

BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

FORM 140 - PARTY STATUS REQUEST

Before completing this form, please go to www.dcoz.dc.gov > IZIS > Participating in an Existing Case > Party Status Request for instructions. Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.

Pursuant to 11 DCMR Subtitle Y § 404.1 or Subtitle Z § 404.1, a request is hereby made, the details of which are as follows:

Name: **Linda Elliott & John West**
Address: **414 7th St., SE Washington D.C. 20003**
Phone No(s): **202 669-1337** E Mail: **linda.a.elliott@gmail.com**

I hereby request to appear and participate as a party in Case No.: **18238A**
Signature: *[Handwritten Signature]* Date: **March 31, 2021**

Will you appear as a(n) Proponent Opponent Will you appear through legal counsel? Yes No

If yes, please enter the name and address of such legal counsel.

Name: *With requested conditions*
Address:
Phone No(s): E Mail:

ADVANCED PARTY STATUS CONSIDERATION PURSUANT TO: Subtitle Y § 404.3/Subtitle Z § 404.3:

I hereby request advance Party Status consideration at the public meetings scheduled for:

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness;
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts; and
4. The total amount of time being requested to present your case.

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

Board of Zoning Adjustment
by the proposed
CASE NO. 18238A
EXHIBIT NO. 30

Party Witness Information

1. A list of witnesses who will testify on the party's behalf:

Linda Elliott and John West, the parties

2. A summary of the testimony of each witness:

Description of the trash and recycling mismanagement issues at 413 8th St that provide sustenance for rodents burrowing in the back of the yard at 415 8th, St., SE (the Applicant's adjoining property); testimony about the rat runs along the fence line and regarding the harborage created by both the Applicant (Eighth Street, LLC) and Tenant (Chipotle Mexican Grill) in the form of frequent head-high weeds in the summer months and outside storage of old equipment, old and dirty grease containers, old furniture, half-filled trash and recycling totes in the yard space, etc. The issues created by mechanical noise that prevent the enjoyment of our back yard space and makes it uncomfortable to open windows to take advantage of un-air conditioned, energy efficient cooling in the spring, summer and fall.

3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts:

None

4. The total amount of time being requested to present your case:

15 minutes total for both witnesses

Party Status Criteria

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?

Our property touches 413 8th St., the lot on which Chipotle operates. We have lived on Square 902 for 25 years. We raised our son here. We very much appreciate the value of mixed-income mixed-use neighborhoods. But we have had to spend enormous sums of money to keep rodents, including rats, out of our house and to make our garden unappealing to them. Over the past decade, the trash storage practices of the Applicant and Tenant have exacerbated the problems. So have the Applicant's and Tenant's tendency to allow yard maintenance and mechanical noise issues to get out of control before attending to them. The neighbors have essentially had to act as members of the Applicant's property management staff and the Tenant's staff, documenting the issues and sending emails and photos to the Tenant's corporate headquarters and the offices of the Applicant's property managers to get action on on-going problems. This past spring, the rat burrows at the back of 415 became so bad, and such a safety concern to the neighbors, that DC DOH Vector Control agreed to poison them every two weeks – however, this requires a major effort not only on the part of the city, but the neighbors who make the arrangements on a twice a month basis to access the space.

2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)

We own 414 7th St. It is our only home and the only piece of property we own.

3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)

There is no alley between the residential properties on the west side of Square 902 and the commercial strip on the east side of Squire 902. Consequently, our property immediately abuts 413 8th St on the southeast corner. We share part of a common fence at that point.

4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?

