



Fairhaven Board of Selectmen

July 15, 2013 Meeting Minutes

Present: Chairman Charles Murphy, Vice Chairman Robert Espindola, Clerk Geoffrey Haworth, Executive Secretary Jeffrey Osuch, and Administrative Assistant Anne Kakley.

Chairman Charles Murphy called the meeting to order in the Town Hall Banquet Room at 6:37 p.m. The meeting was telecast and video recorded by Government Access.

MINUTES

- Mr. Espindola motioned to approve the minutes of the **July 1, 2013** meeting, **open** session. Mr. Haworth seconded. Vote was unanimous. (3-0).
- Mr. Espindola motioned to approve the minutes of the **July 1, 2013** meeting, **executive** session. Mr. Haworth seconded. Vote was unanimous. (3-0).

EXECUTIVE SECRETARY'S REPORT

In his report, Mr. Osuch updated the Selectmen on the following meetings:

- Tuesday, **July 16** –
 - 10:00 a.m. – Wood School Job Meeting
- Wednesday, **July 17** –
 - 2:00 p.m. to 4:00 p.m. – Fairhaven Wind Negotiations
- Friday, **July 19** –
 - 11:00 a.m. – Solar Panel Ribbon Cutting at Landfill
- Tuesday, **July 23** –
 - 10:00 a.m. – Wood School Job Meeting
- Wednesday, **July 24** –
 - 12:00 p.m. – Town Manager's Meeting in Mattapoisett
- Thursday, **July 25** –
 - 8:30 a.m. – Retirement Board
 - 6:30 p.m. – Selectmen's Meeting
- Wednesday, **July 26** –
 - 7:00 a.m. – New School Committee at Wood School

WOOD SCHOOL

Mr. Osuch said that the Wood School project was moving along, and that the building is going to be cleaned and floors will be waxed in the following week. After a walkthrough, furniture will be moved in mid-August.

SOLAR RIBBON CUTTING

Mr. Osuch informed the public that there would be a landfill solar array ribbon cutting on Friday, July 19, 2013 at 11:00 a.m.

NSTAR GAS PERMITS

- An application for an NSTAR gas permit on North Street between Adams Street and Main Street (previously approved by the BPW) was approved by the Board of Selectmen. Mr. Espindola motioned the approval. Mr. Haworth seconded. Vote was unanimous. (3-0).
- An application for an NSTAR gas permit at 19 Brae Road between Sebac Street and Sconticut Neck Road (previously approved by the BPW) was approved by the Board of Selectmen. Mr. Espindola motioned the approval. Mr. Haworth seconded. Vote was unanimous. (3-0).
- An application for an NSTAR gas permit at 62 Chestnut Street between Church Street and Farmfield Street (previously approved by the BPW) was approved by the Board of Selectmen. Mr. Espindola motioned the approval. Mr. Haworth seconded. Vote was unanimous. (3-0).
- An application for an NSTAR gas permit on Pleasant Street between Church Street and South Street (previously approved by the BPW) was approved by the Board of Selectmen. Mr. Espindola motioned the approval. Mr. Haworth seconded. Vote was unanimous. (3-0).

DISSOLUTION OF TOURISM COMMITTEE

The Board read a letter from Tourism Director Christopher Richard regarding the Tourism Committee. In the letter, Mr. Richard indicated that the Tourism Committee was no longer active or needed. See Attachment A.

The Board deliberated on the matter. Both Mr. Espindola and Mr. Haworth stated that Mr. Richard would be the best judge on whether or not the Tourism Committee was still needed. Mr. Espindola motioned to dissolve the Tourism Committee. Mr. Haworth seconded. Vote was unanimous. (3-0).

RECLASSIFICATION – RECREATION CENTER CUSTODIAN

The Board reviewed a request from the Personnel Board to reclassify the position of the part-time Recreation Center custodian (Thomas Hemingway) from Level 1, Step 5 to a Level 5, Step 1. Mr. Murphy said that he had looked into the Recreation Center budget, and it could support the increase.

Mr. Espindola asked if the jump from Level 1 to 5 was common. Mr. Murphy explained that Mr. Hemingway's position was never re-evaluated after the Recreation Center was built. The cited reason for the increase request was the classification of the Council on Aging custodian, who is at Level 5, and the two positions are comparable. The COA custodian is a full-time position.

It was determined that Mr. Hemingway's pay would increase by one dollar hourly with the Level change.

Mr. Espindola motioned to approve the reclassification of the Recreation Center custodian position, from Level 1, Step 5, to Level 5, Step 1, to reflect an increase from \$12.30 per hour to \$13.30 per hour. Mr. Haworth seconded the motion. Vote was unanimous. (3-0).

TOWN COUNSEL – GOING TO BID

Before opening up the meeting to appointments, Mr. Murphy broached the topic of Town Counsel. He indicated that the Board was openly accepting proposals from interested municipal law firms. Discussion ensued on whether or not the Board would like to go through a word-of-mouth proposal process, or a formal RFP process. Discussion also centered on potential deadlines for submission and decision-making.

Mr. Osuch told the Board that they had not yet had current Town Counsel make a presentation on the matter. He said that if the Board was soliciting proposals, it should look into advertising in trade journals. Mr. Espindola said that he thought the process was going to involve the selectmen individually reaching out to firms for proposals. Mr. Haworth said that he thought the Board should conduct a formal RFP process to find firms to interview. He added that he thought the Town should consider hiring separate firms for different matters, citing a need for specialized counsel in issues related to collective bargaining and negotiations.

Mr. Espindola said that a formal RFP process could create a lot of proposals to sort through, and that he thought there were suitable choices on the MMA website.

Mr. Murphy asked Mr. Osuch what the process was back when Atty. Thomas Crotty's firm was hired. Mr. Osuch said that he did not remember exactly how the process was conducted.

Mr. Murphy said that he saw the need for diversified counsel and that the Board would have a conversation with Atty. Crotty about his services. He suggested that the Board set a date and have all proposals in by that date, and then the Board could conduct a period of review.

Mr. Espindola asked if it would be reasonable to have a deadline of Tuesday, July 23. Mr. Haworth reiterated that he wanted to formally advertise and go out to bid. Mr. Osuch asked in which publications the Board would like to advertise. He said that he could look into advertising

with the MMA, the monthly *Beacon*, etc. He said that the Selectmen's Office can research how the process was done 5-6 years ago. Mr. Murphy said that he would like to see the advertisement in *Mass Lawyers Weekly* as well. Mr. Haworth said that he looked through the already submitted proposals for rate sheets and he did not find any; he wanted to make sure that rate sheets would be included in the final bids.

A deadline will be set in August for an RFP for legal services.

BUILDING INSPECTOR COMPLAINT – RRR

The Board met with Louis Baptiste of RRR Auto Sales at 7:06 p.m., per Mr. Baptiste's request. Mr. Baptiste said that he wanted to meet with the Board of Selectmen regarding his alleged troubles with the Building Inspector.

Mr. Baptiste claimed in a letter to the Board that he had been "discriminated against" by Building Inspector Wayne Fostin. He said that he has been in business in Fairhaven for 26 years and thought he had been singled out by Mr. Fostin, particularly in the case of sign bylaw enforcement. He said that he had attempted to get a permit for an inspection sign and had been denied the permit. He claimed there was no basis for the permit denial. He claimed that he overheard the Building Inspector's secretary say "Wayne, you can't just deny him the permit," and Wayne allegedly replied, "Oh no? Just watch me."

