



# BOARD OF ZONING APPEALS STAFF REPORT

**To:** Members of the Board of Zoning Appeals

**From:** Tom Vander Woude, Planning Director

**Meeting Date:** May 10, 2022

**Agenda Item:** BZA Docket No. 22-003

**Hearing:** **PUBLIC HEARING**

**Summary:** Feras Musleh of 821 Main Street LLC requesting approval of a variance from *Table 26-6.4050-1* to allow a reduction in the required parking spaces for a restaurant at 821 Main Street.

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**Applicant:** Feras Musleh of 821 Main Street LLC

**Property Address:** 821 Main Street

**Current Zoning:** CD-4.A General Urban A Character District

**Adjacent Zoning:** North: CD-4.A  
South: Town of Dyer  
East: SD-PUD  
West: CD-4.A

**Action Requested:** Approve Variance

**Additional Actions Required:** Findings of Fact

**Staff Recommendation:** **Approve variance**

**Attachments:** BZA 22-003 variance application  
821 Main Street Site Plan prepared by Torrenga Engineering LLC dated 01.26.2017  
Dominos Munster 841 Main Street Site Plan prepared by Kenneth Munguia Arellano Architect dated 12.21.2021  
821 Main Street Proposed Parking Space Additions prepared by Torrenga Engineering LLC dated 04.01.2022  
Applicant provided photos of existing lot usage

## BACKGROUND

Feras Musleh of 821 Main Street LLC has submitted an application for approval of a variance from Table 26-6.4050-1 to allow a reduction in the required parking spaces for a restaurant at 821 Main Street. The applicant is seeking to lease 1,390 square feet in the building at 821 Main Street to a Dominos Pizza restaurant. The address of the tenant space is 841 Main Street.

The proposed Dominos Pizza will have no tables. All business will be carry-out or delivery.

The other tenants in the building are the Anytime Fitness gym and Nutrition on Main, a health food store. The strip center contains 47 on-site parking spaces. The existing tenants are currently using 39 of the required spaces. The Munster zoning ordinance requires an additional 27 spaces for the proposed restaurant. The variance is requested to reduce the required parking by 19 spaces.



Figure 1: Subject property highlighted in blue.

**DISCUSSION*****On-Site Parking***

The following table shows the breakdown of parking requirements required by zoning ordinance *Table 26-6.405O-1*.

<b>Tenant</b>	<b>Parking Ratio</b>	<b>Floor Area</b>	<b>Required Parking Spaces</b>
Anytime Fitness Nutrition on Main	4.5 spaces per 1,000 SF of total gross floor area	8810	33
Main	4.5 spaces per 1,000 SF of total gross floor area	1390	6
Dominos Pizza	5 spaces for each 250 SF of total gross floor area	1390	27
Total Required			66
Total On-site			47
<b>Required Variance</b>			<b>19</b>

***On-Street Parking***

Munster zoning ordinance Section 26-6.405.O-1.c.2 permits on-street parking spaces adjacent to the frontage line on the same side of the Thoroughfare as the lot to be counted toward the minimum required parking. Staff notes that the subject property is accessed by Main Street and by a private internal road network. There is no public parking along Main Street. The internal roads are platted as ingress-egress easements. They are built to the width of a Munster residential street (29' from curb to curb), which can accommodate parallel parking on both sides. It is not clear though whether parking is permitted on these streets, but if on-street parking is permitted, another approximately 12 spaces would be available, reducing the variance request to 7 spaces.

Total Required	66
Total On-site	47
Approximate on-street	12
<b>Required Variance</b>	<b>7</b>

**UPDATE FROM MARCH 2022**

The applicant has provided photos of the parking lot taken at different times of day. Both the lunch hour (noon to 1 pm) and dinner hour photos (5 pm to 7 pm) show that there is parking available within the lot during those times, with the fewest empty spaces between 5 pm and 7 pm. The applicant also has prepared a site plan illustrating 6 additional onsite parking spaces and 12 on-street spaces. If implemented, this would reduce the requested variance to 1 space. The plan as shown would require Plan Commission development plan approval. It is staff's recommendation that the variance be granted as requested with the condition that the additional spaces be added at a later date at the request of the property owner or if Town staff documents a parking shortage within the lot.

## VARIANCE STANDARDS

The variance process is established to provide relief to a property owner when, due to unique circumstances, compliance with the zoning code imposes a hardship or practical difficulty on a property owner. The BZA is under no obligation to grant a variance. It is the petitioner's responsibility to prove a hardship or practical difficulty. The BZA should ask the petition to address the criteria listed below.

Sec. 26-6.804.I of the Munster Zoning Code states that the basis for a variance is as follows:

g. General Standards.

A Variance may be granted only if the Decision-Making Authority has made the following determinations for such Variance:

- i. the practical difficulties or unnecessary hardships that would be incurred by strict application of the Use or Development standard, as applicable, are unique and not shared by all properties in the vicinity and are not self-imposed;
- ii. such Variance is the minimum Variance that will relieve such practical difficulties or unnecessary hardships, as applicable;
- iii. such Variance is in the spirit of the general purposes and intent of this Article as stated in Division 1; and
- iv. such Variance is so designed as to provide reasonable consideration to, among other things, the character of the neighborhood, District, or Civic Zone, the conservation of property values in the vicinity, and the guidance of Development in accordance with the Comprehensive Plan.

h. Specific to Development standards Variances:

A Variance from Development Standards may be approved or approved with conditions only if:

- i. it will not be injurious to the public health, safety, morals, and general welfare of the community;
- ii. the use and value of the area Adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and
- iii. the strict application of the Development standards will result in practical difficulties in the use of the property.

**The applicant has addressed these criteria in the attached application.**

## RECOMMENDATION

The Board of Zoning Appeals may wish to consider the following motion:

*Motion to approve BZA Docket No. 22-003 granting a variance from Table 26-6.405O-1 to reduce the required parking spaces by 19 for a Domino's Pizza carryout- and delivery-only restaurant at 821 Main Street, upon the condition that the Town may require that up to six additional on-site spaces and/or 12 on-street spaces be constructed in accordance with Town standards at a later date if Town staff documents a parking shortage within the lot.*





Petition BZA \_\_\_\_\_ - \_\_\_\_\_

Date: \_\_\_\_\_

Application Fee: \$ \_\_\_\_\_

Sign Fee: \$ \_\_\_\_\_

***Town of Munster Board of Zoning Appeals Petition Application***

**OWNER INFORMATION:**

**821 Main Street LLC**

**219-746-1041**

Name of Owner

Phone Number

**584 N. Indiana Ave., Crown Point, IN 46307**

**ferasmusleh@yahoo.com**

Street address, City, ST, ZIP Code

Email address

***APPLICANT OR PETITIONER INFORMATION (if different than above):***

Name of Applicant/Petitioner

Phone Number

Street address, City, ST, ZIP Code

Email address

**PROPERTY INFORMATION:**

**821 Main Street LLC**

Business or Development Name (if applicable)

**821 Main Street, Munster, Indiana 46321**

**CD-4.A**

Address of Property or Legal Description

Current Zoning

**APPLICATION INFORMATION:**

Please select what this Application is for:

☒ **Variance**

If yes, select one of the following:

☐ Use ☒ **Developmental Standards**

☐ **Conditional Use**

☐ **Administrative Appeal**

**Brief Description of Project and List of Variances or Conditional Uses Being Requested (if applicable):**

Dough Management, Inc. is a Dominos Pizza franchisee ("Dominos") and intends to rent an end unit (841 Main St.) from the property owner, 821 Main Street LLC. Dominos is famous for making pizza pies for pickup and delivery. Dominos will utilize a delivery driver and store to deliver pizzas to the public.

Presently, the parking does not conform to the Town of Munster's zoning ordinance for a restaurant. Dominos space is 1400 sq. ft. and therefore requires 23 spaces. Were it not a restaurant, only 6 spaces. That's an extra 17 spaces for pizza pickup and delivery.

Petitioner seeks a variance from that ordinance, specifically Table 26-6.405.O-1 and its accompanying text.

**KENNETH ARELLANO (ARCHITECT)**

**219-331-5971**

Name of Registered Engineer, Architect or Land Surveyor

Phone Number

**5610 MULBERRY AVE, PORTAGE, IN 46368**

**kmunguiaa55@aol.com**

Street address, City, ST, ZIP Code

Email address



Petition BZA \_\_\_\_\_ - \_\_\_\_\_

***Town of Munster*** Board of Zoning Appeals Application Signature Page

I hereby authorize Feras Musleh to act on my behalf as my agent in this petition and to furnish, upon request, supplemental information in support of this petition application.

*Feras Musleh* 2/18/22  
Signature of Owner Date

*Feras Musleh* 2/18/22  
Signature of Applicant Date

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## DEVELOPMENTAL VARIANCE CONDITIONS OF APPROVAL

The Munster Board of Zoning Appeals is authorized to hear petitions for developmental standards variances and to approve or deny. The Board of Zoning Appeals may also impose reasonable conditions and restrictions. Indiana Code 36-7-4-918.5 lists the legal criteria for a developmental standards variance:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

821 Main Street in Munster is presently zoned to accommodate businesses that serve the local community, including the residences nearby. Presently there is a vitamin shop, and a fitness shop. It would benefit the neighborhood to have a Pizza Delivery place near that has a long history of serving communities across the country.

Dominos will serve the people of Munster delicious pizza. The nature of the business is such that people who want Dominos order it knowing it's for delivery or pick up. The parking needs of each Domino's customer is very short term. The facility suits a short term use of spots to pick-up a pizza. Too, pizza delivery customers do not require parking at all.

There will be no dine in tables at this Dominos, only pick up or delivery. It is expected that delivery will be 60% of the business. Delivery drivers are in and out quickly and most of their time is spent on the road. Pizza pick-up is expected to be 40% of the business. Most customers order online and prepay, so they are in and out of the store very quickly. Domino's actually has a 2 minute guarantee once they arrive to get the customer out quickly.

Allowing Dominos to serve pizza to people using what is currently available for short term parking from the existing 49 spaces will not harm the community in any way.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Explain why this statement is true in this case:

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CVS is adjacent to this property. There is nothing that will affect the that property because the parking configuration will not change. CVS customers will not be affected by the Dominos customer traffic in any substantially adverse way. Again, the majority of customers for Dominos will come and go from the restaurant in a very short period of time.

Allowing Dominos to locate at this property utilizing the current parking configuration will not adversely affect the residences nearby. Residence traffic on the East is prevented from accessing the Dominos because there is a curb. Traffic will enter primarily from Main street.

For these reasons, allowing Dominos to serve people pizza using what is needed for short term parking from the existing 49 spaces will not adversely affect the neighbors.

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3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Explain why this statement is true in this case:

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821 Main Street is a commercial property designed in line with the Town of Munster's plans for the area. The owner strives to provide businesses that serve the community in ways that are harmonious with a modern lifestyle. Providing pizza to the residents provides a good low cost food option to the area.

From a practical perspective, Dominos customers need parking for a far shorter period of time than a non-food establishment. Yet, the ordinance requires an extra 17 spaces which is not feasible for the lot size of the property.

Strictly requiring 5 parking spaces for every 300 sq ft of space will result in a practical difficulty for the property owner. Despite the property being zoned for commercial use, it cannot fully use the property for a take out pizza business.

