

September 27, 2010

Date

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 2, 2010, its members voted 7-1-1 in support of a motion to recommend **DENIAL** of a request from Sandra Matchinsky (contract buyer), to rezone property located at 1401 East 12<sup>th</sup> Street from R1-60 One-Family Low-Density Residential District to C-2 General Retail and Highway Oriented Commercial District, to allow the former Wallace Elementary School property to be reused for an auction business.

The subject property is more specifically described as follows:

Lots 175 thru 182 and 247 thru 254 and intervening vacated north/south alley and intervening vacated east/west railroad right-of-way, Capital Park, an Official Plat, all know included in and forming a part of the City of Des Moines, Polk County, Iowa.

WHEREAS, on September 13, 2010 by Roll Call No. 10-1457 the City Council duly resolved to hold the public hearing on the proposed rezoning at 5:00 p.m. on September 27, 2010 in Council Chambers, City Hall; and

WHEREAS, the Des Moines Register published notice of the hearing according to law on September 16, 2010, setting forth the time and place of hearing on the proposed amendment to the Zoning Ordinance; and

WHEREAS, in accordance with the notice those interested in the proposed rezoning, for and against, have had the opportunity to be heard and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to C-2 General Retail and Highway Oriented Commercial District classification are hereby sustained, the hearing is closed, and the proposed rezoning is **DENIED**.

APPROVED AS TO FORM:

Moved by \_\_\_\_\_ to adopt and to deny the rezoning.



Michael F. Kelley, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

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2120 RITTENHOUSE STREET, SUITE A  
DES MOINES, IA 50321  
BUS. (515) 287-0009  
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MID-AMERICA GROUP,  
REALTORS®

**Bob W. Ervin**  
**Coldwell Banker Mid-America Group, Realtors**  
**2120 Rittenhouse St. Suite A**  
**Des Moines, Iowa 50321**

TO: Hon. Frank Cownie, Mayor  
Des Moines City Council Members

Lady and Gentlemen:

It has come to my attention that Sandra Matchinsky has proposed to purchase the former Wallace School building at 1401 East 12<sup>th</sup> Street, but has met resistance from the Zoning Board although she has the support of the President of the Capitol Park Neighborhood Assn. I would like to add my support to this project.

I have been a regular customer of the Auction Outlet for over 12 years. It has always been an excellent venue and even more so since Sandra has been involved as the marketing has had the value of the association with her other successful business, Collectamania.

As a Realtor, my opinion is that a business of this type would add stability to an area that is rife with petty theft, material mining of property, and vandalism. I base this on experience with clients that have had break-ins for copper pipe, attempted burglaries, and harassment such that two of them have moved out of the area or are wanting to move, but are having difficulty in selling their properties from situations that are not tied to the current real estate market.

An Auction Outlet of Iowa would improve the tax base, improve the neighborhood, and bring business to the East side of the city. Therefore I add my voice to those who would say yea to this endeavour.

You may contact me at any time at 515-991-7670.

Sincerely,

Bob. W Ervin Realtor  
Licensed to Sell Real Estate in the State of Iowa



Date \_\_\_\_\_  
 Agenda Item 7A  
 Call # 55

September 8, 2010

Honorable Mayor and City Council  
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held September 2, 2010, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 8-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty				X
Joel Huston	X			
John "Jack" Hilmes	X			
Ted Irvine				X
Greg Jones	X			
Jim Martin	X			
Brian Millard				X
William Page			X	
Mike Simonson				X
Kent Sovern				X

**APPROVAL** of a finding that the proposed rezoning is **not** in conformance with the Des Moines' 2020 Community Character.

By separate motion Commissioners recommended 7-1-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty				X
Joel Huston	X			
John "Jack" Hilmes	X			
Ted Irvine				X
Greg Jones	X			
Jim Martin		X		
Brian Millard				X
William Page			X	
Mike Simonson				X
Kent Sovern				X



CITY PLAN AND ZONING COMMISSION  
 ARMORY BUILDING  
 602 ROBERT D. RAY DRIVE  
 DES MOINES, IOWA 50309 -1881  
 (515) 283-4182

ALL-AMERICA CITY  
 1949, 1976, 1981  
 2003

**DENIAL** of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Public/Semi-Public to Auto-Oriented Small-Scale Strip Development.

