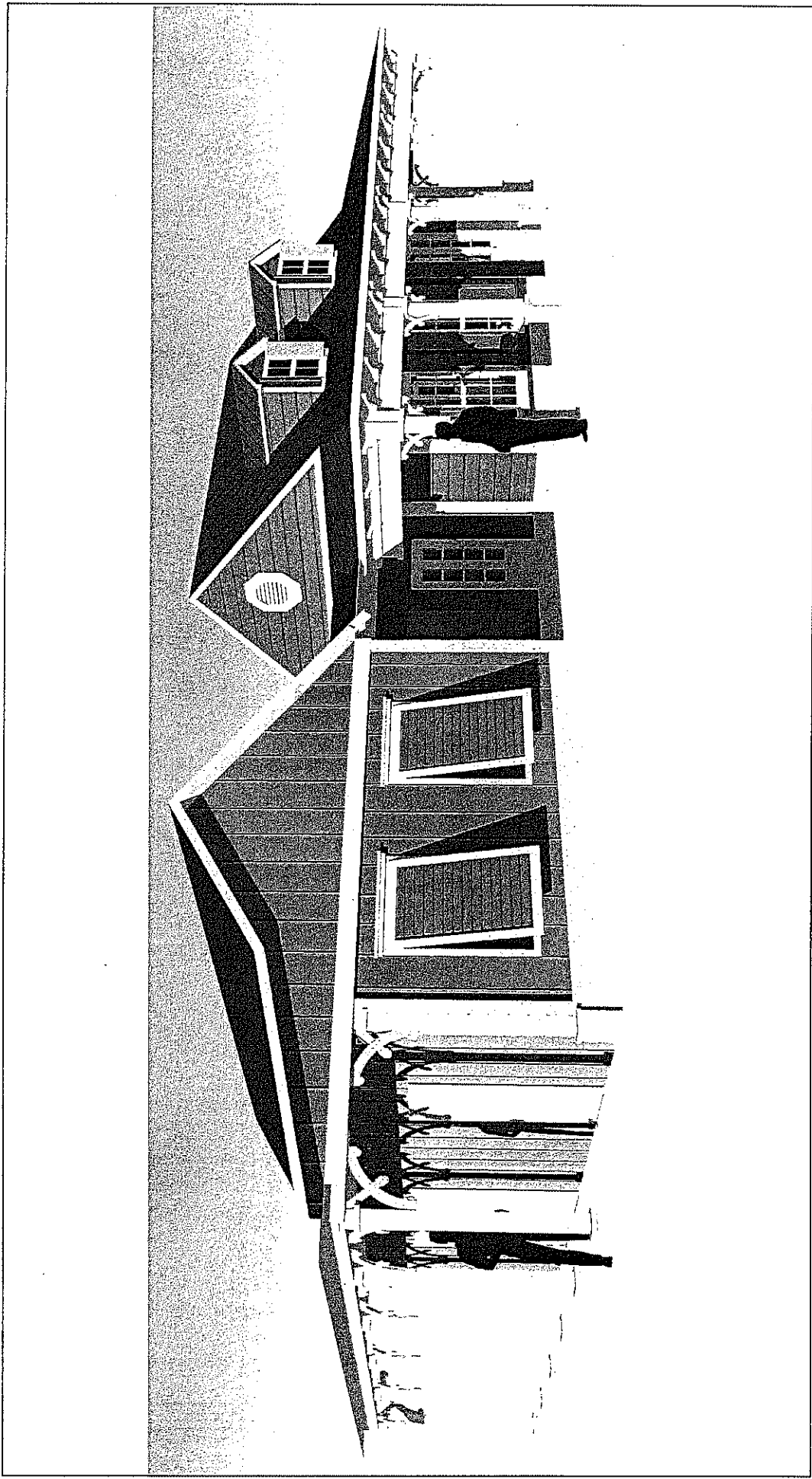
SCALE 1/4"=1'-0"

AREA ENCLOSED BUILDING	1,240 S.F.
AREA VERANDAH	900 S.F.
<u>TOTAL AREA UNDER ROOF</u>	<u>2,140 S.F.</u>

DOCK MASTER BUILDING
 BOYNTON BEACH, FLORIDA
 11104 - 09/15/2011



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Modified Option 3

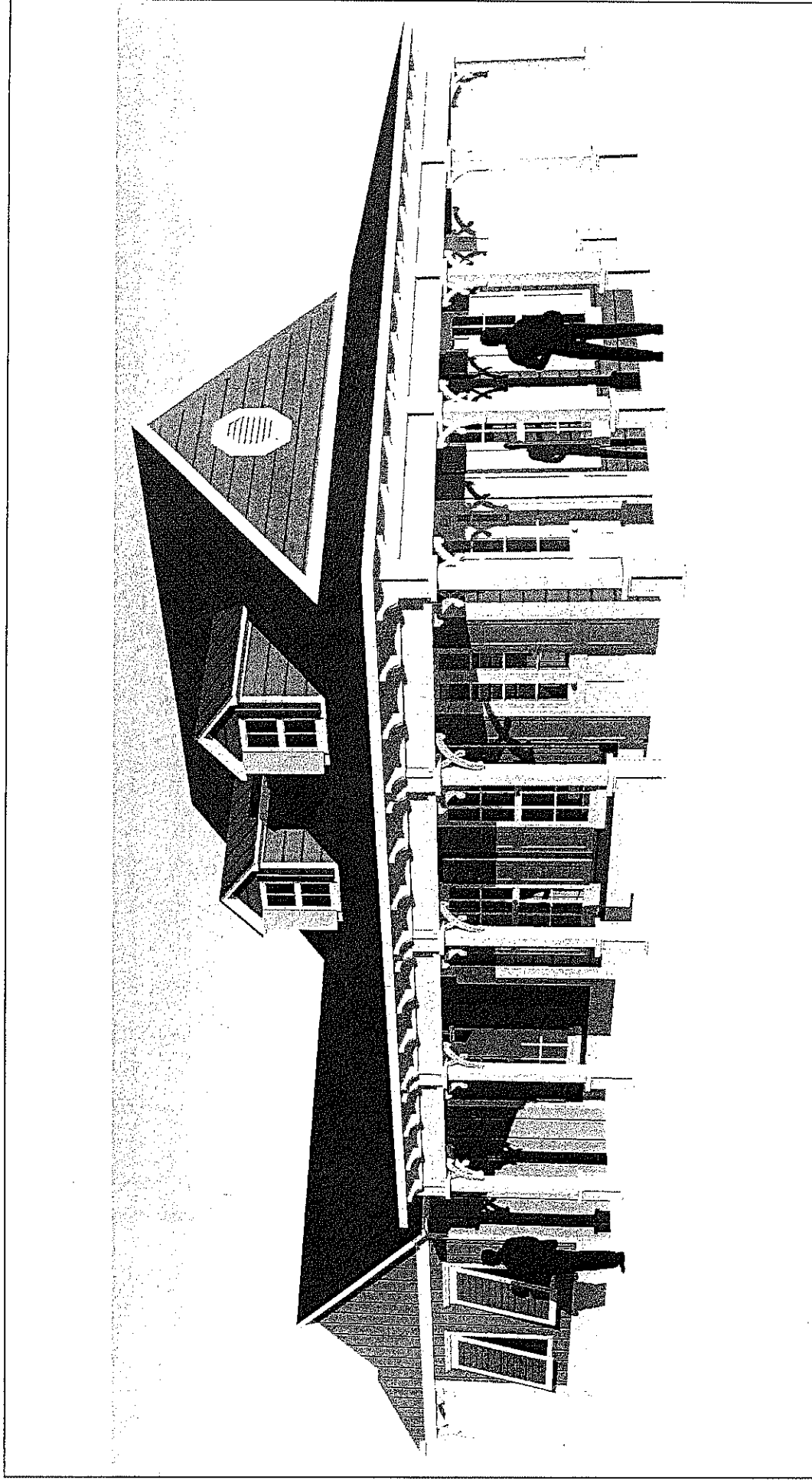
Boynton Harbor Marina
Harbor Master Building



DATE: 5/21/11
PROJECT NUMBER: 0218709
225 E. Robinson St, Suite 300 | Orlando, Florida 32801
Tel: 407.839.4006 | Fax: 407.839.4008 | www.VHBMillerSellen.com

SCALE: NTS

NOT TO BE USED FOR CONSTRUCTION PURPOSES
 FILE PATH: \\miller-sellen.com\projects\0218709\0218709.dwg
 USER: jay@vhs.com
 DATE: 5/21/11 10:52:04 AM
 PLOT DATE: 5/21/11 10:52:04 AM
 PLOT SCALE: 1/8" = 1'-0"