The often over grown yard at 415 8th St, SE (the Applicant's adjoining property) regularly has large burrows along the fence line of the abutting residential property on 7th St. and rats tend to live in the weep holes in the retaining wall on the 415 property. Food-related trash and recycling that nearly daily ends up outside rather than in the containers in the trash shed at 413 8th St (and even when in the shed, are accessible via the often-open trash-shed door and nearly always open containers in the shed) provide plentiful food for the rats burrowing at 415. In addition, rats burrow in the nearby residential yards, where there is no food, but which immediately abut or are in close proximity to 413 and 415. We spent nearly a year, from the summer of 2019 through last summer, working with our immediate residential neighbor at 416 7th St., SE to close multiple burrows along his property line with the Tenant. This type of persistent burrowing creates an unhealthy situation for young and old residents, attracts flies, necessitates frequent washing of our outdoor spaces with bleach (which is bad for the watershed), and, at times, creates a horrible odor. In addition, for many months last spring and summer our immediate neighbor had rats burrowing under his porch (as well as along the property line with the Tenant). The rodent trails from the porch back to the "rat rubbed holes" through the fence to the Tenant's space were obvious.

If the BZA extends the Applicant and Tenant's fast food exception *without* including in the order conditions similar to those that it imposed in the order granting a fast food exception to IMA Pizza Store (&Pizza) located at 405 8th St., SE (Square 902 Lot 36), the above described issues will continue to negatively affect our use and enjoyment of our property, create serious health issues, and negatively affect the value of our home—our single largest asset. The very specific conditions imposed by the BZA order in the &Pizza fast food exception—including indoor trash storage, mechanical sound mitigation, and a pollution control unit—have ensured that &Pizza has not negatively impacted the health and environment of the Square or the other properties on the block, including ours. *See* Application Nos. 18770-A, B and C.

Based on their discussions with the residential neighbors (and knowing that other commercial property owners on the Square endorse the conditions) the Applicant and the Tenant in this case will be asking that the BZA grant a fast food extension on the condition that the order incorporate a set of conditions similar to those imposed in the &Pizza order (minus the pollution control unit). Those proposed conditions, which were drawn up in close consultation with the neighbors, are document at Exhibits One and Two attached here. The Applicant and Tenant obtained the support of ANC6B for the extension on the condition that any order extending their fast food exception include these conditions. If the BZA grants and extension in an order that includes the agreed upon conditions—including indoor trash/recycling storage, sound mitigation, and promises regarding continued up keep of the property on a *regularized* schedule—we believe such an extension will go a long way toward mitigating the above-described impacts on our property.

5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.

As has been demonstrated by the indoor trash/recycling storage required by the BZA order granting &Pizza (and its landlord at 405 8th St., SE) a fast food exception, a well-constructed indoor trash/recycling space that does not require restaurant staff to take trash outside, will deny rats a major source of food and greatly aid the neighbors' (residential and commercial) and city's efforts to control the rat population on Square 902. *See* Application Nos. 18770-A, B and C. Similarly, well designed sound proofing, such as that ordered as part of the &Pizza fast food exception and extension and detailed in the Applicant and Tenant's plans in this case, will also mitigate the mechanical noise that not infrequently makes it impossible to comfortably open the windows in the back of our home in the spring, summer and fall. (Even the commercial property owner of 405 8th St., where &Pizza operates, has become an enthusiastic supporter of the type of conditions described in Exhibits One and Two.)

6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

We live every day with the detrimental effects of the rats currently feeding at 413 8th, St. and living at 415 8th St. and spilling over onto our property. Similarly, we live every day with the unhealthy side-effects of the mechanical noise issues. The general public passing by our Square does not.

