

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY

DEPT: Environmental Resources

BOARD AGENDA #: *B-4(a)

AGENDA DATE: May 23, 2017

SUBJECT:

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 507 Kerr Avenue, Modesto, California

BOARD ACTION AS FOLLOWS:

No. 2017-266

On motion of Supervisor Withrow, Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST: Elizabeth A. King
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Environmental Resources
Urgent Routine

BOARD AGENDA #: *B-4(a)

AGENDA DATE: May 23, 2017



CEO CONCURRENCE: *pht*

4/5 Vote Required: Yes No

SUBJECT:

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 507 Kerr Avenue, Modesto, California

STAFF RECOMMENDATIONS:

1. Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding the property at 507 Kerr Avenue, Modesto, California, CE No. 17-0004, as set forth in Attachment 1.

DISCUSSION:

The Code Enforcement Unit (CEU) responds to complaints throughout the unincorporated area of Stanislaus County and attempts to gain voluntary compliance through education and personal contact with property owners and those persons responsible for creating nuisances. Compliance efforts include issuing Notice and Orders to Abate, conducting inspections, granting extension requests, issuing Administrative Civil Citations, recording Notices of Non-compliance with the Clerk-Recorder's Office, presenting cases before the Nuisance Abatement Hearing Board and the Board of Supervisors, obtaining inspection warrants, and conducting forced clean-ups.

On September 27, 2016, in response to a complaint regarding a property littered with junk, trash, debris, and occupied vehicles, CEU staff conducted an inspection at 507 Kerr Avenue, Modesto, California, and verified the property contained an unlawful accumulation of debris, refuse, rubbish; junk in excess of two-hundred square feet; and occupied travel trailers. Subsequently, a Notice and Order to Abate was issued on January 5, 2017 followed by several compliance inspections that were conducted between January 6, 2017, and April 27, 2017. These compliance inspections revealed that the property remained in violation and no compliance efforts had been initiated. Failure to comply with the Notice and Order to Abate resulted with a Notice of Non-compliance being recorded with the Clerk-Recorder's Office and three Administrative Civil Citations being issued on February 21, 2017, March 7, 2017, and March 21, 2017.

Barbie L. and Joseph F. Escalante are the current owners of record according to the County Assessor's Office, the County Clerk-Recorder's Office, and a title report obtained from Stewart Title Company. The person(s) with a recorded interest in the subject property was notified of this action and has refused to comply with the Notice and Order to Abate.

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 507 Kerr Avenue, Modesto, California

On April 27, 2017, the Nuisance Abatement Hearing Board supported staff’s recommendation to declare the property a nuisance and forwarded the matter to the Board of Supervisors recommending approval (Attachment 1). The Board may adopt, modify, or reject the recommendations, and, if adopted, the property owner(s) will be required to abate the nuisance within two weeks of the Board’s decision by complying with the requirements identified in Attachment 1. Should the owner(s) fail to comply, staff will apply for an inspection and abatement warrant with the Superior Court and, if approved, will conduct a forced clean-up by removing all the travel trailers, junk, debris, refuse, and rubbish.

The cost of the abatement will be charged to the property owner(s) and, if the responsible person(s) fails to pay the cost of abatement, a Notice of Abatement Lien will be recorded against the property. Additionally, the Notice of Non-compliance will remain filed in the Clerk-Recorder’s Office until the property has been brought into compliance.

POLICY ISSUE:

The Board of Supervisor’s approval of a recommended decision of the Nuisance Abatement Hearing Board is necessary before a forced clean-up action can be initiated pursuant to Stanislaus County Code Section 2.92.010. Continuing violations that exist on properties may constitute a public nuisance if they remain unabated.

FISCAL IMPACT:

There is a potential fiscal impact if the property owner(s) fail to comply and the Department is forced to incur abatement costs. The Department has budgeted for abatements and will request estimates from contractors if this item is approved and the property owner(s) fail to abate the nuisance(s). However, if a forced abatement is necessary, the costs will be charged to the property owner(s) and if the responsible person(s) fail to pay the cost of abatement, the case will be turned over to Revenue Recovery. If the charges ultimately remain unpaid, a Notice of Abatement Lien will be recorded against the property. The Department obtained a preliminary estimate cost of \$7,000 for the cleanup of the property.

| | | |
|--|----------|-------------|
| Cost of recommended action: | | \$ 7,000 |
| Source(s) of Funding: | | |
| Property Owner | \$ 7,000 | |
| Funding Total: | | \$ 7,000 |
| Net Cost to County General Fund | | <u>\$ -</u> |

| | |
|---|-----------|
| Fiscal Year: | 2016/2017 |
| Budget Adjustment/Appropriations needed: | No |

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board
Regarding the Property at 507 Kerr Avenue, Modesto, California

BOARD OF SUPERVISORS' PRIORITY:

The recommended action supports the Board's priorities of A Safe Community, A Healthy Community, and the Efficient Delivery of Public Services by improving the quality of life and protecting the health and safety of the community.

