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October 18, 2016

Senator Jack Brandenburg
Chair, Senate Finance Committee
P.O. Box 30036
Lansing, MI 48909-7536

Re: City of Dexter Opposition to Draft Senate Bill No. 960 (Draft 2)

Dear Senator Brandenburg & Senate Finance Committee,

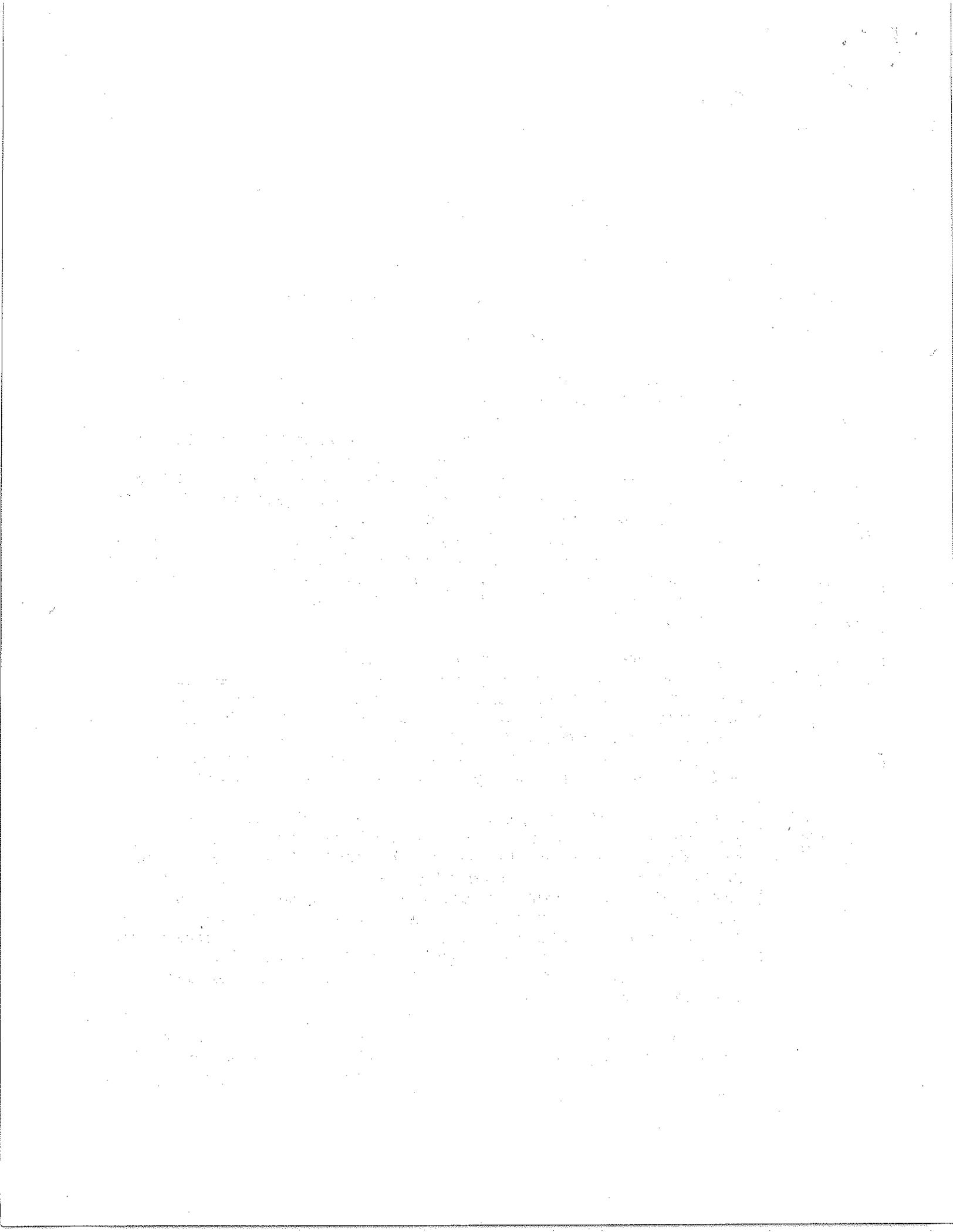
We appreciate the opportunity to speak in front of the Committee this afternoon. We have prepared this letter to explain our opposition to Senate Bill No. 960.

Nonprofit organizations have become increasingly sophisticated and multi-faceted. It is critical to the integrity of the tax system that only properties at which truly charitable activities occur should earn a property tax exemption. To be fair to all taxpayers, property tax exemptions should not be granted unless the organization is undertaking meaningful charitable activities at the property. Furthermore, a property tax exemption should not be granted if the property in question is being used to generate revenue unrelated to the charitable activity. These concepts would require major changes in the proposed legislation; otherwise, it is quite likely that many non-profit organizations will unfairly benefit to the detriment of private businesses, small and large.