By separate motion Commissioners recommended 7-1-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty				X
Joel Huston	X			
John "Jack" Hilmes	X			
Ted Irvine				X
Greg Jones	X			
Jim Martin		X		
Brian Millard				X
William Page			X	
Mike Simonson				X
Kent Sovern				X

**DENIAL** of the requested rezoning from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented Commercial District, to allow the former Wallace Elementary School property to be reused for an auction business.

ZON2010-00146

Written Responses

2 In Favor

1 In Opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the Commission find the requested rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends denial of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Public/Semi-Public to Auto-Oriented Small-Scale Strip Development.

Part C) Staff recommends denial of the requested rezoning.

*Should the zoning request be denied, the appellant could file an application with the City's Zoning Board of Adjustment for a Use Variance. The Board cannot consider a Use Variance request until the applicant has been denied the required zoning by the City Council in accordance with Section 134-64(c) of the City Code. The application for a Use Variance must be made within one year of the City Council's action to deny the zoning.*

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The subject property was previously used as the Wallace Elementary School. The proposed rezoning would allow the former property to be reused for an auction business, which requires the "C-2" District zoning designation. The submitted diagram indicates that the assembly room used for auctions would contain 150 fixed seats and that several other rooms within the building would be used for the storage of merchandise.

Should the requested rezoning be denied, the appellant could file an application with the City's Zoning Board of Adjustment to request a Use Variance. The Board cannot consider a Use Variance request until the applicant has been denied the required zoning by the City Council in accordance with Section 134-64(c) of the City Cod. The application for a Use Variance must be made within one year of the City Council's action to deny the zoning.

2. **Size of Site:** 3.3 acres.
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Vacant school with playground areas and two off-street parking lots.
5. **Adjacent Land Use and Zoning:** All surrounding properties are zoned "R1-60" District and used for low-density residential dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located near Union Park in an area that predominately consists of single-family dwellings.
7. **Applicable Recognized Neighborhood(s):** Capitol Park Neighborhood Association.
8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

### II. ADDITIONAL APPLICABLE INFORMATION

1. **2020 Community Character Plan:** The requested rezoning to "C-2" District is not in conformance with the Public/Semi-Public future land use designation of the 2020

Community Character Plan. Therefore, the applicant has requested an amendment to a Commercial: Auto-Oriented Small-Scale Strip Development future land use designation.

Staff believes that a highway-oriented commercial designation is not appropriate given the property's location in the middle of a residential neighborhood on a residential street. Typically, the auto-oriented commercial land use designations are found on arterial streets and not within low-density residential neighborhoods. Therefore, staff does not recommend approval of the requested amendment to the Des Moines 2020 Community Character Plan.

2. **Capitol Park Neighborhood Action Plan:** The Capitol Park Neighborhood Action Plan adopted by the City Council in 1995 designates the property as Public/Semi-Public. Furthermore, the Plan's objectives regarding commercial properties include provisions that "site designs should blend with the residential scale of the neighborhood" and that there should "be adequate separation and beautification between commercial and residential uses." Staff does not believe an auction house is in line with these objectives.
3. **Traffic/Street System:** East 12<sup>th</sup> Street and Cleveland Avenue are considered to be residential streets. Staff does not believe an auction business at the site is appropriate since the property is located in the middle of a residential neighborhood on a residential street and the use has the potential for attracting large crowds on auction days. Typically, intense commercial land uses are found on arterial streets and not within residential neighborhoods.
4. **Parking:** The property contains 47 off-street parking spaces contained within two off-street parking lots. The proposed auction use would require 1 parking space per 6 fixed seats in the assembly area, plus 1 parking space per 5,000 square feet of area used for storage. According to the submitted diagram, the auction room would contain 150 seats, which would auction room would require 25 spaces. The diagram does not provide the total square footage that would be dedicated to storage.
5. **Development Requirements:** Should the rezoning be approved, any commercial use of the property must be in accordance with a Site Plan as approved by the City's Permit & Development Center. The Site Plan must be in compliance with all City requirements, including those pertaining to the Des Moines Landscape Standards and stormwater management. Furthermore, any conversion of the building to an auction business must be in accordance with all Building Codes, including those related to restroom facilities, fire protection (sprinklers), and emergency egress.