Mr. Baptiste continued, alleging violations at the Getty "Hot Lines Auto Sales" across the street from RRR on Route 6. He said that the operator of Getty (Hatem Elrifai) was exceeding the number of unregistered cars allowed on his lot by his license. Mr. Baptiste said that, to date, Mr. Fostin has not done anything about Mr. Elrifai's alleged violations. Mr. Baptiste distributed pictures to the Board, displaying cars on Mr. Elrifai's lot. While some of the pictures did not conclusively demonstrate any violation, some pictures did indicate the same registered license plates affixed to different cars. See Attachment B.

Mr. Murphy asked Mr. Baptiste what he wanted for an outcome. Mr. Baptiste said that he wanted Mr. Fostin to enforce the rules. He said Mr. Fostin had said that it was a police matter.

Mr. Murphy said that he had met with Mr. Fostin to discuss the matter. Mr. Fostin said that he had visited the Getty location three times and each time had reported that the location was in compliance. Mr. Murphy said that they could send the building inspector one more time, but he did not want to give the appearance of harassing the Getty business if it turned out that they were once again in compliance.

Mr. Baptiste said that he thought Mr. Fostin was somehow getting awarded to overlook Getty violations. Both Mr. Murphy and Mr. Haworth told Mr. Baptiste that this was a serious accusation with no merit.

Wayne Fostin was present and was recognized by the Chairman. Mr. Fostin said that licensing of vehicles was not under his jurisdiction. He said that only the Board of Selectmen could help Mr. Baptiste when it relates to unlicensed vehicles. Mr. Baptiste said that when there are two

vehicles side by side with the same license plate number, there is something fraudulent taking place.

Hatem Elrifai, owner of Getty Hot Lines Auto Sales, was recognized by the Chairman. He said that he has never done anything wrong. He said that he tried to be friendly with Mr. Baptiste to no avail. He said that he welcomed another visit from the Town because he had nothing to hide.

Mr. Murphy said that additional pictures in the investigation would only be accepted from Mr. Fostin. Mr. Murphy requested Mr. Fostin complete another visit to the Getty/Hot Lines Auto Sales location to confirm compliance.

UNION WHARF FENCE

At 7:33 p.m., the Board met with Harbormaster David Darmofal, Assistant Harbormaster Tim Cox, and resident Ted Lorentzen to discuss a recent issue related to the Union Wharf fence.

Mr. Lorentzen started by saying that a new fence had been installed at Union Wharf, and that he was not aware of any hearings prior to the installation. He said that the fence changed the use of the dock, which was funded by the Seaport Council originally for public use. With a locked fence, the dock is now closed off to public use. He said that this may prompt an investigation from the Seaport Council and the Town may be responsible to pay for the construction as a result of the breach of allowed use.

Mr. Darmofal said that the decision was prompted by a need for a place to dock the four town vessels, including the pump-out boat, in a secure location, since the Town removed the vessels from the Seaport Inn slips. He said that there was some urgency in finding a location for the vessels. He said that the construction of Union Wharf was well before his time and so no one was aware of the stipulation requiring public access. He said that the Seaport Council office has been closed but was scheduled to reopen mid-week. At that point, he said, he would discuss the issue with their office. He said that the decision to lock the gate was made out of a need for port security. He asked the Selectmen for guidance in what he should do – ask permission from the Seaport Council to use the dock and secure it or find a new location?

Discussion ensued over whether the vessels would have to be moved immediately and the fence unlocked. Mr. Darmofal said that there was an alternative docking location at Pope's Island Marina, but they would have to move if the slip was needed and they would have to walk a long distance with their equipment. He said that if it was the will of the Board, he would move that weekend.

Mr. Haworth said that he was comfortable with the situation until they heard from the Seaport Council, and that the public could use Pease Park for now for water access. He said that he would prefer to keep them in Fairhaven water instead of send them over to New Bedford.

Mr. Lorentzen said that the Board needed to think long-term about dockage of the Natural Resources fleet. He said that if the Board did not move the boats immediately and unlock the gate, it would be in direct contradiction to the contracted use.

Mr. Darmofal admitted that a mistake was made. He said that he was trying to remedy the problem.

Garth Rowe of 16 Middle Street said that he used the Union Wharf dock to launch his boat. He said that he did not mind sharing the location with the Harbormaster, but that the change of access to Pease Park put him “in duress”.

Fay Bartling of 12 Middle Street said that it “saddened” her that there would be “a further alienation of the neighborhood from the waterfront”. She said that the area was getting industrialized and that they were taxpayers being barred from the waterfront. Mr. Murphy said that he agreed and that the Board would try to remedy the situation as soon as possible.

Mr. Darmofal again asked the Board to authorize him to petition the Seaport Council for permission to use the location or to relocate the open access. The Board asked Mr. Darmofal to speak with Seaport Council and report back to them at the next meeting on Thursday, July 25, 2013. Mr. Lorentzen said that he did not think that the Seaport Council would be flexible on location.

MOORINGS AND DENIED APPLICATIONS

At 7:59 p.m., the Board met with Ronald Lacasse at Mr. Lacasse’s request, to discuss Town moorings and Mr. Lacasse’s denied mooring application. Mr. Lacasse said that in the area he wants a mooring (Crow Island), there are 15 spaces available, but the Harbormaster will not issue any of them. Mr. Lacasse said that he wanted to know why.

Mr. Darmofal said that in seven years, he has only received three mooring complaints, and two of those complaints were from Mr. Lacasse. The conversation stalled for a moment as Mr. Lacasse and Mr. Darmofal proceeded to speak over each other. Mr. Murphy restored order to the meeting. Mr. Darmofal continued, saying that the Crow Island mooring was set up before he was Harbormaster. He said that he has tried to accommodate Mr. Lacasse by letting him use a friend’s mooring. He said that Mr. Lacasse would not accept a substitute, saying it was too far to row. Mr. Darmofal said that he would not add any moorings to that site. He said that the area was congested and that he may actually re-grid or reduce the moorings there. He said he wanted to keep his options open and in the meantime, would offer Mr. Lacasse a mooring on the south side of the island until a mooring is available on the north side. Mr. Darmofal said that, per the local bylaw, the determination was his to make.

Mr. Lorentzen said that he had a mooring at Crow Island. He called the mooring application denial “unjustifiable”.

Mr. Espindola said that he spoken with Mr. Lacasse about the matter during his office hours. He said that Mr. Lacasse had commented that it was difficult to get the documents he need at the Town Hall. He added that Mr. Darmofal planned on hiring an intern to help with the moorings issue.

Mr. Darmofal said that he wanted to keep his options open for the possibility of restructuring the mooring grid. He added that Mr. Lacasse had a boat in a mooring without his permission and that it was a fineable offense. Mr. Lacasse countered that there are still winter sticks and floats in moorings, which should have been removed by June. To this, Mr. Darmofal answered: “Nobody is perfect”. Mr. Darmofal added that it was not unusual for people to wait years for a mooring. Mr. Lacasse clarified that he did not want to take anyone’s mooring away – he just wanted to be issued a mooring. Registered moorings that go unused for two years are released from their registrations and made available, but Mr. Darmofal said that he had not yet deemed any of the moorings to be released. Mr. Lacasse insisted that some of the moorings have remained unused for years.