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***Attach additional pages if necessary***



TORRENGE ENGINEERING, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
907 RIDGE ROAD, MUNSTER, INDIANA 46321  
Website: www.torrenge.com  
Tel. No.: (219) 896-8918

821 MAIN STREET  
TOWN OF MUNSTER, IN. 46321  
SITE PLAN

DATE: 07-25-2016  
REVISIONS:  
09-13-2016  
12-06-2016  
12-28-2016  
01-26-2017

CLIENT:  
821 Main Street LLC  
384 N. Hudson Avenue  
Crown Point, Indiana 46307  
Fras Muth  
JOB NO: 2016-5034  
SCALE: 1" = 20'

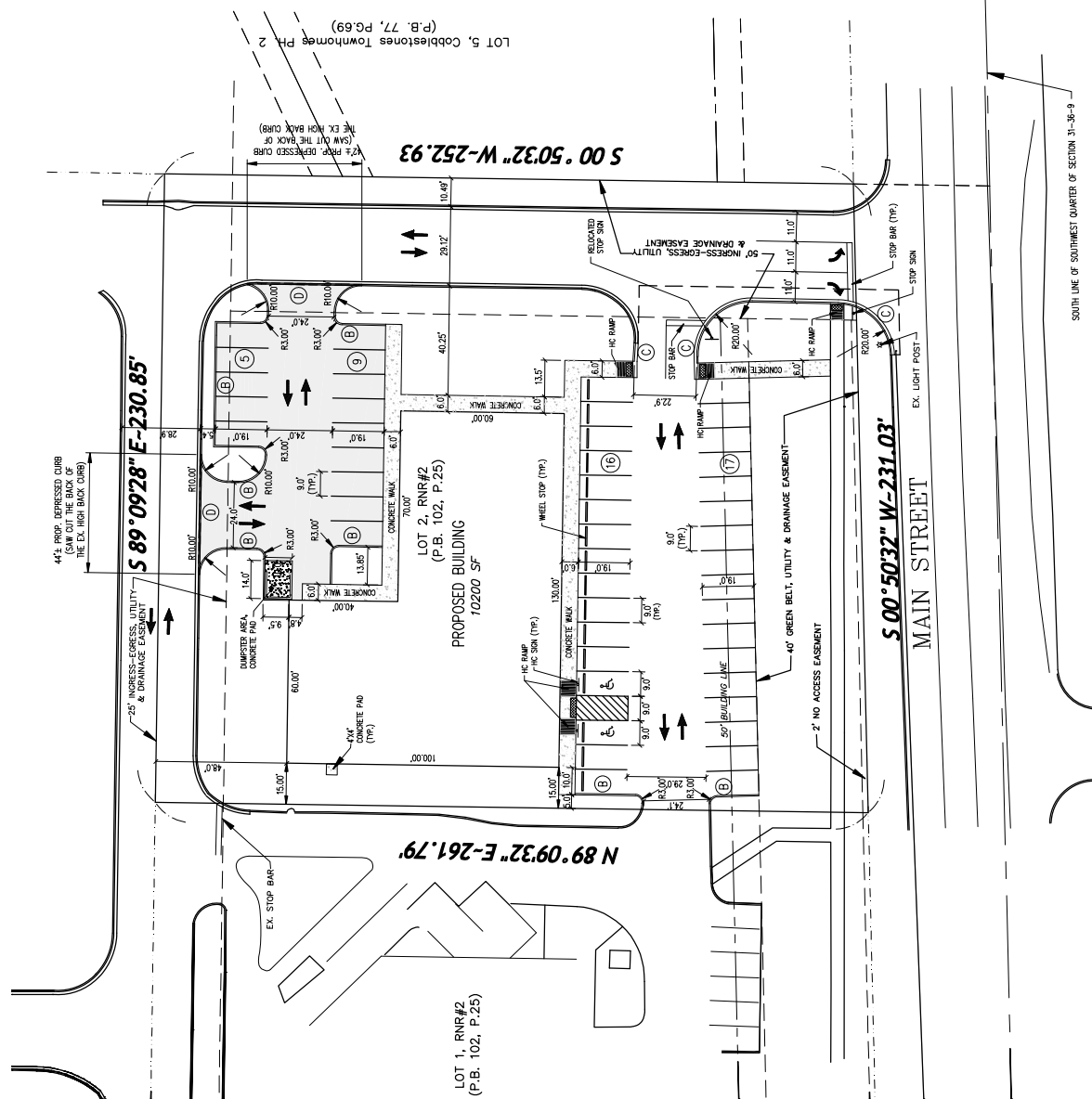
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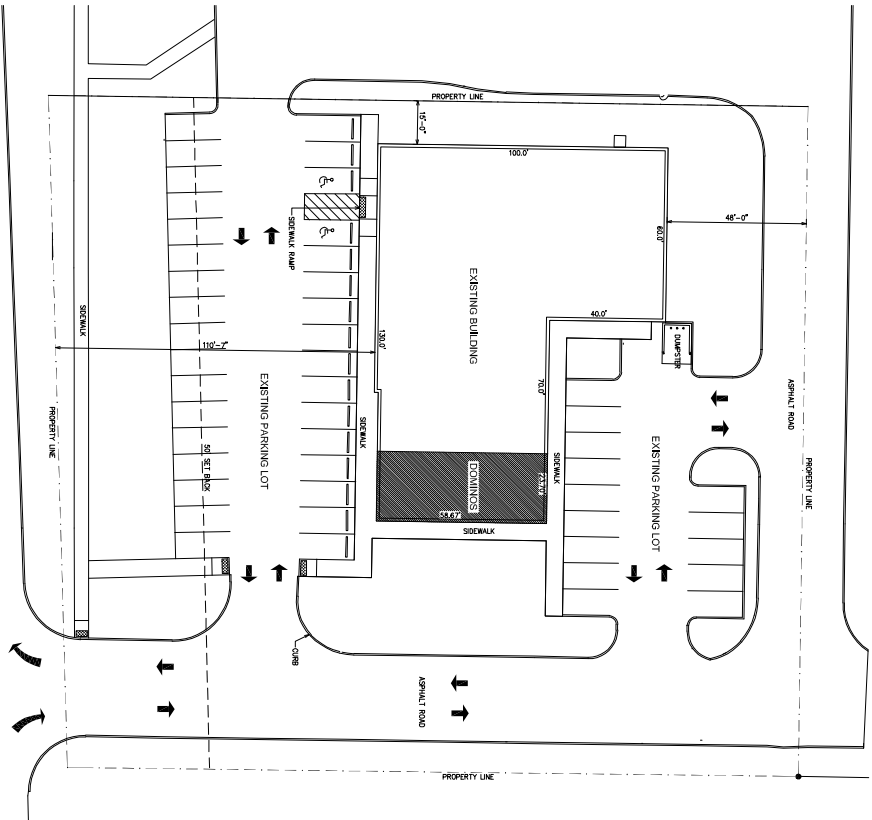
- PROPOSED
- TRAFFIC FLOW
  - CONCRETE
  - PAVEMENT
  - BARRIER CURB
  - HIGH BACK CURB & GUTTER
  - SAWCUT BACK OF EXISTING CURB

NOTES:  
1. SEE ARCHITECTURAL PLANS FOR ACTUAL DETAILS & DIMENSIONS OF THE PROPOSED BUILDING.  
2. CURRENT ZONING: C1 - COMMERCIAL  
3. TOTAL SITE AREA = 1.364 AC.  
4. REQUIRED PARKING: 4.5 SPACES FOR EACH 1000 SF OF FLOOR AREA  
TOTAL FLOOR AREA = 10,200 SF  
(10,200/1000) X 4.5 = 46 SPACES REQUIRED  
PROPOSED PARKING:  
REGULAR PARKING = 46 SPACES (9' x 19')  
TOTAL = 47 SPACES  
5. REQUIRED GREEN AREA: 7.15% OF 26,406 SQ. FT. = 1981 SQ. FT.  
PROPOSED GREEN AREA = 5,533 SQ. FT.



# DOMINOS MUNSTER

841 MAIN STREET, MUNSTER INDIANA 46321



## SITE PLAN

SCALE 1"=20'-0"  
NOTES:  
1) DIMENSIONS ARE APPROXIMATE  
2) TOTAL EXISTING BUILDING AREA = 10,413 SF



- ### CODE INFORMATION
1. EXISTING CONSTRUCTION TYPE V.B. REM
  2. EXISTING TOTAL AREA DOMINOS RESTAURANT = 4,298 SQUARE FEET
  3. EXISTING TOTAL AREA DOMINOS RESTAURANT = 4,298 SQUARE FEET
  4. OCCUPANT LOAD 258 SQ FT / 15 SQ FT OCCUPANT = 17 OCCUPANTS

- ### GENERAL NOTES:
- 1) ALL LABOR AND MATERIALS SHALL CONFORM TO ALL FEDERAL, STATE, AND LOCAL REQUIREMENTS, INCLUDING STANDARDS AND SPECIFICATIONS.
  - 2) CONSTRUCTION TO BE RESPONSIBLE FOR MAINTAINING A SAFE AND SOUND WORKING SURFACE AT ALL TIMES.
  - 3) EXISTING CONDITIONS SHALL BE MAINTAINED UNLESS OTHERWISE SPECIFIED.
  - 4) ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
  - 5) ALL MATERIALS SHALL BE OF THE HIGHEST QUALITY AND SHALL BE SUBMITTED FOR APPROVAL PRIOR TO INSTALLATION.
  - 6) ALL MATERIALS SHALL BE OF THE HIGHEST QUALITY AND SHALL BE SUBMITTED FOR APPROVAL PRIOR TO INSTALLATION.
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  - 15) ALL MATERIALS SHALL BE OF THE HIGHEST QUALITY AND SHALL BE SUBMITTED FOR APPROVAL PRIOR TO INSTALLATION.

KENNETH MUNGUIA ARELLANO ARCHITECT			
PROJECT TITLE: DOMINOS MUNSTER			
841 MAIN STREET, MUNSTER INDIANA 46321			
SCALE: 1"=20'-0"	DRAWN: MMA	TITLE SHEET	
DATE: 12/21/2021			SHEET A



CLIENT:  
821 Main Street LLC  
821 N Indiana Avenue  
Crown Point, Indiana 46307  
Firas Mullah

SCALE: 1" = 20'  
JOB NO: 2016-5034

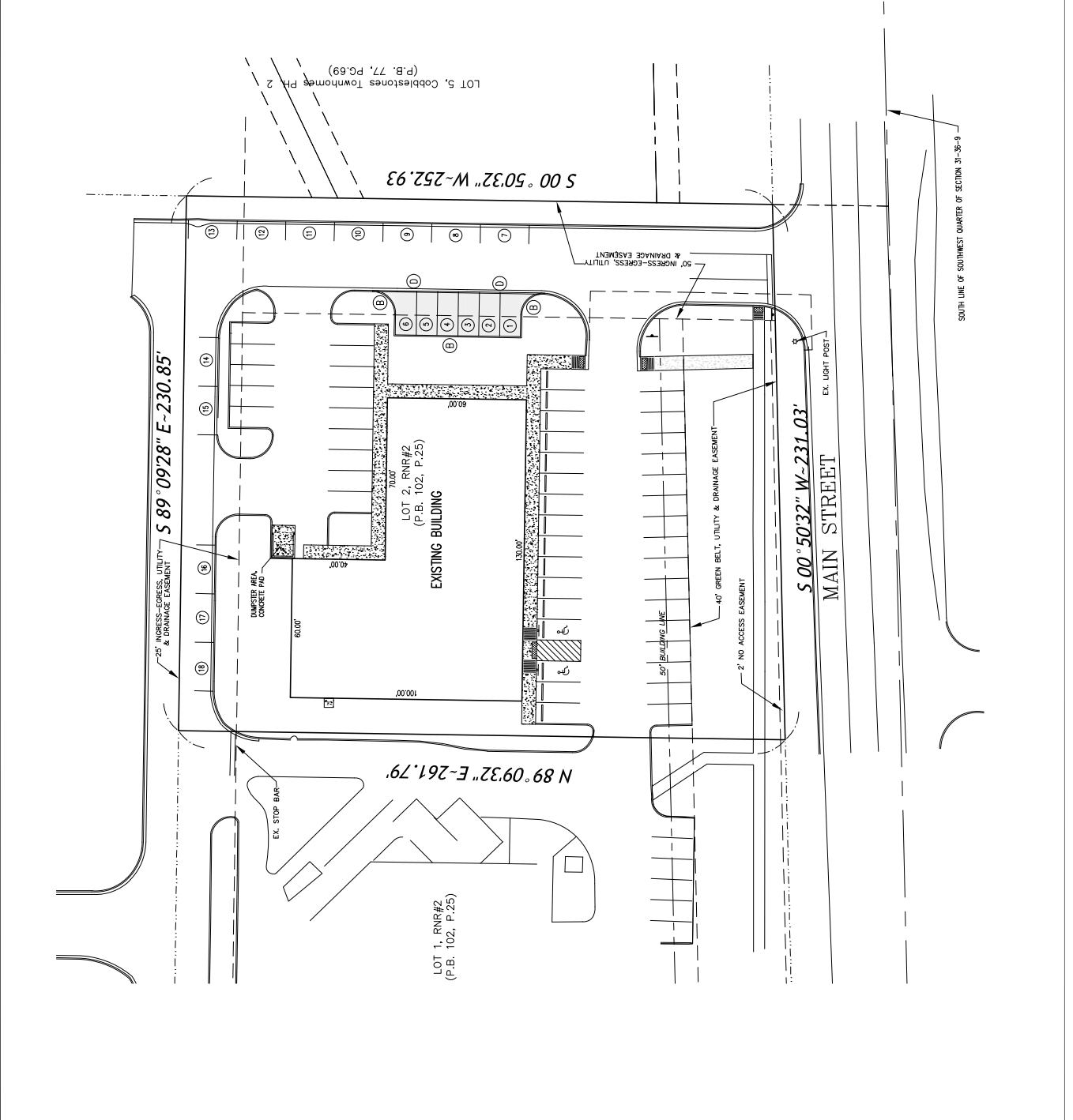
DATE: 04-01-2022  
REVISIONS:

821 MAIN STREET  
PROPOSED  
TOWN OF MUNSTER, IN. 46321  
PARKING SPACE ADDITIONS

TORRENGA ENGINEERING, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
907 RIDGE ROAD, MUNSTER, INDIANA 46321  
Tel. No.: (219) 896-8918  
Website: www.torrengea.com

821 MAIN STREET  
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- LEGEND:**
- PROPOSED
  - PAVEMENT
  - BARRIER CURB
  - SAWCUT BACK OF EXISTING CURB
  - 4" WHITE PAINTED LINE
  - NEW PARKING SPACE NUMBER

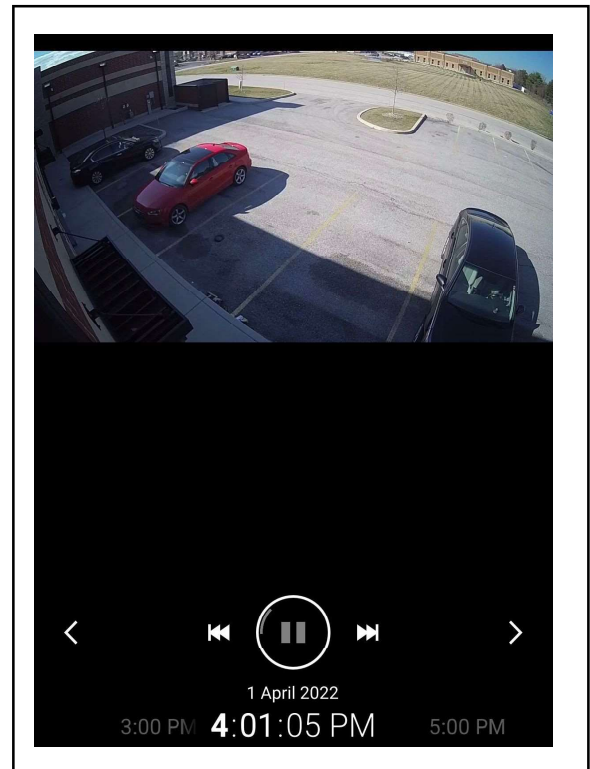
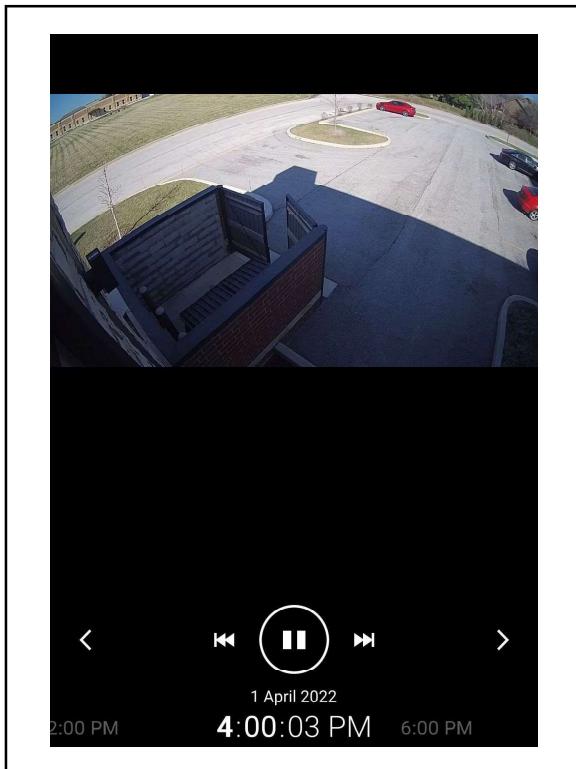
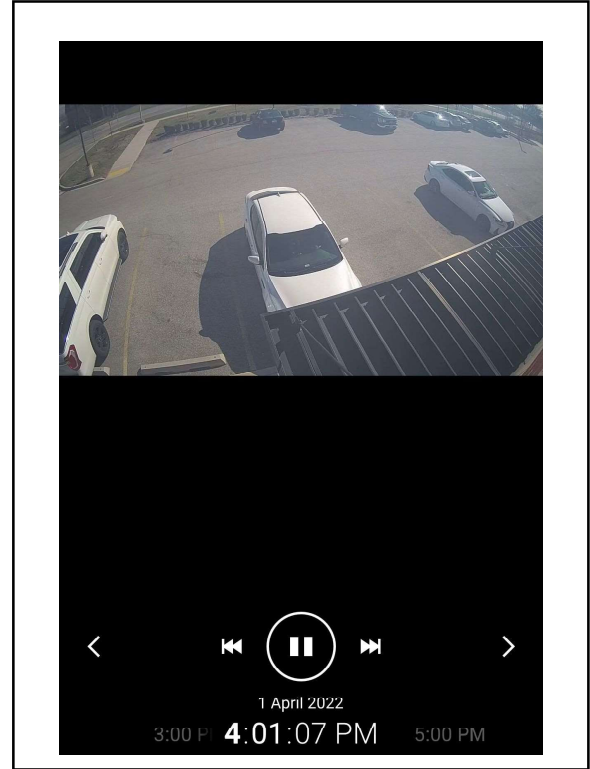
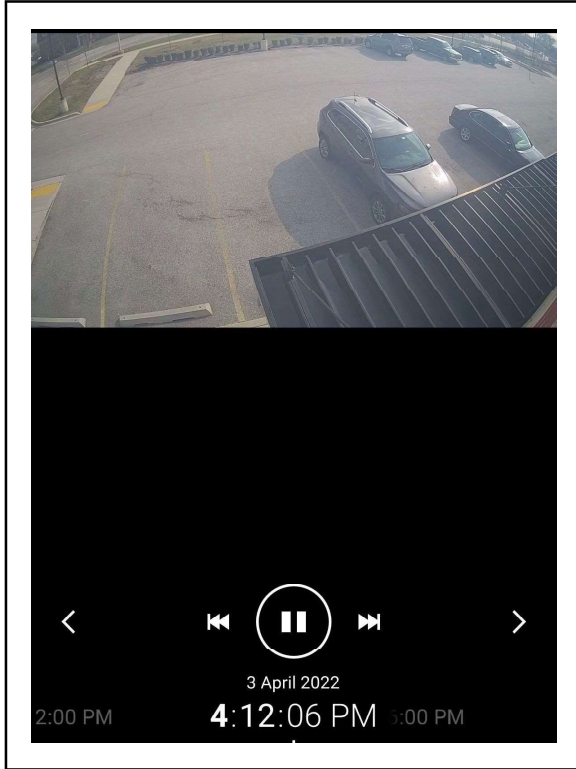
- NOTES:**
- PARALLEL PARKING SPACES ARE 9' WIDE X 21 FEET LONG
  - SPACES 1 THROUGH 6 ARE 9' WIDE X 19 FEET LONG
  - THE NUMBER OF ADDITIONAL SPACES ADDED IS 18

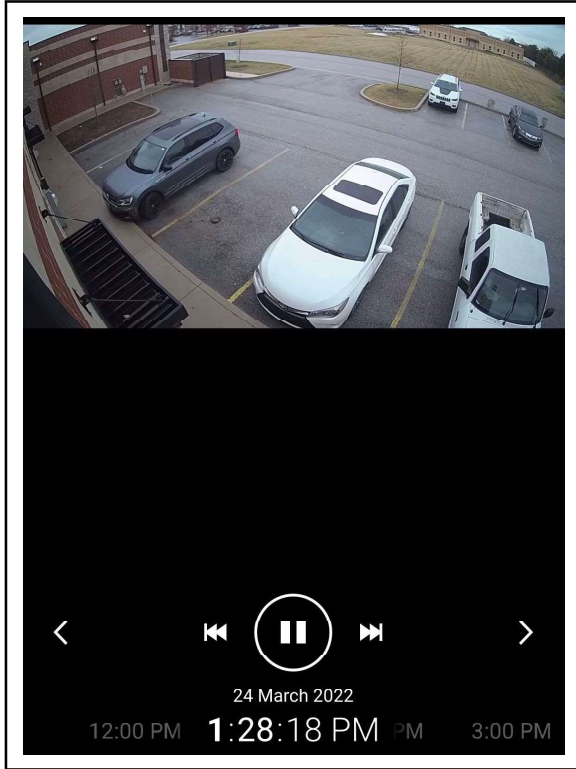
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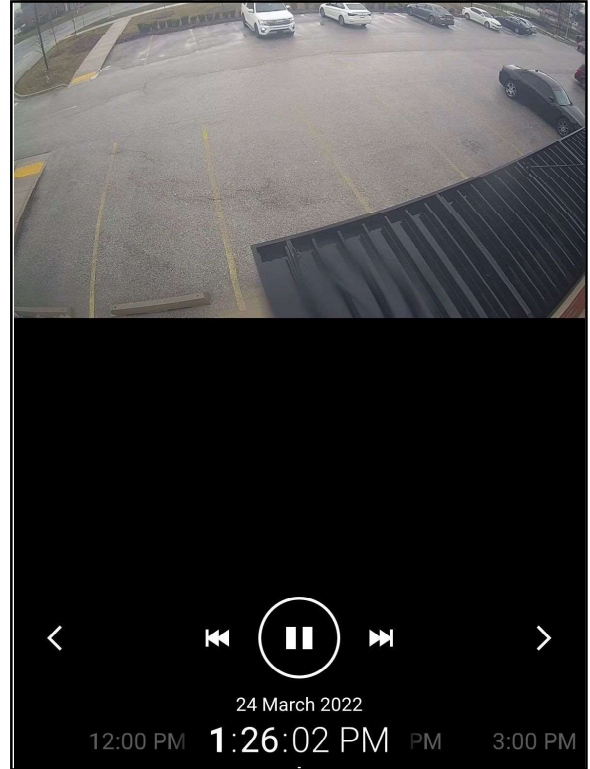
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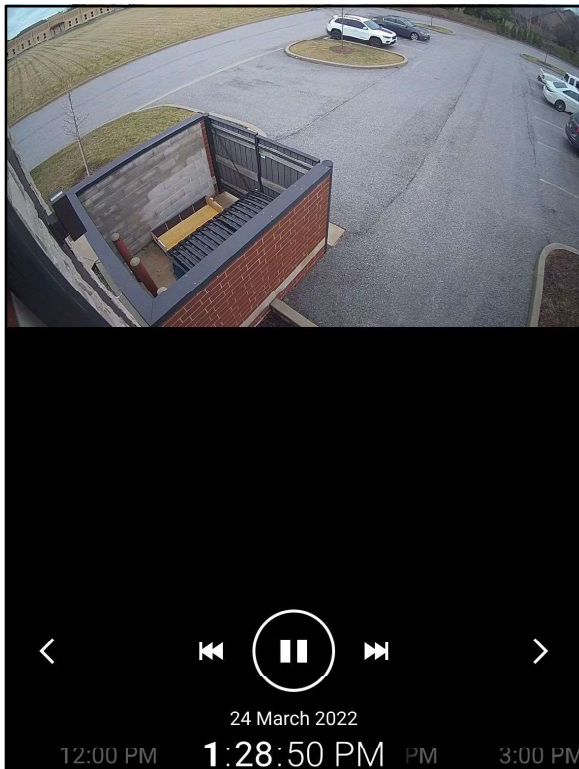