STAFFING IMPACT:

If the owners fail to comply, Code Enforcement staff will properly remove all travel trailers and dispose of all the junk, debris, refuse, and rubbish.

CONTACT PERSON:

Jami Aggers, Director of Environmental Resources.

Telephone: 209-525-6770

ATTACHMENT(S):

1. Nuisance Abatement Hearing Board, Recommended Decision dated April 27, 2017 (3 pages)
2. Site Map
3. Photographs of 507 Kerr Avenue, Modesto, California (APN 035-038-017) (16 photographs)

Attachment 1



NUISANCE ABATEMENT HEARING BOARD

RECOMMENDED DECISION

**IN RE: 507 Kerr Avenue, Modesto, CA
Abatement Hearing No. CE# 17-0004**

The above referenced matter came before the Nuisance Abatement Hearing Board for hearing on April 27, 2017. Upon consideration of oral testimony and documentary evidence presented at the hearing, the Nuisance Abatement Board makes the following findings of fact and conclusions:

1. The property located at 507 Kerr Avenue, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 035-038-017, is zoned R-3, Multiple-Family Residential District.
2. County Staff confirmed the existence of and presented evidence of violations of Stanislaus County Codes, (as listed in the County Code(s) or interpreted or determined to violate County Code(s)) occurring on the property, as noted in "Attachment A."
3. All interested parties were served a Notice and Order to Abate pursuant to Stanislaus County Code Section 2.92.030, describing the conditions or use of the property that constitutes the violations and ordering abatement of those conditions.
4. County staff has attempted to obtain voluntary compliance by the interested parties, and the interested parties have had significant and reasonable time to correct all violations but have refused and/or failed to meet the deadlines prescribed by Notice.
5. The owners have the legal responsibility for maintenance of the property in conformance with the applicable law, ordinance and rules, including abatement of all violations and compliance with all orders of the County.
6. The interested parties were served proper Notice of Hearing to Abate Nuisance pursuant to Stanislaus County Code Section 2.92.070.
7. Based on the evidence and testimony presented at the hearing, which is incorporated herein by reference, there is substantial evidence that violations of the Stanislaus County Code, as set forth in the staff report for the matter, still exists on the property.
8. Pursuant to Stanislaus County Code Section 2.92.010, the continuing violations that exist on the property constitute a public nuisance.

The Nuisance Abatement Hearing Board further recommends the Board of Supervisors adopt the following decision:

- Approve Staff's recommendation and determine the use of the property described as an unlawful accumulation of debris, refuse, rubbish, unlawful junkyard, and unlawfully occupied travel trailer(s)/ recreational vehicle(s)/camper(s) in the staff report are a violation of Stanislaus County Code Section 9.04.020, Section 21.36.020, and Section 21.16.040.
1. Order the owner and interested parties to abate the nuisance on the property within two weeks from the date of the Board decision by correcting the condition or use of the property as set forth in the staff report on this matter.
 2. Authorize the County to abate the nuisance and to charge the costs of the abatement to the County if the Owners or other interested parties do not abate the nuisance within the specified time period.
 3. Authorize County staff, pursuant to Stanislaus County Code Section 2.92.070, to dispose of any material, equipment, vehicles or other personal property removed from the property to abate a nuisance in any manner authorized by law, and to charge the costs of disposal to the owners and/or interested parties as part of the cost of abatement.
 4. Authorize County staff to charge the owners and/or interested parties for County staff time incurred to investigate through the Abatement Hearing.
 5. Order a Notice of Abatement Lien be recorded against the property if the owners and/or interested parties fail to pay the costs demanded by the County.
- Deny Staff's recommendation and determine the use of the property described as an unlawful accumulation of debris, refuse, rubbish, unlawful junkyard, and unlawfully occupied travel trailer(s)/ recreational vehicle(s)/camper(s) in the staff report are not a violation of Stanislaus County Code Section 9.04.020, Section 21.36.020, and Section 21.16.040.

NOW THEREFORE, the Nuisance Abatement Hearing Board orders the Director to forward these findings and conclusions and its recommended decision to the Stanislaus County Board of Supervisors within 30 days.

Dated: April 27, 2017


Marjorie Blom, Chair

Stanislaus County Nuisance Abatement Hearing Board

It should be noted that on May 23, 2017 the Board of Supervisors will hear this matter as a consent item.

