

ORDINANCE NUMBER 2023- 01

GRANTING A SPECIAL USE PERMIT FOR A DWELLING UNIT FOR A WATCHMAN AND THEIR IMMEDIATE FAMILY AND A SPECIAL USE PERMIT FOR OUTDOOR STORAGE AT 5375 ROUTE 34 AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBER 03-18-403-015 IN OSWEGO TOWNSHIP

WHEREAS, Section 13:08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue and special use permits and place conditions on special use permits and provides the procedure through which special use permits are granted; and

WHEREAS, Section 9:02.C.9 of the Kendall County Zoning Ordinance permits of dwelling units for watchmen and their immediate families, including caretakers as a special use in the B-2 General Business Zoning District; and

WHEREAS, Section 9:02.C.20 of the Kendall County Zoning Ordinance permits of outdoor storage provided such storage is screened from adjacent and surrounding properties as a special use in the B-2 General Business Zoning District; and

WHEREAS, the property which is the subject of this Ordinance has been, since 1976, and remains currently located within the B-2 General Business Zoning District and consists of approximately 1.63 +/- acres located at 5375 Route 34 (PIN: 03-18-403-015), in Oswego Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as “the subject property”; and

WHEREAS, the subject property is owned by Raymond Gonzalez as Beneficiary of Merchants National Bank Under Trust Agreement Dated February 24, 1997 as Trust Number 5191 and shall hereinafter be referred to as “Petitioner”; and

WHEREAS, on or about November 17, 2022, Petitioner’s representative filed a petition for a special use permit for a dwelling unit for a watchman and their immediate family and a special use permit for outdoor storage at the subject property; and

WHEREAS, following due and proper notice by publication in the Kendall County Record on November 24, 2022, the Kendall County Zoning Board of Appeals conducted a public hearing on December 19, 2022, at 7:00 p.m., in the County Board Room of the Kendall County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner’s representative presented evidence, testimony, and exhibits in support of the requested special use permits and zero members of the public testified in favor or in opposition to the request; and

WHEREAS, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their findings of fact and recommended approval of the special use permit with conditions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated December 19, 2022, a true and correct copy of which is attached hereto as Exhibit B; and

WHEREAS, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the testimony presented at the aforementioned public hearing and has considered the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has forwarded to the Kendall County Board a recommendation of approval of the requested special use permits; and

WHEREAS, the Kendall County Board has considered the recommendation of the Planning, Building and Zoning Committee and the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has determined that said petition is in conformance with the provisions and intent of the Kendall County Zoning Ordinance; and

WHEREAS, the special use permits shall be treated as a covenant running with the land and are binding on the successors, heirs, and assigns as to the same special uses conducted on the property; and

NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS, as follows:

1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
2. The Kendall County Board hereby grants approval of Petitioner's petition for a special use permit for a dwelling unit for a watchman and their immediate family and a special use permit for outdoor storage at the subject property on the subject property subject to the following conditions:
 - A. The site shall be developed substantially in accordance with the site plan attached hereto as Exhibit C. Except for loading and unloading, outside storage of materials shall be restricted to the fenced area north of the frame garage shown on Exhibit C.
 - B. Items stored outdoors are limited to cars, boats, trailers, recreational vehicles, granite, and other materials related to businesses housed on the property. No junk or debris, as defined by the Kendall County Junk and Debris Ordinance, shall be stored outdoors on the property.
 - C. The owner of the property shall submit information to the Kendall County Planning, Building and Zoning Department annually confirming that the tenants of the apartment are employed as a watchman of a business operating on the subject property or are immediate family members of the watchman. Only one (1) watchman and the family of the one (1) watchman may reside on the first floor of southern, mixed use building shown in the picture attached hereto as Exhibit D.
 - D. The operator(s) of the business allowed by this special use permit shall ensure that the existing fences shown in the pictures attached hereto as Exhibits E and F are maintained in good order to provide screening of the outdoor storage area from adjacent and surrounding properties. The operator(s) of the business allowed by this special use permit may alter the materials used to create the fences, but shall not decrease the screening created by the fences that existed at the time of the issuance of the special use permit.
 - E. None of the vehicles or items parked or stored on premises shall be considered agricultural equipment as they relate to the businesses allowed by these special use permits.
 - F. All of the vehicles or items stored on the premises shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
 - G. The owners of the business allowed by these special use permits shall diligently monitor the property for leaks from vehicles and items stored on the premises and shall promptly clean up the site if leaks occur.
 - H. The operator(s) of the business allowed by these special use permits acknowledge and agree to follow Kendall County's Right to Farm Clause.
 - I. The operator(s) of the business allowed by these special use permits shall follow all applicable

Federal, State, and Local laws related to the operation of this type of business, including but not limited to the sign regulations contained in the Kendall County Zoning Ordinance.