First, we object to adding "promotion of health and wellness" as a charitable purpose. As proposed this is significantly overbroad; "health and wellness" can be pursued by any doctor, yoga studio, or marijuana dispensary. It will have a serious negative impact on the tax structure of communities in Michigan. This bill would create a huge tax loophole and potentially allow a non-profit organization who provides services in the very broad category of "promotion of health and wellness" to qualify as a charity and receive a property tax exemption. (Section (10)(A)(iii)).

Second, we object to adding as a "charitable purpose" "the promotion of a governmental purpose or alleviating the burden of government" which would result in an equally broad and unclear loophole. (Section (10)(A)(vi)) Property tax exemptions should be given only when the organization seeking an exemption is providing a service that the government would otherwise have to provide. If not, a nonprofit organization could attempt to substitute its judgment of what a government should be providing in place of the actual governmental unit. For instance, someone could seek to provide a benefit to State employees that this Legislature would not otherwise provide, and then seek a property tax exemption for the property. This proposed language is just too broad.

The City of Dexter has been litigating a tax tribunal case since 2013 with the 5 Healthy Towns Foundation (formerly the Chelsea Health and Wellness Foundation). This non-profit foundation purchased a 46,000 square foot fitness facility (the Dexter Wellness Center) for \$12,000,000 and sought a property tax exemption as a



charitable organization. Though the building is owned by the non-profit, the fitness center is operated by the for profit entity Power Wellness. The testimony given at trial by the staff and board members of the Foundation clearly indicated that it was the intention of the fitness center to sell memberships at market rate. This fitness facility functions in the same manner as any other gym and is in fact, competition for the other gyms in the City of Dexter. Why would the State of Michigan require tax payers of the City of Dexter to subsidize the market rate membership fees paid by those that choose to join the Wellness Center, (and use the specific and limited types of fitness activities in the Wellness Center), through requiring the City to provide a tax exemption?

The Tax Tribunal found that the building should remain taxable. The case is currently pending before the Court of Appeals. The total loss to the taxing jurisdictions if this one property was found to be nontaxable would be \$325,000, including a loss of \$170,000 in taxes earmarked for public education.

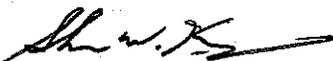
Not all non-profits are charitable. It should not be possible for a non-profit to meet the definition of a charity for a business that charges market rates for a completely optional service. The language should at least be amended to recognize that non-profits may have "unrelated income" that is based on activities that ARE NOT charitable; the reference to 501(c)(3) organizations should be revised to note that only properties which are not generating "unrelated income" are eligible for property tax exempt status. (Section 10(D)). The language of D(iii) should also be revised to clarify that the organization cannot make a profit at a property which is then used for the entire organization: if positive cash flow is being generated, fine, but that property should not qualify for a property tax exemption.

Continued attempts to erode the tax base are having a negative impact on communities throughout Michigan. Creating an avenue for gyms, golf courses, yoga studios, swimming facilities, kayak/canoe rental facilities, karate studios, indoor soccer fields, and ice rinks to form as non-profits and seek tax exemptions will shift the tax burden from those who choose to pay to participate in these types of recreational activities to those that don't. It also unfairly penalizes those business owners who seek to provide these types of services in the private sector- any small specialty gym owner or yoga studio will have to compete with a non-profit whose does not have to pay taxes and could then undercut their pricing. It is simply unfair to the private sector.

It is important to add that the proposed legislation would override the language of "charity" and "nonprofit charitable institution" as currently defined by the Michigan Supreme Court in the Wexford case, and could also pave the way for an organization that is providing very little charity to qualify for a property tax exemption. The legislation removes the most important Wexford standard which requires that an organization be chiefly if not solely organized for a charitable purpose. An organization should have to meet all four standards in Section D and be organized chiefly if not solely for charity to qualify for a property tax exemption. I urge this Committee to thoughtfully analyze and consider the consequences of this proposed legislation. It creates tax loopholes, hurts small business owners, and unfairly re-distributes the tax burden on regular tax-paying citizens.