In this instance, communication from the City of Urbandale staff has indicated that adequate access for the proposed commercial development is sufficient from Hickman Road. No further evidence has been provided by the applicant to demonstrate that the proposed rezoning is necessary beyond a matter of convenience.

## **SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.

David Churchill, 20701 Kirkwood Street, Milo, IA, stated the applicant's request would not change the building or require the removal of trees. The applicant is willing to clean up the property, repair the building and occupy the building and would be a good neighbor. The owner sent out notification to the tenants of surrounding properties in addition. The only comments they received were from one person in opposition and two people in support. The former Wallace Elementary School is a neighborhood landmark that needs to be reused rather than demolished. The impact on the neighborhood would only be for two days per week. Wednesday auctions would be in the evenings from 5:00 p.m. to 10:00 p.m. The traffic impacts would be less than that when the school occupied the property. There is adequate parking on the site. In order to have an auction house the way the zoning ordinance is written it requires the "C-2" Auto-Oriented Commercial District. The owner is willing to do what is necessary to return the building back to its nostalgic state as an historic building. The owner understands that the open space on the northern portion of the property has been used by the neighborhood as a playground. However, the playground equipment would be removed due to liability concerns.

John "Jack" Hilmes asked what types of items will be auctioned.

Dave Churchill stated they auction personal property, such as trinkets, furniture, and magazines. There would seldom be an automobile auctioned.

JoAnne Corigliano asked whether the open space area at the northeast corner of the site could be used by the neighborhood.

Dave Churchill stated that there is a liability issue with regards to kids using the playground equipment. However, they are open to discussions regarding that area. Indicated that there enough space in the northeast corner of the site to create 2 or 3 lots for new single-family residential development.

JoAnne Corigliano asked if there would be any outdoor storage.

Dave Churchill stated no and that if they have a dumpster it would be screened by an enclosure structure.

Shirley Daniels asked was there a neighborhood meeting.

Dave Churchill indicated that there was.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following spoke in favor of the applicant's request:*

Lee Dawson, 1225 E. 13<sup>th</sup> Street, stated she has lived in the neighborhood for 34 years and is currently the Chair of Capital Park Neighborhood Association. She indicated that a special meeting was called and neighbors were made aware of the meeting. The meeting was attended by Capitol Park Neighborhood Board members and three neighbors that live near the site. One family opposed the request because the proposal would eliminate the

playground equipment that their children use. Another family was in favor of the project because that meant the building would be maintained, which would be an improvement over the current lack of maintenance. It is better to have someone occupying the building than to have it abandoned. The auction house would be a good use that would not have substantial impacts. The traffic would not be an issue.

Leisha Barcus asked Ms. Dawson if the neighborhood association shared her opinion.

Lee Dawson stated the officers on the neighborhood association board are in consensus with this. However, one of the members was concerned that the zoning would run with the land, meaning that while the proposed operator is reputable, there is nothing that would prevent her from selling the property to a less reputable auction operator.

*There was no one to speak in opposition of the applicant's request*

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

JoAnne Corigliano stated that she did not have issues with this business. There is a similar auction house in her neighborhood that does not create a problem. Her concern is with rezoning the property. She does not believe commercial in the middle of this residential neighborhood is appropriate. Therefore, she believes that it should go to the Zoning Board of Adjustment to request a Use Variance.

Bert Drost explained the procedure for seeking a Use Variance.

Joel Huston asked if the Use Variance is tied to the property owner.

Bert Drost stated that the Use Variance would be tied to the land. However, time limits can be placed on them in certain cases.

Jacqueline Easley asked about the time process the applicant would have to go through.

Bert Drost stated the rezoning would have to be denied by Council before the Zoning Board of Adjustment can consider a Use Variance. If the Council denies the rezoning at their September 27, 2010 meeting, the applicant could submit an application for the October 27, 2010 Board of Adjustment meeting. There would be an application fee for the Board of Adjustment.

### **COMMISSION ACTION**

JoAnne Corigliano moved staff recommendation for Part A to find the requested rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan.