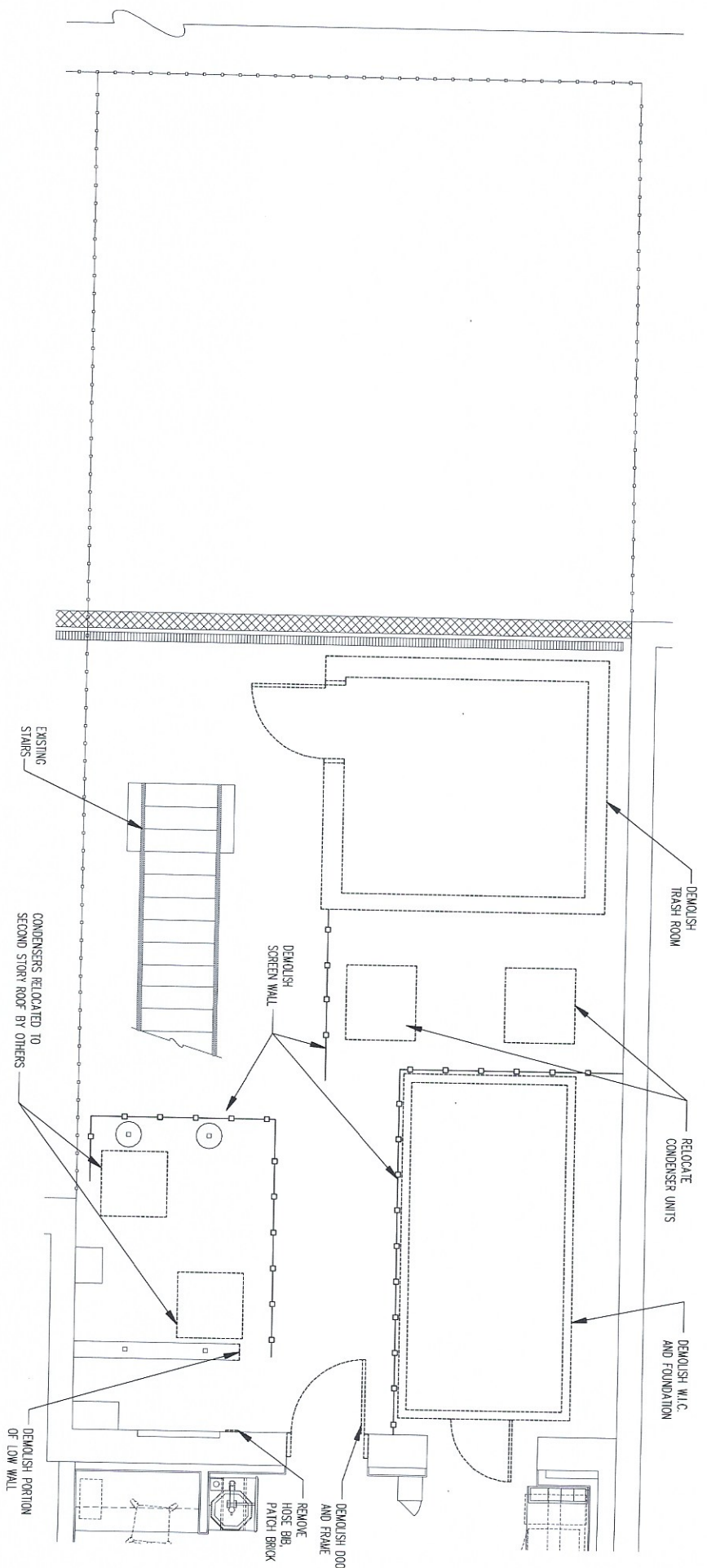
BZA 18238A – Fast Food Exception Application of Eighth Street, LLC

