

MINUTES of May 24, 2021 Regular Meeting

Board of Public Works & Safety and Stormwater Board

Held 2:00 p.m. Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Present: Chair Jeremy Stutsman, Member Mary Nichols, Member Mike Landis

Absent: None

No minutes were presented

Approval of Agenda

Nichols/Landis moved to approve the agenda as presented. Passed 3-0

Wastewater Treatment Improvement: Change Order #2, JN: 2019-0025A

Administrative City Engineer Bryce Gast presented the packet memo.

Nichols/Landis moved to approve Change Order No. 2 in the amount of \$42,445.00, with no change to the project schedule. Passed 3-0

East Lincoln Avenue Sidewalk and Alley Closure for Painting

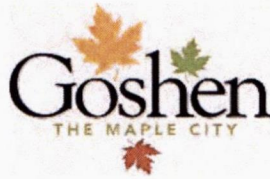
LaCasa VP Asset Management Alan Greaser presented the request.

Landis asked whether the sidewalk would be closed all hours during the time period. Greaser stated it would only be closed while work was being done.

Nichols/Landis moved to approve the sidewalk and alley closure around 210 East Lincoln "The Hattle" for a two-week period starting June 7 for five days and will work with the Street Department to set up cones. Passed 3-0

Downtown Main Street Closure for Summer Block Party

Adrienne Nesbitt, representing Downtown Goshen Inc., presented the request.



Nichols/Landis moved to approve the closure of Main Street from Lincoln Avenue to Jefferson Street from 8 a.m. until 6 p.m. on June 26 for a summer block party and reserve a parking spot behind the Electric Brew for a trash container. Passed 3-0

Agreement with Brunk Real Estate: Materials Discharge

Paralegal Brandy Henderson presented the packet memo.

Mayor stated the Brunk Real Estate, LLC has been cooperative throughout this process.

Nichols/Landis moved that the City enter into an agreement with Brunk Real Estate, LLC that includes a cease order regarding the discharge of waste materials, compliance of various provisions within a one-year timeframe, and fines for each violation of these provisions if not complied to. Passed 3-0

Accept Deed of Dedication of Right-of-way: 300 Steury Avenue

Legal Compliance Administrator Shannon Marks presented the packet memo.

Nichols/Landis moved to accept the Deed of Dedication of public right-of-way located at 300 Steury Avenue from Lam Corporation, and authorize the Mayor to execute the Acceptance. Passed 3-0

Greene Road Closure for Asphalt Paving, JN: 2021-0002

Director of Public Works Dustin Sailor presented the packet memo.

Nichols/Landis moved to approve the Greene Road closure between Plymouth Avenue and Berkey Avenue for the milling and paving improvements on Tuesday, June 1 to Friday June 11, 2021. Passed 3-0

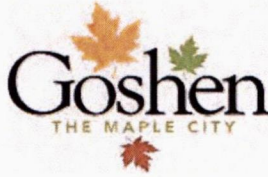
9th Street – Vehicles Blocking Mailbox

Civil City Engineer Josh Corwin presented the packet memo.

Discussion followed on possible solutions and problems similar to this in the past.

Assistant Police Chief Shawn Turner explained that the Police Department has encountered this problem before but has no legal backing to address.

Landis asked about moving the mailboxes to the other, less busy, side of the street. Said he was sympathetic to the affected individuals and suggested Council might consider and Ordinance.



Corwin stated after speaking with the Postal Service that the Postal Service reserves the right to refuse to deliver mail.

Mayor Stutsman suggested passing out a flyer notifying residents to avoid parking in front of the mailboxes.

No formal action was taken. Board Members acknowledged the Traffic Commissions recommendation.

Sign Request: Canal Street Neighborhood

Corwin presented the packet memo.

Mayor Stutsman stated that the City receives numerous requests for Children at Play signs. Added that a stop sign would not fit in the right-of-way.

Corwin stated that the Engineering Department does not recommend their use, as they tend not to accomplish the intended goal and provide a false sense of security.

No formal action was taken. Board Members acknowledged the Traffic Commissions recommendation.

Sign Request: Leroy and 12th

Corwin presented the packet memo.

Nichols/Landis moved to confirm and uphold the Traffic Commissions recommendation to make and deliver a stop sign to Goshen College and place a Stop Sign at the intersection of Leroy Street and 12th Street. Passed 3-0

Resolution 2021-15: Goshen Government Operations Climate Action Plan

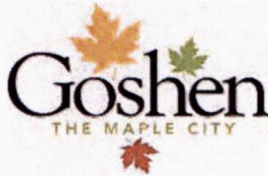
Environmental Resilience Director Aaron Sawatsky-Kingsley presented the packet memo.

Mayor Stutsman stated that surrounding cities are looking forward to seeing the final action plan. Mentioned several small changes would be made to the final draft.

Nichols/Landis moved to pass and adopt Resolution 2021-15 – City of Goshen Government Operations Climate Action Plan. Passed 3-0

Parking Surface Variance Request: Keystone RV

Director of Site Development Services for Jones Petrie Rafinski Matt Schuster presented the request.



Discussion on how long the recycled materials last and how Keystone preforms regular maintenance and repairs.

Mayor Stutsman and Landis agreed that standard has been that any parking lot designated to be employee parking was to be paved with a hard surface.

Robert Pettitt with Keystone stated that they wish to be the example. Added that he inspects the parking lots every day to check for any repairs and to keep them clean.

Mayor/Landis moved to table until the June 1, 2021 Board of Public Works & Safety and Stormwater meeting. Passed 3-0

Privilege of the Floor

No one spoke.

Building Commissioner Order: 221 West Wilden Avenue

Building Department and Planning/Zoning Inspector Travis Eash presented the findings from the inspection. *(Attached as Exhibit A)*

Eash stated that little progress has been made on the property/building. Added that no permits have been pulled to indicate repairs being done. Stated out of the ten violations listed, the first violation referring to broken glass, trash, dead animals, and animal feces has been resolved. No water or utilities have been active in the home since 2013. Eash added that the Building Department recommends the home be deemed unsafe and demolished.

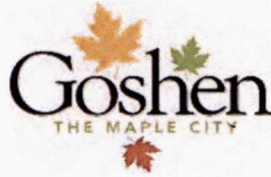
Attorney Bill Davis with Davis and Roose Attorneys stated that the house is in better condition than when it was bought. Discussion between Davis and Eash one-by-one on the violations listed.

Property Owner Ron Davidhizar stated that due to break-ins and issues with a neighbor, he was hesitant to invest a large amount of money into the home. Davidhizar added that last November the home was broken into and damaged. Davidhizar stated he believes the home will be rentable by November of this year. Davidhizar submitted photos of the property. *(Attached as Exhibit B)*

Mayor asked as to why it has taken the City to step in to have repairs started. Added that Davidhizar has numerous vacant properties throughout the City; should have no issues in finding a tenant.