Attachment "A"

RE: File Number CE 17-0004

Assessor's Parcel Number: 035-038-017

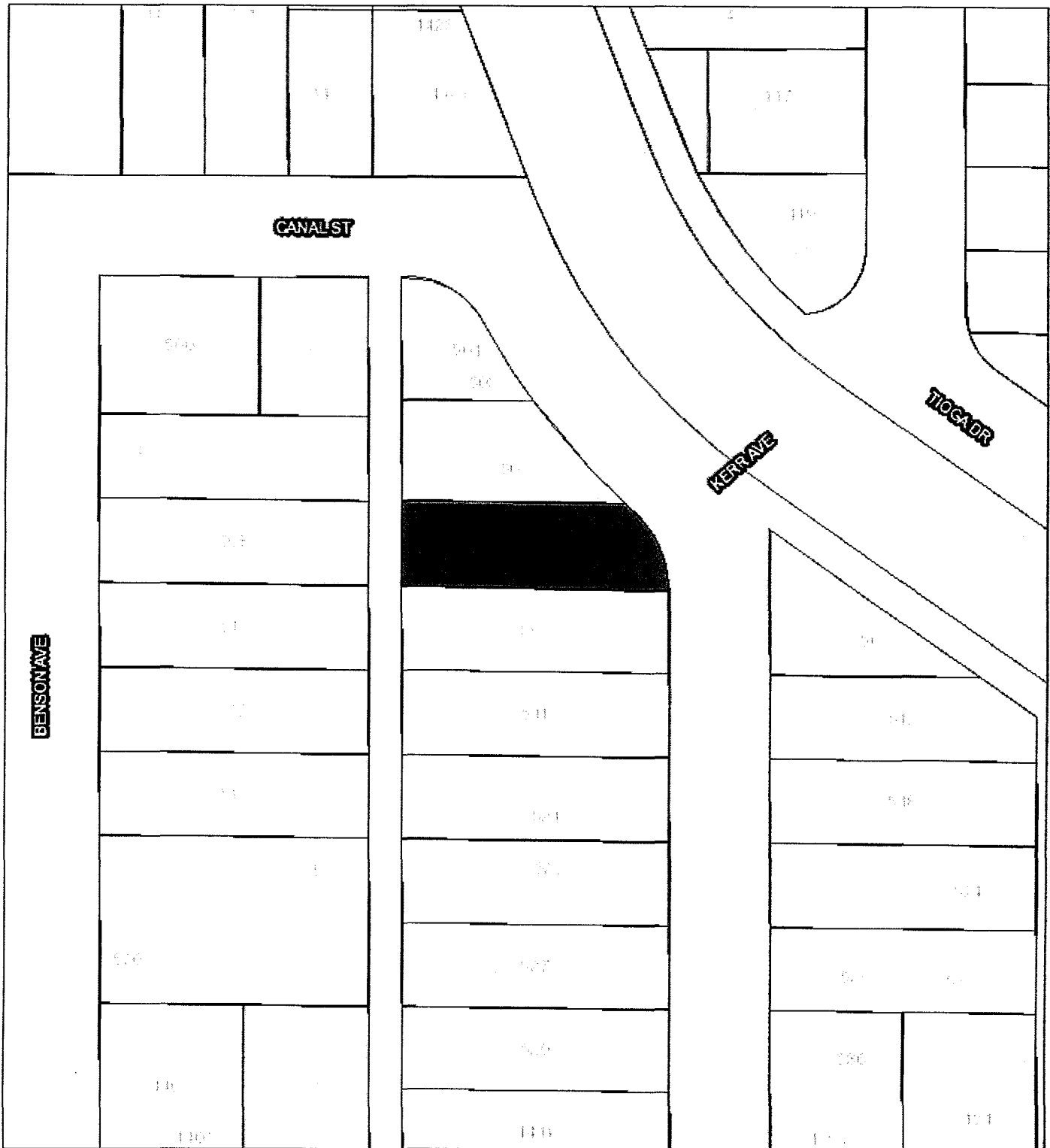
Address: 507 KERR AVE, MODESTO, CA

Inspection of the above reference property revealed the following violations of Stanislaus County Code §2.92.010:

| Code Section Violation: | Corrective Action: | Compliance Date: |
|--|--|-------------------------|
| §21.36.020 and §21.16.040 of the Stanislaus County Code. Unlawful junkyard/accumulation of junk on the premises. | Removing junk in excess of 200 square feet from the premises. | 02/19/17 |
| §9.04.020 of the Stanislaus County Code. Unlawful accumulation of debris, refuse, and rubbish. | Collecting and disposing of all debris, refuse, and rubbish to an approved location. | 02/19/17 |
| §21.36.020 of the Stanislaus County Code. Unlawfully occupied travel trailer(s)/recreational vehicle(s)/camper(s). | Immediately vacating the travel trailer(s)/recreational vehicle(s)/camper(s) and returning all water and electrical to its source. | 02/19/17 |


Enclosures: Stanislaus County Code

Attachment 2




March 24, 2017

1:1,000

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MODESTO

 FeatureLayer32

NEWMAN

Address

OAKDALE

 RailRoads

FATTERSON

City Limits

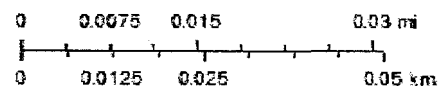
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CERES