Exhibit One

1. Deliveries to the site shall be restricted to Monday through Friday, between 10:00 a.m. to 4:00 p.m.
2. All trash pick-ups from the site shall be from the street curb.
3. Applicant (or the Applicant through its Tenant) shall replace the outdoor trash/recycling shed with a dedicated trash/recycling walk-in cooler and shall reconfigure the space currently dedicated to the outdoor trash/recycling shed, mechanicals, and the Tenant's walk-in food cooler to allow the new trash/recycling walk-in cooler to be connected to the building by a code-compliant, enclosed hallway as specified in the drawings and design notes (Exhibit Two) attached and incorporated herein.
4. Applicant (or the Applicant through its Tenant) will relocate the existing HVAC compressors for the Tenant's space and install new mechanicals necessary to the operation of the two walk-in coolers as indicated on attached Exhibit Two and will sound proof those mechanicals as indicated on Exhibit Two.
5. Applicant and Tenant will not store food, trash, recycling, furniture, or equipment of any type in the outdoor area in the rear of the building or within the constructed sound barrier, except as may be necessary, on a temporary basis, for periodic maintenance of the building or mechanical equipment.
6. Applicant shall remove from the rear yard of 413 8th Street, SE the existing HVAC units servicing the second floors of 413 8th Street, SE and 415 8th St., SE (415 is also owned by the Applicant) and install new HVAC units (one on the roof of 413 8th St., SE and one on the roof of 415 8th, St., SE) as close to 8th Street as practicable, but not to the west of where the HVAC units on the roof of 411 8th St., SE are installed.
7. Applicant (or the Applicant through its Tenants) shall maintain the outdoor spaces in the rear of 413 8th St., SE and 415 8th St., SE, including by ensuring that: (1) they are kept free of rodent burrows and all rodent harborage, including weeds and leaves; (2) the trees behind 413 8th Street, SE are watered, trimmed, and treated for mold or insects as needed; and (3) the leaves are cleared from the yards, trench drains, and gutters on a regular and established schedule.
8. Applicant will remove the boards from the 413 8th St., SE side of the existing fence on the west side of the rear yard of 413 8th St., SE, thus mitigating an enclosed "rat run" by which rodents move between the rear yard of 413 and the abutting residential properties on the 7th St. side of the square.¹

¹ Removal of the described boards on the 413 8th St., SE side of the fence will result in a single-sided fence that is less enticing to rodents.

Exhibit Two - BZA 18238A - Application of Eighth Street, LLC



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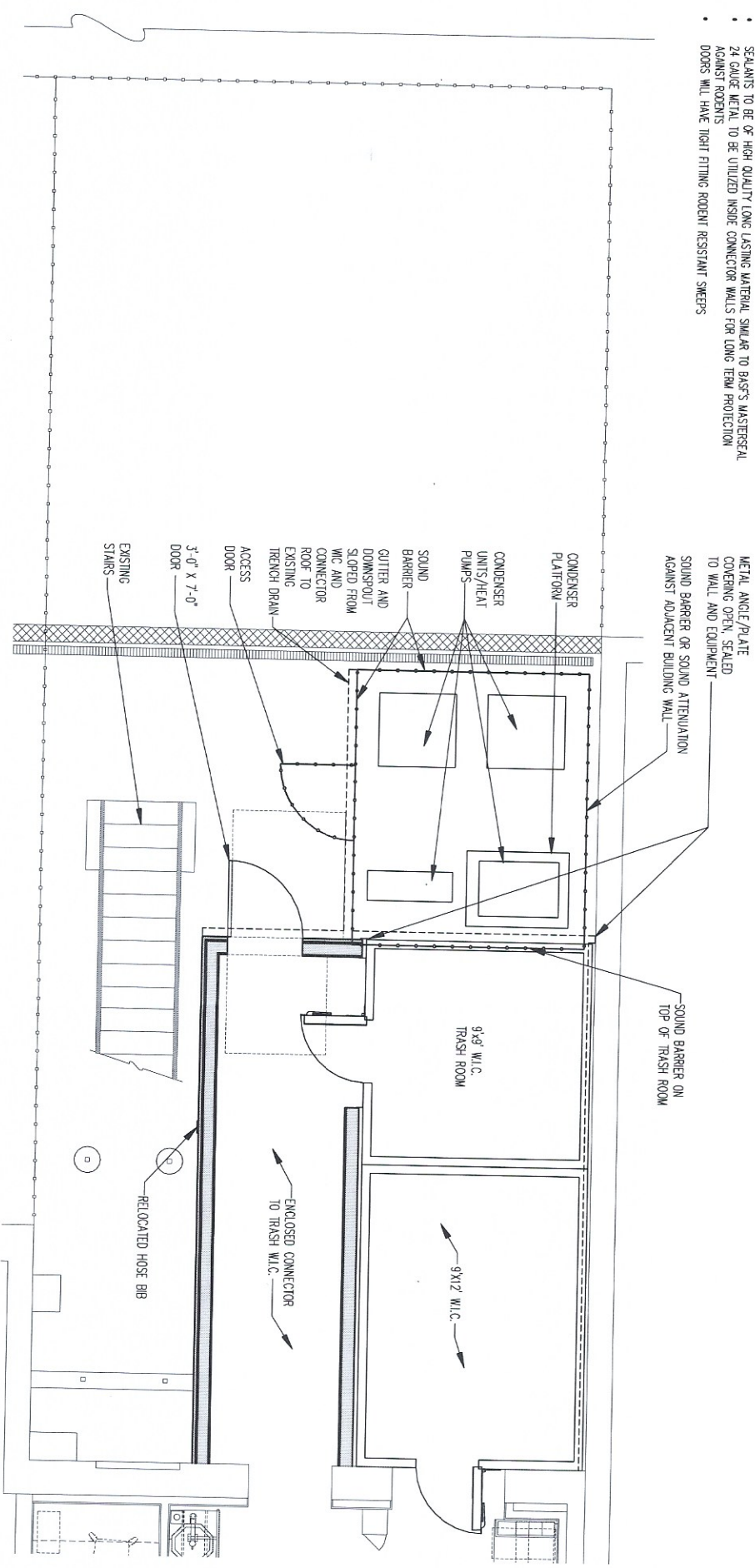
589 W. RAILROAD BLVD. SUITE B
COLUMBUS, OHIO 43215
TEL. 614.437.8770
WWW.REDA3.COM