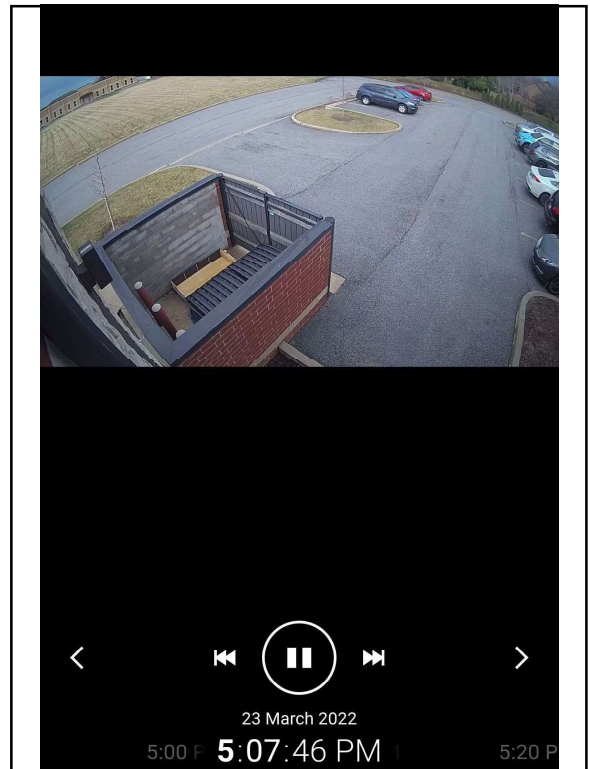
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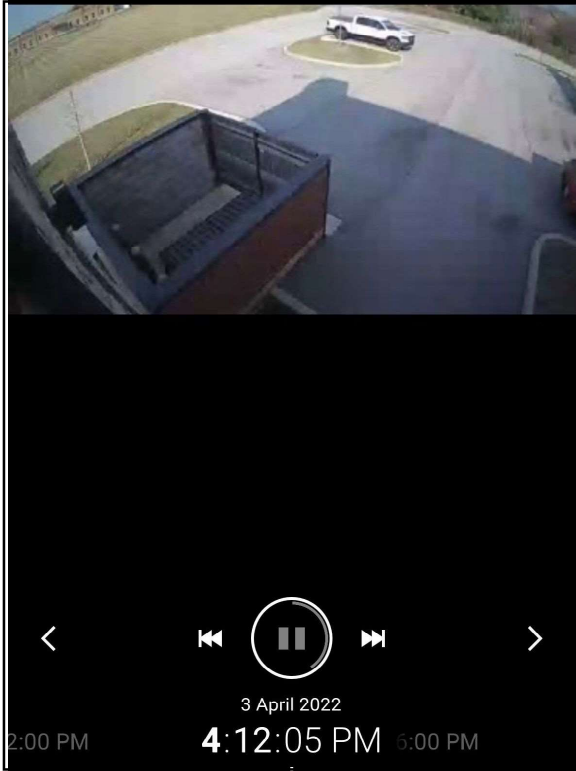
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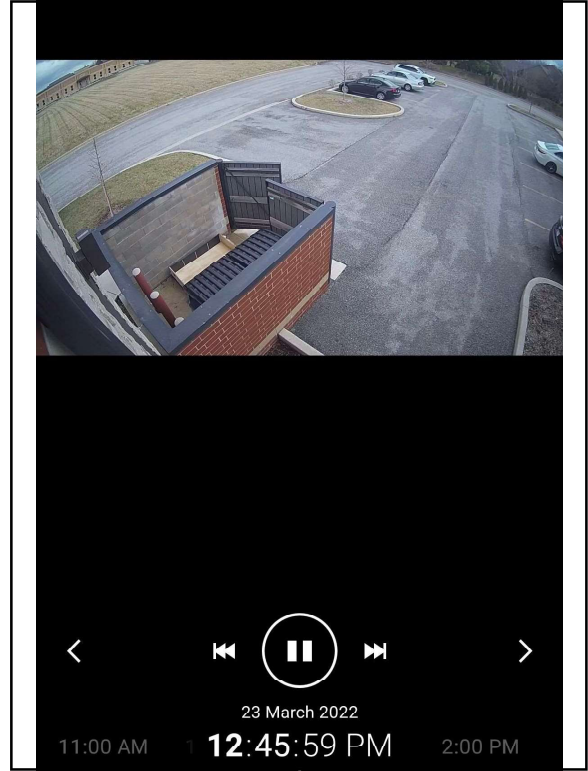
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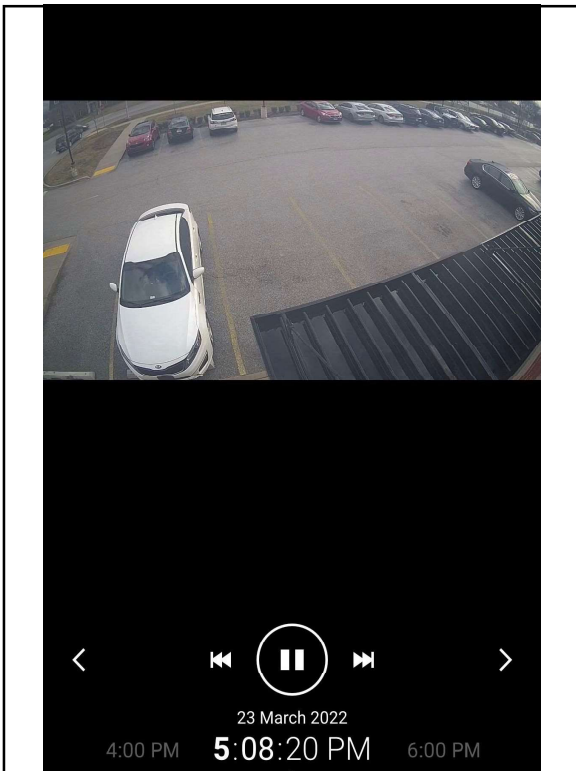
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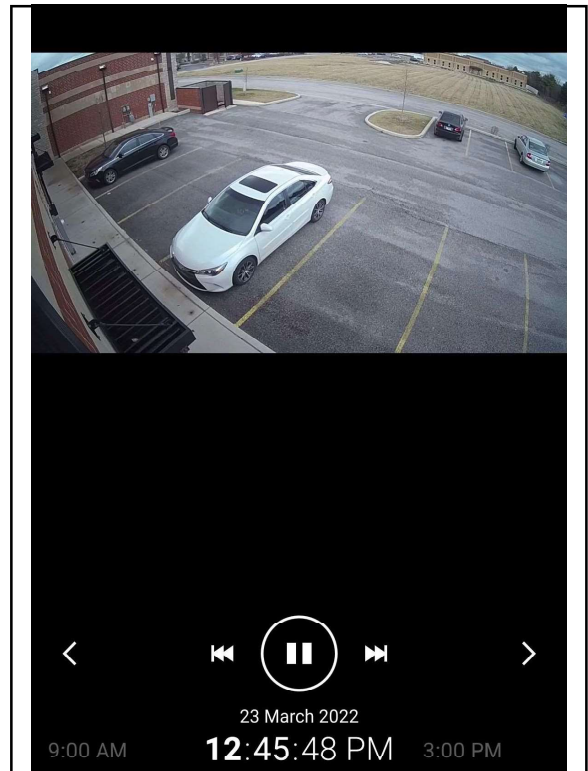
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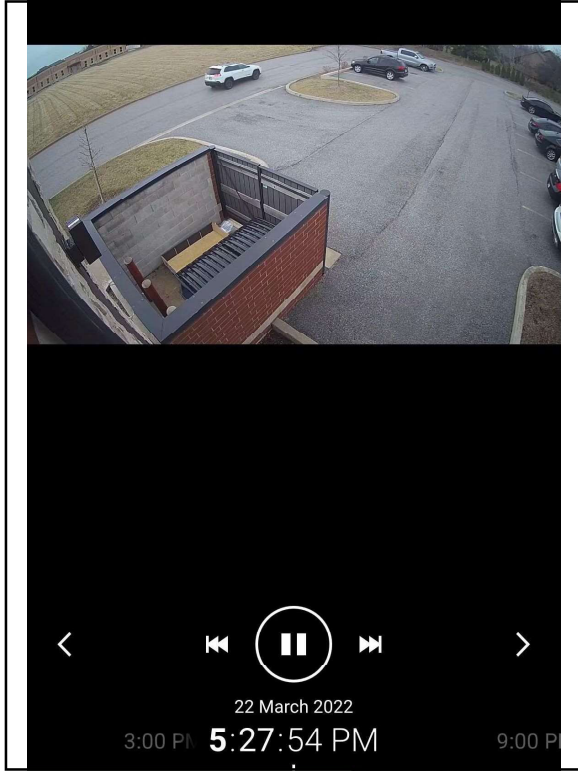


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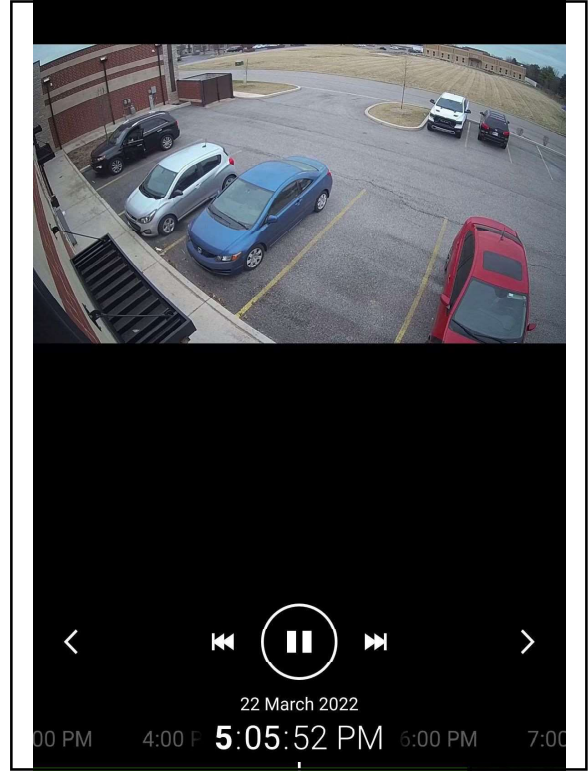


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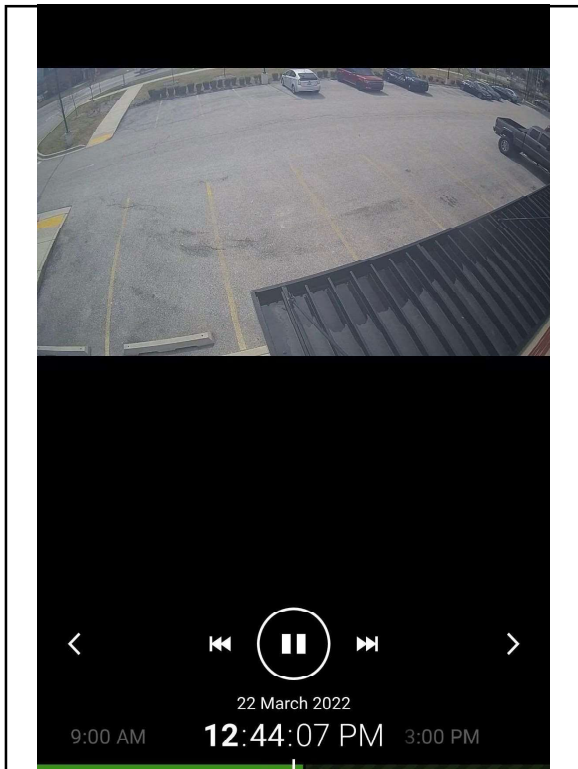