Motion passed 8-0-1 (Will Page abstained)

JoAnne Corigliano moved staff recommendation for Part B To deny the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Public/Semi-Public to Auto-Oriented Small-Scale Strip Development.

Motion passed 7-1-1 (Jim Martin voted in opposition, Will Page abstained)

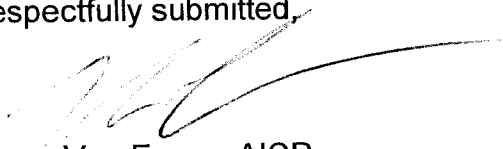


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JoAnne Corigliano moved staff recommendation for Part C to deny the requested rezoning.

Motion passed 7-1-1 (Jim Martin voted in opposition, Will Page abstained)

Respectfully submitted,



Jason Van Essen, AICP  
Senior Planner

JMV:clw

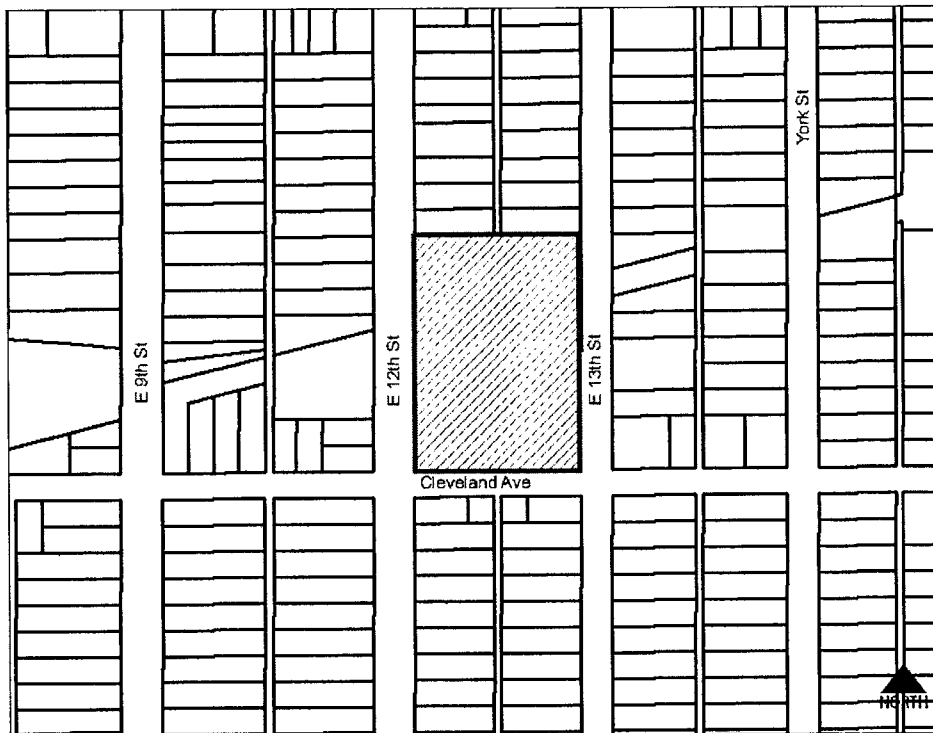
Attachment

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Request from Sandra Matchinsky (contract buyer) to rezone property at 1401 East 12 <sup>th</sup> Street. The subject property title holder is Des Moines Public Schools.		File #			
		ZON2010-00146			
<b>Description of Action</b>	Rezone property from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented Commercial District, to allow the former Wallace Elementary School property to be reused for an auction business.				
<b>2020 Community Character Plan</b>	Low-Density Residential				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District				
<b>Proposed Zoning District</b>	"C-2" General Retail and Highway-Oriented Commercial District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2	1			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	7-1		No	

Sandra Matchinsky - 1401 East 12th Street

ZON2010-00146



Item 2010 00146 Date 8-25-10

I (am) (am not) in favor of the request.