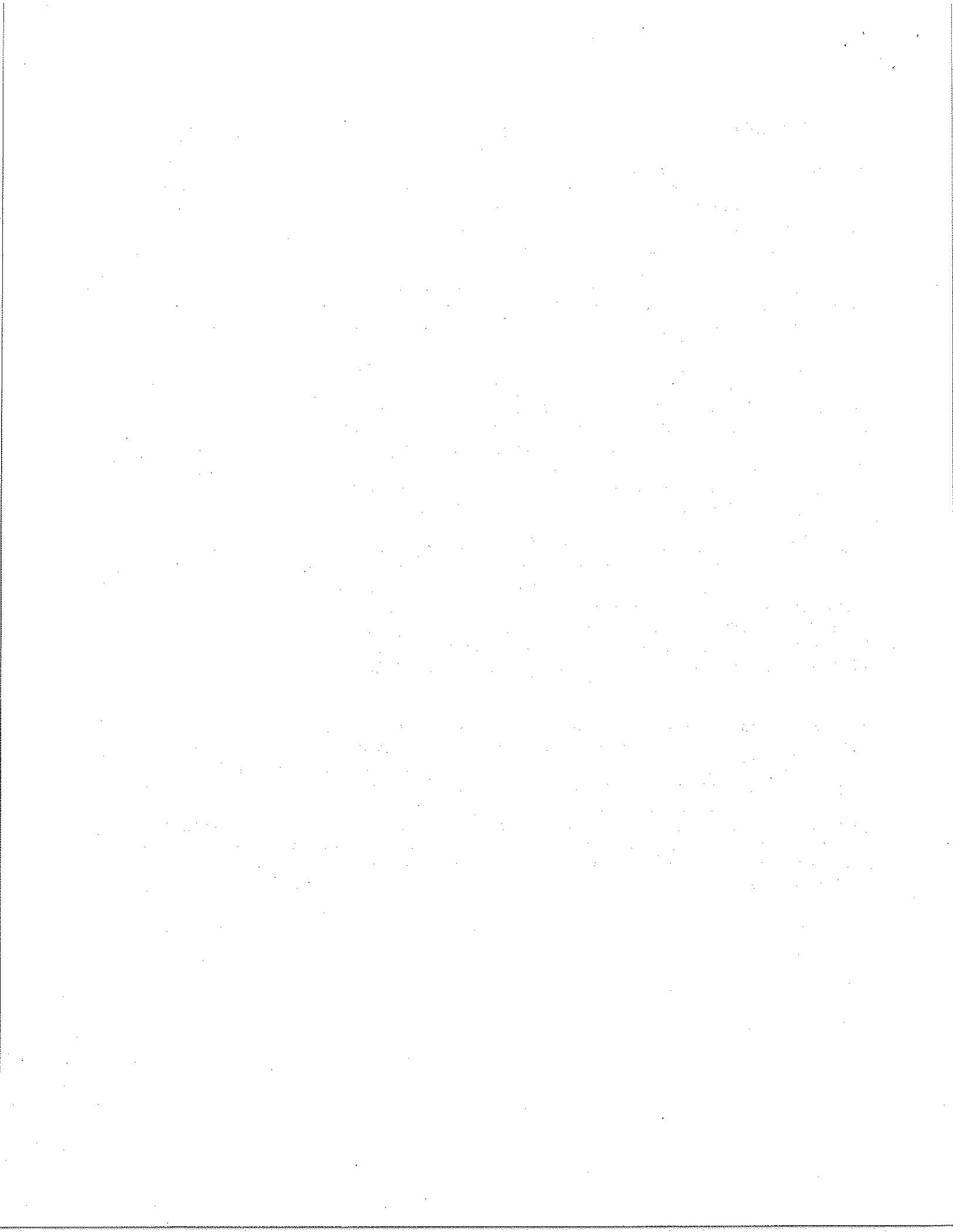
Thank you for the opportunity to speak today. If you have any questions, please don't hesitate to contact me.