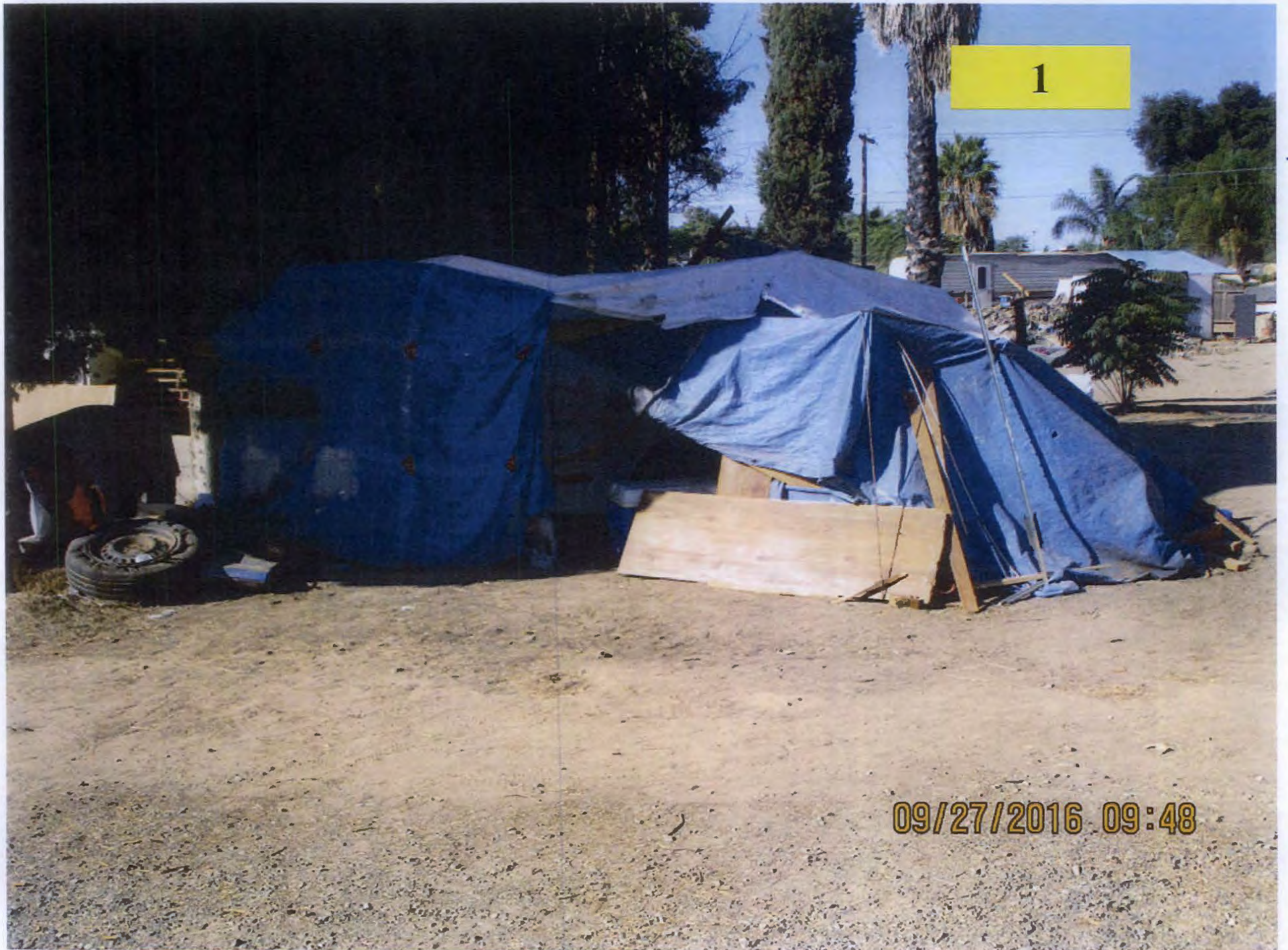
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HUGHSON