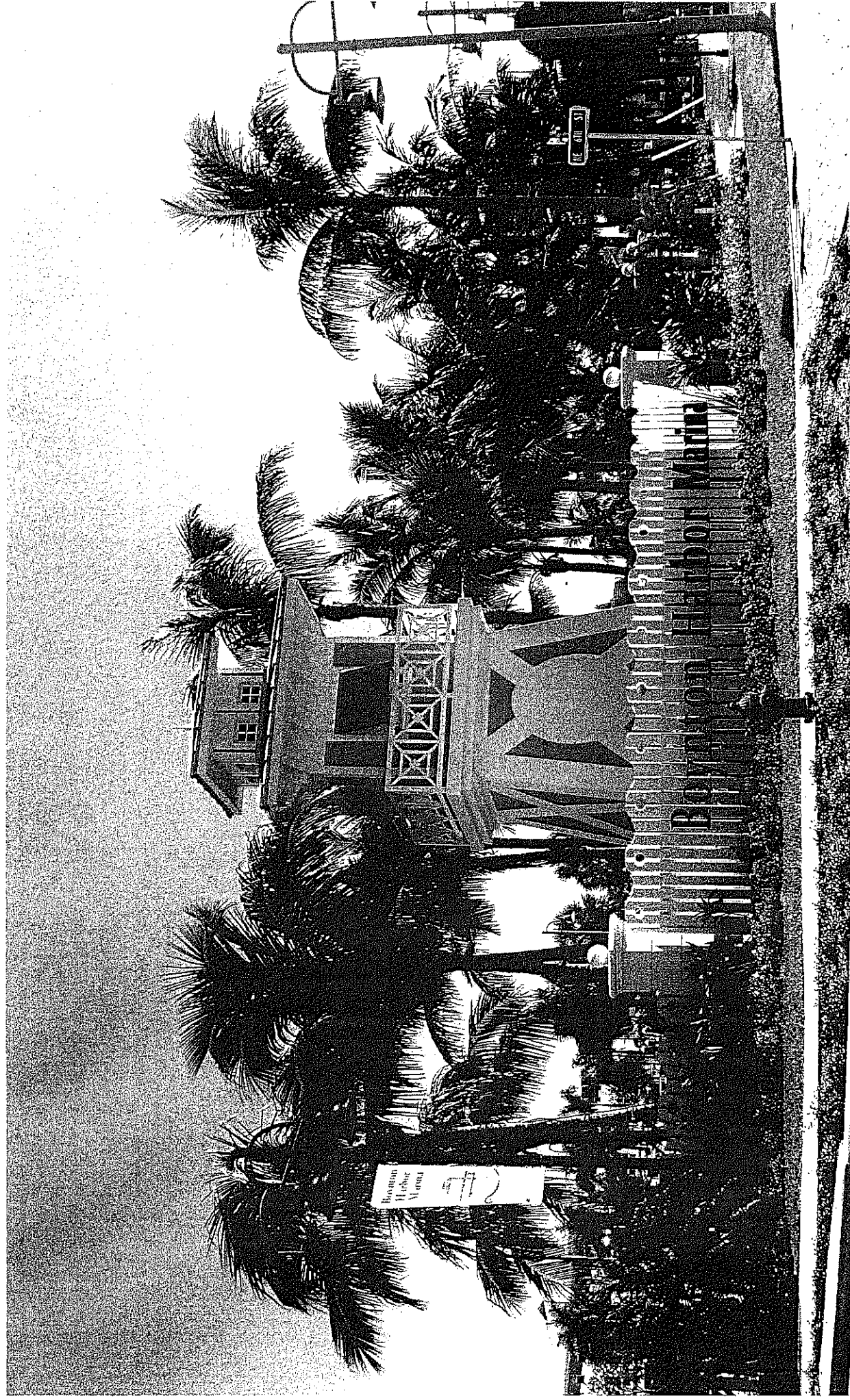
Modified Option 3
 Boynton Harbor Marina
 Harbor Master Building

DATE: 05/27/14
 PROJECT NUMBER: 287.07
 225 E. Robinson St, Suite 300 | Orlando, Florida 32801
 Tel: 407.839.4006 | Fax: 407.839.4008 | www.VHBMillerSellen.com



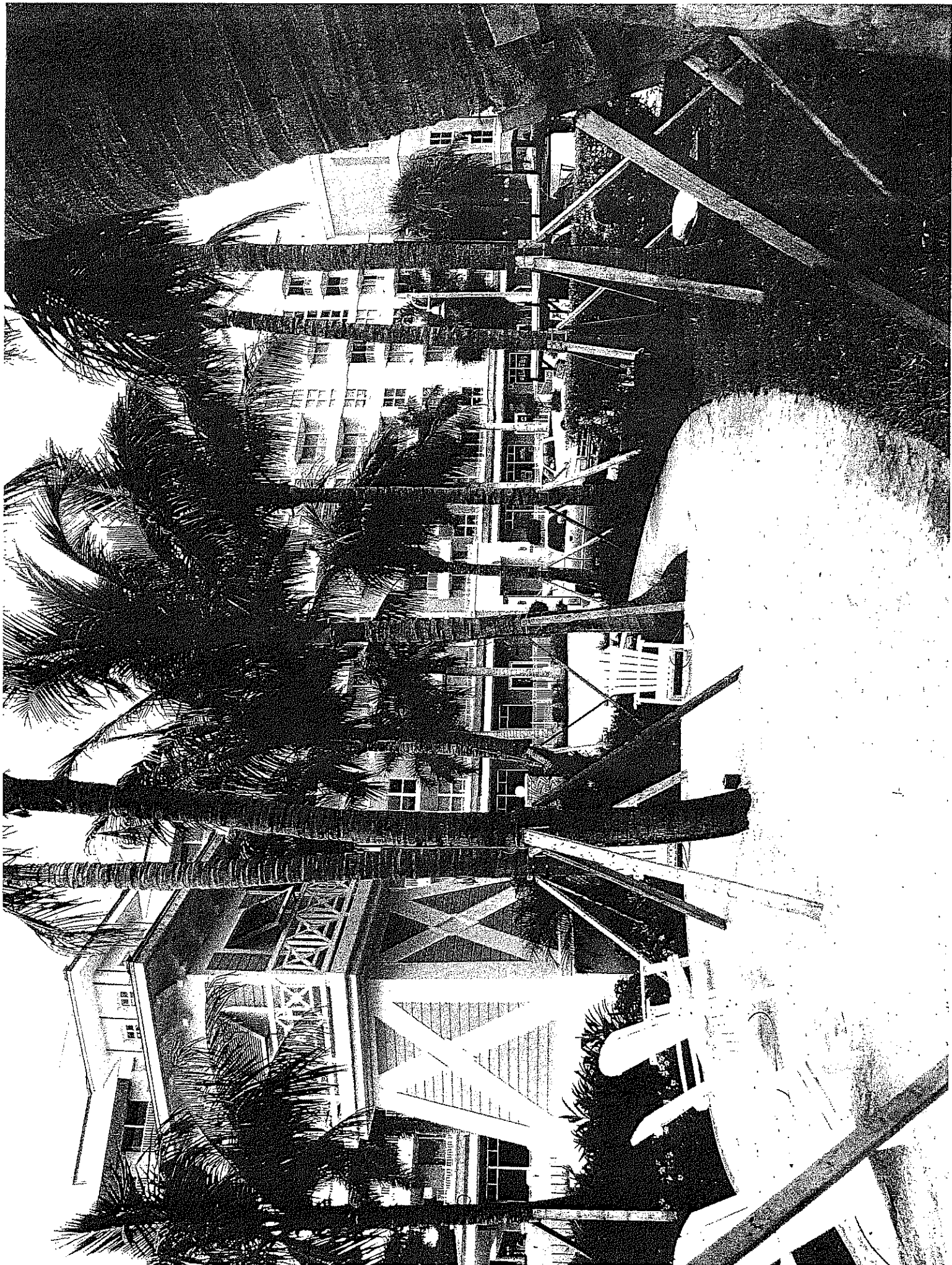
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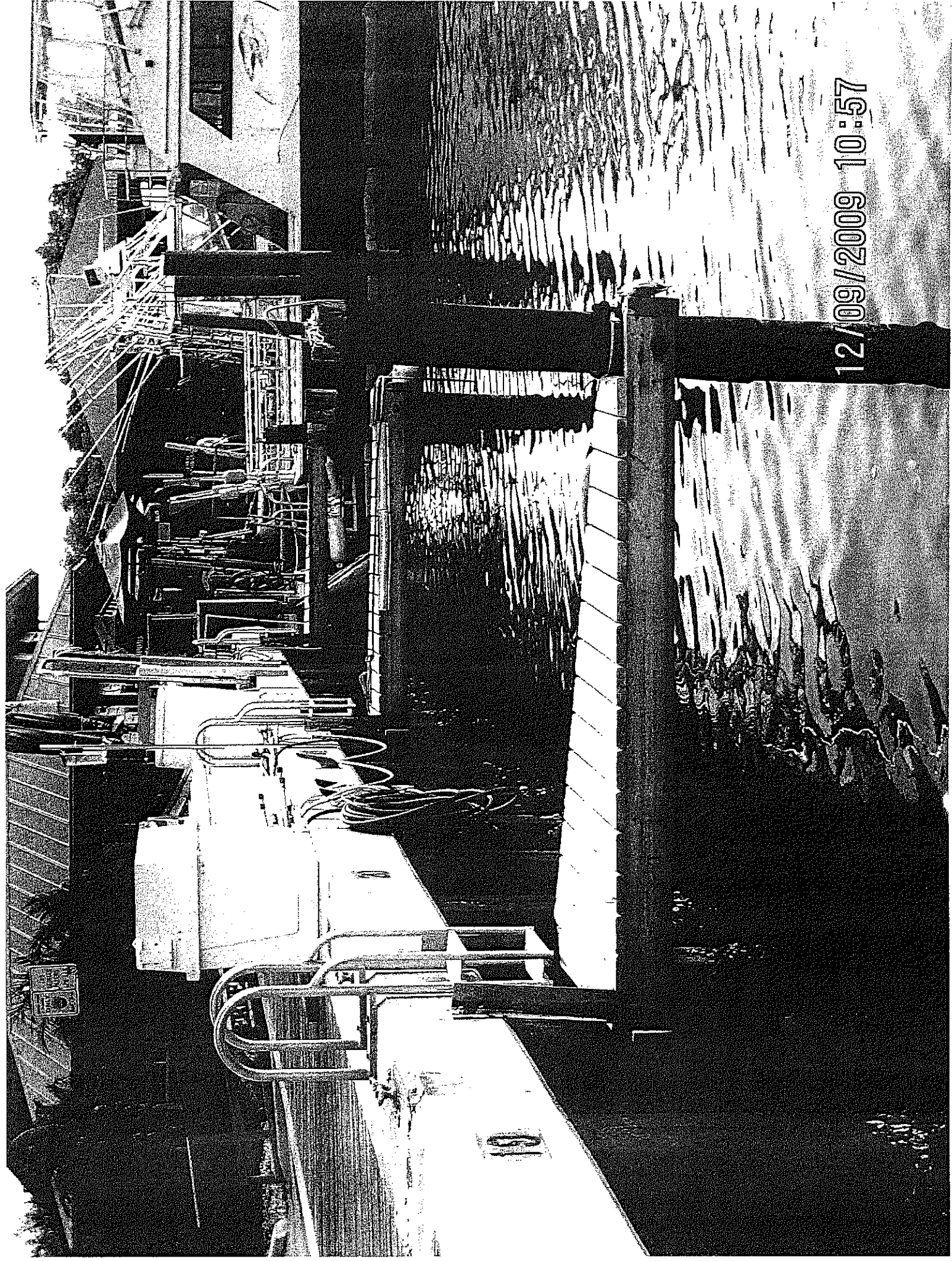
**ATTACHMENT 5
PHOTOS OF COMPLETED WORK**