(Circle One)

*Rose Wilson*

RECEIVED  
COMMUNITY DEVELOPMENT

Print Name Rose Wilson

Signature *Rose Wilson*

AUG 25 2010  
Address 570 ELBETH ST.  
DEPARTMENT

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item 2010 00146 Date 8-26-10

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED  
COMMUNITY DEVELOPMENT

Print Name ROGER BASAVANTH

AUG 26 2010  
Signature *Roger Basavanth*

DEPARTMENT Address 1410 YORK Street Dept

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item 20-0-00245 Date August 26, 2010

I (am)  in favor of the request.

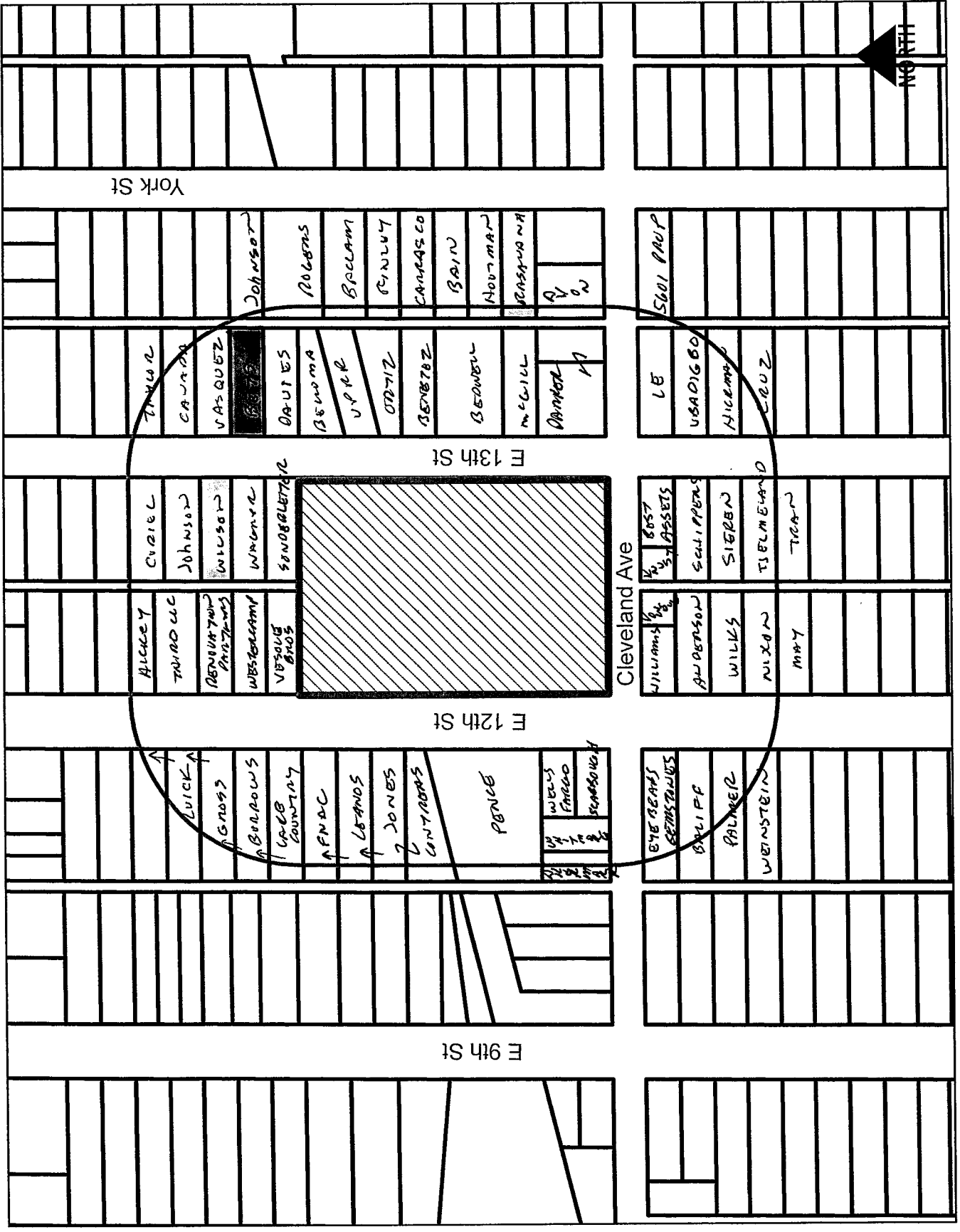
COMMISSIONER OF DEVELOPMENT  
AUG 30 2010  
DEPARTMENT

Print Name Juris and Linda Bets  
Signature Juris Bets Linda Bets  
Address 1509 E. 13th St.