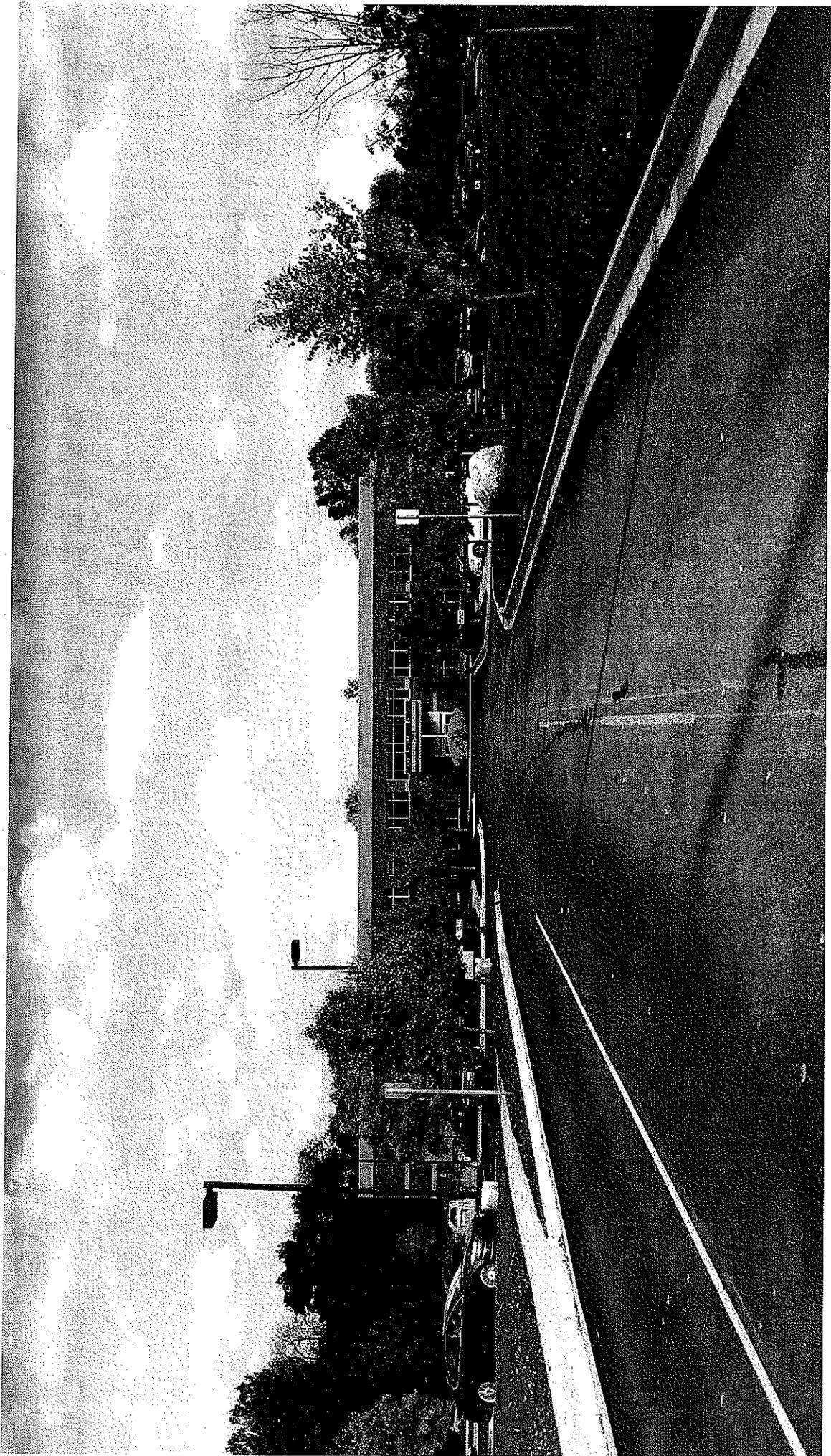
Sincerely,



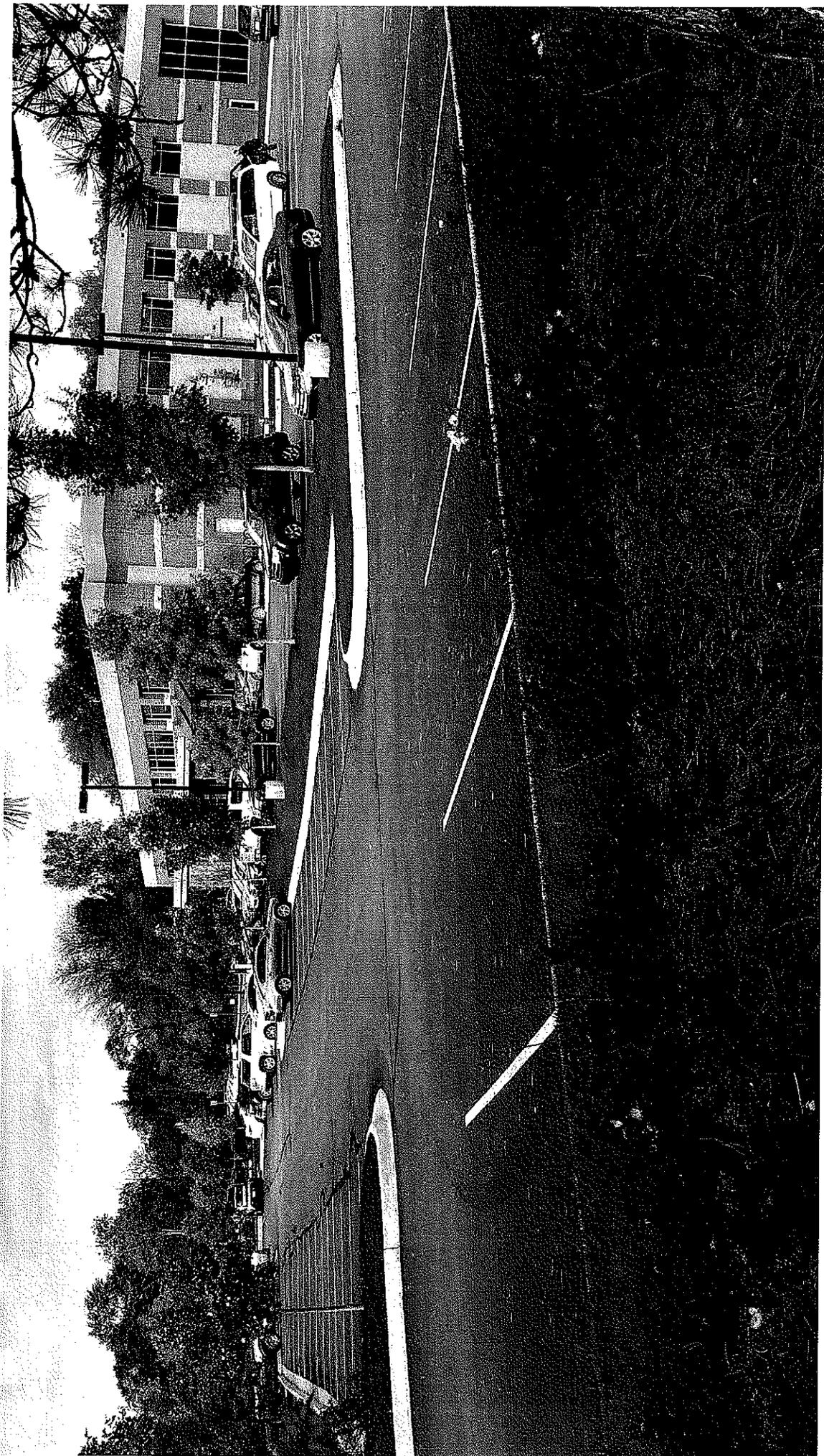
Shawn W. Keough