Landis suggested reviewing repairs in week increments instead of month increments. Davidhizar stated that his own health has been declining and he has just experienced a devastating fire at another property.

Mayor Stutsman asked Davidhizar if he believed the home, in its current state, was safe to live in. Davidhizar responded that it is not appropriate for someone to occupy in its current state.



Mayor Stutsman/Landis moved to find the property unsafe for reasons 2-10 as enumerated in the Building Commission Order. Passed 3-0

Discussion followed on the timeframe of the repair deadlines.

Mayor Stutsman and Landis discussed that due to delays in building supplies a purchase order would suffice.

Landis/Nichols moved to have the yard mowed by June 1, and to have the exterior, garage, loose siding, soffit, windows and doors repaired/replaced to Building Department satisfaction or a purchase order for replacements shown in four weeks. Passed 2-1

Yay- Member Mike Landis, Member Mary Nichols

Nay- Mayor Jeremy Stutsman

Further discussion on how to proceed and if repairs will be completed.

Mayor Stutsman/Landis moved to continue the hearing to June 21, 2021. Passed 3-0

Stutsman/Landis moved to approve Civil City and Utility claims and adjourn. Passed 3-0

Adjournment at 3:40 p.m.

Exhibit A: Building Department Order from Travis Eash. (17 pages)

Exhibit B: Photo Documentation provided by Ron Davidhizar, (4 pages)

APPROVED

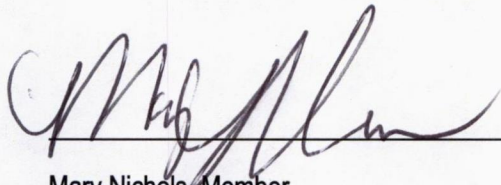
A handwritten signature in black ink, appearing to be "J. Stutsman", is written over a horizontal line.

Jeremy Stutsman, Chair

A handwritten signature in black ink, appearing to be "Michael A. Landis", is written over a horizontal line.

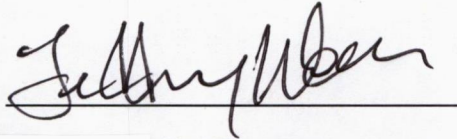
Michael Landis, Member



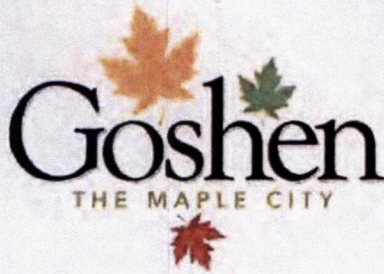


Mary Nichols, Member

ATTEST



Clerk-Treasurer



**Building Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 5 • Goshen, IN 46528-3405

Phone (574) 534-1811 • Fax (574) 533-8626 • TDD (574) 534-3185
building@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: BOARD OF PUBLIC WORKS

From: GOSHEN BUILDING DEPARTMENT (TRAVIS EASH)

Date: MAY 24, 2021

Subject: 221 W WILDEN AVENUE

This morning I inspected the property at 221 W Wilden Avenue. Other than securing the property and partial cleaning of debris, little progress has been made since the original inspection on November 18, 2020. I had set up a couple of follow up inspections in which both times neither the owner nor a representative of his showed up.

While conducting my original inspection I witnessed that all the windows and glass doors have been busted out and the property had become accessible to people and animals. The owner failed to secure the property and the City got an Injunction to get the property secured. (Injunction attached).

According to the City Utilities Office the account is not active and hasn't been since February of 2013, which was before Mr. Davidhizar owned the property. He has never opened an account with the Utilities Office for this property.

No permits have been pulled for demolition or any possible repairs that might be done.

Due to the failing condition of the property, the Building Department's recommendation is that this property is found unsafe and should be demolished.

Thank You,

Goshen Building Department

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

IN ELKHART SUPERIOR COURT NO. 4
CAUSE NO. 20D04-2102-MI-00050

City of Goshen, Indiana,)
Plaintiff,)
)
v.)
)
Ronald E. Davidhizar,)
Defendant.)

ORDER OF PRELIMINARY INJUNCTION

Cause comes now for hearing on Plaintiff's request for Preliminary Injunction. Plaintiff appears by counsel via Webex. Respondent having been served, fails to appear. Evidence presented and arguments heard. The Court, considering all statements of counsel, Plaintiff's Motion for Preliminary Injunction and Exhibits, and otherwise being duly advised in the premises, now finds that Plaintiff's Motion for Preliminary Injunction should be granted.

IT IS THEREFORE ORDERED that the Defendant, Ronald E. Davidhizar, is directed to secure the vacant residential structure located at 221 W. Wilden Avenue, Goshen, Indiana against unauthorized entry per the requirements of Goshen City Code § 6.3.1.1(ff) within ten (10) days of the date of this Order, or by February 22, 2021.

IT IS FURTHER ORDERED that this cause is set for a review hearing to determine Defendant's compliance with this Order on February 26, 2021 at 9:00 a.m.

SO ORDERED this February 12, 2021.



Stetson S. Lund
JB
Judge, Elkhart Superior Court No. 4

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Travis Eash, the affiant herein, and after first being duly sworn upon his oath, acknowledged execution of the foregoing instrument this ____ day of February, 2021.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal.

_____, Notary Public

County of Residence: _____

My Commission Expires: _____

ORDER OF THE CITY OF GOSHEN BUILDING COMMISSIONER

April 22, 2021

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To: Ron Davidhizar
203 Middlebury Street
Goshen, IN 46528

RE: Premises at 221 W. Wilden Avenue, Goshen, Indiana

You are notified as a person holding a substantial property interest in the real estate at 221 W. Wilden Avenue, Goshen, Indiana, that the building at this location is in violation of the Goshen City Code as set forth in more detail below.

The Goshen Building Department inspected the subject real estate on November 18, 2020. Violations of the Neighborhood Preservation Ordinance (Minimum Housing Ordinance) were cited. The Goshen Building Department attempted to reinspect the real estate on March 1, 2021 and April 1, 2021 but Mr. Davidhizar was not present at the premises and the real estate could not be reinspected.

The real estate is unsafe within the meaning of Indiana Code § 36-7-9-4 in that one or more buildings or structures on the real estate are in an impaired structural condition that makes it unsafe to a person and vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of Goshen City Code Title 6, Article 3, Chapter 1.