Reason for opposing or approving this request may be listed below:

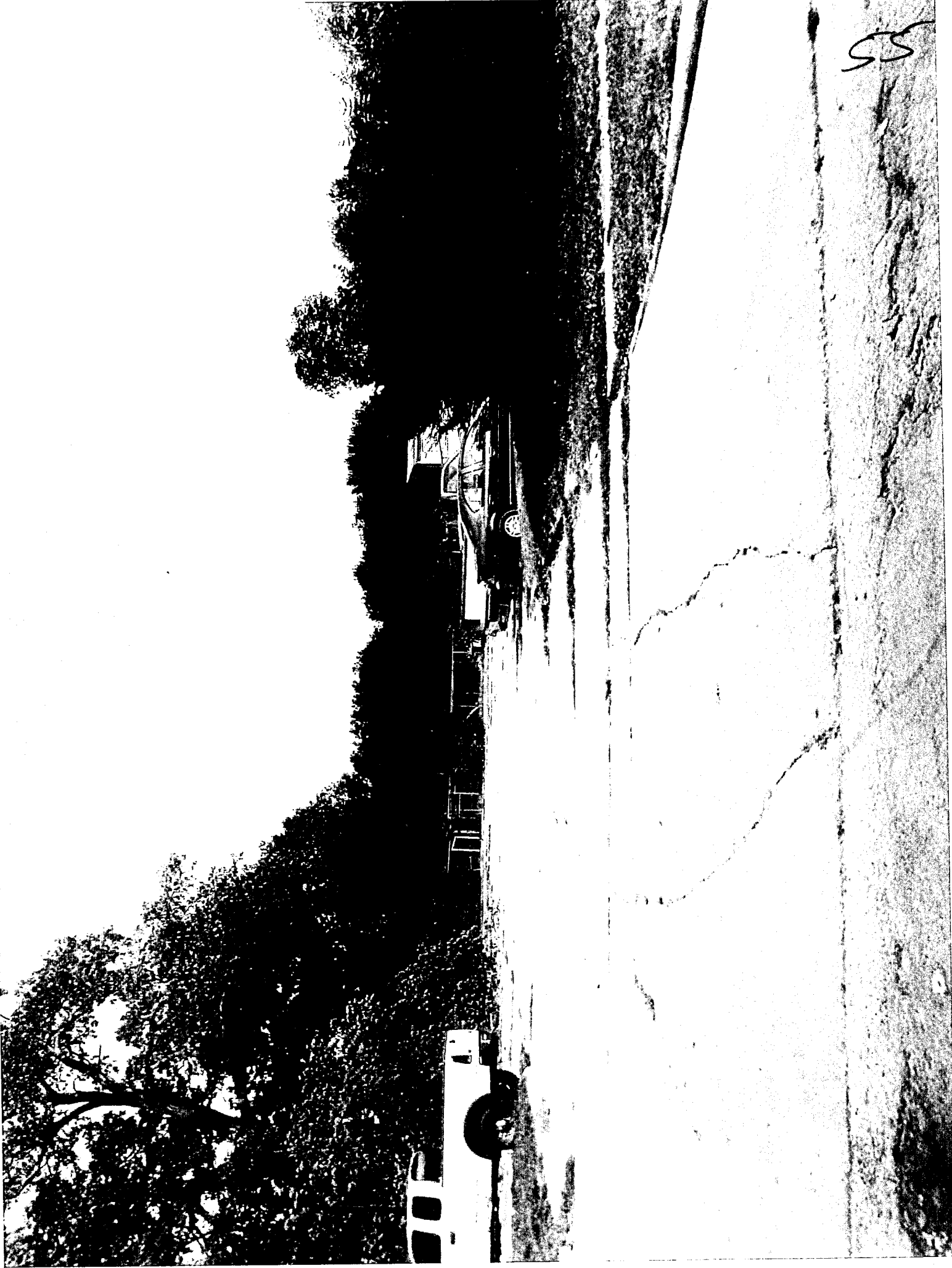
Absolutely NO! This is a quiet neighborhood and one where people are improving their homes. This kind of business will increase traffic, noise and litter and will affect property values. A more suitable location would be the old school at E. 14th and Washington.