WATERFORD

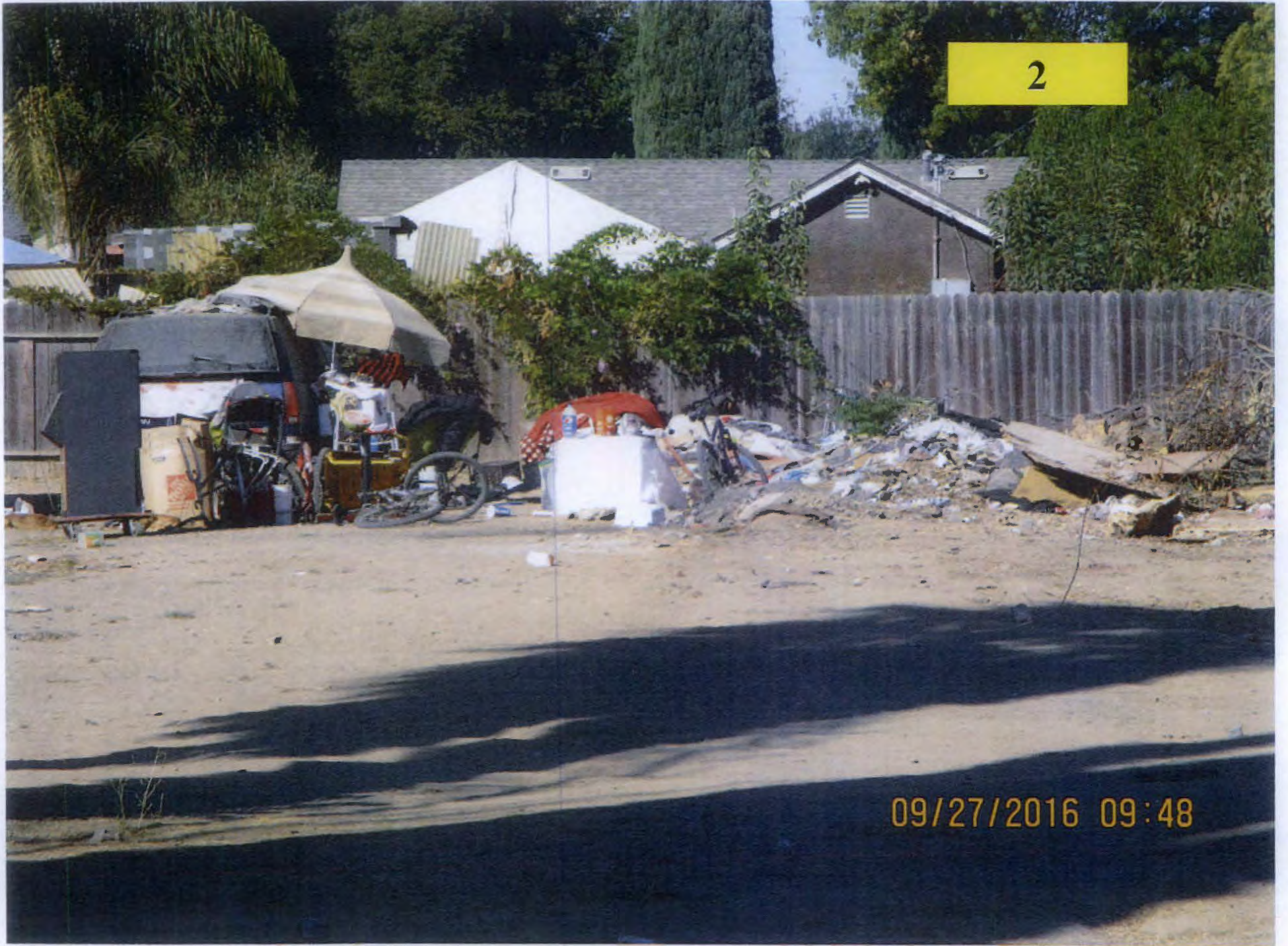


Attachment 3



1

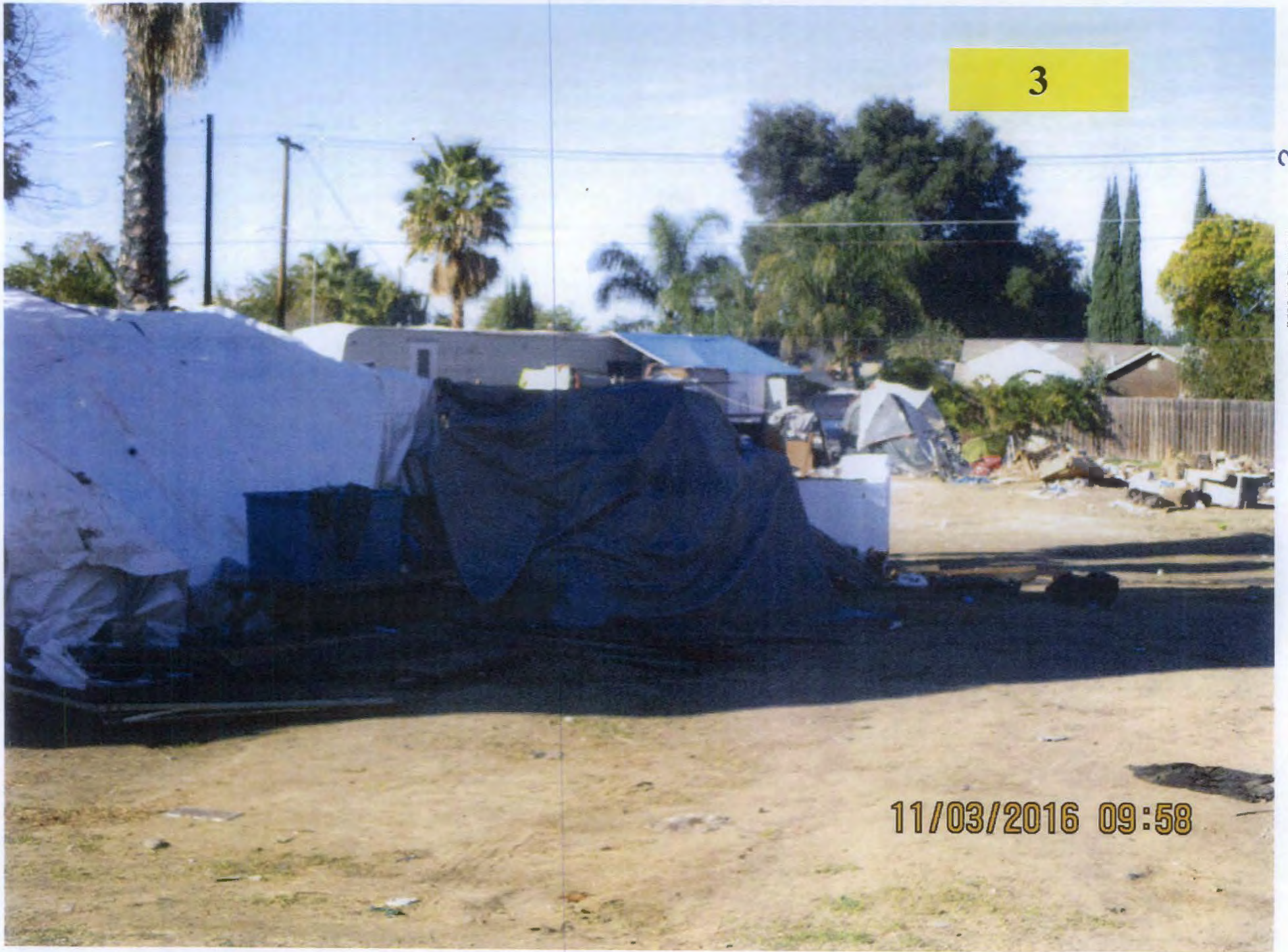
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PHOTOGRAPH 2