Resort Harbor Village

100





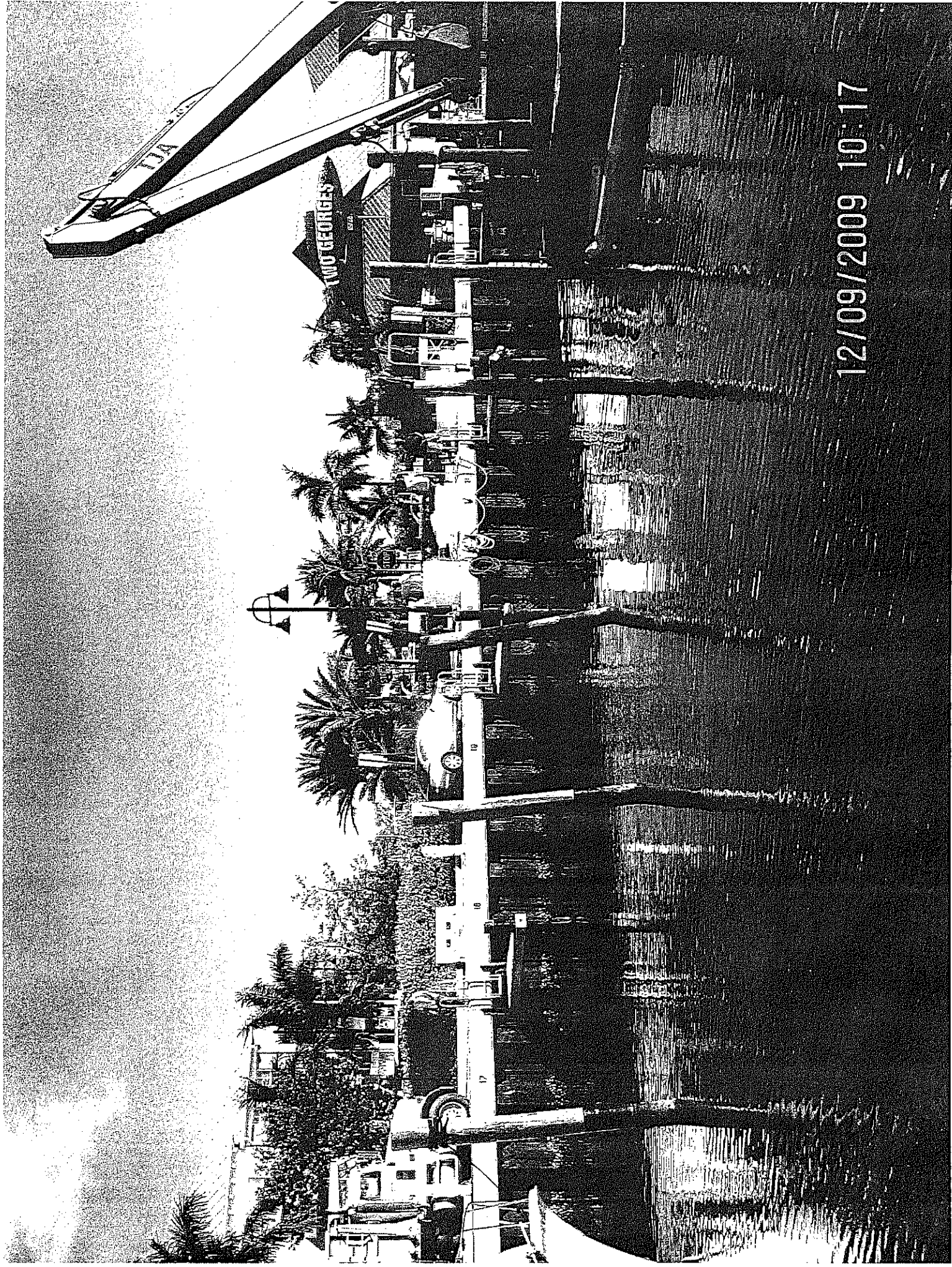
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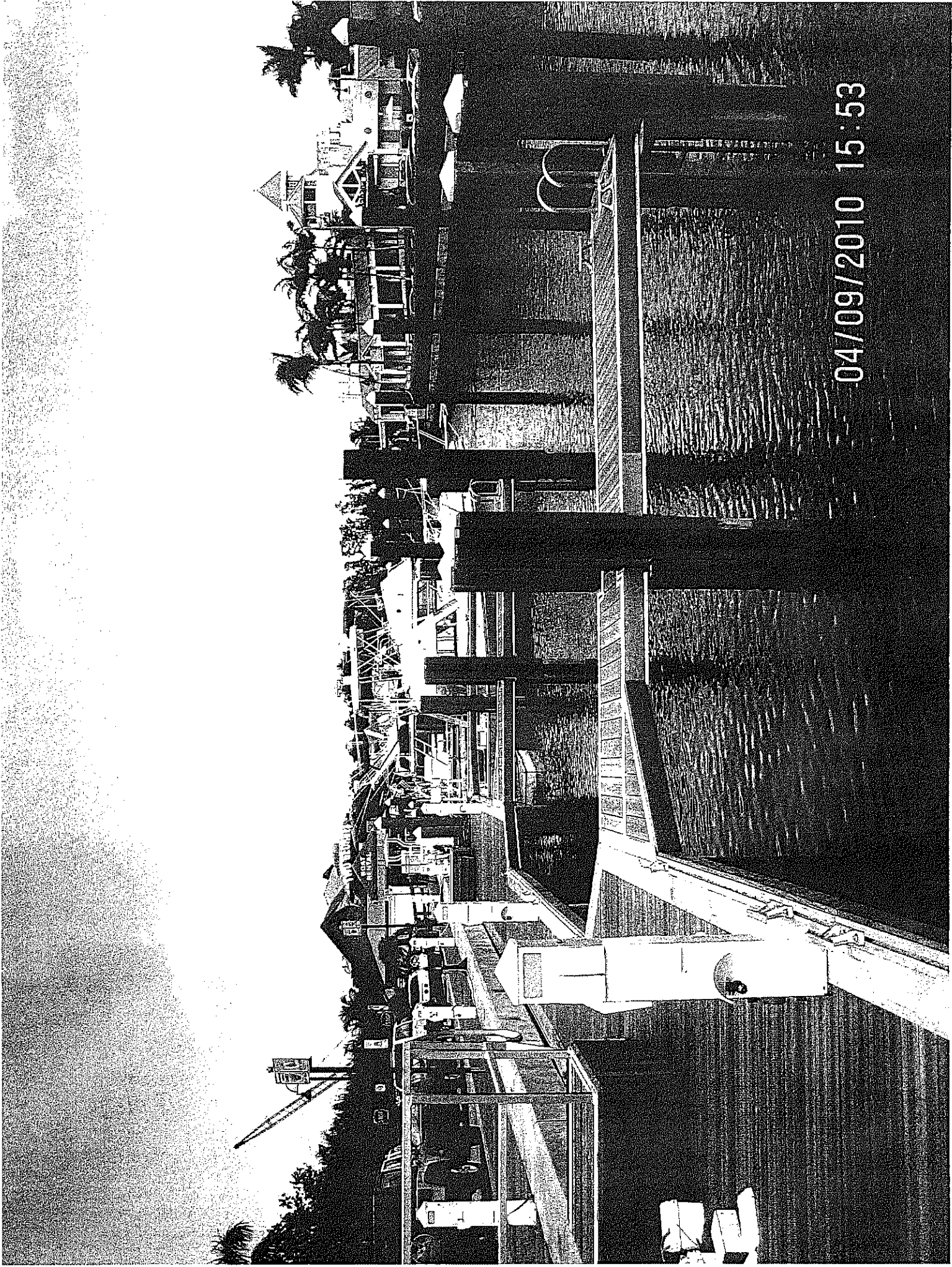
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2/09/2009 10:38