BARRACKS ROW
TRASH ROOM - DEMO
1/4" = 1'-0"
03/07/2021



Exhibit Two - BZA 18238A - Application of Eighth Street, LLC

- GENERAL NOTES:
- CONSTRUCTION TO BE TIGHT, GAPS, NOOKS OR CREVICES WILL BE AVOIDED. IF UNAVOIDABLE THEN GAPS WILL BE COMPLETELY COVERED WITH RODENT-PROOF MATERIAL
 - EXTERIOR IRVING/PILING LEADING TO THE ROOF WILL BE RODENT-PROOF MATERIAL
 - ANY PASCAL BOARDS SHOULD BE QUALITY WOOD, NOT PARTICLE BOARD, MASONITE, NOT INEXPENSIVE YELLOW PINE
 - SEALANTS TO BE OF HIGH QUALITY LONG LASTING MATERIAL SIMILAR TO BASF'S MASTERSEAL AGAINST RODENTS
 - 24 GAUGE METAL TO BE UTILIZED INSIDE CONNECTOR WALLS FOR LONG TERM PROTECTION AGAINST RODENTS
 - DOORS WILL HAVE TIGHT FITTING RODENT RESISTANT SWEEPS



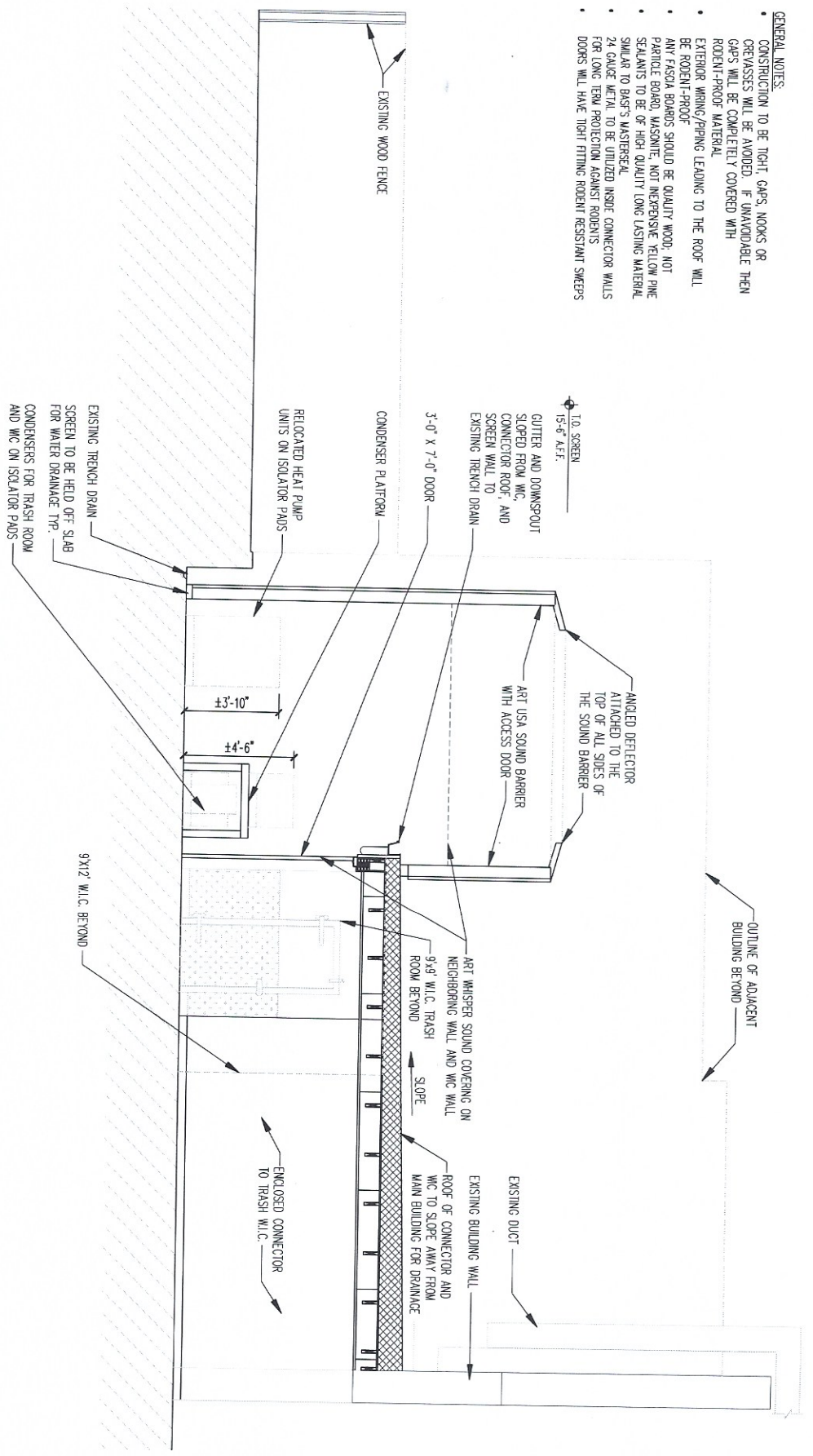
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589 w nationwide blvd
 columbus, ohio 43215
 tel 614.487.8770
 fax 614.487.8777