Mayor, City of Dexter

313-363-1434; skeough@dextermi.gov









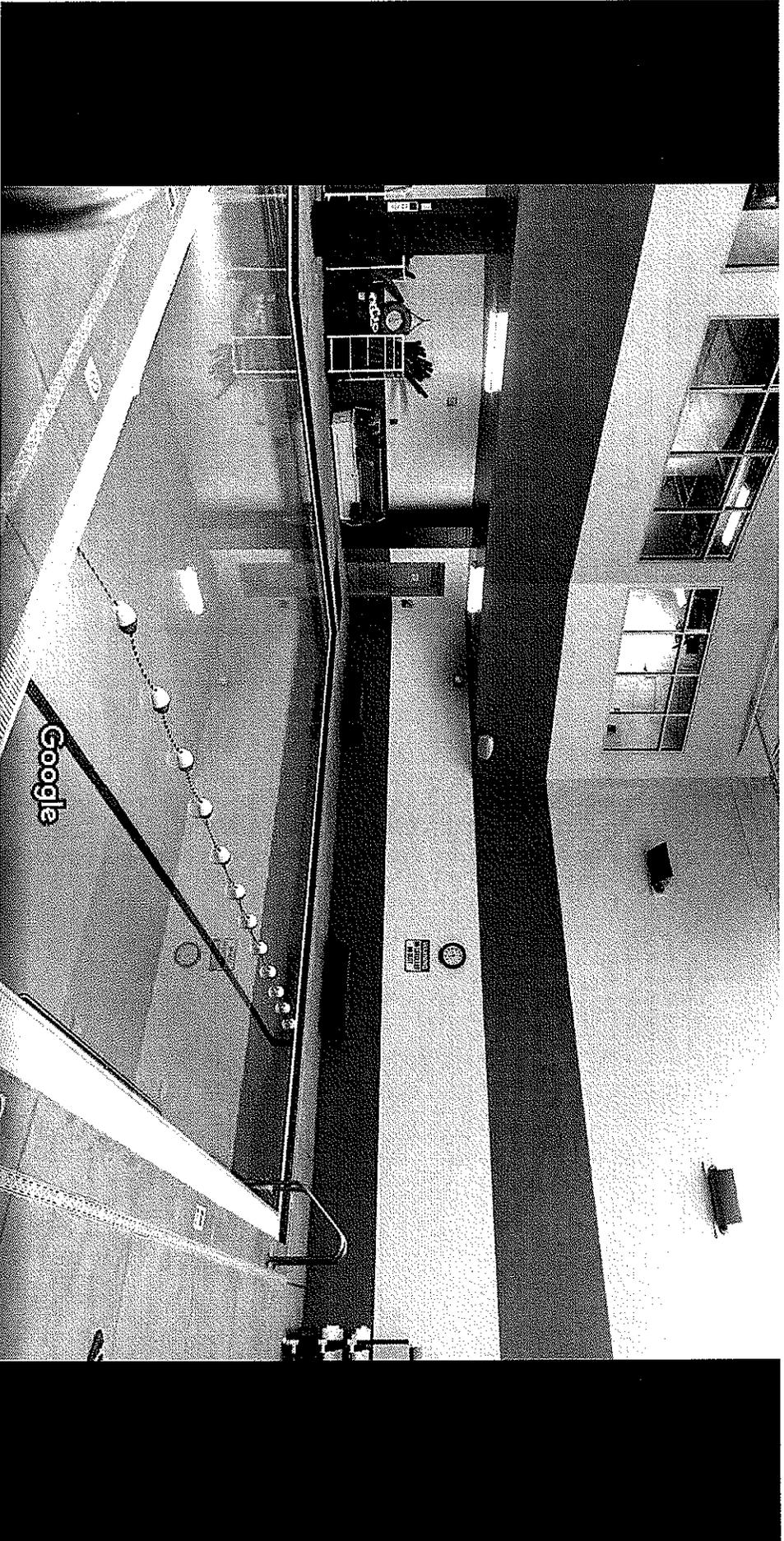