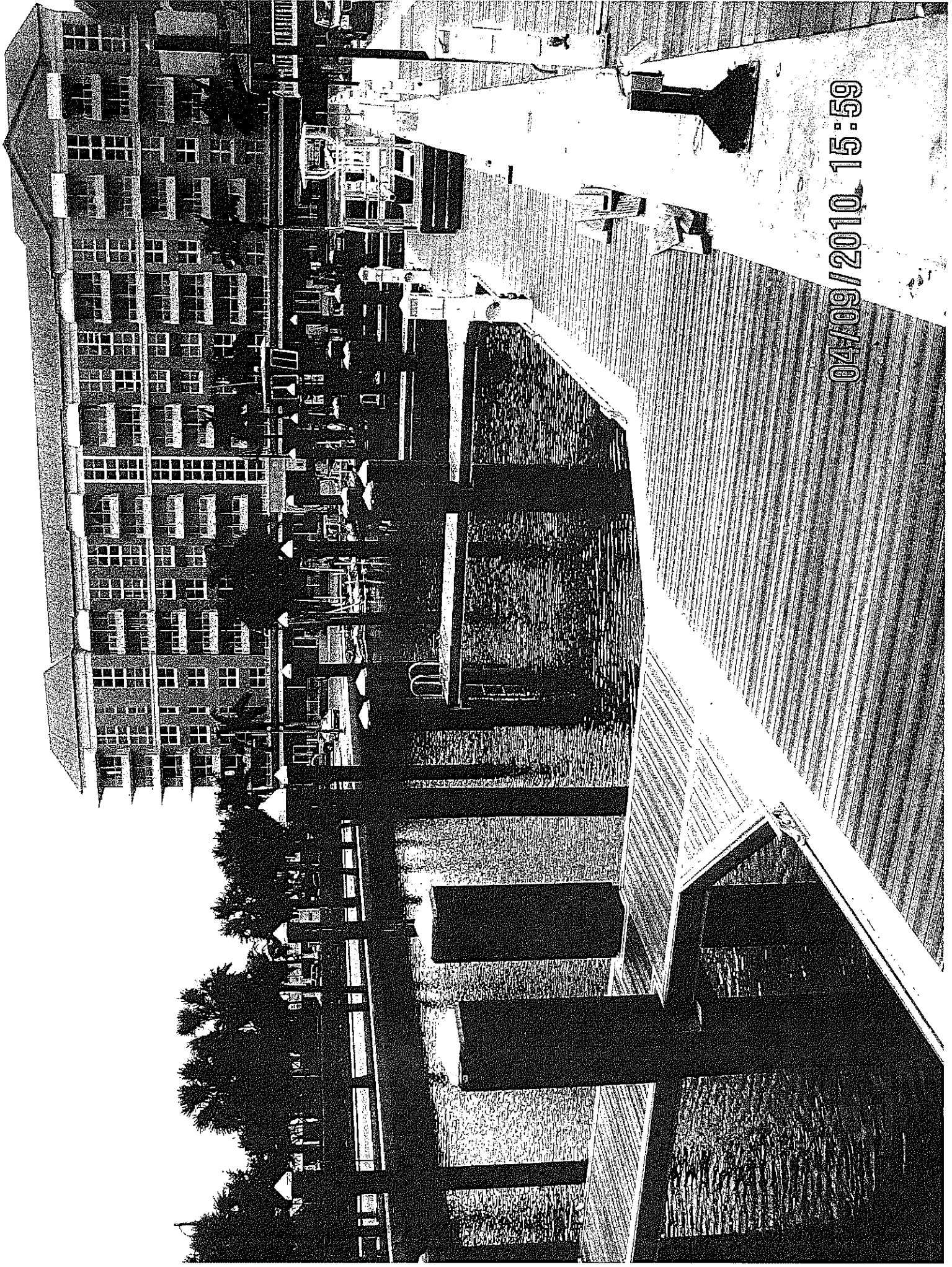




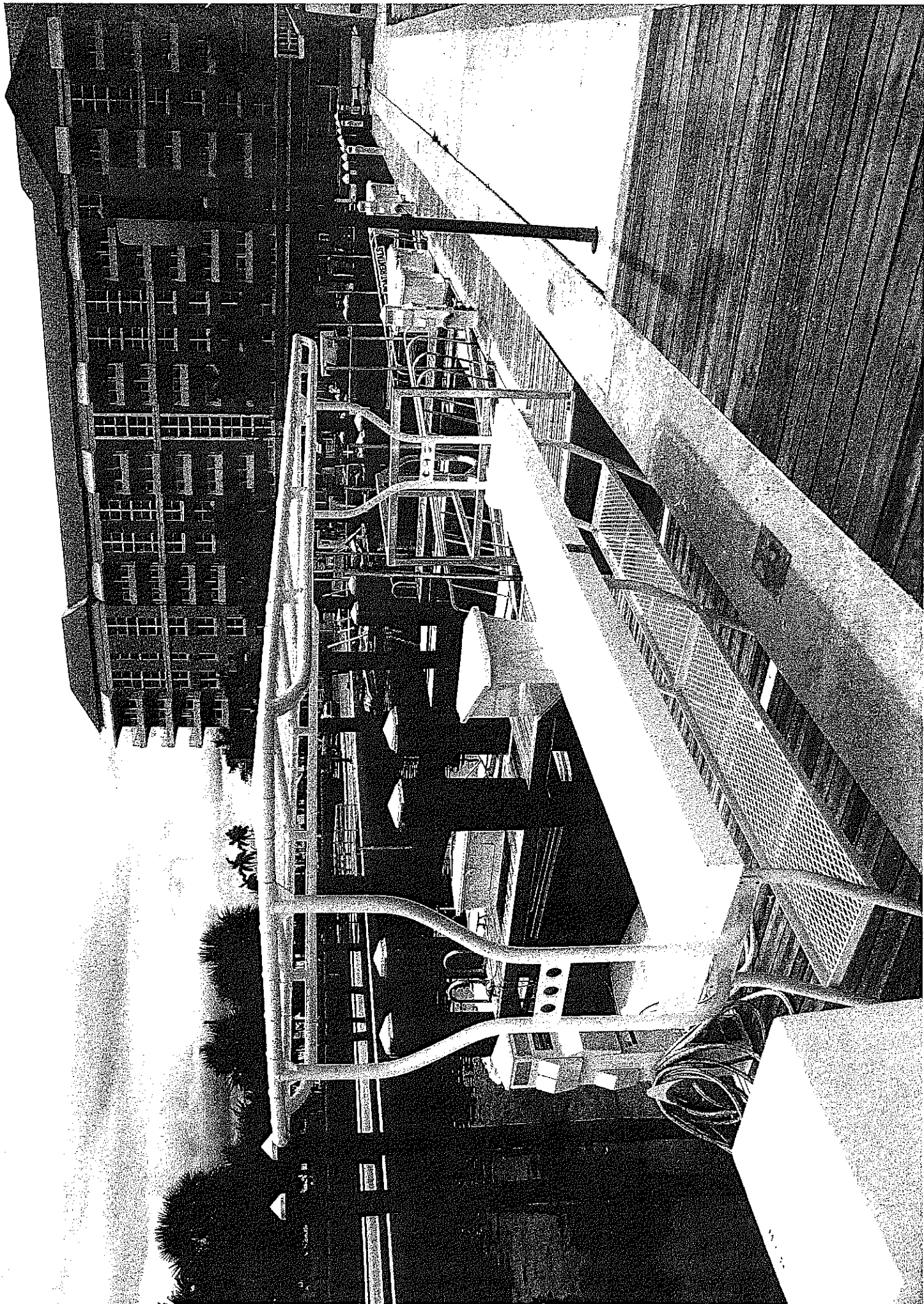
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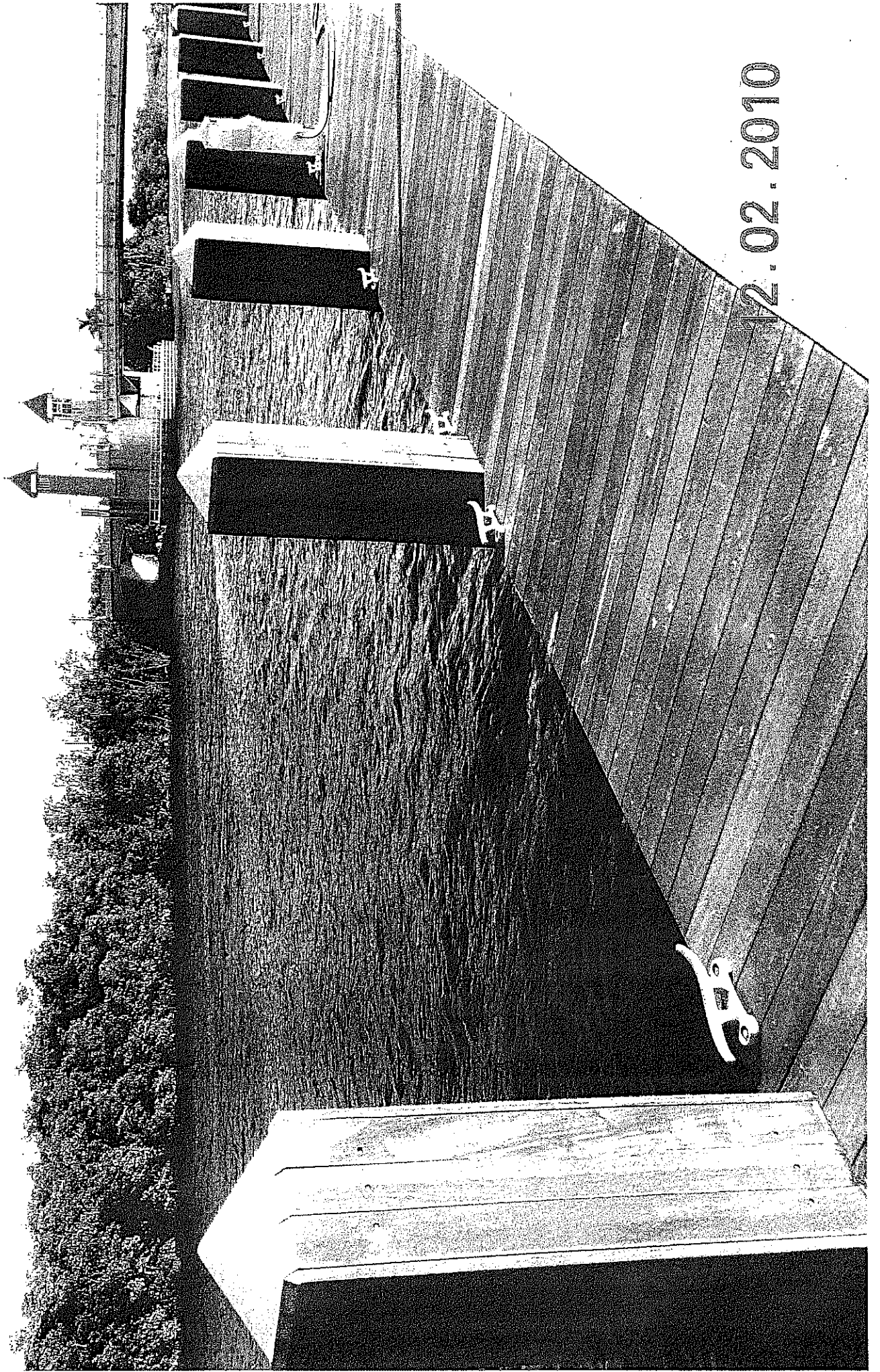