 www.redarchitects.com

BARRACKS ROW
 TRASH ROOM - NEW WORK PLAN
 1/4" = 1'-0"
 03/02/2021



- GENERAL NOTES:**
- CONSTRUCTION TO BE TIGHT, GAPS, NOOKS OR CREVICES WILL BE AVOIDED. IF UNAVOIDABLE THEN GAPS WILL BE COMPLETELY COVERED WITH RODENT-PROOF MATERIAL.
 - EXTERIOR WIRING/PIPING LEADING TO THE ROOF WILL BE RODENT-PROOF.
 - ANY FASCIA BOARDS SHOULD BE QUALITY WOOD, NOT PARTICLE BOARD, MASONITE, NOT IMPREGNATE YELLOW PINE SEALANTS TO BE OF HIGH QUALITY LONG LASTING MATERIAL SIMILAR TO BASF'S MASTERSEAL.
 - 2x GAUGE METAL TO BE UTILIZED INSIDE CONNECTOR WALLS FOR LONG TERM PROTECTION AGAINST RODENTS.
 - DOORS WILL HAVE TIGHT FITTING RODENT RESISTANT SWEEPS.



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architecture + planning
 589 w. raintowne blvd
 columbus, ohio 43275
 tel: 614.487.8770
 fax: 614.487.8777
 www.redarchitects.com

BARRACKS ROW
 TRASH ROOM - SECTION
 1/4" = 1'-0"
 03/02/2021