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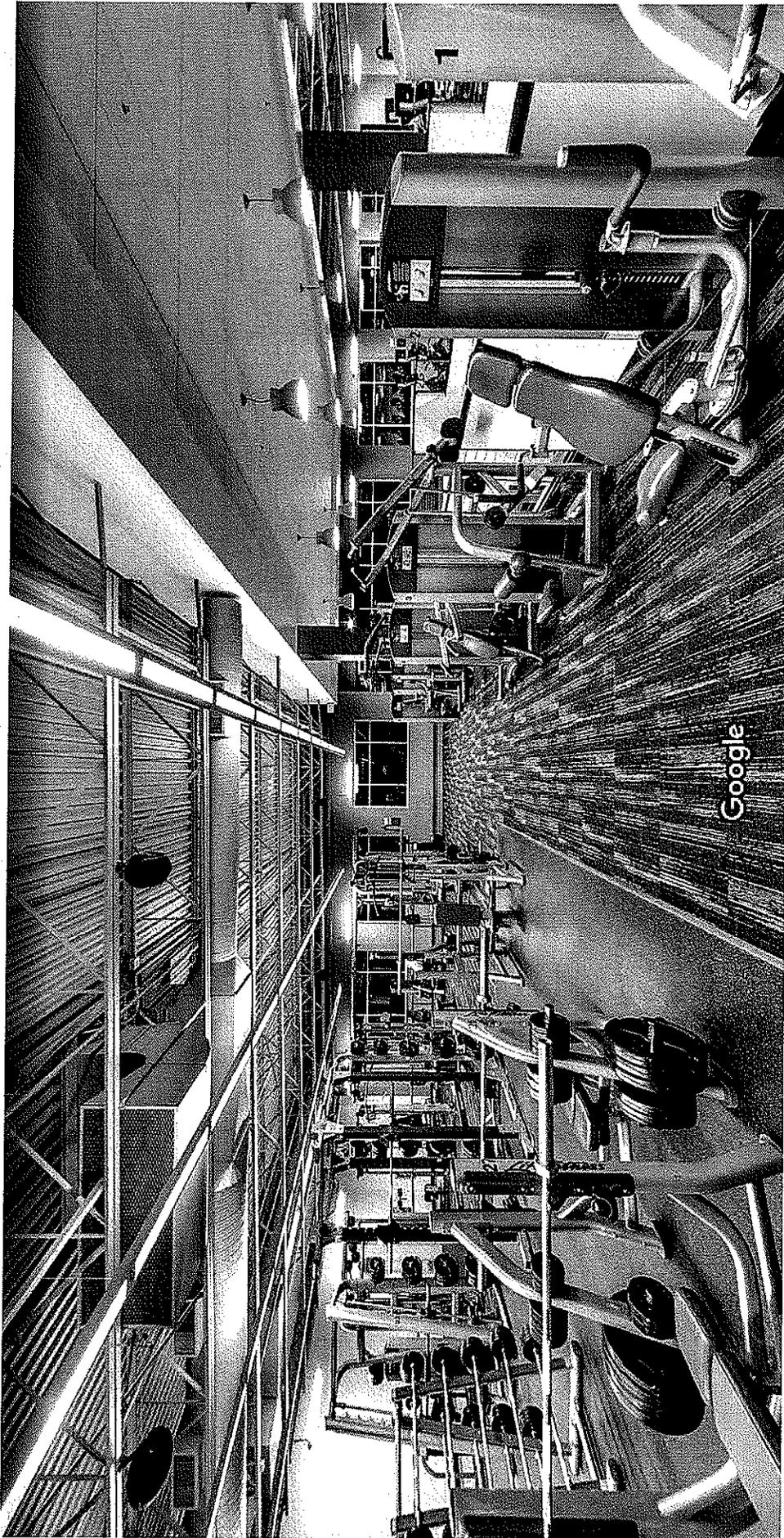