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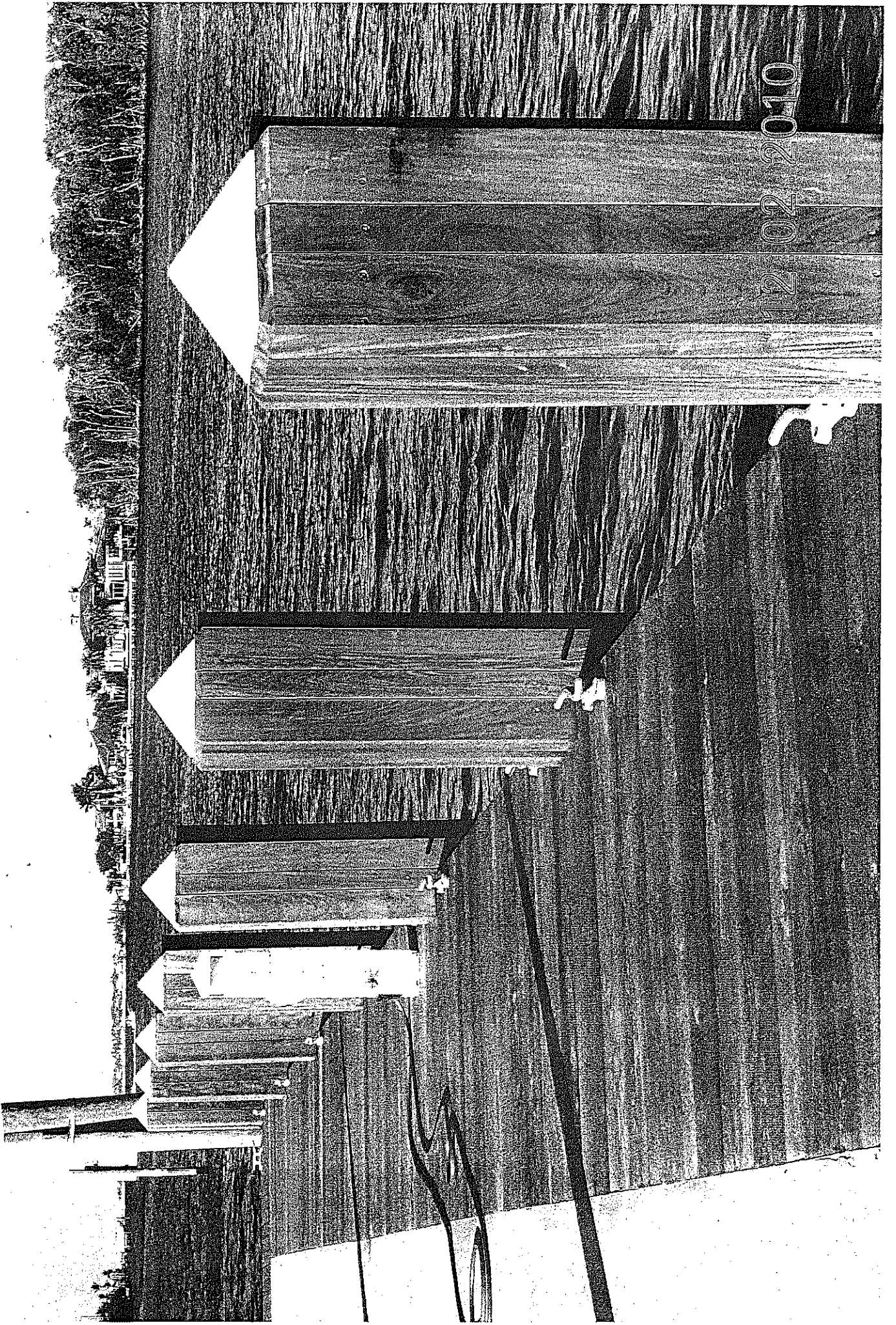