Mr. Murphy said that the Harbormaster had made it clear that the moorings would not be evaluated until the end of the season. Mr. Lorentzen said that the area was not as congested as the moorings in Plymouth. The Board advised Mr. Lacasse to submit a letter to the Harbormaster, asking for permission to use his friend’s mooring until the matter can be resolved.

BOARD OF HEALTH ELECTION

At 8:28, Dan Freitas asked the Board if the wind turbines would be discussed after the Board convened in Executive Session with the Board of Health. Mr. Murphy said no. At this point of the meeting, Mr. Murphy granted permission to John Carlton Foss of Falmouth, MA, to videotape the meeting. Mr. Carlton Foss indicated that he had already videotaped about five minutes of the meeting.

OTHER BUSINESS

There was no Other Business.

EXECUTIVE SESSION

At 8:35 p.m., Mr. Espindola motioned to enter Executive Session pursuant to MGL Ch 30A § 21, to reconvene after Executive Session:

- To discuss strategy with respect to collective bargaining – Clerical, Fire, Police, Dispatchers Union negotiations
- To discuss strategy with respect to collective bargaining or litigation – Fairhaven Wind LLC

Mr. Haworth seconded the motion to enter Executive Session for the aforementioned reasons. Vote was unanimous. (3-0). Roll call vote: Mr. Espindola in favor. Mr. Murphy in favor. Mr. Haworth in favor.

OPEN SESSION

The Board re-entered Open Session again at 10:58 p.m. Due to the time, the Chairman announced that the Correspondence items remaining on the agenda would be postponed for the

July 25 meeting. Mr. Espindola motioned to enter Executive Session again, pursuant to MGL 30A § 21:

- To discuss strategy with respect to collective bargaining – Clerical, Fire, Police, Dispatchers Union negotiations

Mr. Haworth seconded the motion to enter Executive Session for the aforementioned reasons. Vote was unanimous. (3-0). Roll call vote: Mr. Espindola in favor. Mr. Murphy in favor. Mr. Haworth in favor.

Respectfully,

Anne Kakley

Selectmen's Secretary
Minutes approved 7/25/2013

Anne Kakley

From: fairhaventours@aol.com
Sent: Tuesday, June 11, 2013 3:38 PM
To: Anne Kakley
Subject: Tourism Committee

June 11, 2013

Board of Selectmen,
Charles K. Murphy, chair

Dear sirs,

Since the creation of the Office of Tourism in 1996 with a paid director, the volunteer Tourism Committee has acted as an advisory group without any budget or any real voting power. In recent years, the Committee has met less and less frequently. As of now, the Tourism Committee has not held a meeting since the fall of 2011.

That is not to suggest that any of them have stopped helping develop tourism in Fairhaven. The Committee members are still extremely supportive of Tourism and continue to advise, support and help as individuals. All of them have been serving on other public and private boards and committees in capacities that help develop tourism in our town. In many cases they have found that it is easier for them to work as private members of the community where they can accomplish things more easily and with more freedom than they can as members of an appointed government board or committee.

These "former" members of the Fairhaven Tourism Committee feel that it is not necessary that they be reappointed. They feel that, at least at this time, there would be no problem with the Board of Selectmen dissolving the Tourism Committee.

From my point of view, I will continue to consult with the past Tourism Committee members as I do with many other members of the community. A few Fairhaven people volunteer regularly for the Office of Tourism, in the Visitors Center or guiding tours, without ever having been members of the Committee itself. I will always welcome members of the community who wish to help promote our hometown.

I agree that there is no longer a real need for an "official" Tourism Committee.

Respectfully,

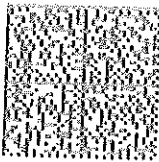
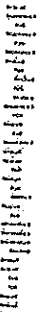
Christopher J. Richard,
Director of Tourism



BUILDING DEPARTMENT
Town Hall
Fairhaven, MA 02719

Mr. Louis Baptiste Jr.
RRR Auto Sales
373 Huttleston Ave
Fairhaven, Ma. 02719

0271988834 0008



UNITED STATES POSTAGE
\$ 00.45⁰⁰
02 1R
0006554702
MA P 22 2013
MAILED FROM ZIP CODE 02719

*ONLY ONE
NOT Certified
written on 18th*



Wayne Fostin
Building Commissioner

Town of Fairhaven
Massachusetts
OFFICE OF THE
BUILDING DEPARTMENT

TOWN HALL
40 Center Street
Tel. (508) 979-4019
FAX: 979-4079

2013 MAR 18 A 6:32

BOARD OF SELECTMEN
FAIRHAVEN MASS

March 18, 2013

Dr Brain Bowcock
Chairman Board of Selectmen
40 Center Street
Fairhaven, Ma. 02719

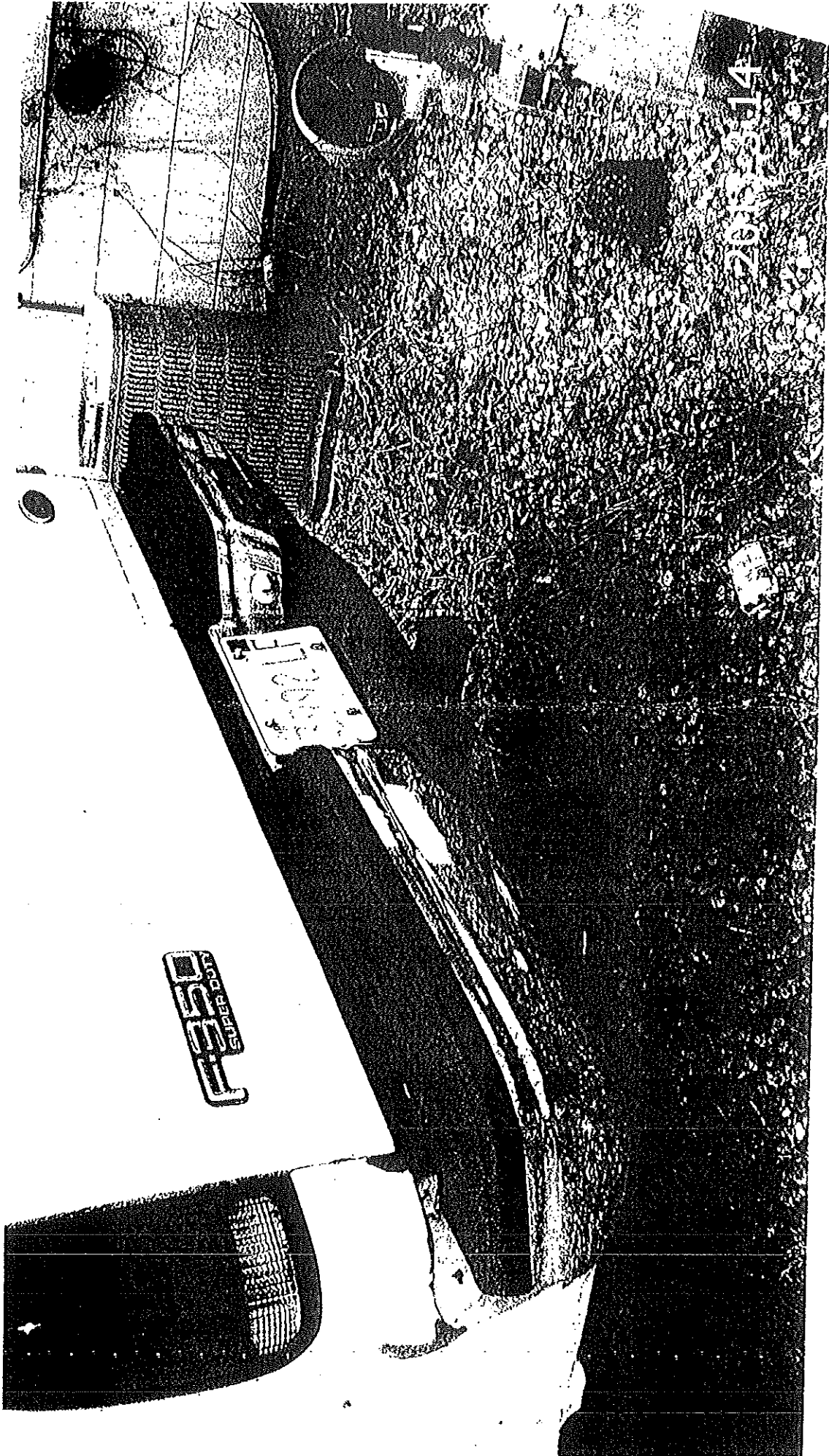
Re: First Hot Line Auto Sales / Fairhaven Getty