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PHOTOGRAPH

11/03/2016 09:58



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PHOTOGRAPH 4

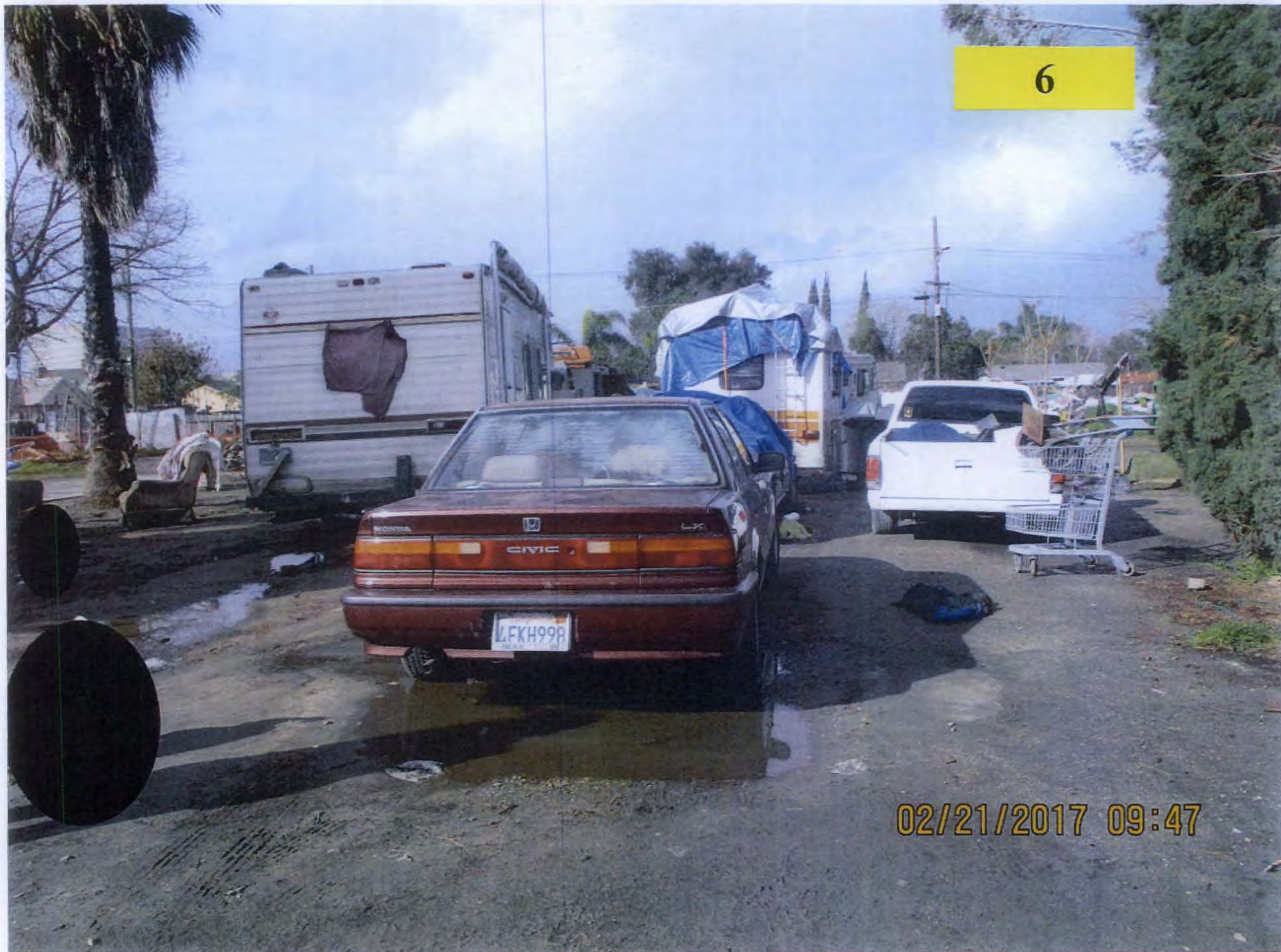
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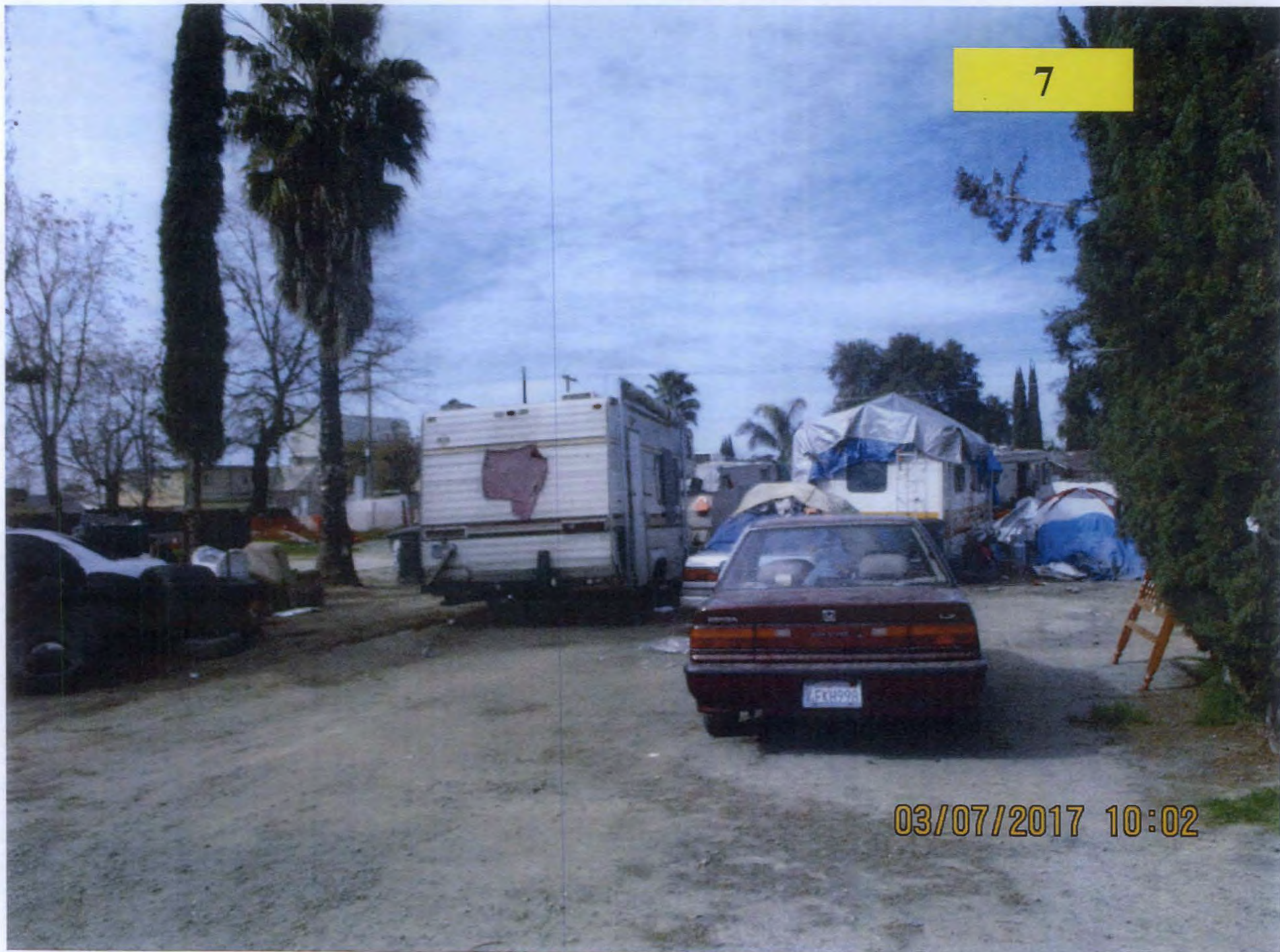