The following violations of Section 6, Article 3, Chapter 1 of the Goshen City Code were cited by the Goshen Building Department inspector and have not been satisfactorily repaired or remedied:

1. Structure is filled with broken glass, trash, dead animals, and animal feces (violation of Section 6.3.1.6 (b) (1)).
2. Windows and exterior doors missing or broken leaving property open and not secured (violation of Section 6.3.1.1(ff)).
3. Paint throughout property is chipping and peeling (violation of Section 6.3.1.1(g)).
4. Holes and cracks in the foundation are compromising the structural strength and weather resistance. (violation of Section 6.3.1.1(b)).
5. The walls within the property are damaged or removed and floors are collapsed or the flooring is missing. (violation of Section 6.3.1.1(b)).
6. The ceiling tile is missing and portions of ceiling has collapsed. Debris and insulation from missing ceiling throughout property (violation of Section 6.3.1.1 (b)).
7. The furnace and duct work are not in working order (violation of Section 6.3.1.3(e)).
8. The electrical wiring has been cut throughout the structure and the electrical panel is damaged from the cut wires (violation of Section 6.3.1.1(x)).
9. The windows and glass sliding door are broken or the glass is missing and there is broken glass inside the dwelling (violation of Section 6.3.1.1. (d)).

ORDER OF THE CITY OF GOSHEN BUILDING COMMISSIONER

RE: Premises at 221 W. Wilden, Goshen

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10. The garage is open and unsecured and the soffit is collapsing (violation of Section 6.3.1.1. (b)).

These violations make the premises at 221 W. Wilden Avenue, Goshen unsafe and the general condition of the house and garage warrants removal.

You are ordered to demolish and remove the unsafe building by **July 1, 2021**.

In the event that you fail to comply with this Order, the City of Goshen may take action to demolish the property and will bill you for the costs of such work, including, the actual cost of the work performed and an amount equal to the average processing expense the City will incur in pursuing this matter. Such amounts can become a lien upon the real estate and can ultimately be enforced in the same manner as any other judgment.

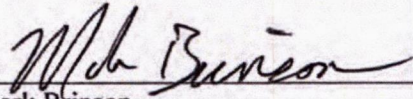
You are further notified that a hearing will be held before the Goshen Board of Public Works and Safety on **Monday, May 24, 2021 at 2:00 p.m. (local time)**, or soon thereafter, for the purpose of reviewing the Order of the City of Goshen Building Commissioner. This hearing will be held at the Goshen Police & Court Building in the Court Room/Council Chambers at 111 East Jefferson Street, Goshen, Indiana.

You have the right to appear at this hearing with or without counsel, to present evidence, cross-examine opposing witnesses and present arguments. Should you fail to appear at the time set for the hearing, the hearing will be conducted in your absence. The Goshen Board of Public Works and Safety will have the right to affirm, rescind or modify this Order.

Indiana Code § 36-7-9-27 requires that if you transfer your interest or any portion of your interest in the unsafe buildings affected by this Order to another person, you must supply the other person with full information regarding this Order prior to transferring that interest or agreeing to transfer that interest. Within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe buildings, you must also supply Community Development Director Mark Brinson with the full name, address and telephone number of the other person taking a substantial property interest in the unsafe buildings and/or premises, along with written copies of the agreement to transfer the interest or copies of the document actually transferring the interest. Mr. Brinson's office is located at 204 East Jefferson Street, Suite 2, Goshen, Indiana 46528, or you may contact him at (574) 537-3824. Should you fail to comply with these provisions, then you may be liable to the City of Goshen for any damage that the City of Goshen may suffer in the event that judgment is entered against the City by the other person to whom the transfer was made.

This Order of the City of Goshen Building Commissioner is issued on April 22, 2021

City of Goshen Building Department



Mark Brinson
Community Development Director

ORDER OF THE CITY OF GOSHEN BUILDING COMMISSIONER

RE: Premises at 221 W. Wilden, Goshen

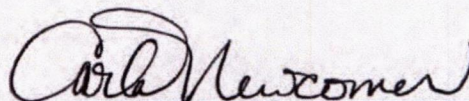
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April 22, 2021

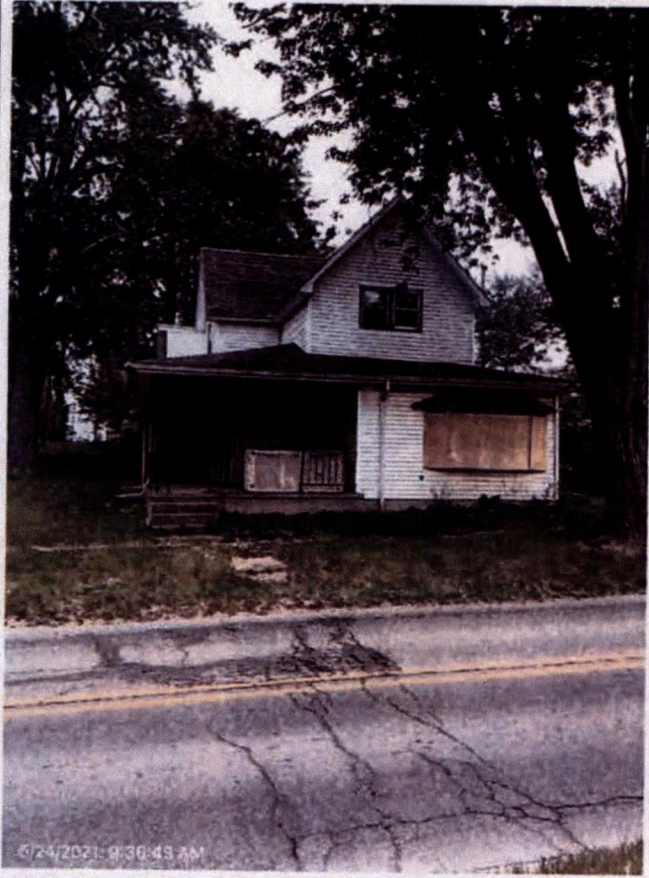
CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order of the City of Goshen Building Commissioner for the premises at Address, Goshen, Indiana, was served by sending a copy by certified mail, return receipt requested and by regular first-class mail to the last known address of the following persons to be notified on April 22, 2021:

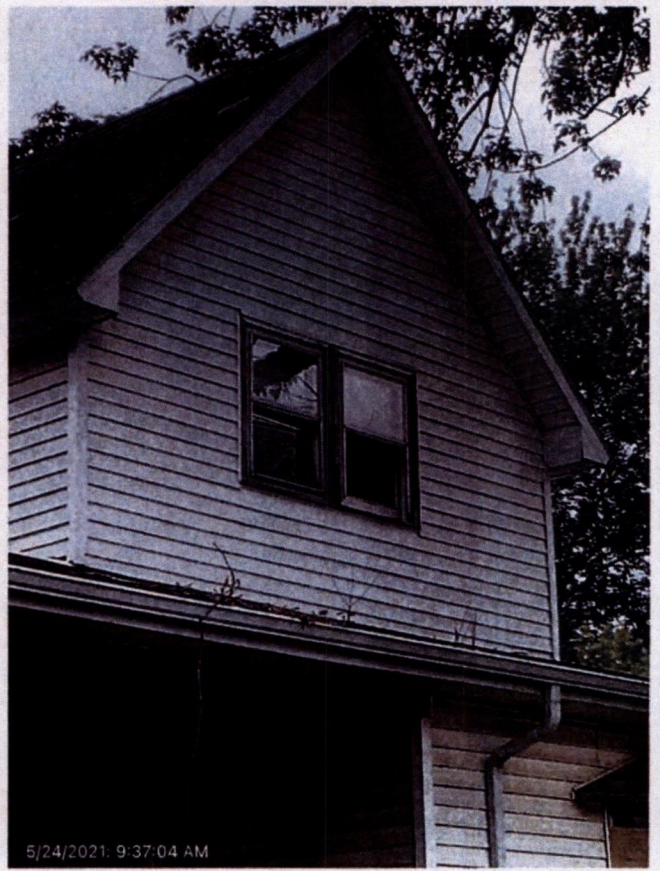
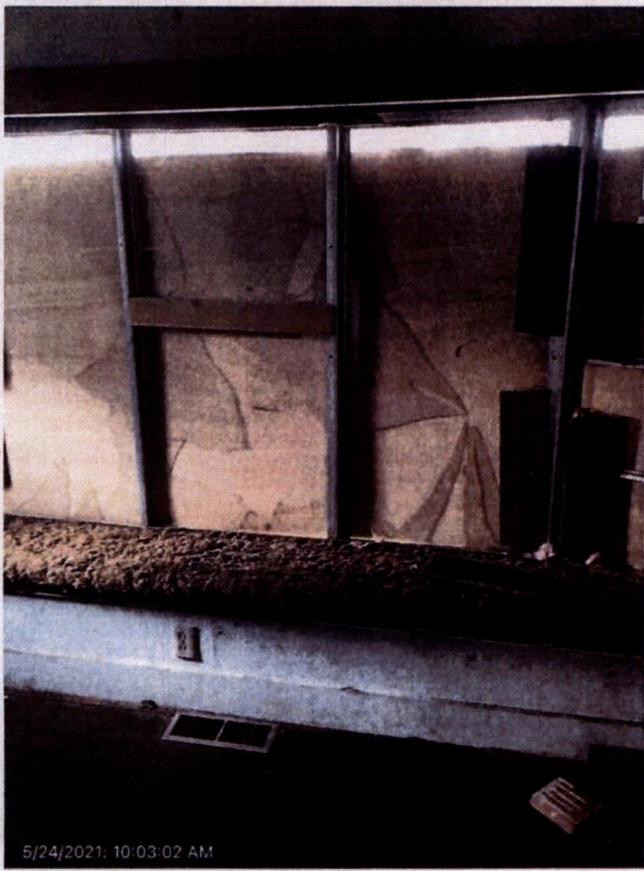
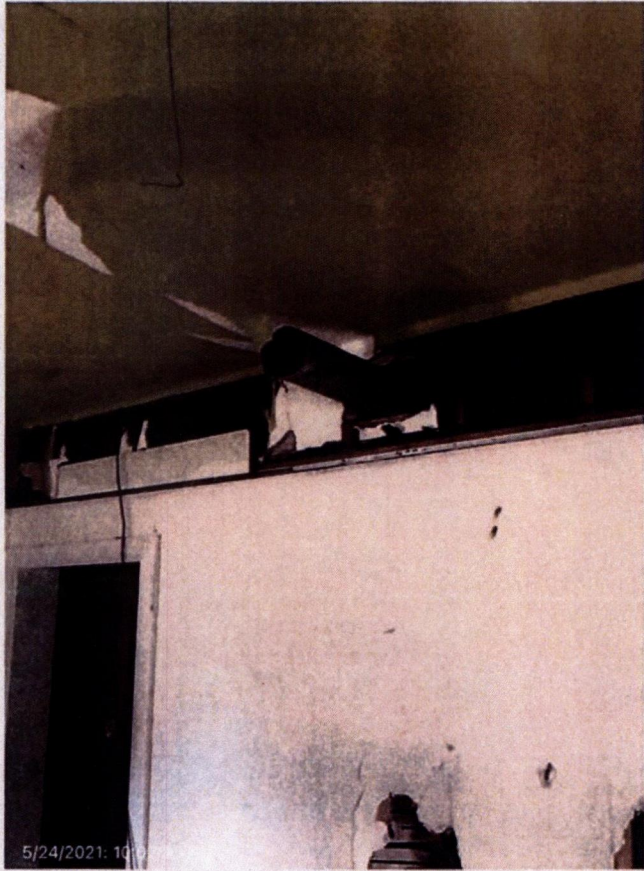
To: Ron Davidhizer
203 Middlebury Street
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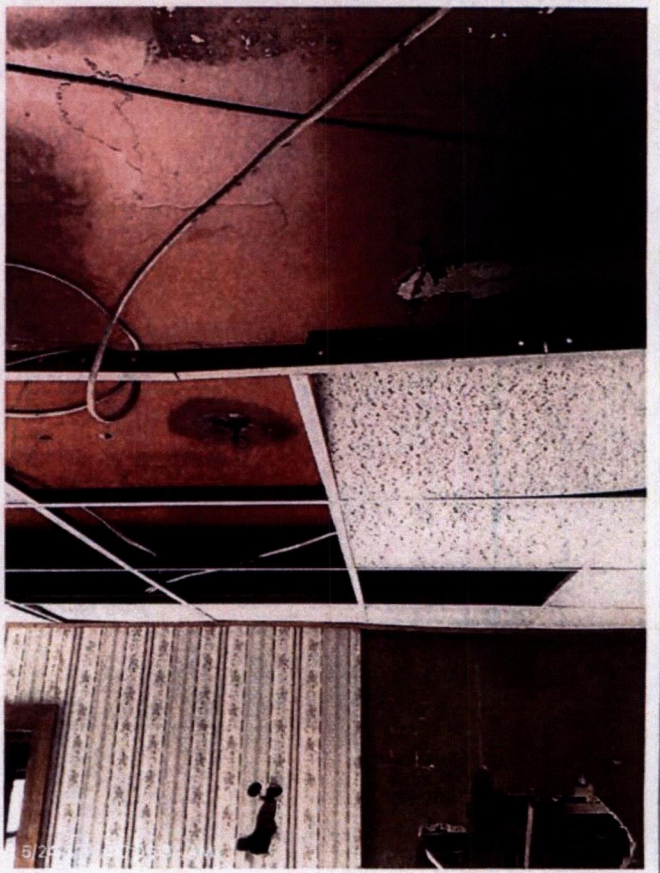
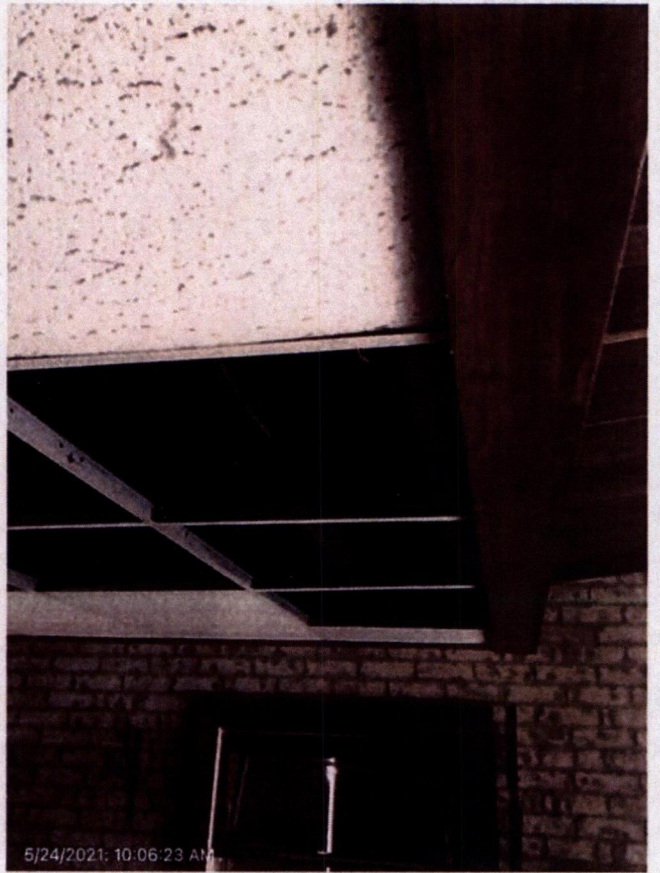
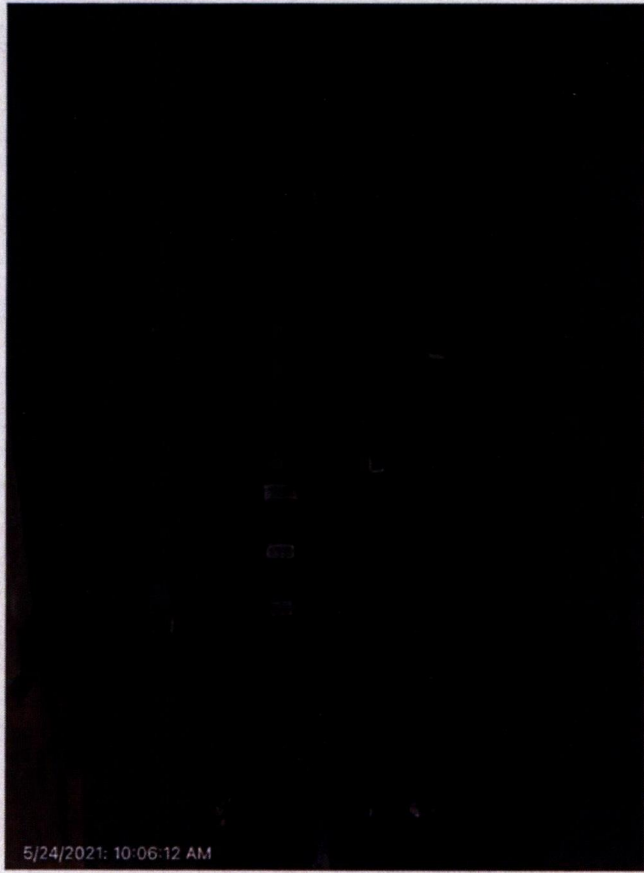