04/09/2010 15:59



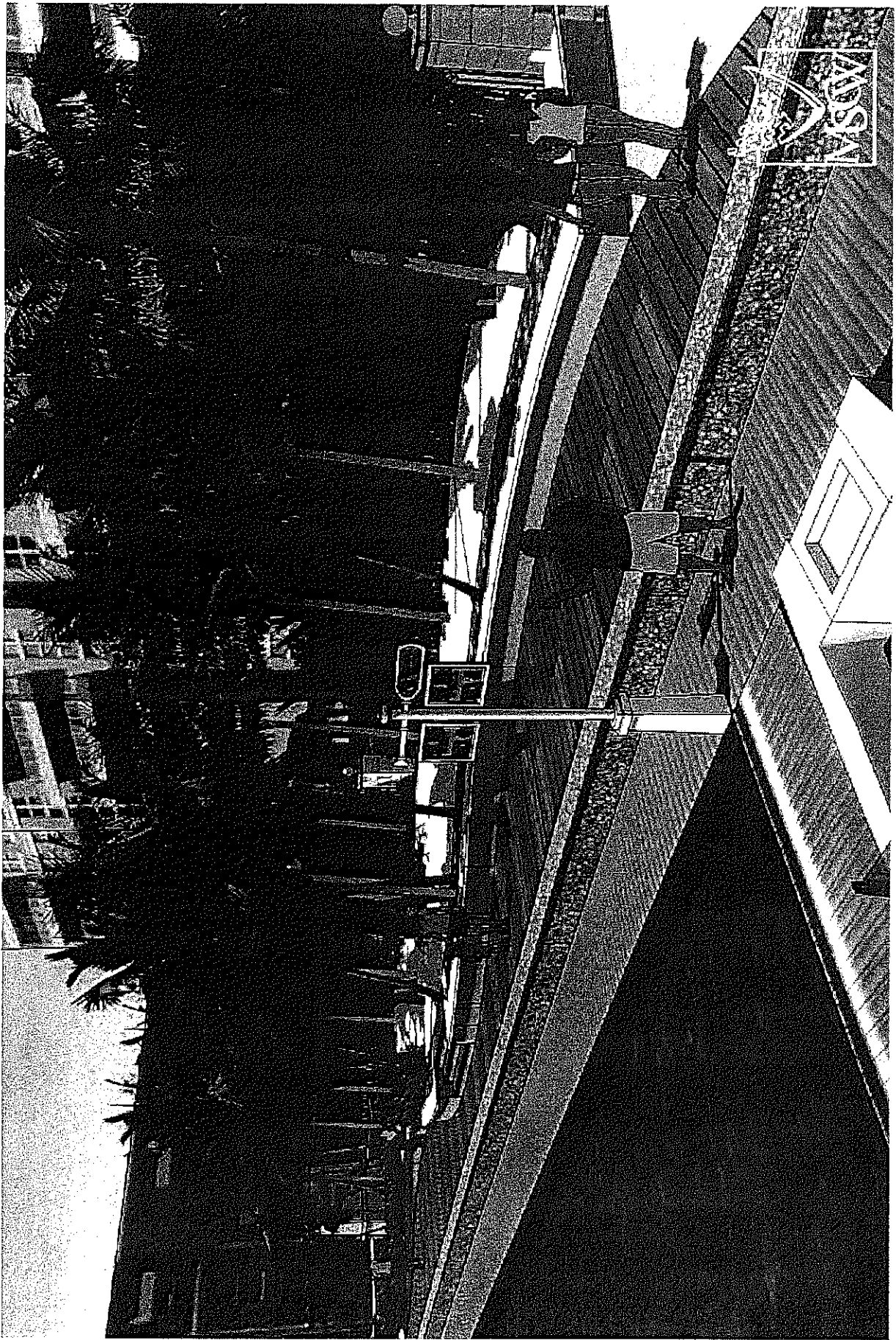


12.02.2010

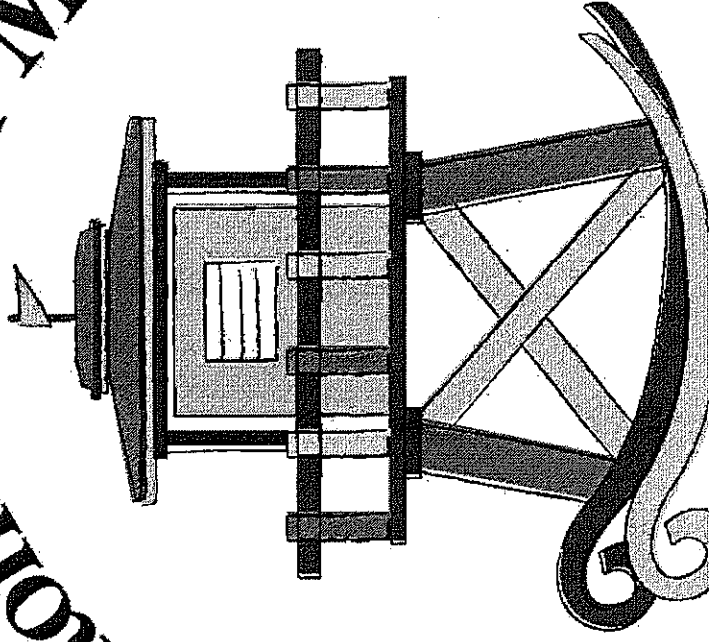


12 02 2010

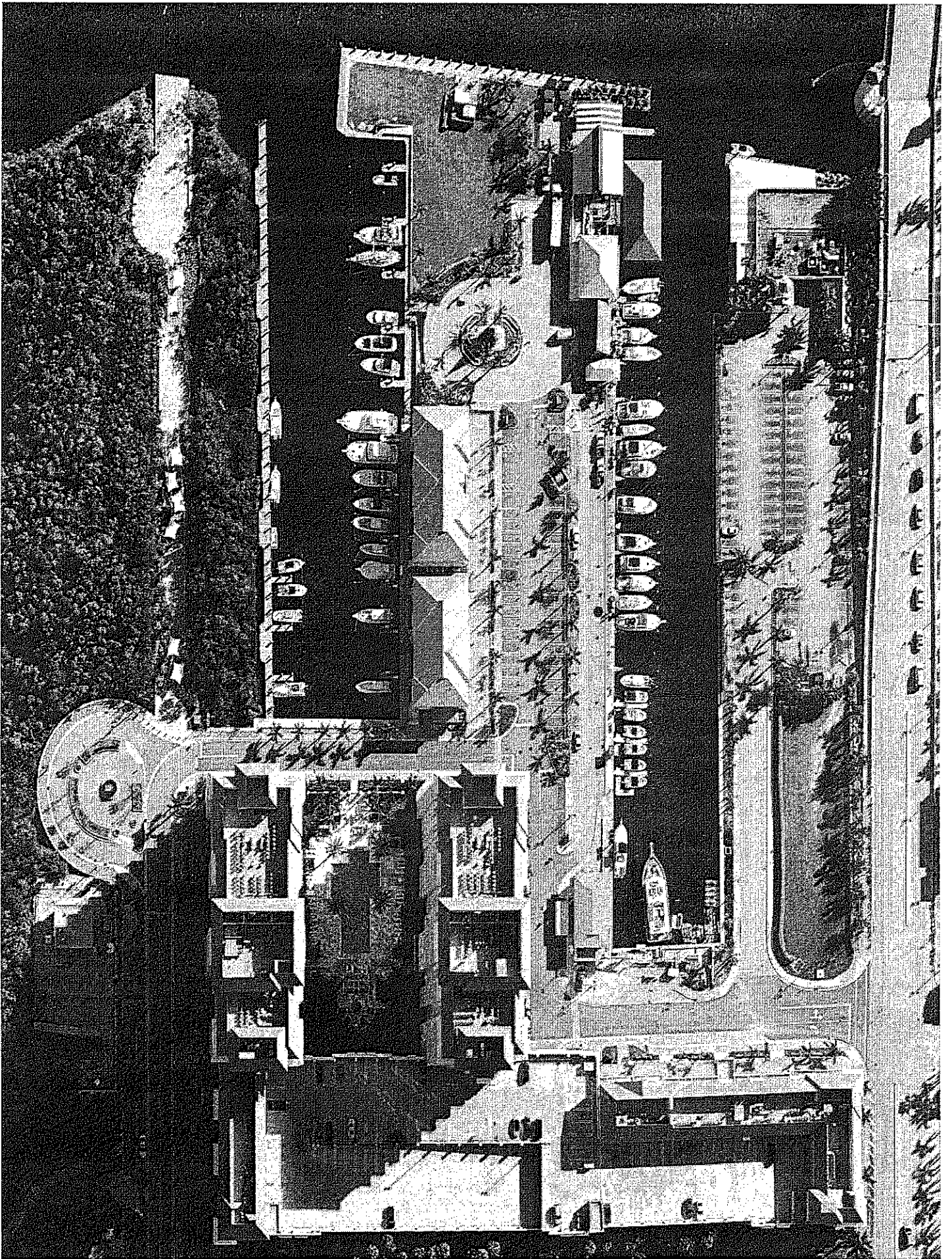
ATTACHMENT 6
GREEN SPACE AND BOYNTON BEACH BLVD. ENTRY



Boynton Harbor Marina



BOYNTON BEACH CRA



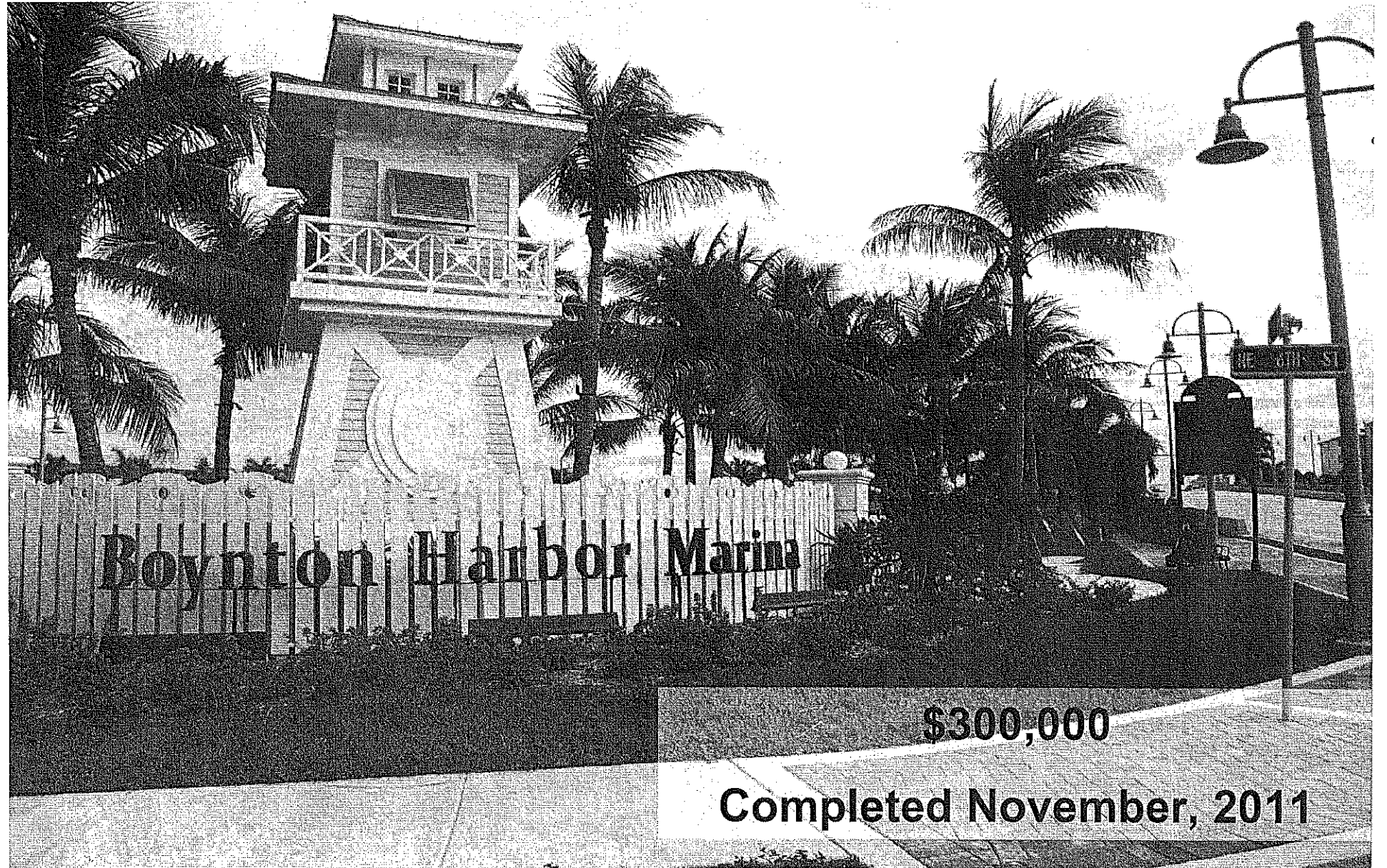
Boynton Beach CRA

- Purchased 14 Slips in 2006 to Preserve Working Marine Industry
- Purchased Waterfront Parcel in 2007
- Purchased 120 Public Parking Spaces
- Created Master Plan for Marina in 2008
- Goal to Improve Downtown Boynton Beach

Palm Beach County Waterfront Easement Preservation Grant

- Boynton Beach CRA Awarded \$2M in 2006 by PBC
- CRA Leveraged PBC funds to
 - Purchase Property - \$7,775,000
 - Create Master Plan - \$630,000
 - Improve Marina - \$2M since 2009
 - Create Water Taxi Slip
 - Buy 120 Public Parking Spaces