- J. The property owner shall follow all applicable Federal, State, and Local laws related to renting the property to a watchman and the family of the watchman.
 - K. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permits.
 - L. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
3. These special use permits shall be treated as covenants running with the land and are binding on the successors, heirs, and assigns as to the same special uses conducted on the property.
4. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect these special use permits.

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 17th day of January, 2023.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
Matt Kellogg



Exhibit A Legal Description

Lot 3 of Silver Wheel Subdivision in the Township of Oswego, Kendall County, Illinois

Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on December 19, 2022 by a vote of four (4) in favor and zero (0) in opposition; Members Cherry, Prodehl, and Whitfield were absent.

FINDINGS OF FACT

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. Provided the site is developed in accordance with the submitted site plan, including the maintenance of the existing vinyl and cedar fences, and the business allowed by the special use permit follows the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and related ordinances, the special use permit will not be detrimental to the public health, safety, morals, comfort, or general welfare.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. Provided that the business operates as proposed, no injury should occur to other property and property values should not be negatively impacted. The same is true with allowing a watchman and their immediate family to reside on the premises.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. The proposed uses will be low utility users. Adequate utilities exist for the site. Adequate access exists for the site. Because no additional impervious surfaces are planned, drainage should not be an issue.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. This is true, provided the screening created by the vinyl and cedar fences are maintained.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. This is true for both proposed uses. The operation of an outdoor storage facility and allowing a dwelling unit for a watchman is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents" through the encouragement ". . . of locally owned businesses." Allowing a dwelling unit for a watchman at the property should help ensure that the building continues to be maintained in a manner that attracts and retains quality tenants.

Recommendation

Approval Subject to the Following Conditions and Restrictions:

1. The site shall be developed substantially in accordance with the submitted site plan. Except for loading and unloading, outside storage of materials shall be restricted to the fenced area north of the frame garage shown on the submitted site plan.
2. Items stored outdoors are limited to cars, boats, trailers, recreational vehicles, granite, and other

materials related to businesses housed on the property. No junk or debris, as defined by the Kendall County Junk and Debris Ordinance, shall be stored outdoors on the property.

3. The owner of the property shall submit information to the Kendall County Planning, Building and Zoning Department annually confirming that the tenants of the apartment are employed as a watchman of a business operating on the subject property or are immediate family members of the watchman. Only one (1) watchman and the family of the one (1) watchman may reside on the first floor of southern, mixed use building shown in the submitted picture.
4. The operator(s) of the business allowed by this special use permit shall ensure that the existing fences shown in the submitted pictures are maintained in good order to provide screening of the outdoor storage area from adjacent and surrounding properties. The operator(s) of the business allowed by this special use permit may alter the materials used to create the fences, but shall not decrease the screening created by the fences that existed at the time of the issuance of the special use permit.
5. None of the vehicles or items parked or stored on premises shall be considered agricultural equipment as they relate to the businesses allowed by these special use permits.
6. All of the vehicles or items stored on the premises shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
7. The owners of the business allowed by these special use permits shall diligently monitor the property for leaks from vehicles and items stored on the premises and shall promptly clean up the site if leaks occur.
8. The operator(s) of the business allowed by these special use permits acknowledge and agree to follow Kendall County's Right to Farm Clause.
9. The operator(s) of the business allowed by these special use permits shall follow all applicable Federal, State, and Local laws related to the operation of this type of business, including but not limited to the sign regulations contained in the Kendall County Zoning Ordinance.
10. The property owner shall follow all applicable Federal, State, and Local laws related to renting the property to a watchman and the family of the watchman.
11. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permits.
12. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
13. These special use permits shall be treated as covenants running with the land and are binding on the successors, heirs, and assigns as to the same special uses conducted on the property.

Vicinity Map
Not to Scale



Subject Property

PLAT OF SURVEY & TOPOGRAPHIC EXHIBIT

LOT 3 OF SILVER WHEEL SUBDIVISION, IN THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 5375 ROUTE 34, OSWEGO, ILLINOIS.