On Wednesday March 13, 2013 the Building Department received a call from Louis Baptiste Jr. of RRR Auto Sales claiming that First Hot Line Auto Sales had twenty unregistered vehicles on his lot. On March 14, 2013 I performed an onsite inspection of above mentioned property, after looking at all the cars on the lot it was found that First Hot Line auto Sales were in full compliance with their license, 11 cars for sale, 3 unregistered and the rest of the vehicles had plates on them. (See photos). This is now the third time I have been called to this establishment on this type complaint. Please advise as to what action should be taken if any.

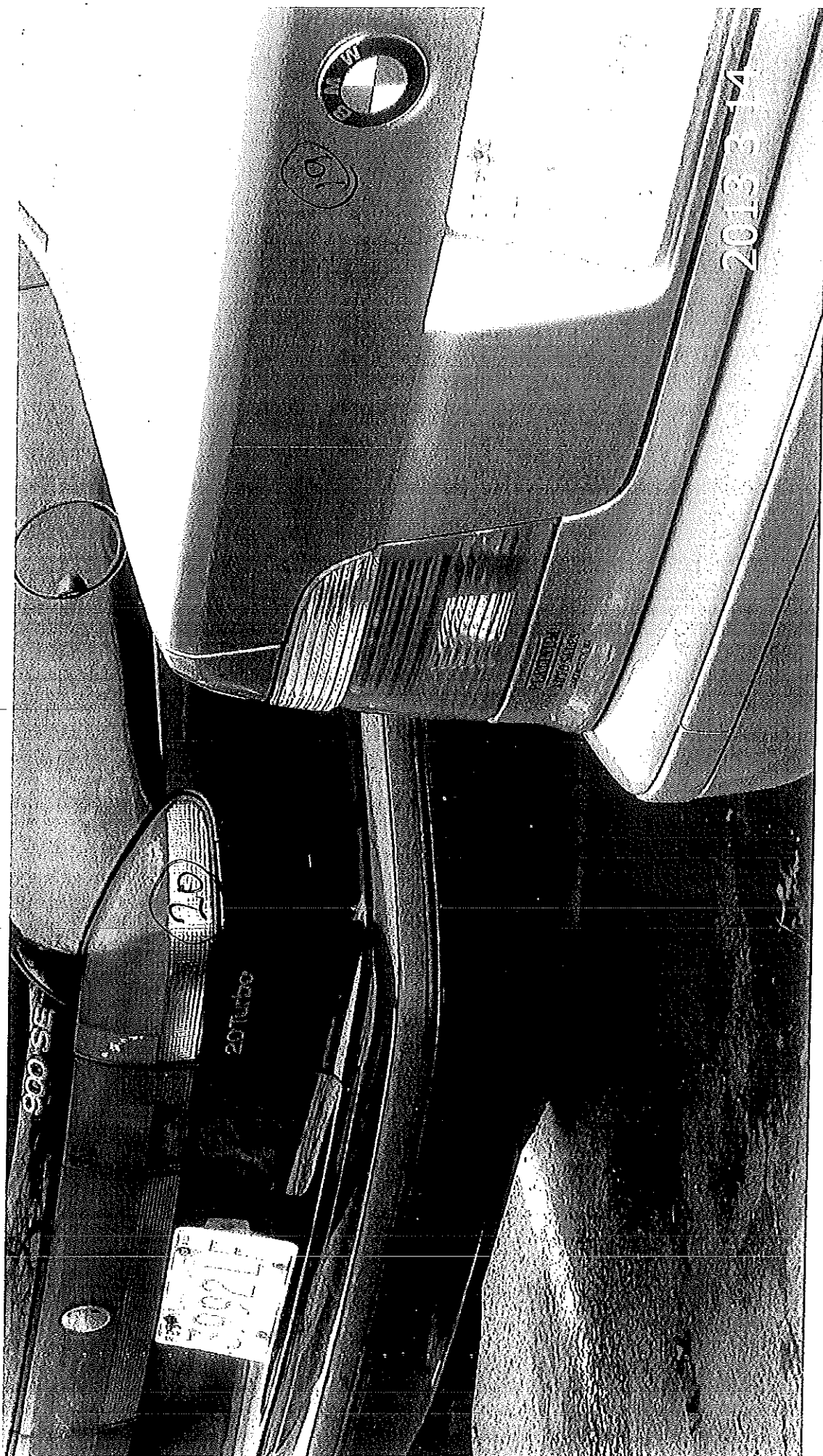
Respectfully

Wayne Fostin

Copy of Wayne's pictures



2



2013 3.14

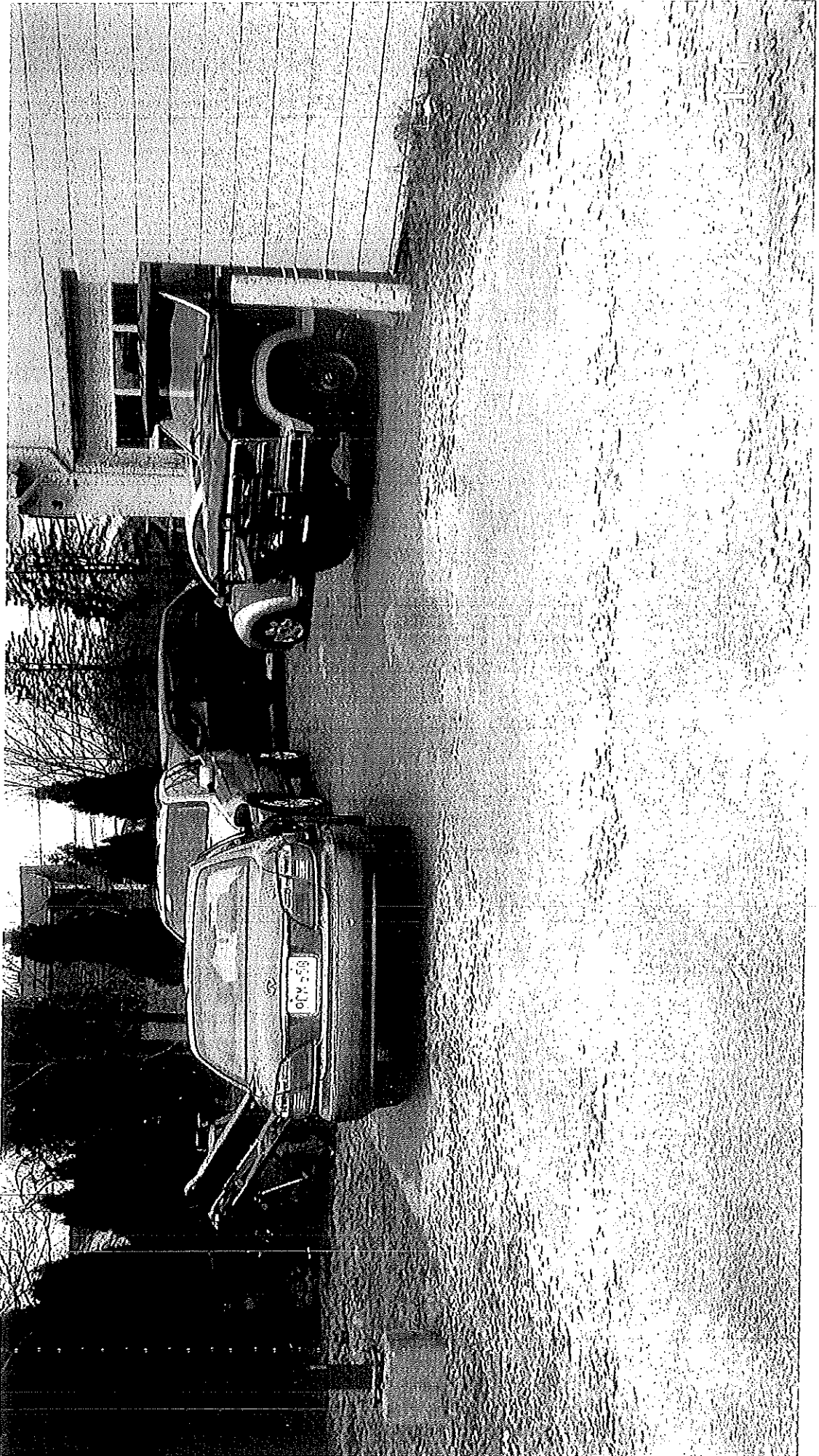
900SE

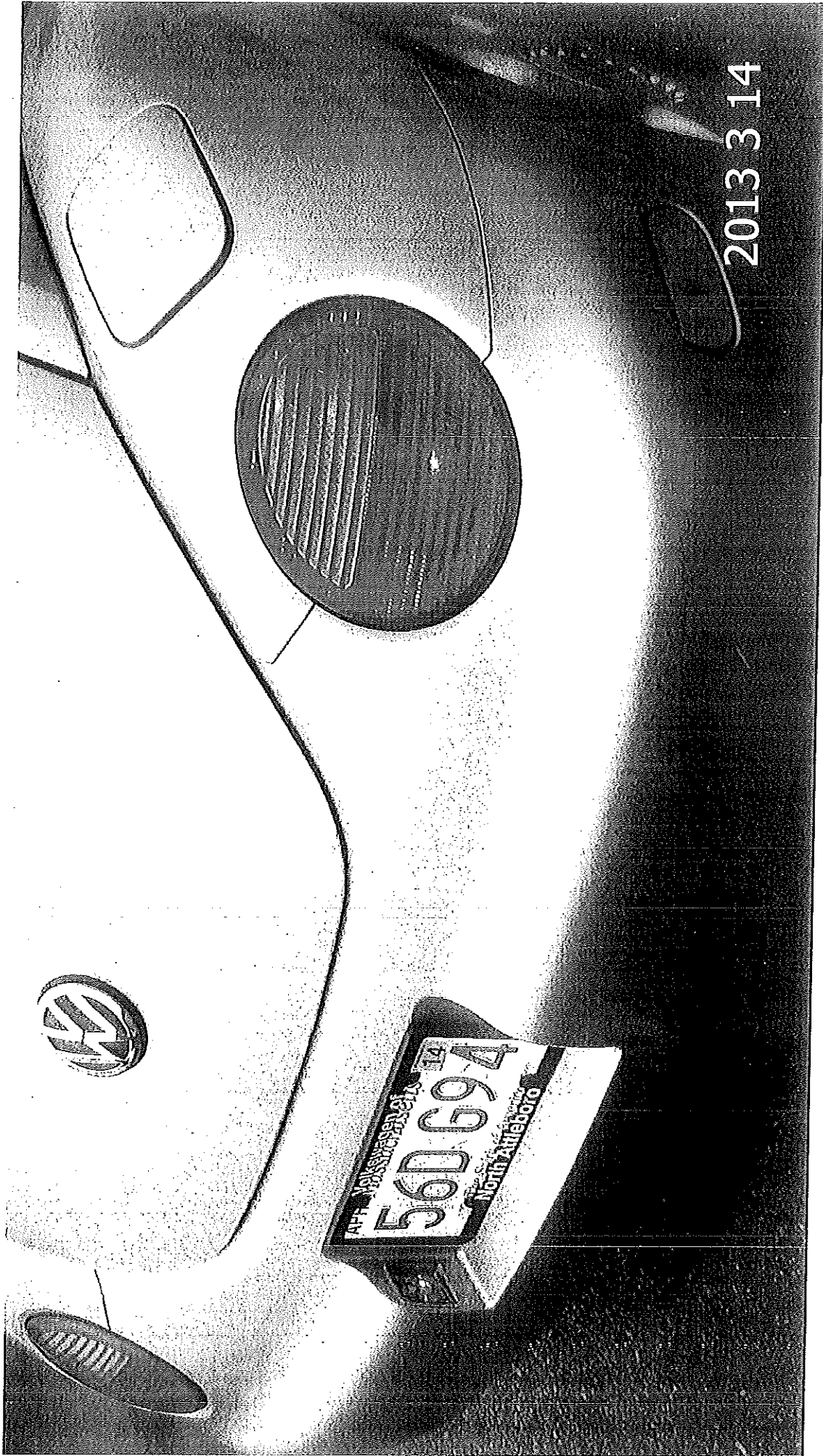