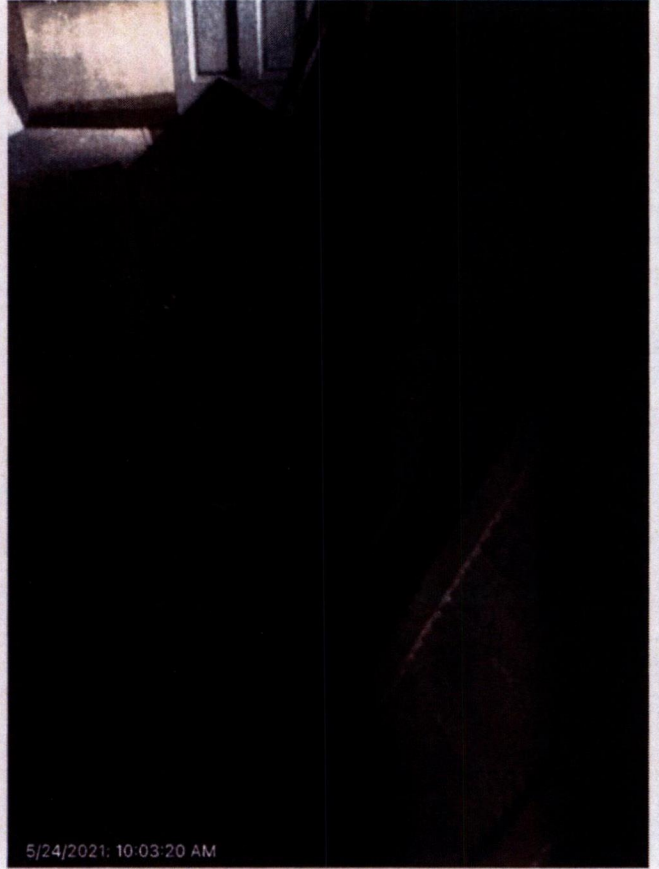
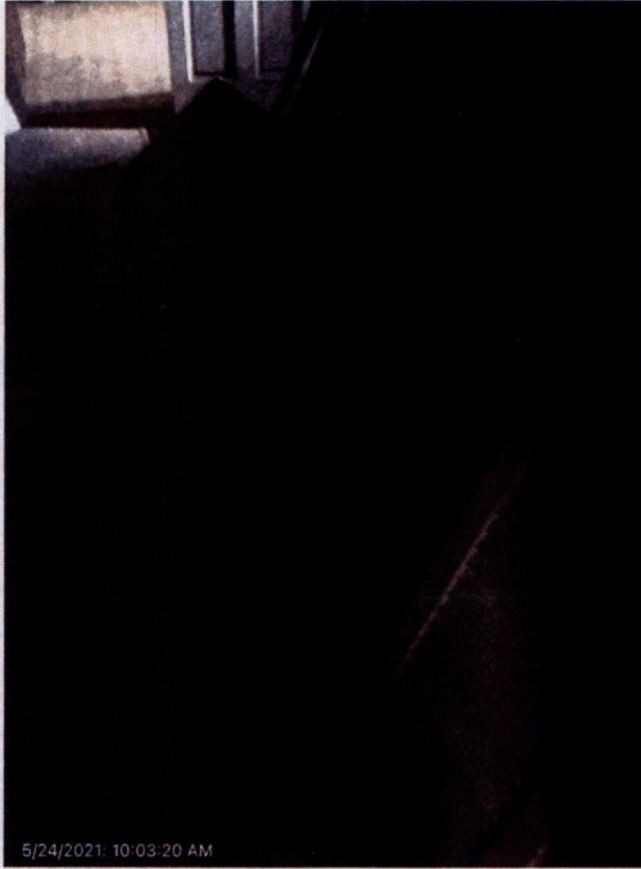
Carla Newcomer
Paralegal
City of Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528