BENCHMARKS:

SOURCE BENCHMARK:
Village of Oswego Geodetic Control Network - Station # 0001 - Oswego Orchard.
Elevation= 608.92 (NAVD 88)

SITE BENCHMARK (SITE TBM)
Cross cut in top of curb adjacent to the Easterly property Line. (Location as noted)
Elevation= 632.89 (NAVD 88)

SURVEYOR'S NOTE:

THE LOCATIONS OF THE UNDERGROUND UTILITIES AS DEPICTED HEREON ARE BASED UPON MARKINGS BY TRI-COUNTY LOCATORS

- GAS — gas line
- ST — storm line
- SAN — septic/sanitary line
- TEL — tele-communications line
- OPH — overhead wires
- W — water line

SURVEYOR'S NOTE:

THE LOCATIONS OF THE UNDERGROUND UTILITIES AS DEPICTED HEREON ARE BASED UPON MARKINGS BY TRI-COUNTY LOCATORS

Kendall County Zoning Designations:

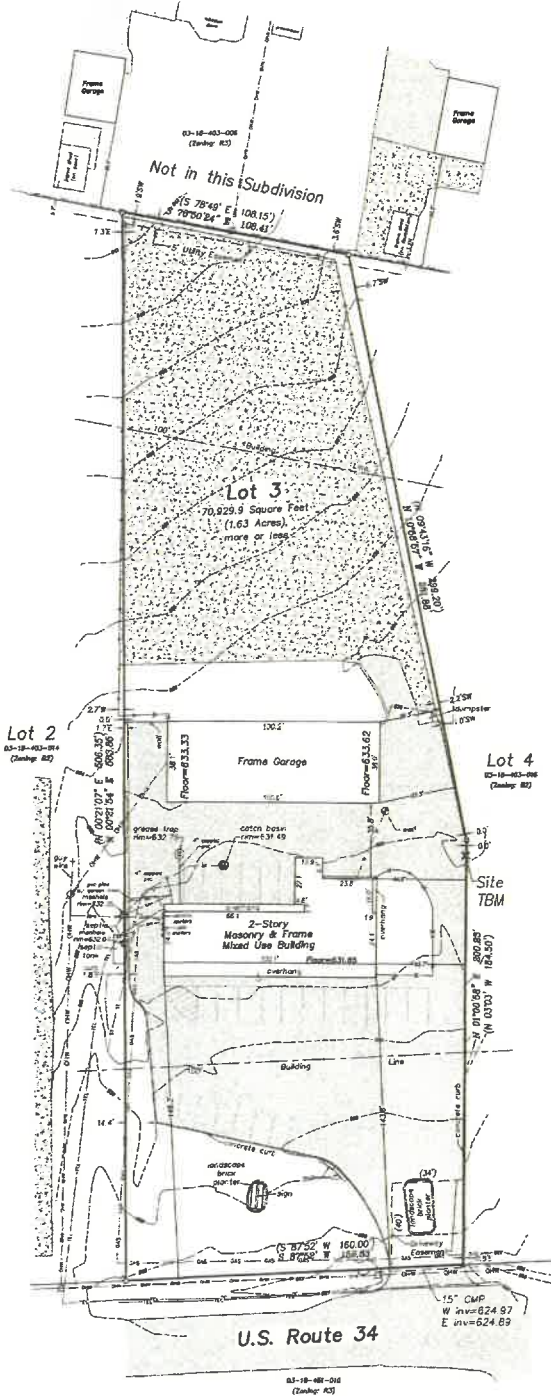
- B2 = General Business
- R3 = One Family Residential - 45,000 Sq Ft

STATE OF ILLINOIS)
COUNTY OF KENDALL) SS

WE, CORNERSTONE SURVEYING, P.C., AN ILLINOIS PROFESSIONAL DESIGN FIRM LAND SURVEYOR CORPORATION NO. 184-006522, DO HEREBY CERTIFY THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

DATED AT YORKVILLE, ILLINOIS ON NOVEMBER 16, 2022.

Eric C. Pokorny



Scale: 1" = 40'

- Found 3/4" Dia. Iron Pipe
- Found 1/2" Dia. Iron Pipe
- ▲ Found PK Nail
- N = North E = East
- S = South W = West
- (XX.XX) = Record Distance
- XX.XX' = Measured Distance
- Fence = ————
- Concrete = []
- Asphalt = []
- Grove = []
- Utility Pole = []

Michel C. Ensalaco, P.L.S. 2768, Exp. 11/30/2024
Eric C. Pokorny, P.L.S. 3818, Exp. 11/30/2024

TODD SURVEYING

Professional Land Surveying Services
"Cornerstone Surveying PC"
759 John Street, Suite D
Yorkville, IL 60560
Phone: 630-892-1309 Fax: 630-892-5544

Survey is only valid if original seal is shown in red.