20 Turbo

79092T



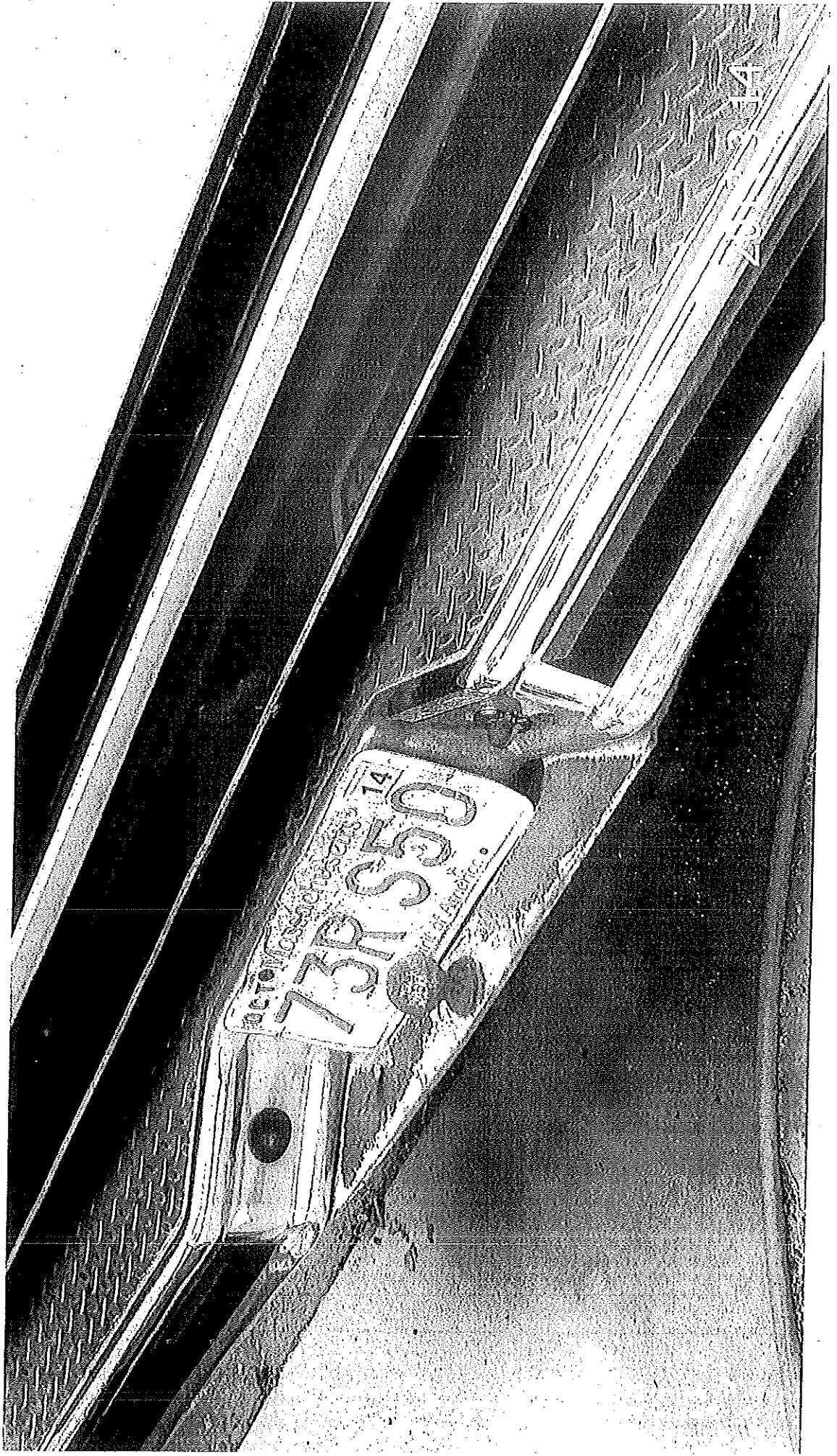




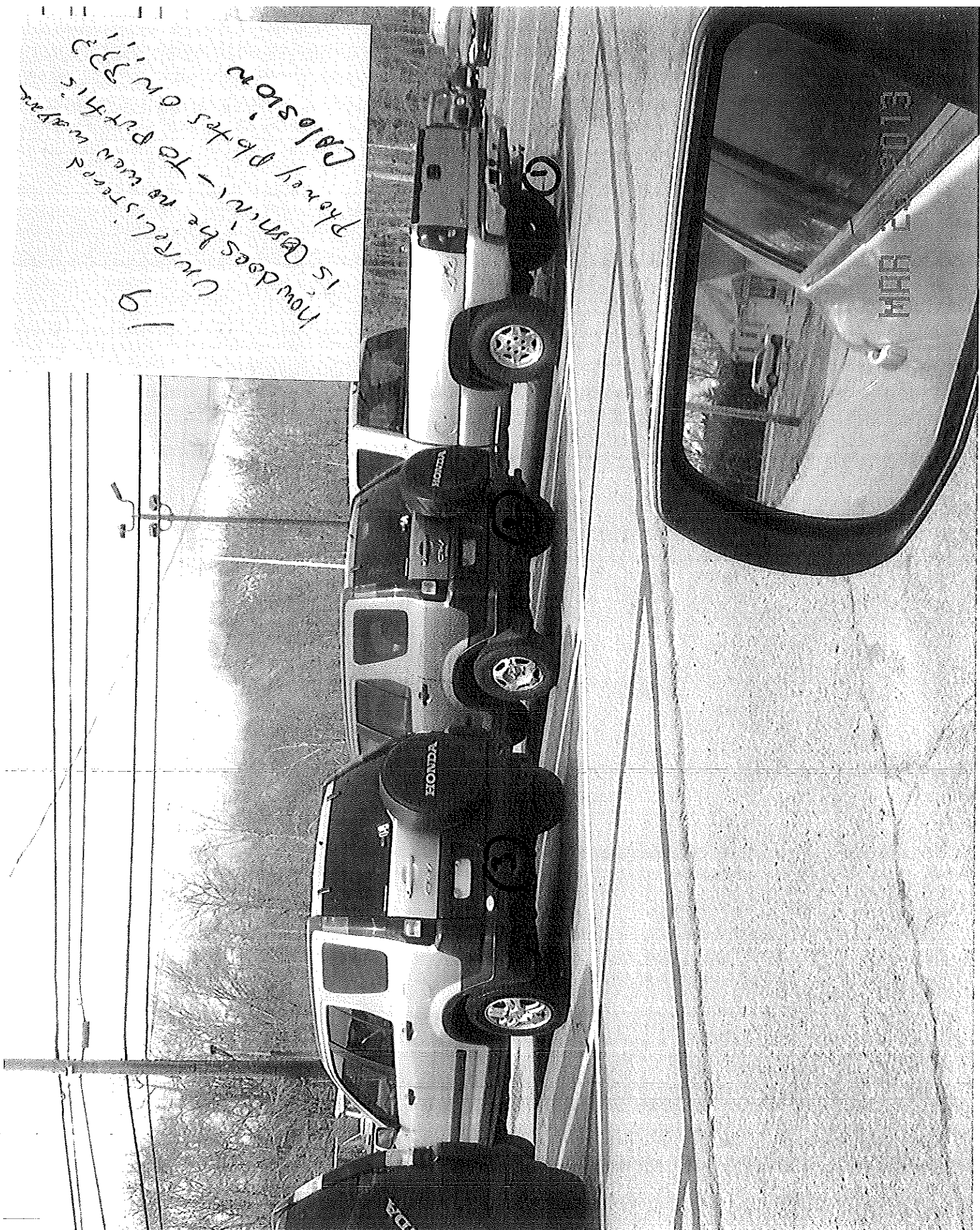


2013 3 14

ATF MASSWHEELS
56D694
14
North Attleboro



19
Circled in red
how does he know
they plates are
California
is California - To put this
they plates are on 573