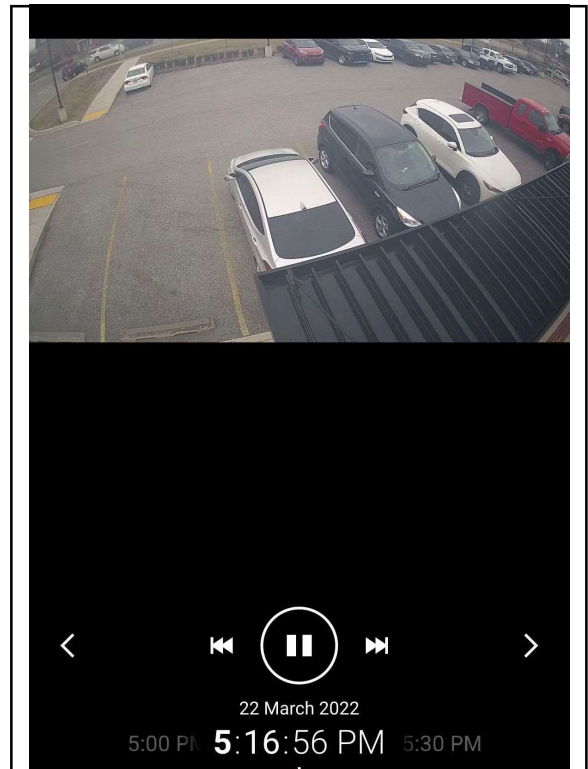
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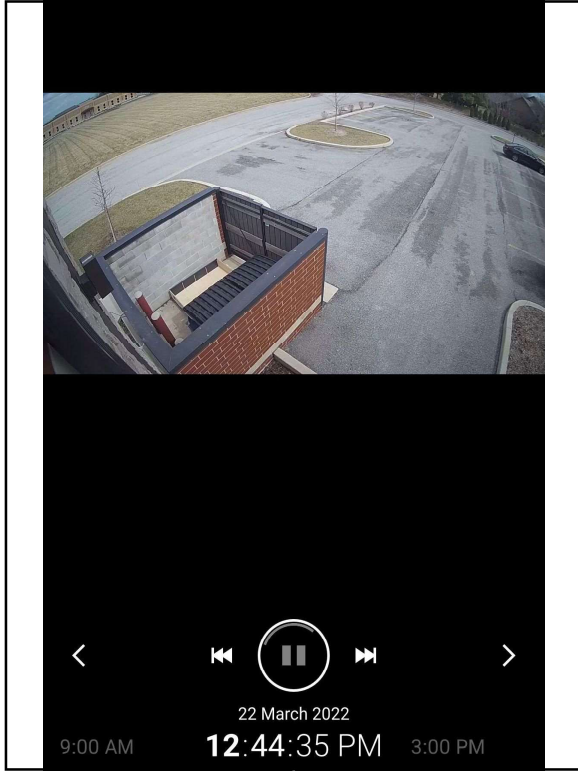


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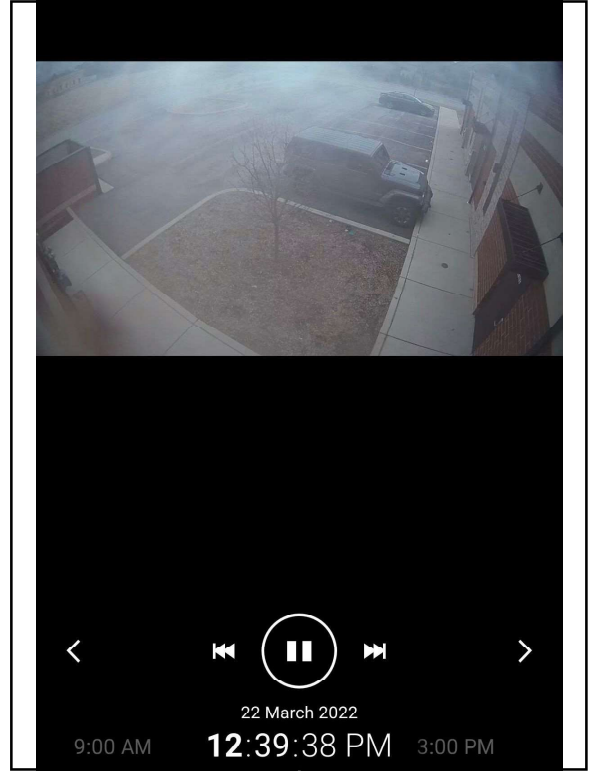


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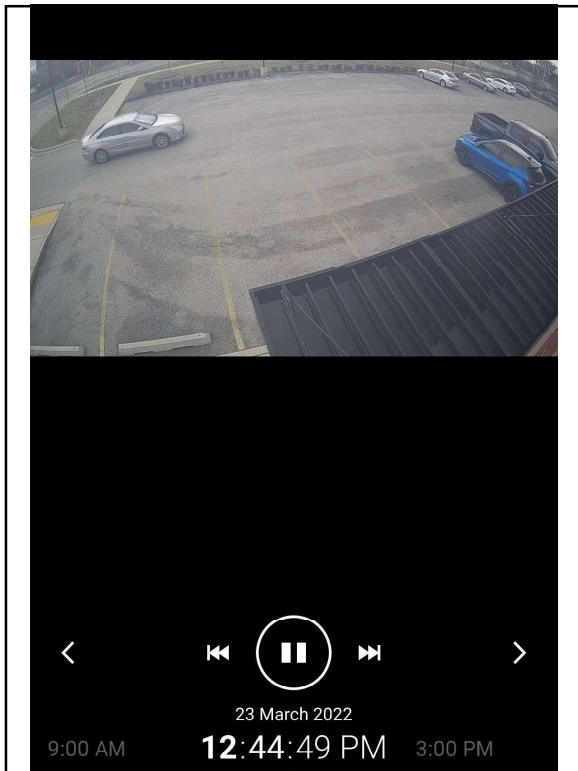




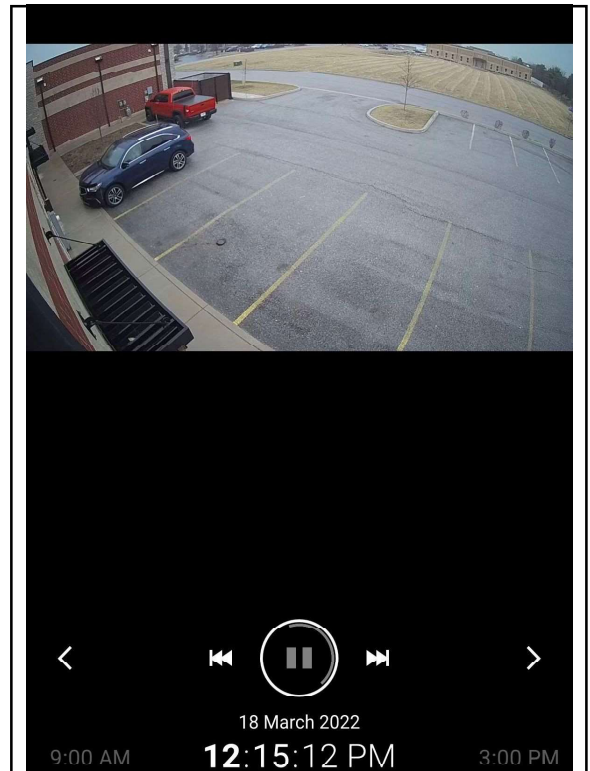
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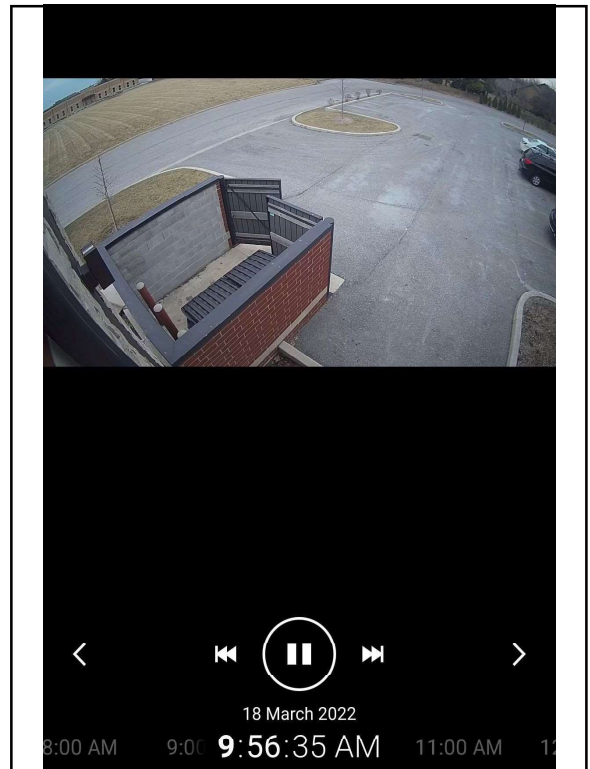
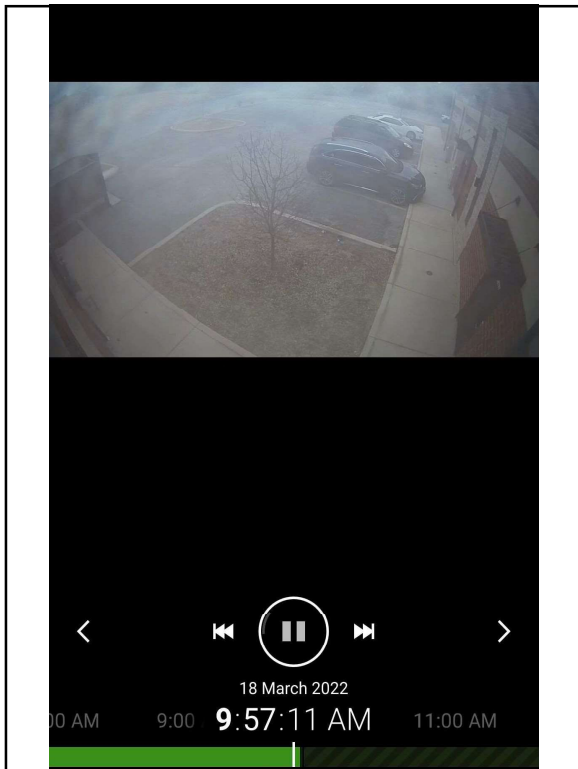
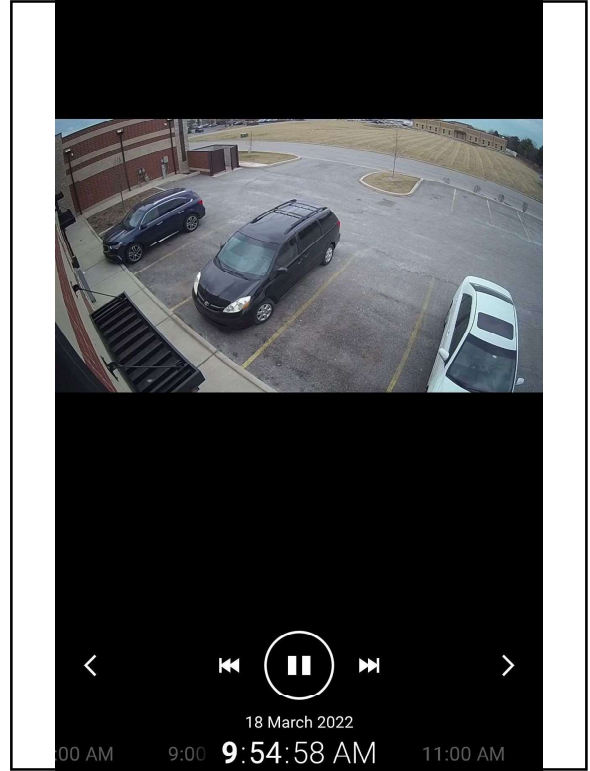
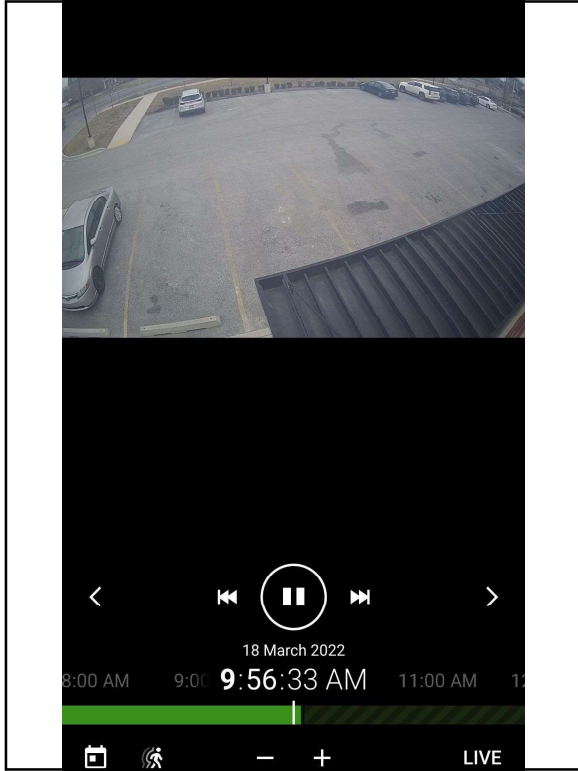
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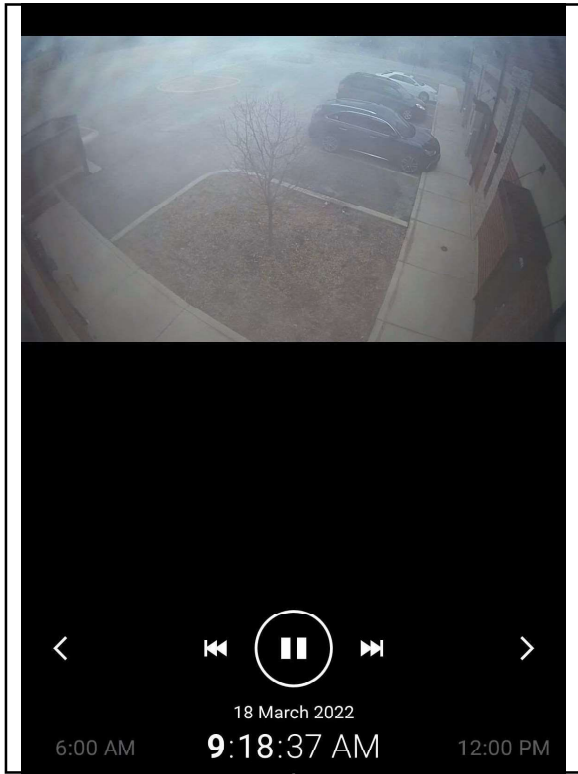