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| Client: | Ingemunson Law Offices, Ltd. |
| Block #: | 2169 |
| Drawn By: | JG.JRH/Plat # 312 |
| Reference: | 2015-0509 FB2169 |
| Field Work Completed: | 10/21/2022 |
| Rev. Date / Rev. Description: | 11/16/22 added topography |
| Project Number: | 2022-1141 |

Exhibit D



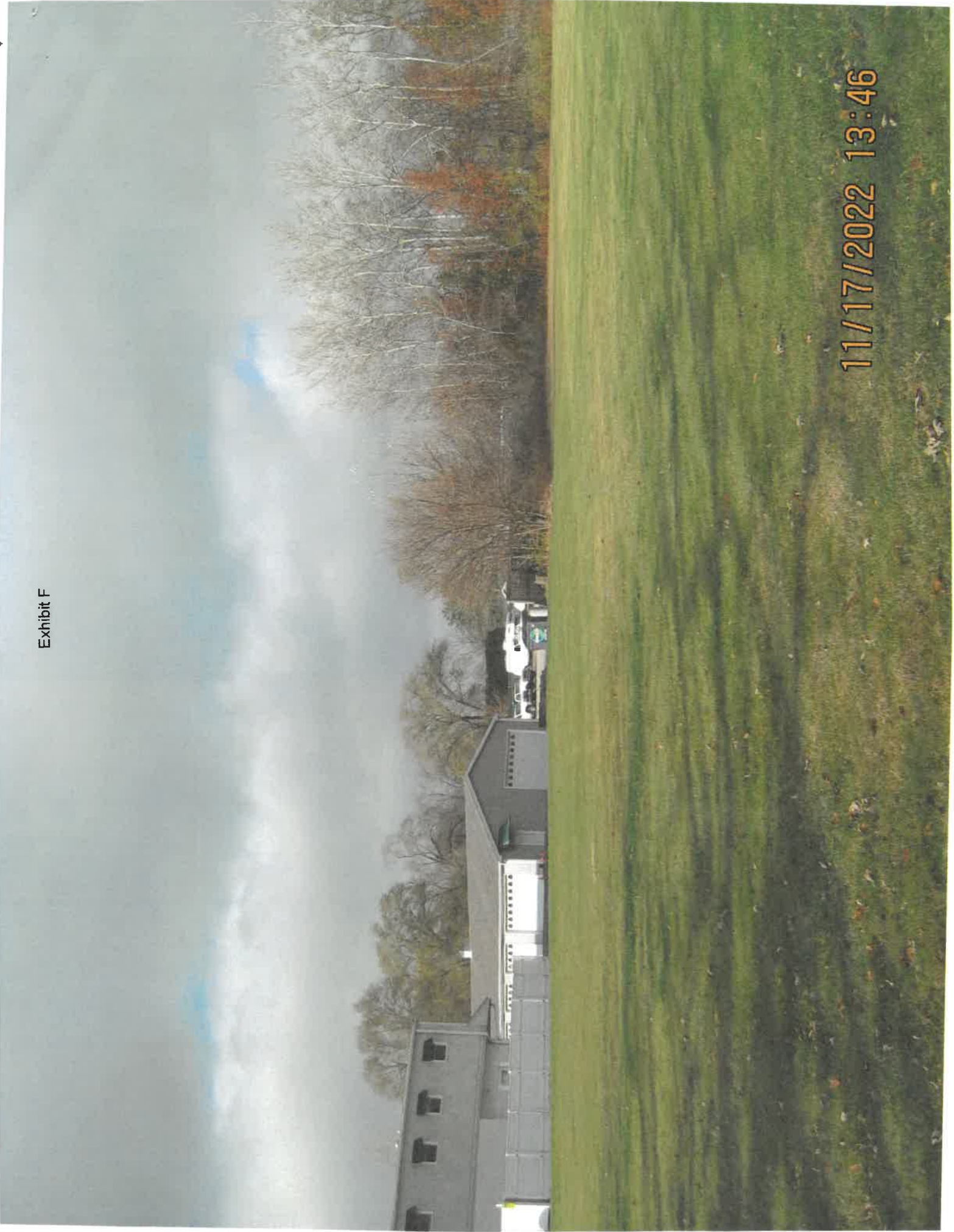
11/17/2022 13:40

Exhibit E



11/17/2022 13:43

Exhibit F



11/17/2022 13:46