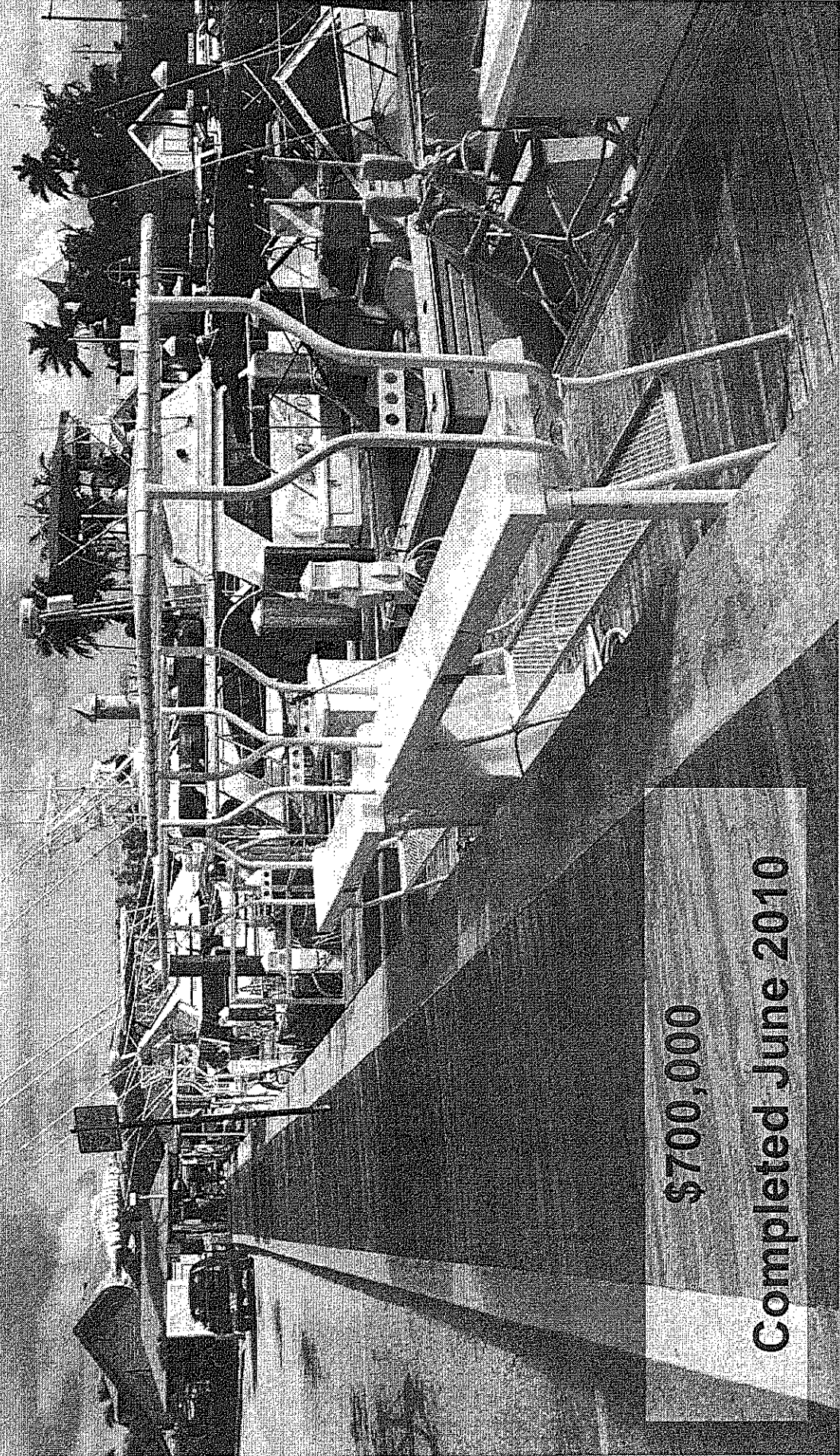
New Iconic Entry Feature



\$300,000

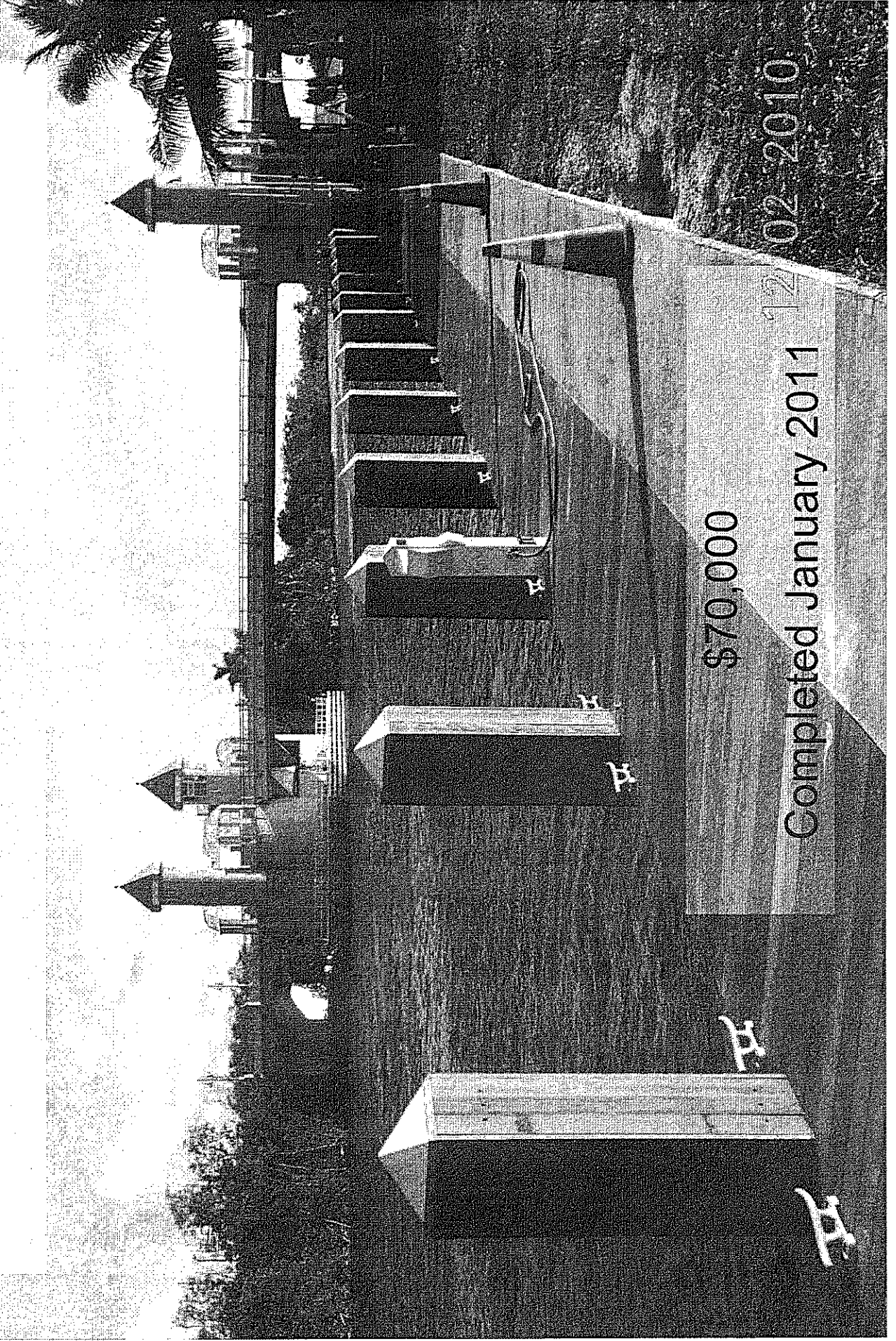
Completed November, 2011

Dredging, New Piers, Docks and Fish Cleaning Stations



\$700,000
Completed June 2010

New Fuel Dock

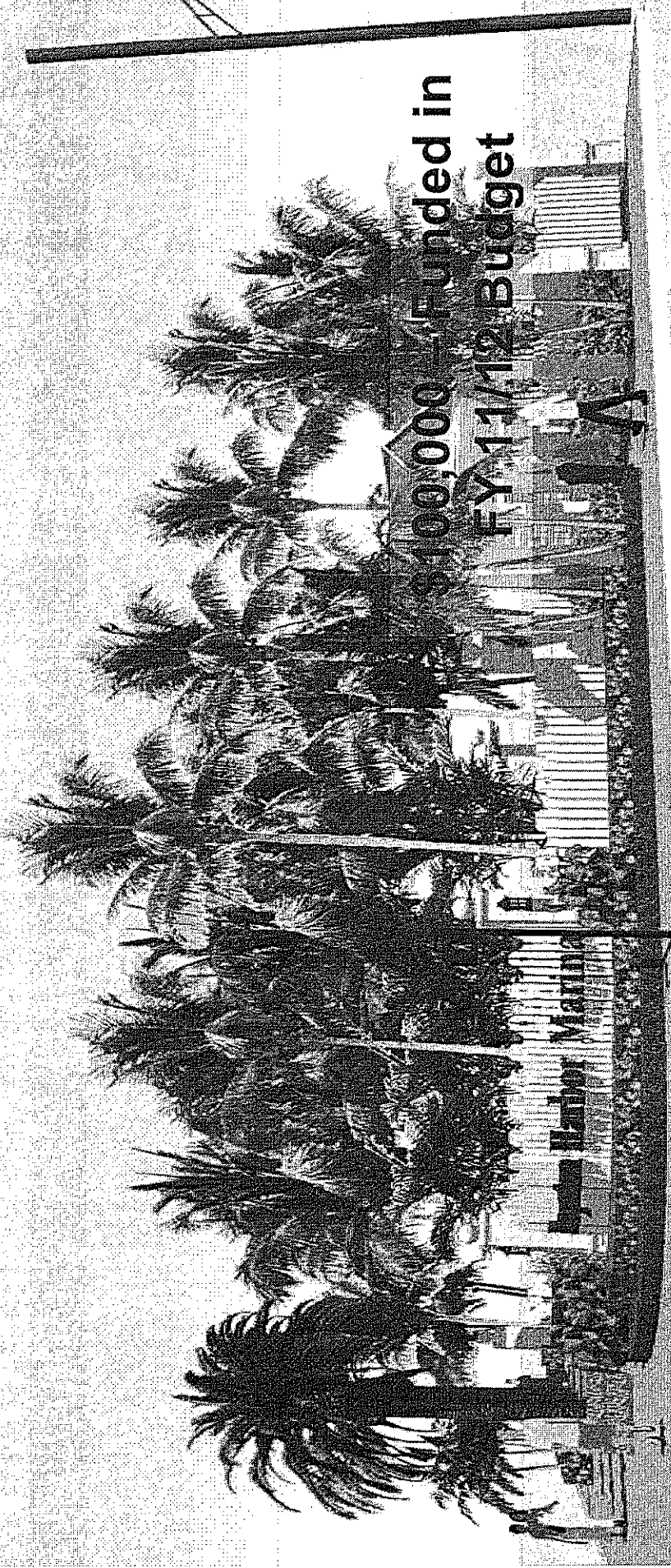


\$70,000

Completed January 2011

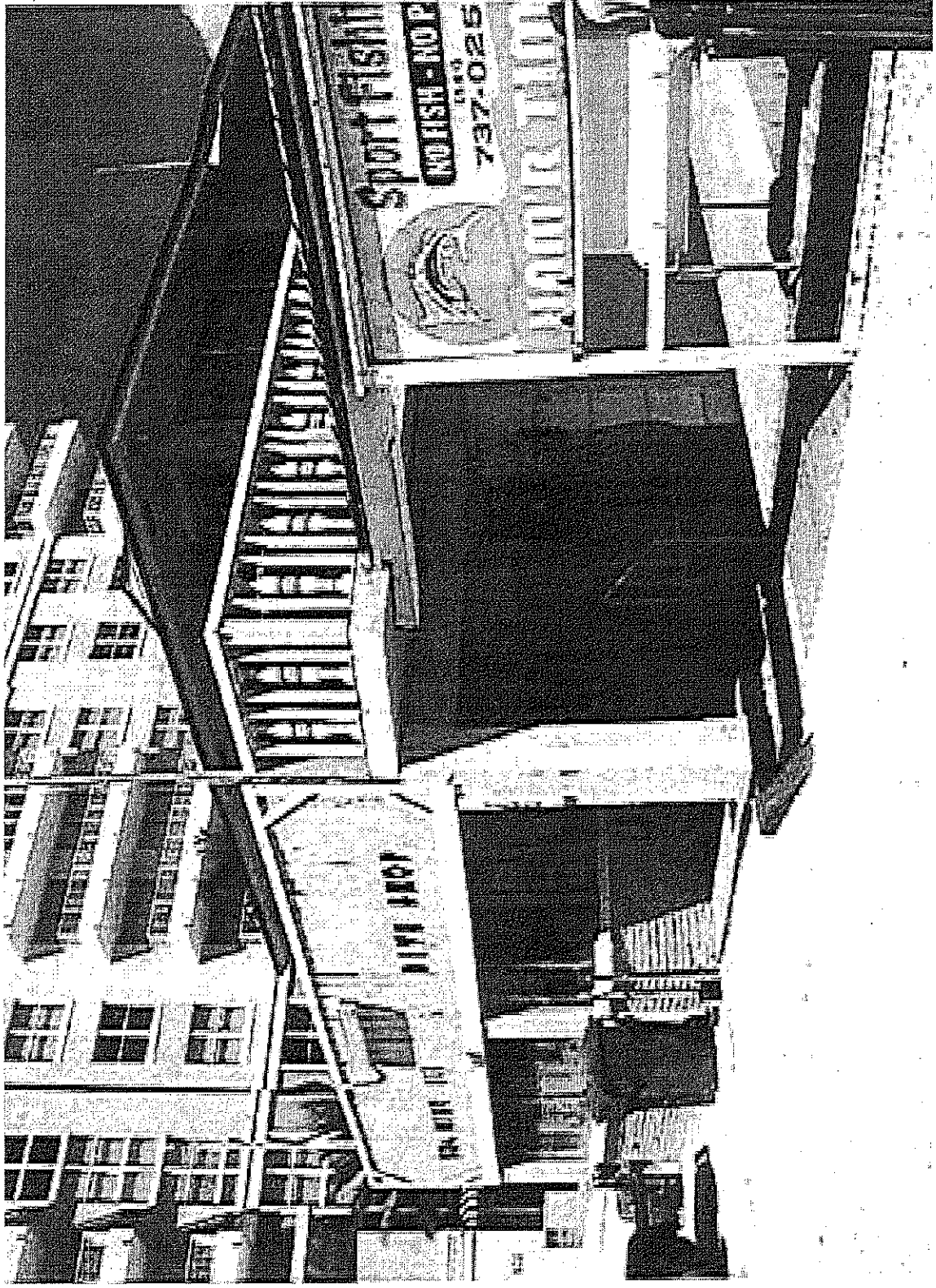
02-2010

Entry Signage At Boynton Beach Blvd. and Federal Hwy.



100,000 - Funded in
FY 11/12 Budget

Dive Shop Area Current Condition



Renovate Existing Dive Shop building:

Paint Exterior of Building	\$ 17,500
Re-Stucco Building	26,500
Awnings/Trellis Sunscreens	12,000
Ornamental Handrails	11,000
Exterior Covered Porch on West Side	6,000
Visual Screen on East Side/Storage Gates	9,000
Roof Replacement	28,000
Replace all Windows	75,000
Hydraulic Elevator	25,000
ADA Accessible Toilets (4 total)	40,000
Fix Accessible Entrances	4,500
Landscaping and Site Furniture	7,500
HVAC Upgrades	9,500
Upgrade Electrical/Electrical Light Fixtures	27,000
Subtotal	\$ 298,500
Unforeseen Conditions (20%)	59,700
Total	\$ 358,200

Existing Building Issues

- More Expensive to Renovate
- No Room For Public Restrooms
- Does Not Meet Current Set Back Code
- Blocks Water Views

Existing Tenants

- Sea Mist - 200 Sq. Ft
- Splash Down Divers – 1,200 Sq. Ft.

Tenant Relocation

- Splash Down – Leased across the street at the same rate. Will use CRA Grants for Build-out and Rent Subsidy.
- Sea Mist – Will Build a Ticket Office on Their Land with CRA Assistance

Proposed Plan

\$250,000 – Funded
in FY 11/12



New Marina Building

- Public Restrooms
- Changing Areas
- Harbor Master Office
- Ships Store

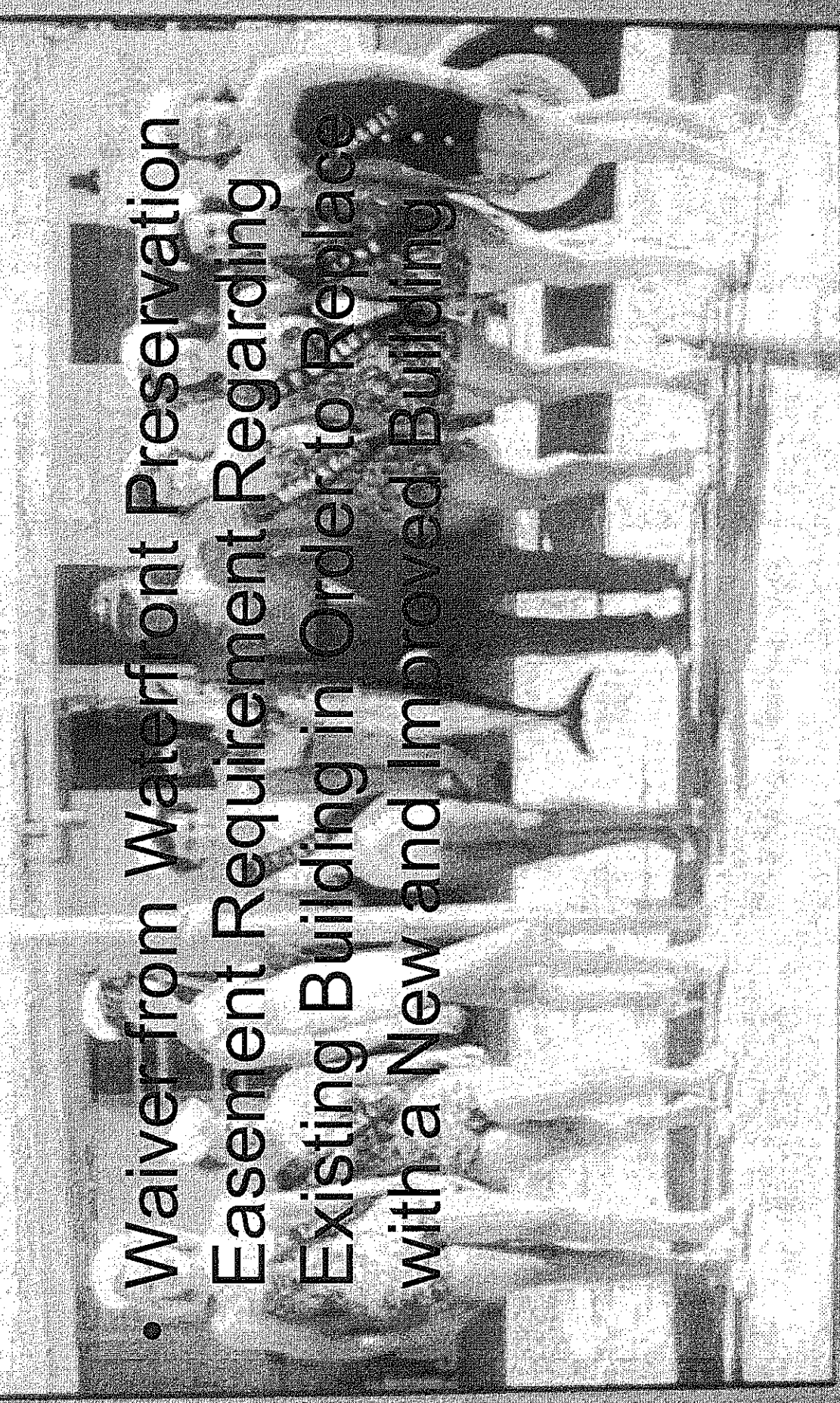


**\$325,000 – Proposed
for FY 12/13**

WANS

CRA Request

- Waiver from Waterfront Preservation Easement Requirement Regarding Existing Building in Order to Replace with a New and Improved Building



SPLASHDOWN DIVERS, INC.

700 Casa Loma Blvd
Boynton Beach, FL 33435

RECEIVED

September 8, 2011

Mr. Ross Hering, Director
Property and Real Estate Management
Palm Beach County
3200 Belvedere Road, Bldg 1169
West Palm Beach, FL 33406-1544

SEP 14 2011

RE: ENFORCEMENT OF RIGHTS resolution no.R-2006-1919

Dear Mr. Hering,

I recently spoke with you regarding the easement that the Palm Beach County purchased from the Boynton Beach CRA in 2006 with a portion of the \$50,000,000 Waterways Grant (?). As I brought to your attention, They (the Boynton Beach CRA) intend to demolish and NOT replace the existing structure known as the dive shop building. You indicated that you had not been advised of their intentions and that you would look into the matter.