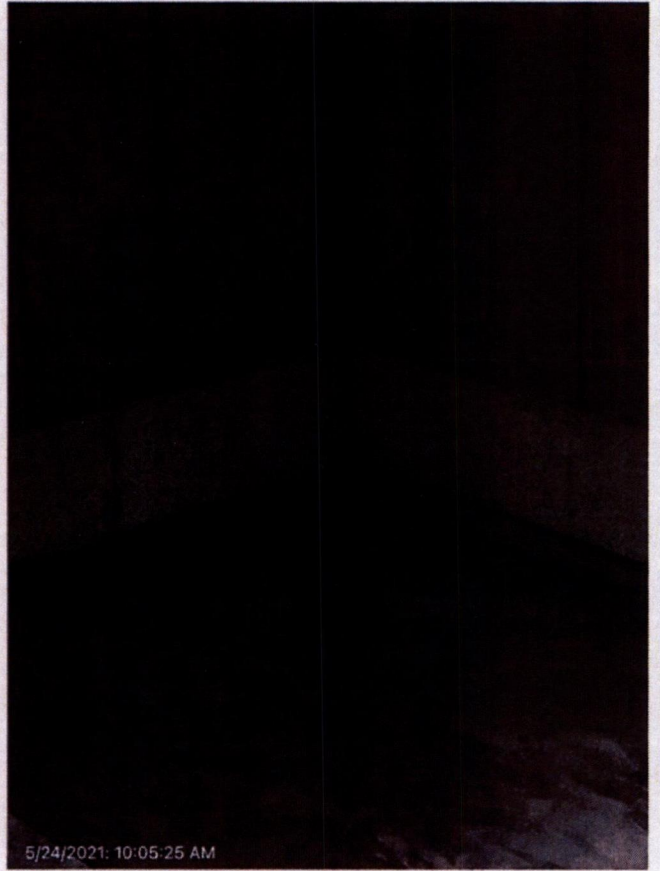








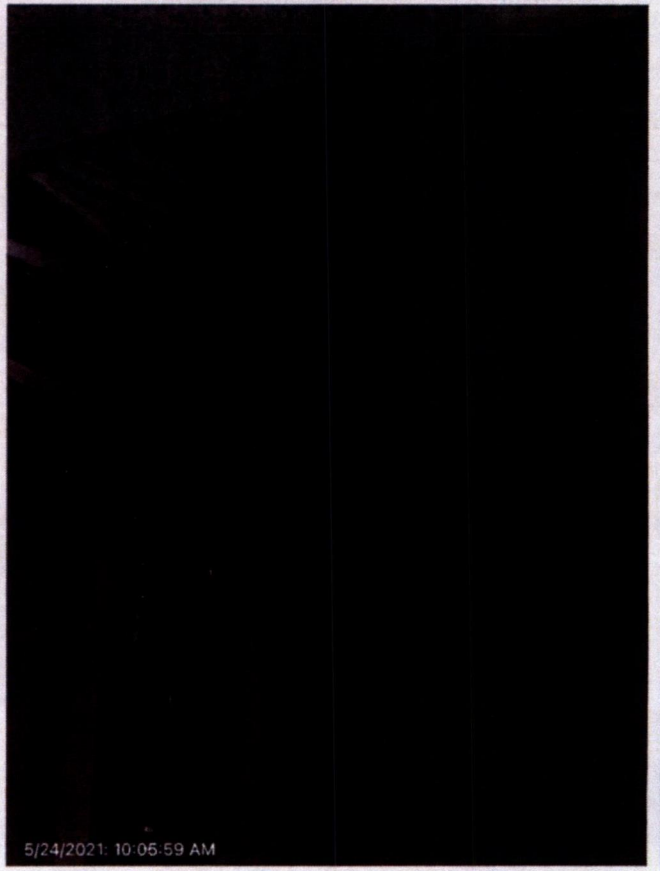
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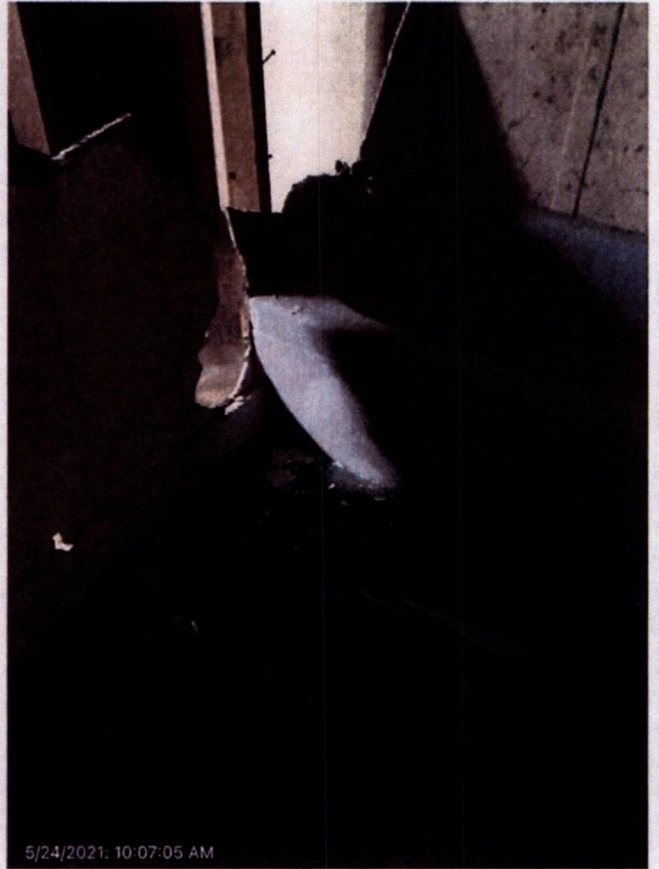
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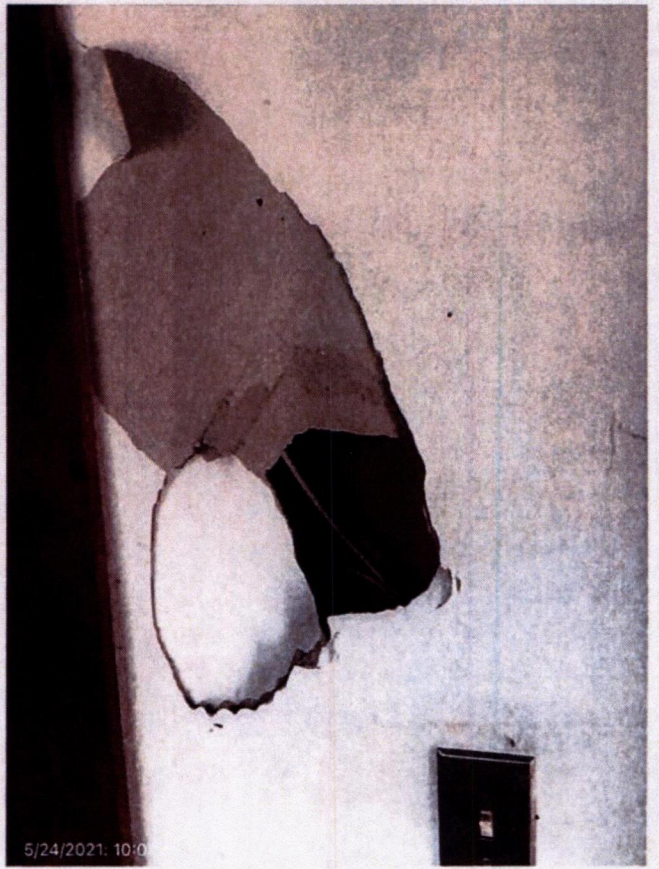