01/04/2017 09:09

6



02/21/2017 09:47



7

03/07/2017 10:02



8

03/07/2017 10:00

9



9

PHOTOGRAPH

03/21/2017 09:50

10

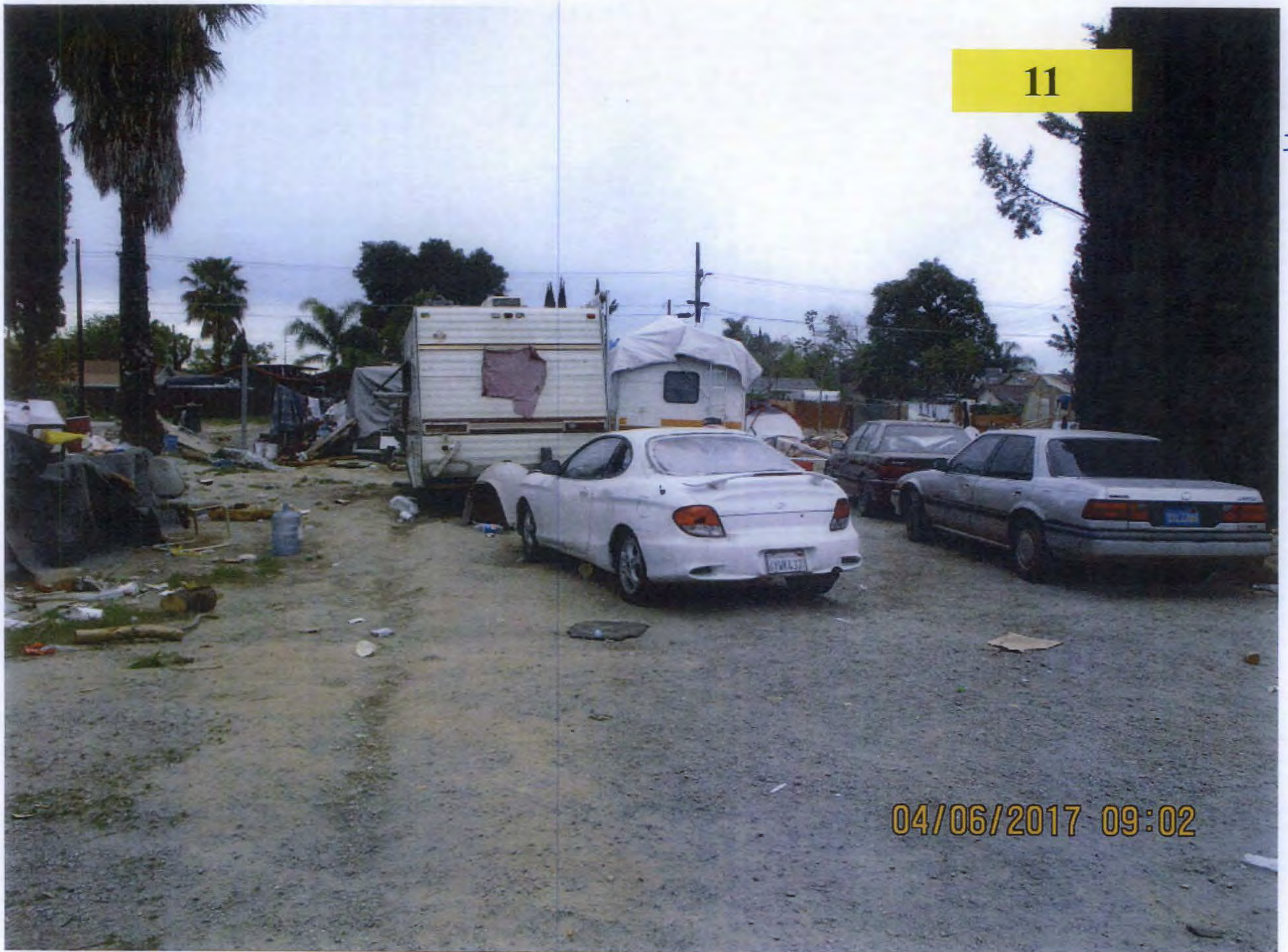
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PHOTOGRAPH

03/21/2017 09:50



11



04/06/2017 09:02

12



04/06/2017 09:02

PHOTOGRAPH 12



13

04/06/2017 09:06

14



04/13/2017 09:26

15



MOTORS

FOR
REPAIR

04/13/2017 09:23

16

PHOTOGRAPH

16

04/13/2017 09:26