This building has served the boating public as a working full service dive shop (including waterfront air fill station, scuba gear rental and repairs and sales) for over 20 years. It also incidentally serves (due to its location at the entrance to the marina) as the logical welcome/information center. It has a snack center incorporated in the dive shop space with the appropriate licencing. Splashdown Divers currently runs these services and will be summarily thrown out in order to provide grass and palm trees to the surrounding dog owners at Marina Village Condominium.

As the owner of Splashdown Divers and as a resident of Palm Beach County I beseech you to consider the impact of the removal of this building.

1. The "working marina" perception and atmosphere will be greatly reduced..
2. Unique access to scuba tank fills from the water ("boatside") will disappear.
3. Access for the 6 dive charter boats and other charter fishing boats to our ice machine will disappear.
4. Access for those businesses to our repair tools and materials will disappear.
5. The central delivery location for the charter boats will disappear. (Lewis Marine, UPS)
6. "Information Central" is to be transformed into a depersonalized sign system.

There are probably many other reasons to keep the existing building and its current business interests going (especially since it is the only structure left of a significant if not ancient piece of Boynton Beach maritime history). I am hoping that you will see the benefits of stepping in and requiring the CRA to keep the almost 50% value of the property they "encumbered" to the county by the easement sold.

Waterfront Preservation Easement and Declaration of Restrictive Covenants

ARTICLE V

FUTURE DEVELOPMENT

Grantor agrees that no development will occur on Property other than future construction or renovation (*demolition?*) in conformance with the restrictions set forth herein.....No additional development of the Property shall occur, nor shall any further improvements or alterations be made to the Property which materially alter the current Marina, or which otherwise impairs, restricts, eliminates or impacts the existing marina uses...

I am requesting permission to be advised and/or informed of any actions you intend to undertake as I do have a vested interest in the end results. For 28 years I have built a business based on this marina and have suffered through all the "birthing processes" with little complaints, believing Them when They said it would get better and we would all benefit from the changes. Being squeezed out of business and not being allowed to be part of the end results is NOT better. I only ever wanted to be part of the solution and now I am being tossed out with the leftover garbage.

I appreciate the time and consideration you and your staff have spent on this and look forward to seeing a just resolution.

Sincerely,



Lynn A. Simmons

561 736-0712

Splashdown Divers, Inc.