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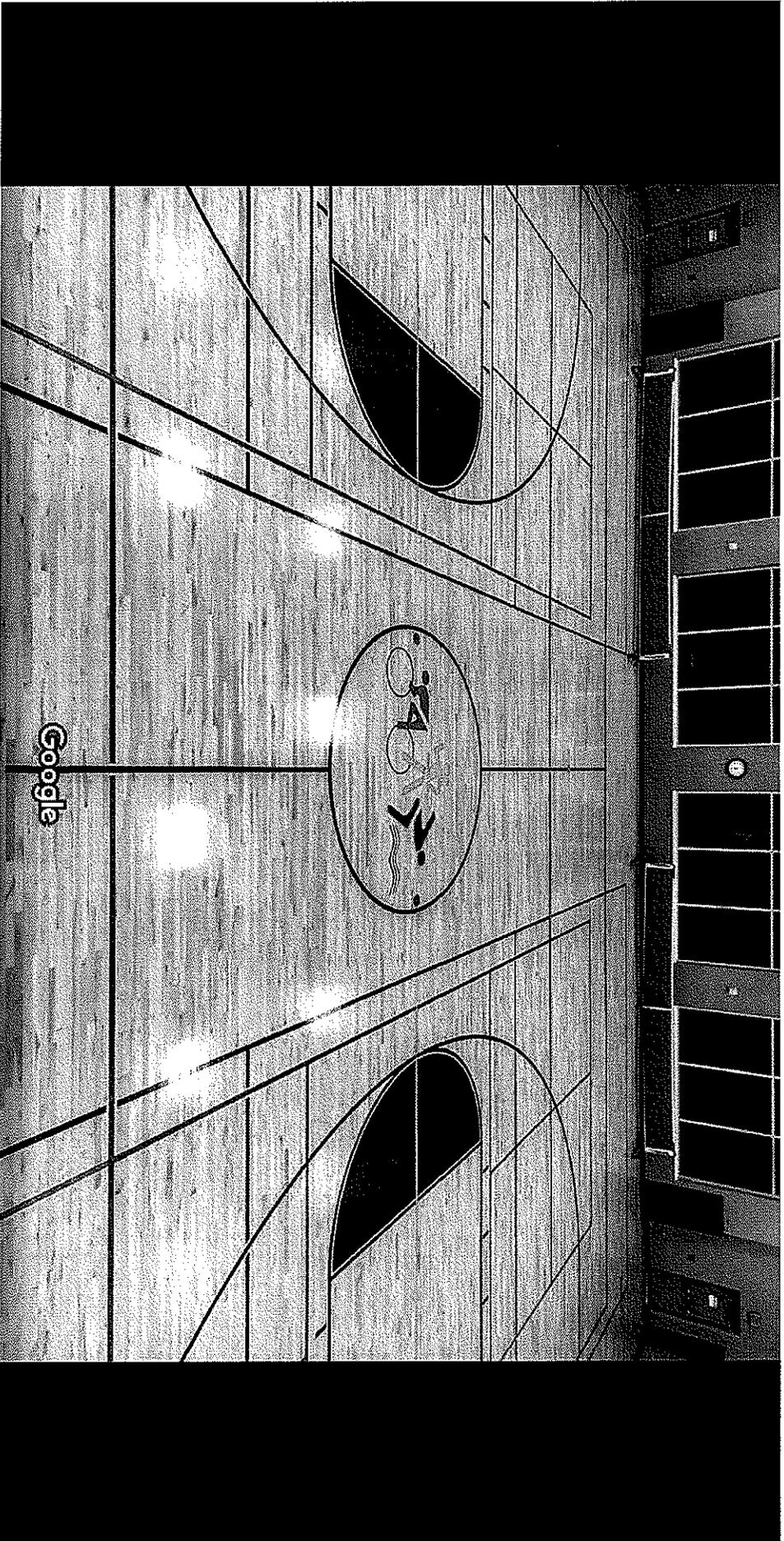


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Google Maps Dexter Wellness Center