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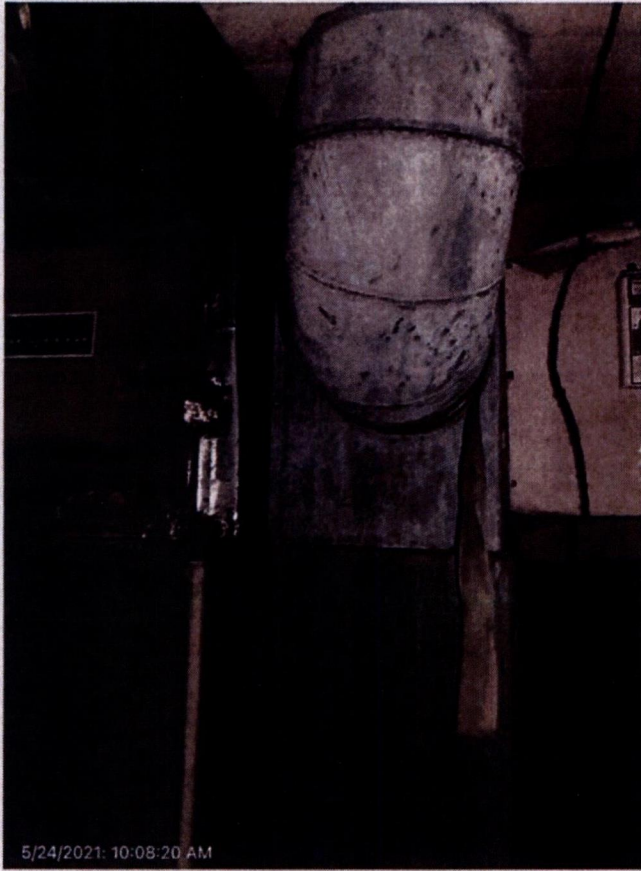
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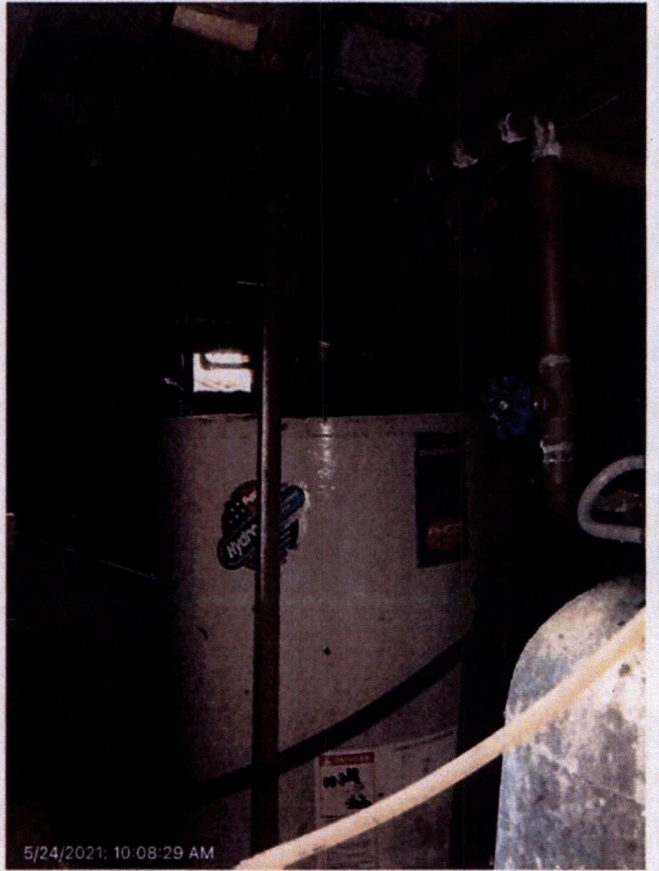
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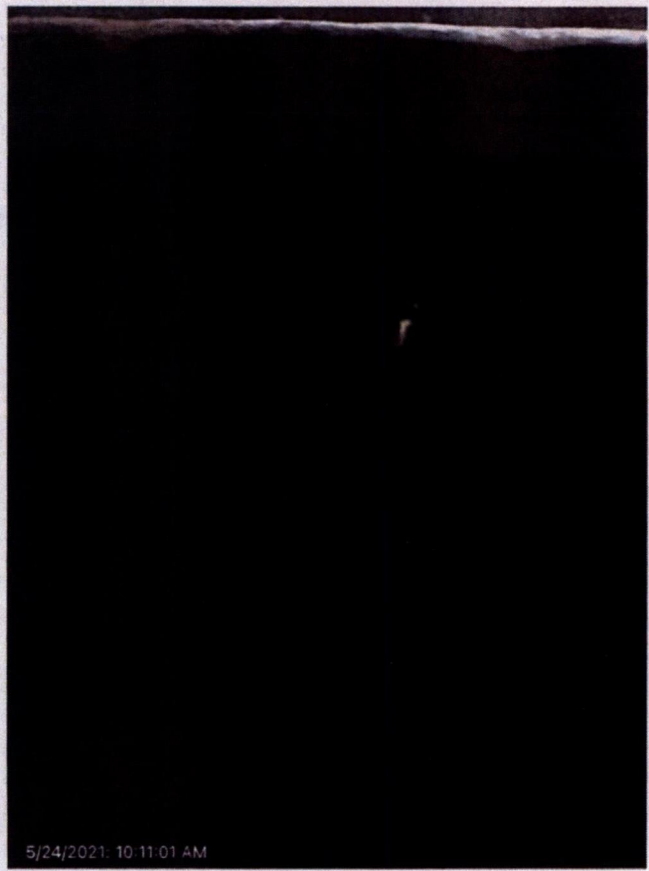