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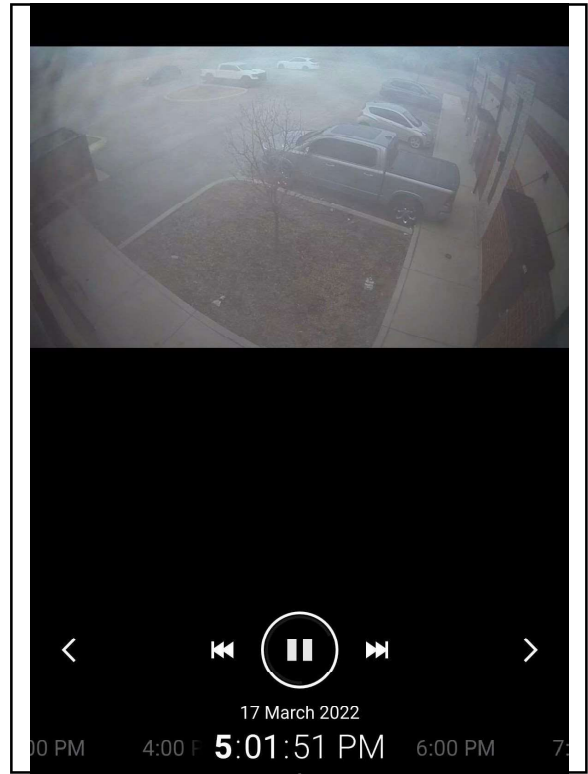


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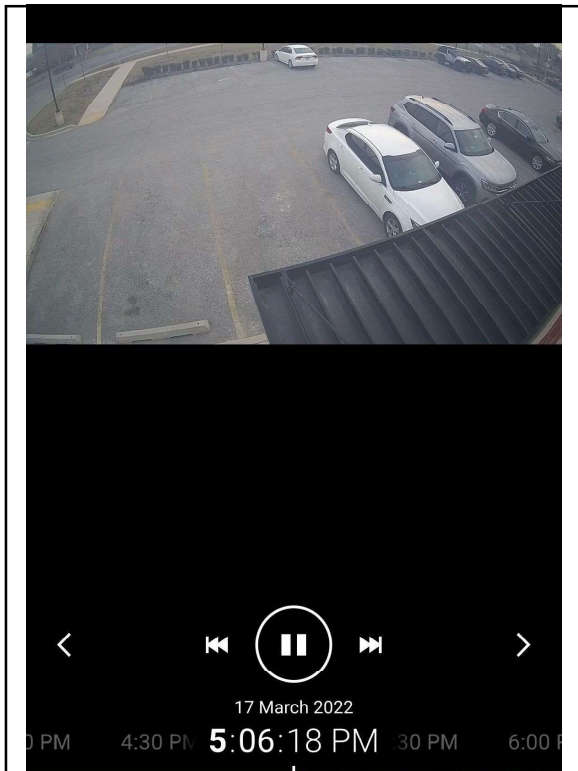




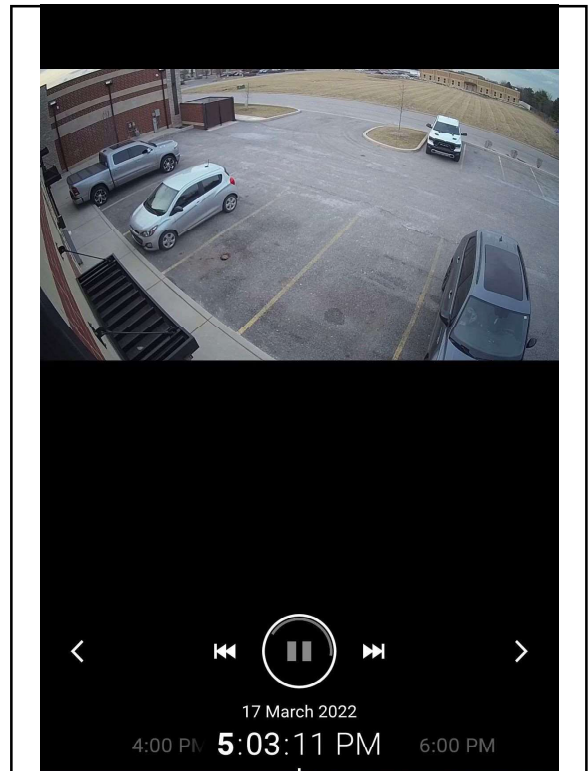
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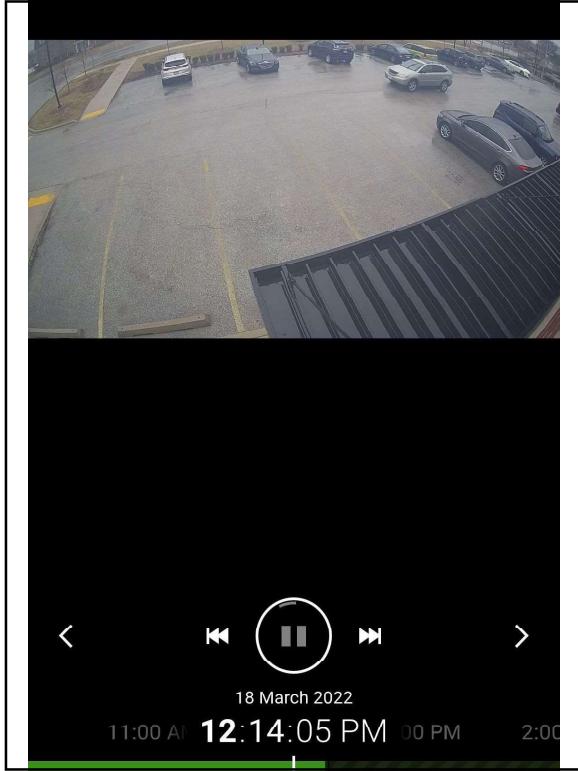
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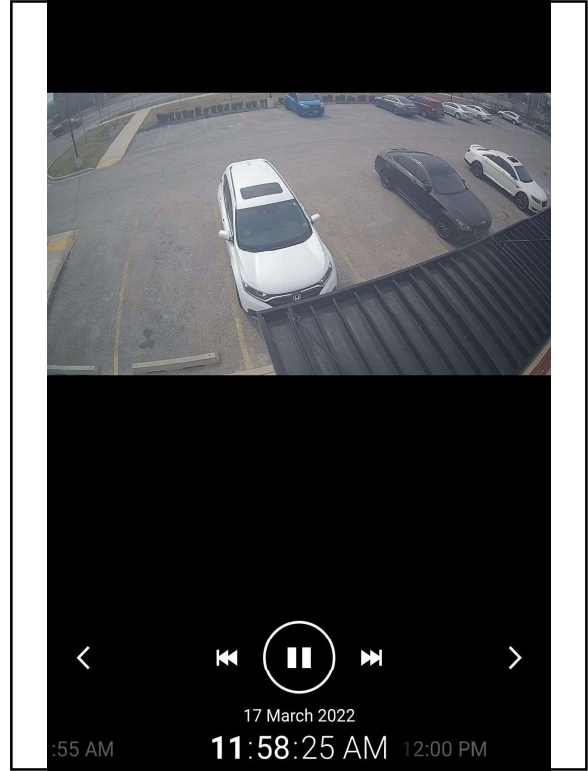
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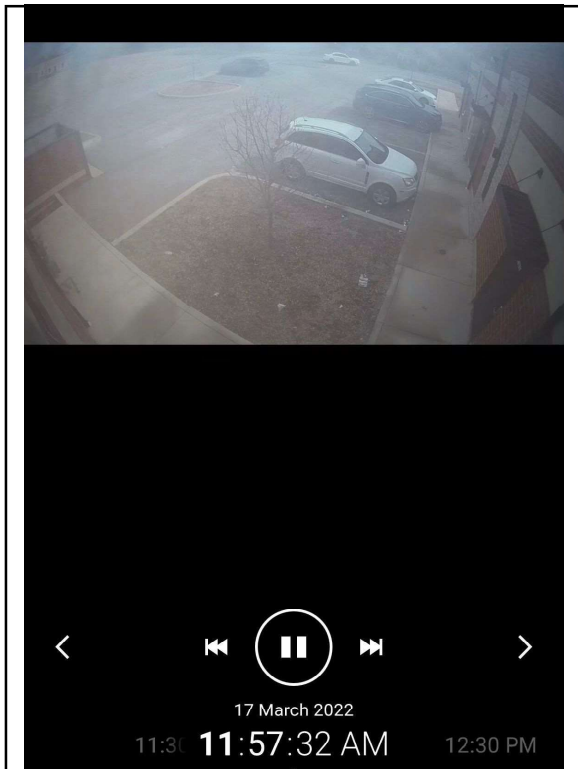
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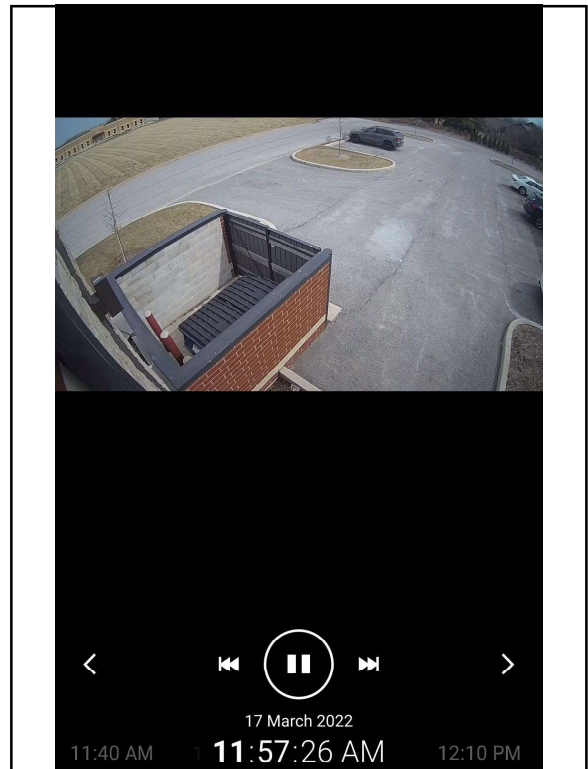
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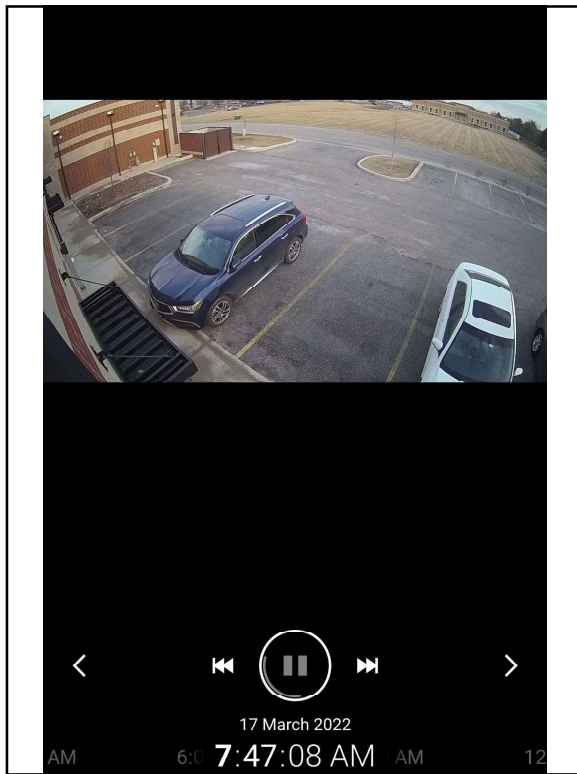