SS



SS

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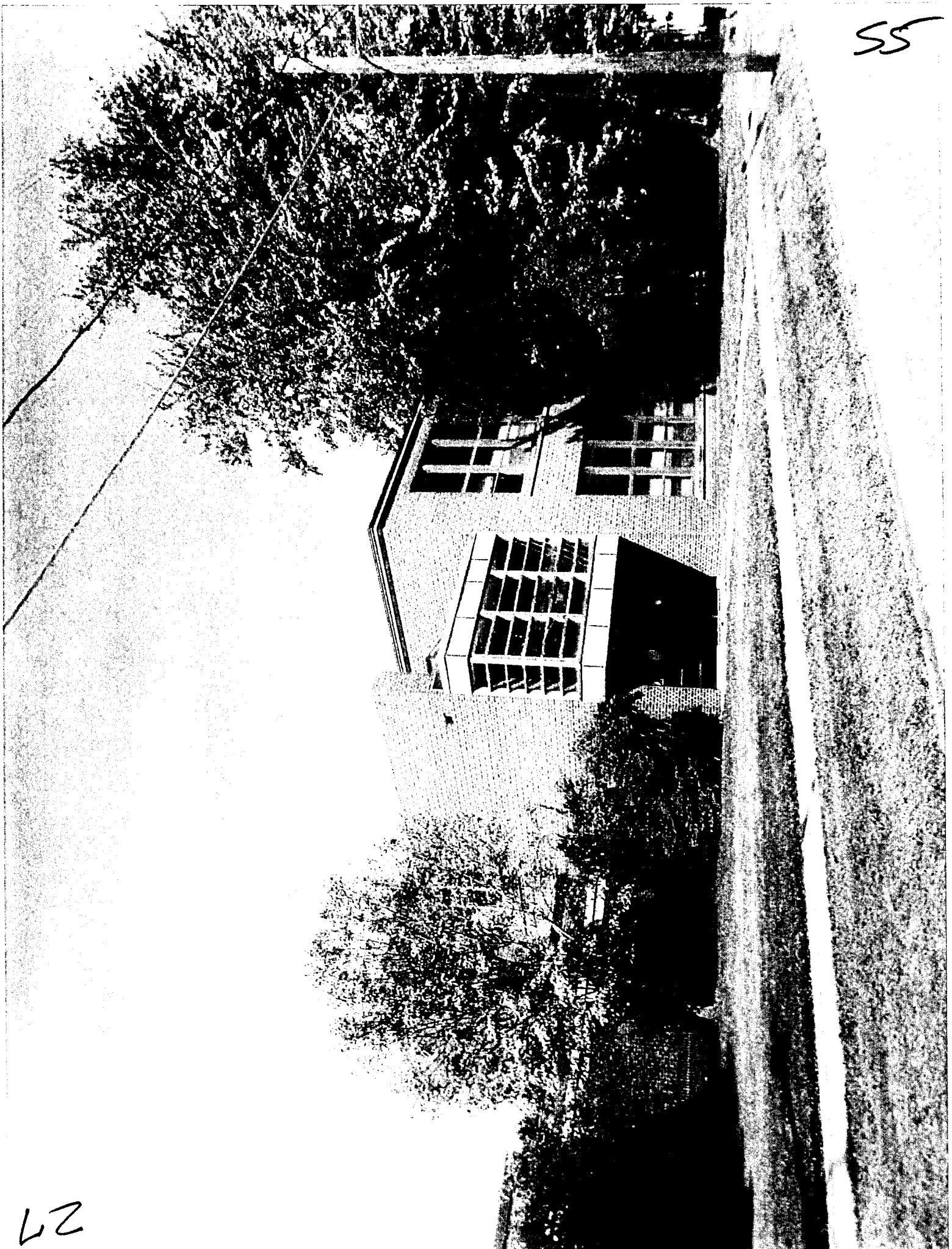








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