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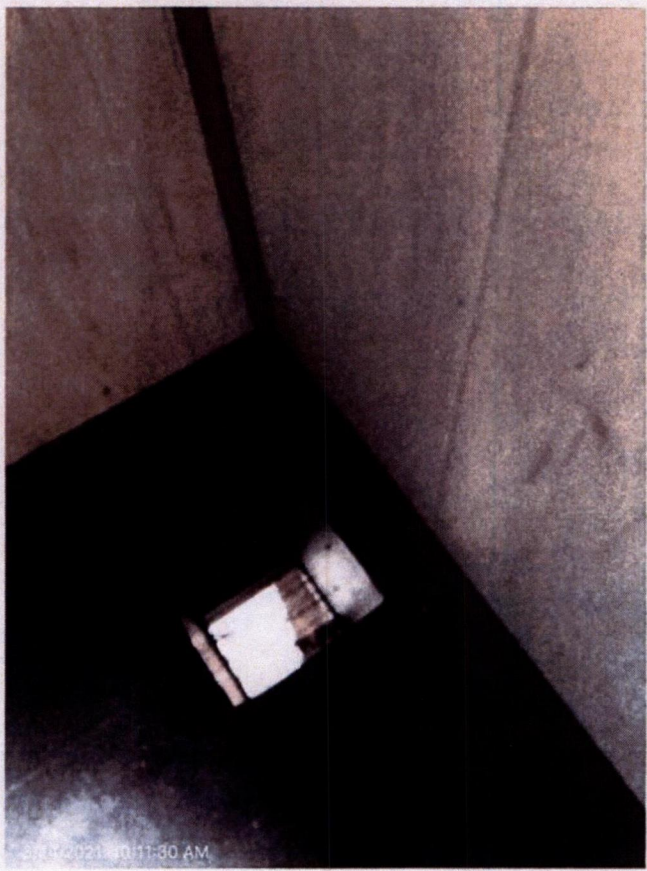
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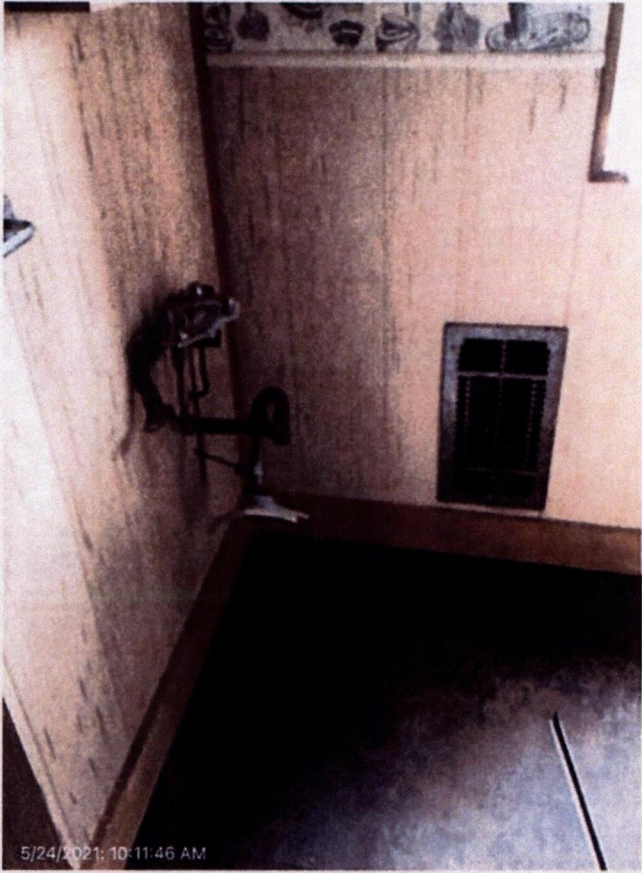
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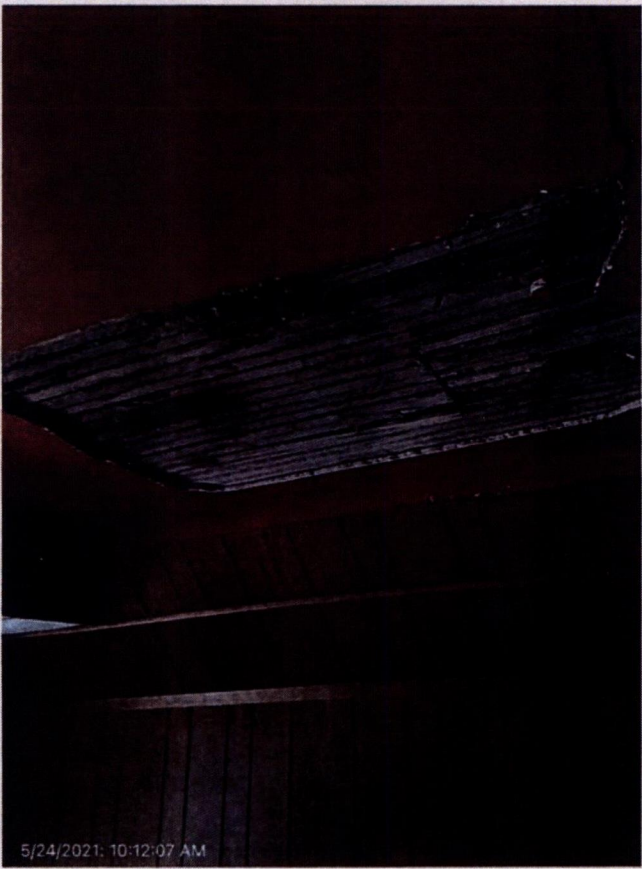
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