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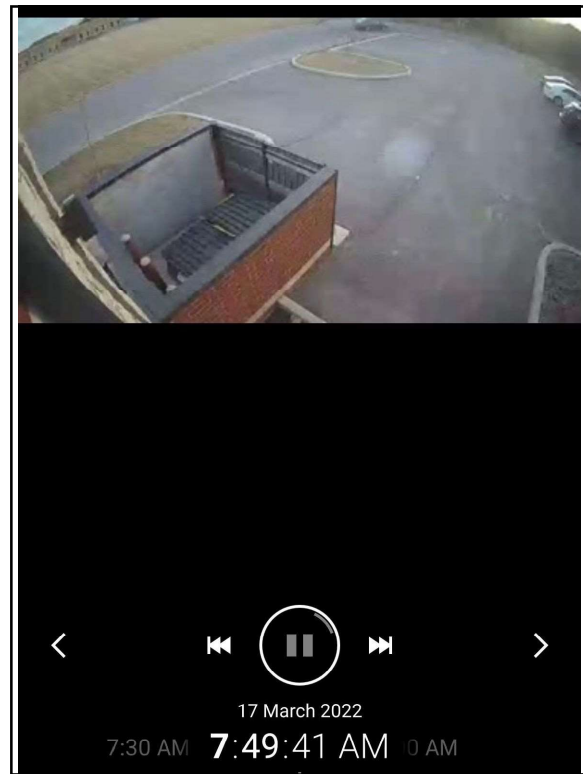


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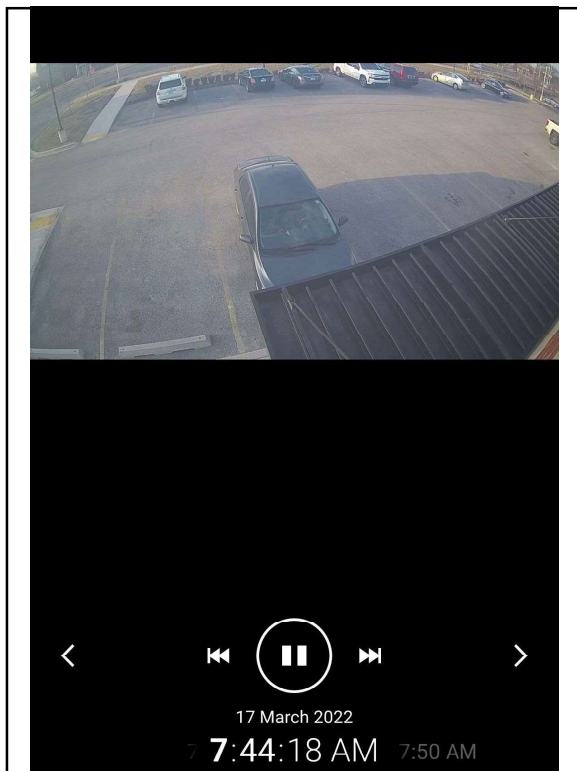




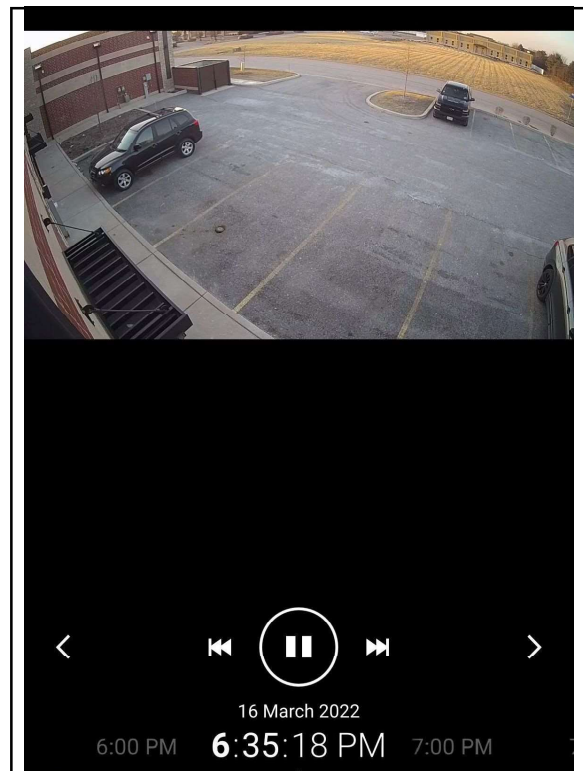
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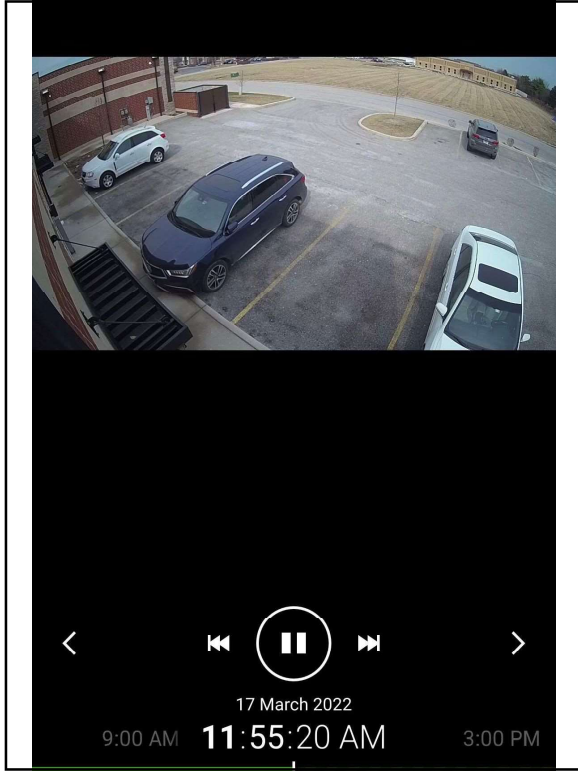


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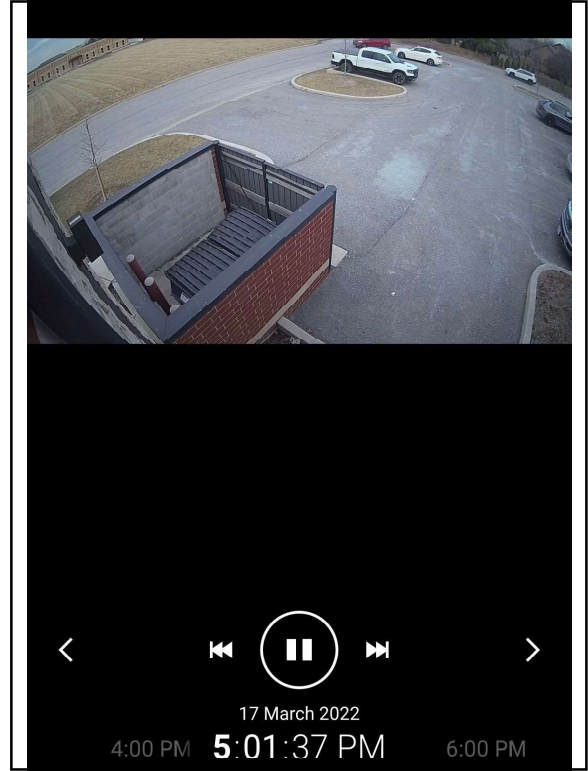


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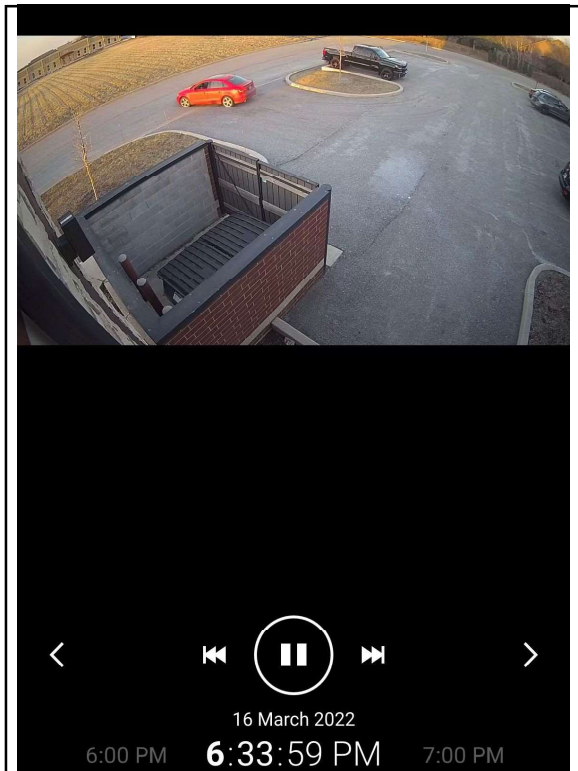