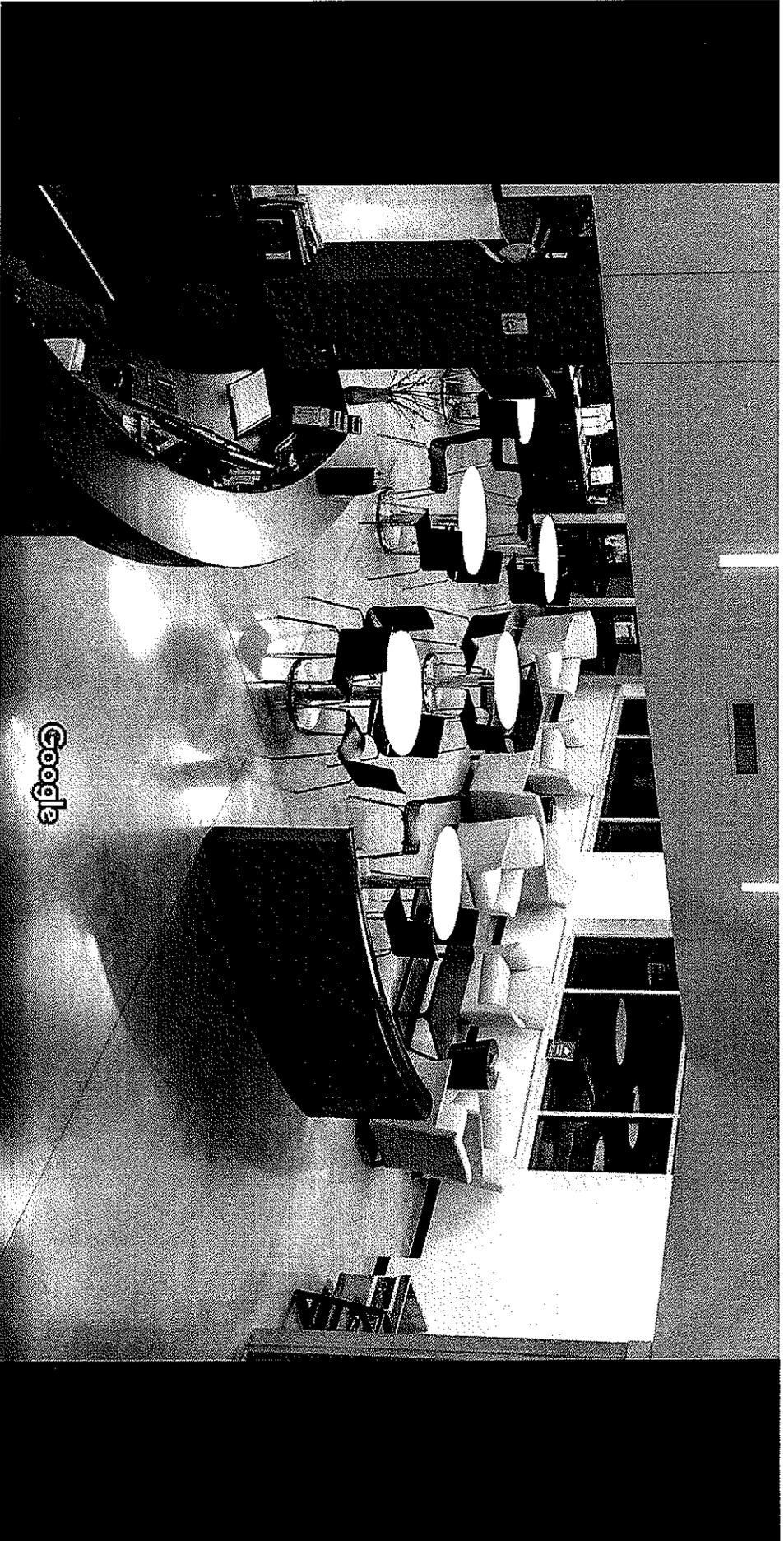


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Google Maps Dexter Wellness Center

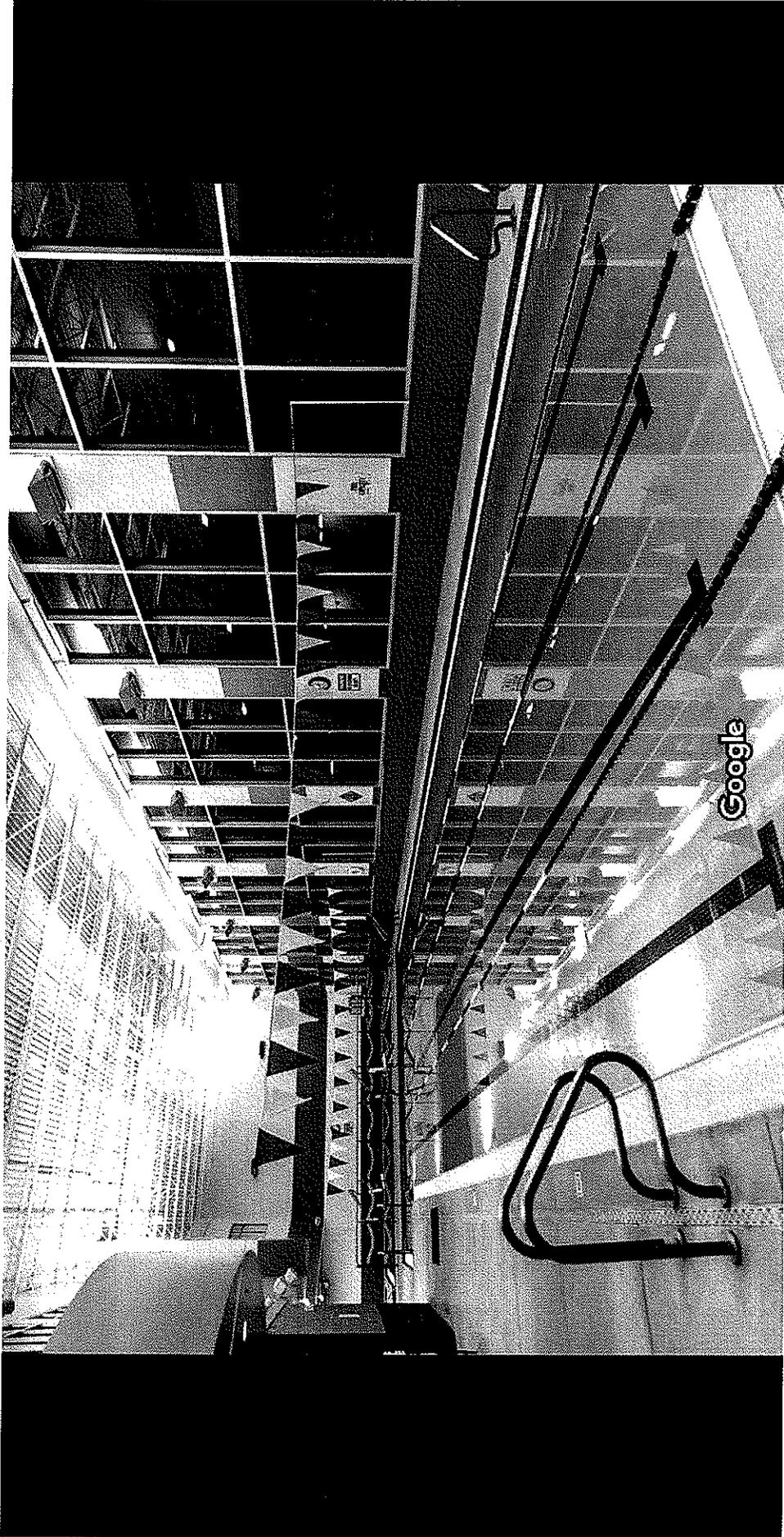


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