MAR 25 2013

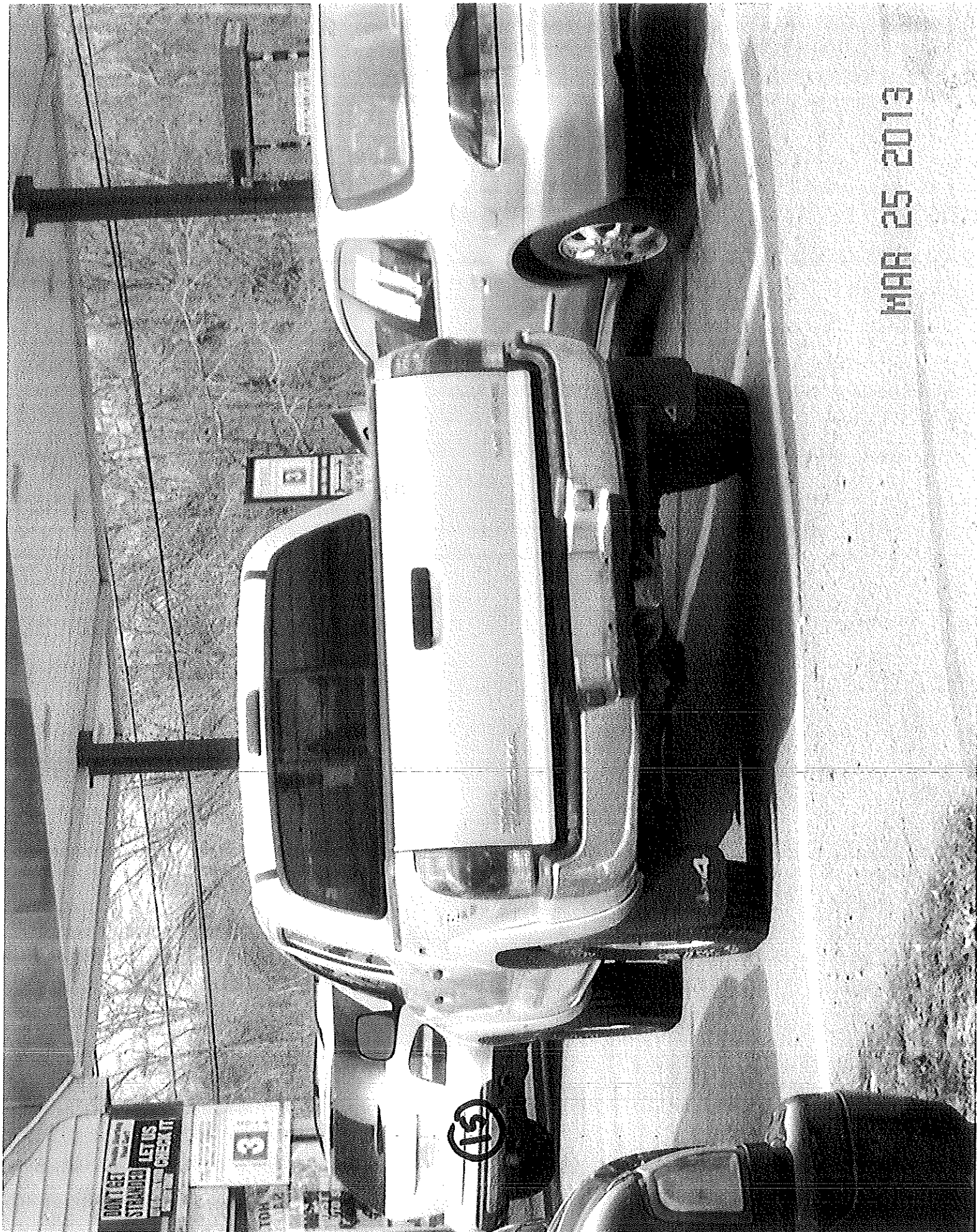


MAR 25 2013

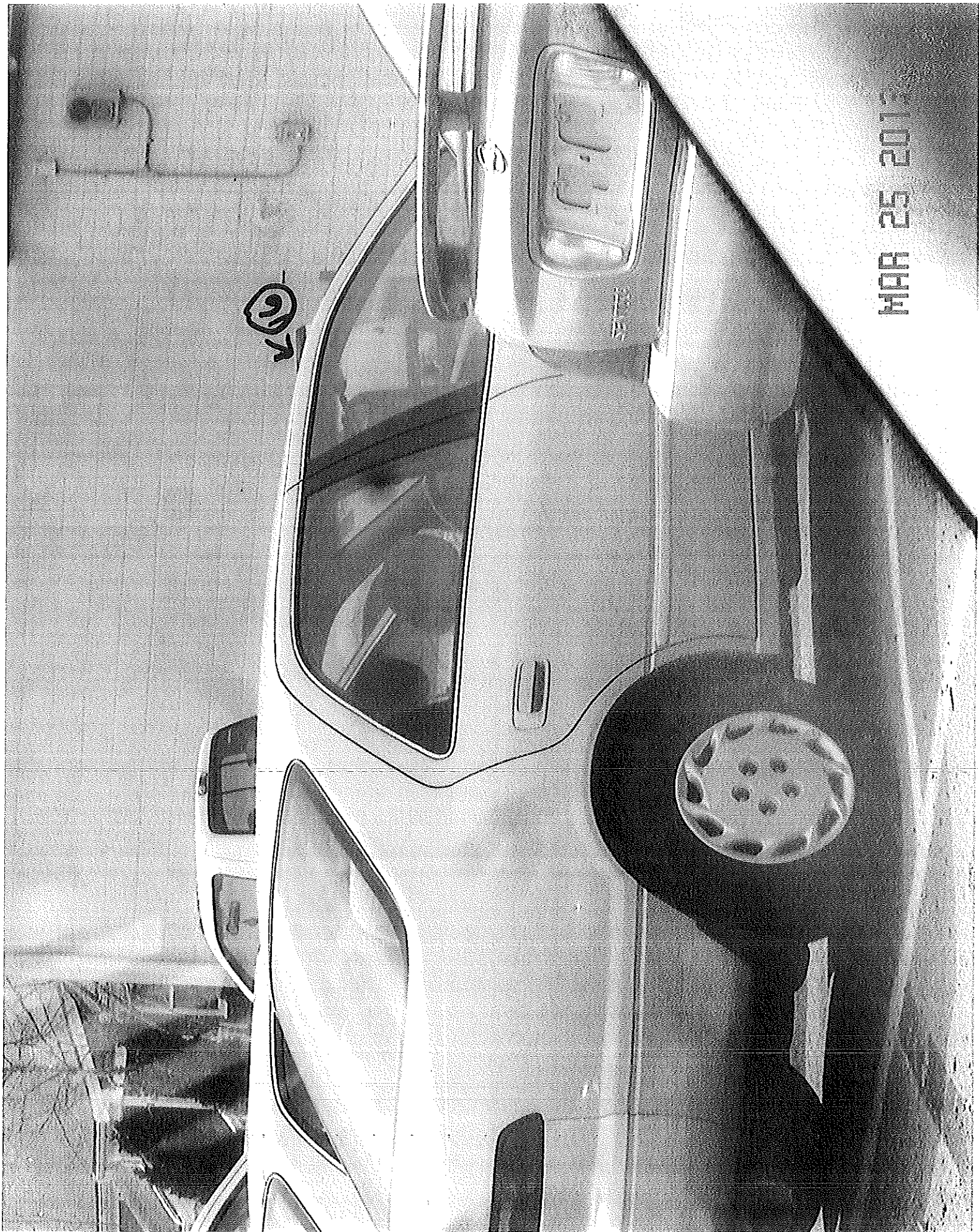




MAR 25 2013

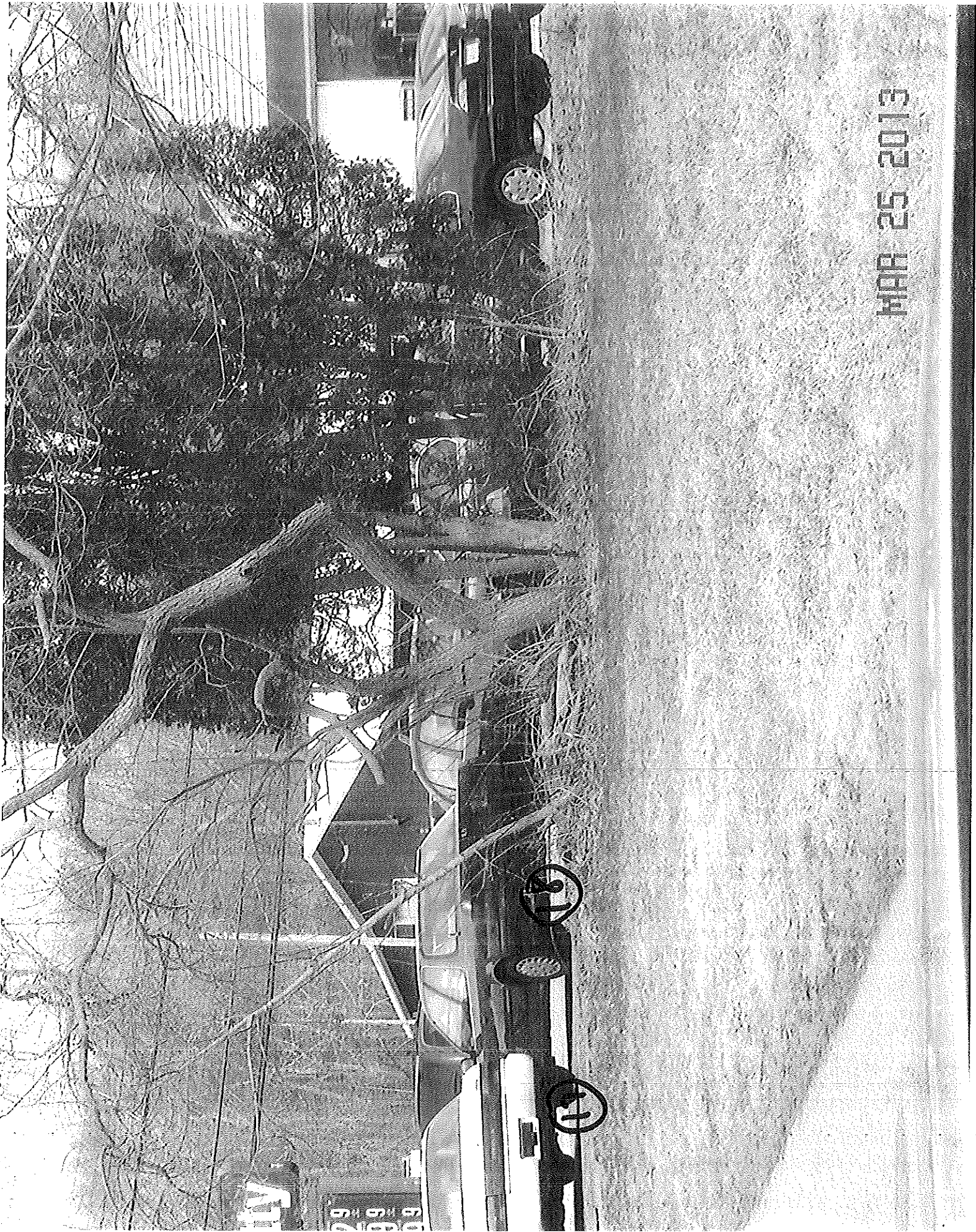


MAR 25 2013

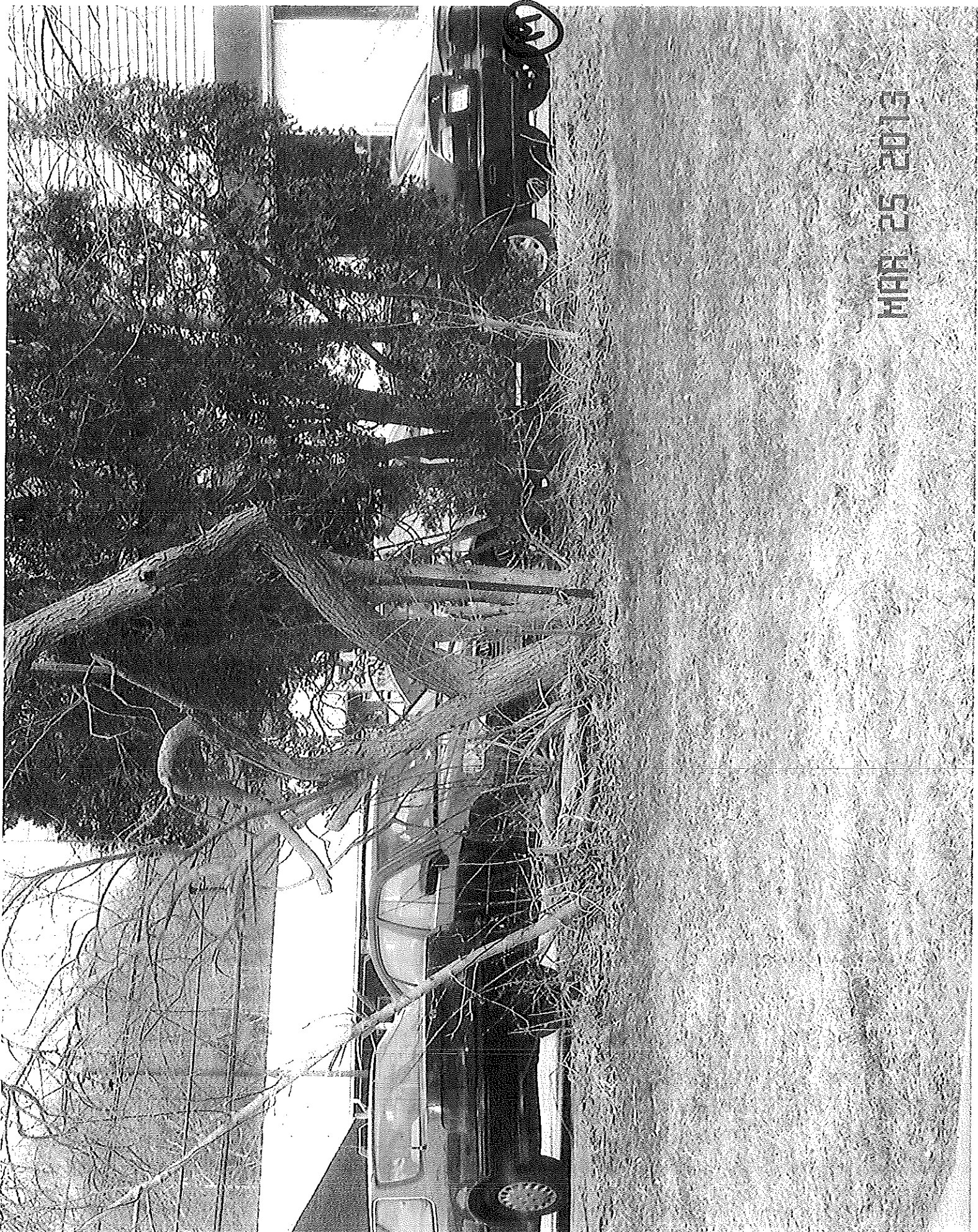


APR 25 2013

Q10



MAR 25 2013



APR 25 2013