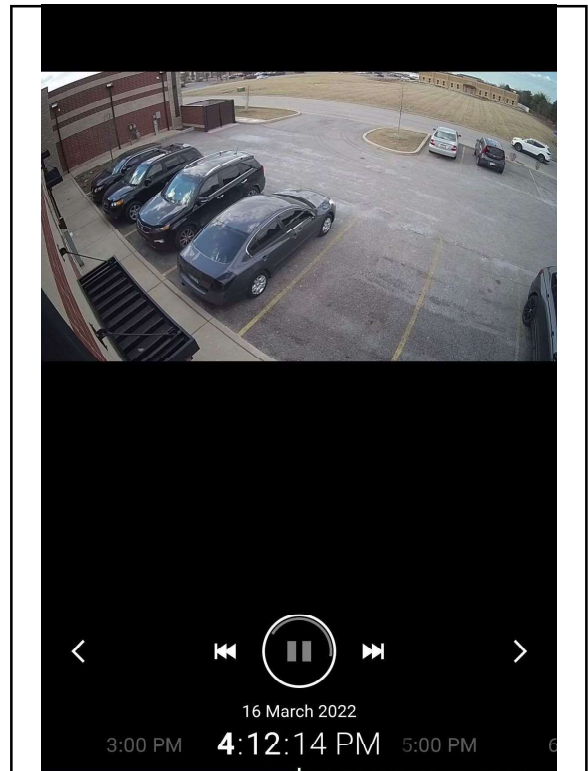
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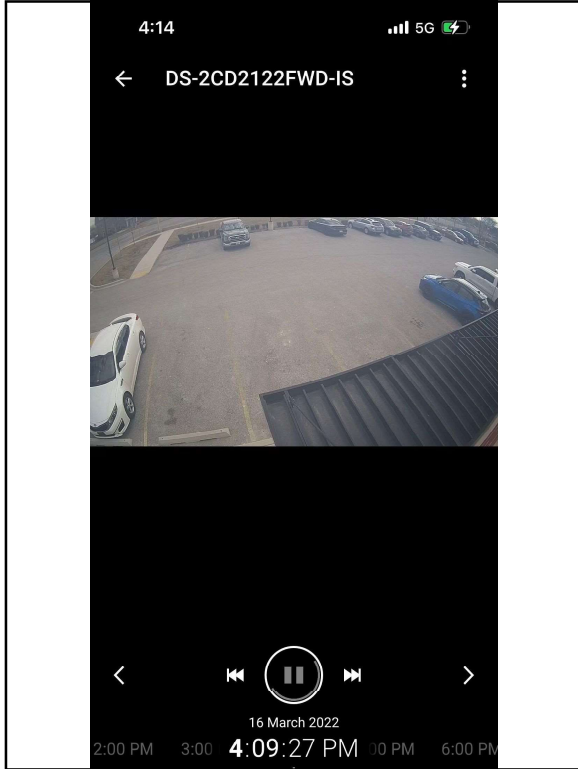
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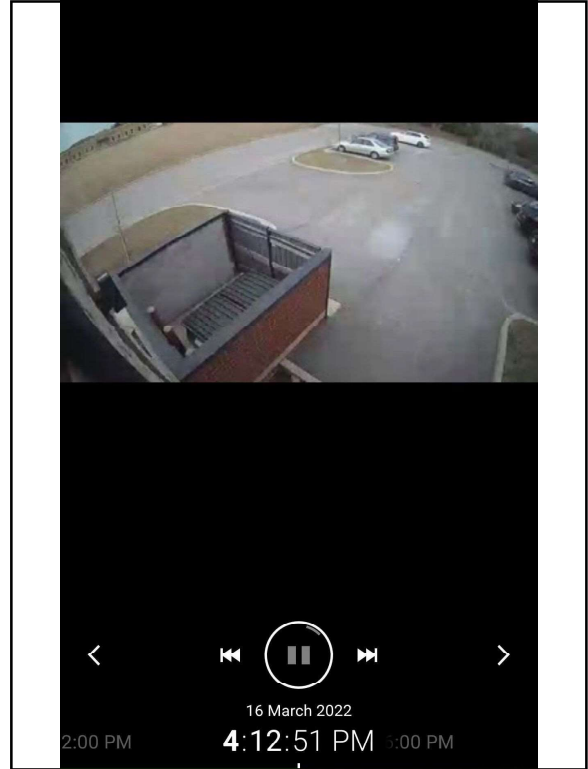
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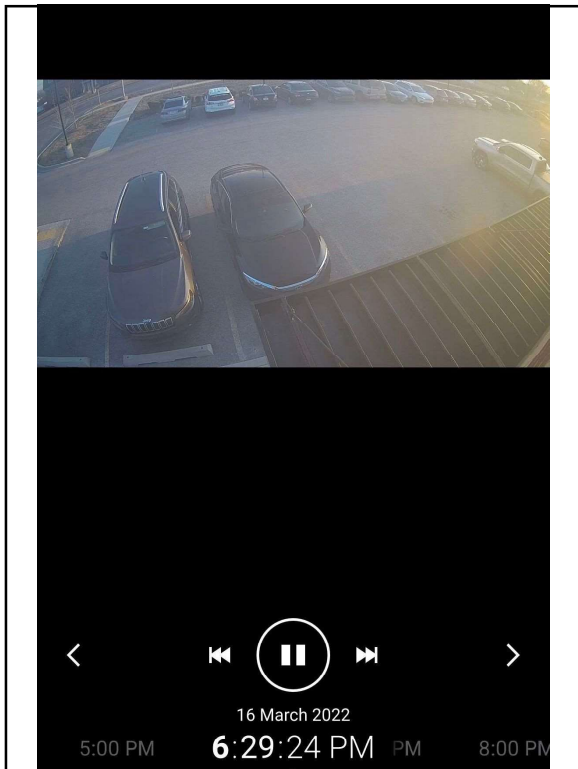
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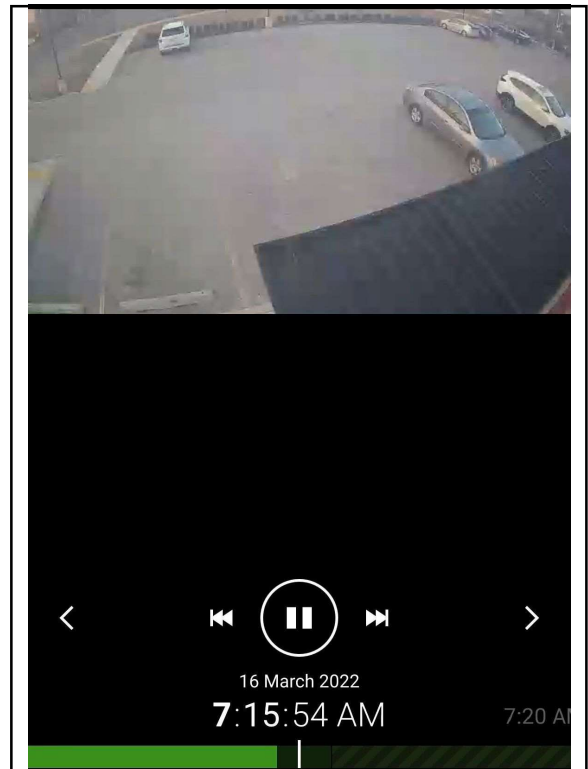
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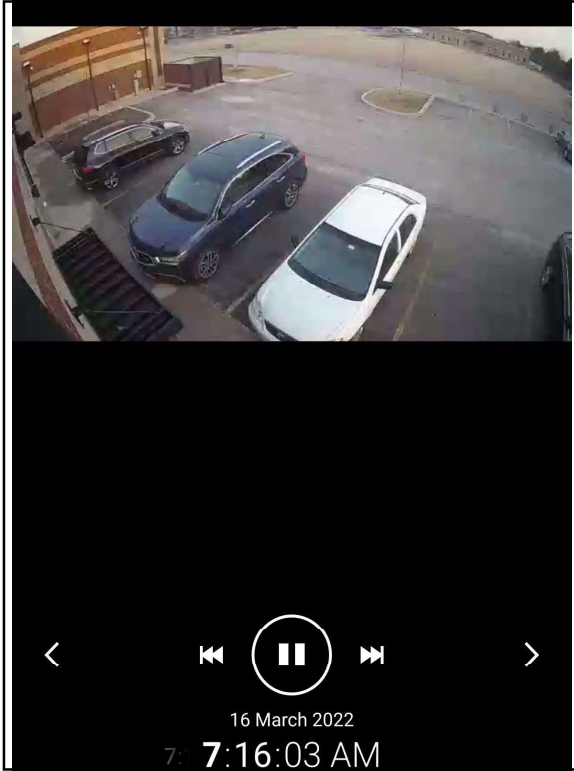
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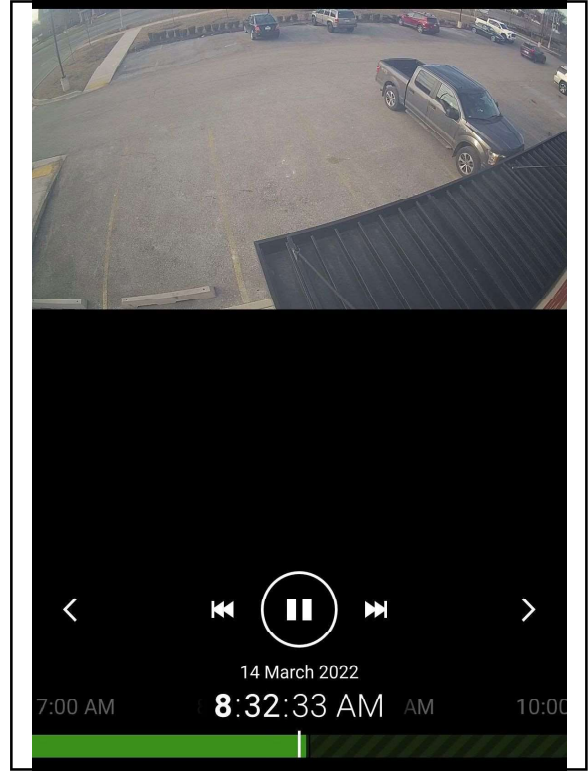
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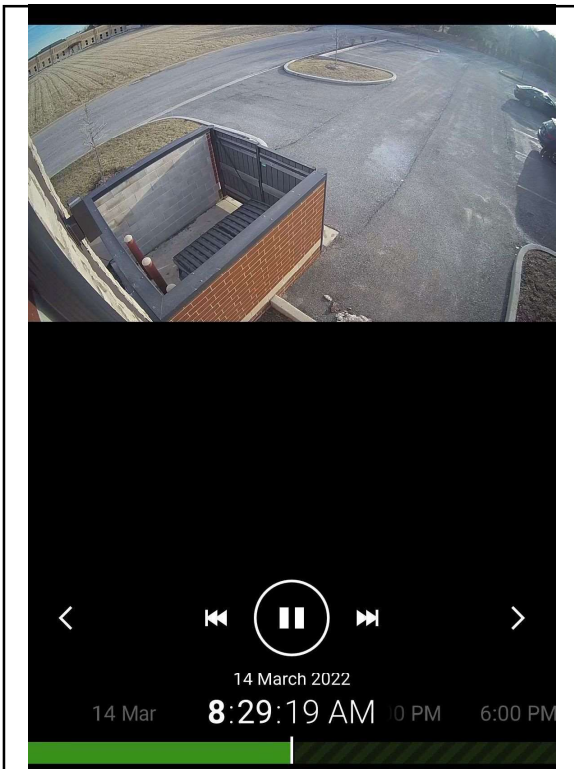
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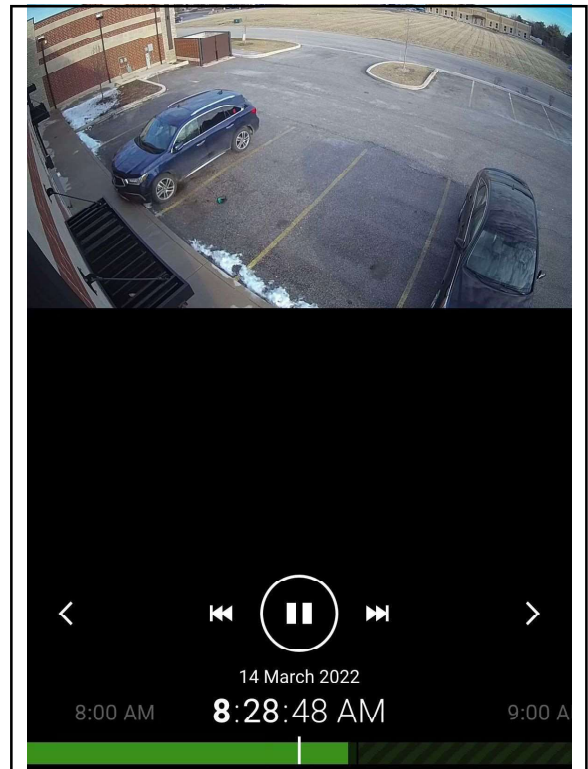
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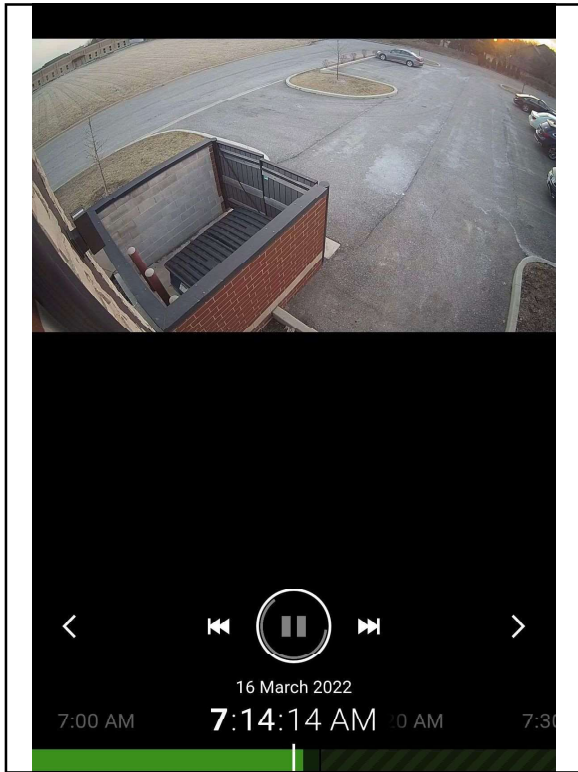
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