

# PLANNING APPLICATION NUMBER:P12/1511

Type of approval sought	Full Planning Permission
Ward	Castle & Priory
Applicant	Mr J. Goodall, Regal Invest LLP
Location:	<b>NEXIA HOUSE, THE BROADWAY, DUDLEY, WEST MIDLANDS, DY1 4PY</b>
Proposal	<b>CONVERSION OF VACANT OFFICE BLOCK TO 12 NO. APARTMENTS.</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

## SITE AND SURROUNDINGS

1. The 0.06ha application site comprises of a purpose built three storey office building constructed in the late 1960's occupying a prominent plot fronting The Broadway. The site has undercroft parking, with gated ramped access and a pedestrian entrance in the south-eastern elevation. To the rear is an external staircase providing emergency exit. The building is currently vacant but was previously used for offices (Use Class B1a).
2. The site is enclosed by an approximately 2m high wall and railings across the frontage, with just a brick wall along the rear boundary, beyond which is car parking for Dudley College Broadway Campus.
3. A service road (continuing from Tower Street) runs alongside the south-eastern elevation leading to a car parking serving the Aston Auctioneers and Cost Cutter retail store which is on the opposite corner. Beyond this are the grounds of Dudley Zoo and Castle.

4. The north-western boundary is adjoined by a recently converted office to residential use – 10 The Broadway, this being a two storey building with three storey extension at the rear.
5. On the opposite side of The Broadway is the recently constructed Dudley College Evolve campus.
6. The application site is located within Dudley Town Centre Conservation Area and also falls within (UDP designated) Town Centre Development Block 6.

## PROPOSAL

7. This planning application seeks planning approval for a change of use of the building from offices to 12 No. apartments (comprising of 2 No. 1 bed and 10 No. 2 bed apartments).
8. An amended parking layout shows a total of 16 undercroft parking spaces (including 5 disabled parking spaces). A bin store and cycle store would also be accessed from the undercroft parking area.
9. During the course of the application an amendment was received to improve the car parking layout following concerns raised by the Group Engineer (Development).

## RECENT PLANNING HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
95/51241	Construction of pitched tiled roof to replace existing flat roof and replacement of all windows.	Approved with Conditions	27/10/95
DB/67/3081	Erection of office block and car park.	Approved with Conditions	16/11/67

## PUBLIC CONSULTATION

10. Direct notification was carried out to thirteen adjoining and adjacent premises, a site notice and local newspaper advert were also posted, as a result of which representation was received from No.10 The Broadway, summarised as follows;

- Over development of site, undesirable in Conservation Area
- Over supply of apartments existing in the local area
- Unsold or unlet apartments in St James's Road blight area and lead to deterioration of the existing housing stock
- Limited parking
- Would lead to detrimental effect on highway, adding to heavily used road
- No amenity space provided
- Trees removed from site without permission.
- Boundary walls/fences are climbable and fire escape security hazard, providing means of intruder entry
- Loss of amenity and increased noise if converted to apartments

11. Whilst the objection also suggested that there was an infestation of Japanese Knotweed on or near the boundary of the property, the applicant has confirmed there is no Japanese Knotweed on the actual site.

## OTHER CONSULTATION

12. Head of Environmental Health and Trading Standards: No objection, subject to noise condition.

13. Group Engineer (Development): Following submission of amended parking layout and unallocated spaces, no objection is raised.

14. West Midlands Police: Advice given to increase security of future use of building, these have been forwarded to the applicant, who confirm compliance.

15. Fire Service: No objections but advise that they require vehicle access to within 45m of all points within the dwellings.

## RELEVANT PLANNING POLICY

### 16. National Planning Policy Framework (NPPF) (2012)

### 17. Black Country Core Strategy (2011)

CSP1 – The Growth Network

CSP3 – Environmental Infrastructure

DEL1 – Infrastructure Provision

DEL2 – Making the Balance between Employment Land and Housing

HOU1 – Delivering Sustainable Housing Growth

HOU2 – Housing Density Type and Accessibility

CEN2 – Hierarchy of Centres

CEN4 – Regeneration of Town Centres

TRAN2 – Managing Transport Impacts of New Development

TRAN4 – Creating Coherent Networks for Cycle and for Walking

TRAN5 – Influencing the Demand for Travel and Travel Choices

ENV1 – Nature Conservation

ENV2 – Historic Character and Local Distinctiveness

ENV3 – Design Quality

ENV7 – Renewable Energy

ENV8 – Air Quality

WM5 – Resource Management and New Development

Regeneration Corridor 11a Dudley Town Centre – Brierley Hill

### 18. Saved UDP Policies

DD1 Urban Design

DD4 Development in Residential Areas

DD10 – Nature Conservation and Development

NC9 – Mature Trees

DTC2(V) Block 6 – Broadway/Castle Hill

HE4 – Conservation Areas

CR13 Residential Development in Centres

SO2 – Linear Open Space

SO3 – Access and Enhancement of Green Belt and Linear Open Space  
EP7 – Noise Pollution

19. Dudley Town Centre Area Development Framework (ADF)

20. Supplementary Planning Documents

Parking Standards

New Housing Development (Revised 2013)

Planning Obligations

Design for Community Safety Supplementary Planning Guidance

## ASSESSMENT

21. The key issues in determination of this application are;

- The principle of the use
- Impact upon Dudley Town Centre Conservation Area
- Impact upon residential amenities
- Access and parking
- Whether provision is made for Planning Obligations
- New Homes Bonus
- Renewable Energy

### The principle of the use

22. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development such that development proposals which accord with the development plan should be approved without delay.

23. In broad strategic planning terms, there is support for this proposal: particularly through its alignment with the provisions of paragraph 51 of the NPPF, which states  
*'LPAs should identify and bring back into use residential use empty housing and buildings in line with local housing and empty homes strategies....they should normally approve planning applications for change to residential use*

*and any associated development from commercial buildings...where there is a need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate'.*

24. BCCS Policy DEL2 requires justification that the existing employment use is no longer viable and that its change of use would not result in the loss of a significant employer, and/or the buildings reuse for flats would prejudice the operation of existing business uses nearby.
25. On this, it is noted that The Head of Environmental Health and Trading Standards has no fundamental objections to the proposal, subject to the provisions of a condition requiring noise mitigation measures, and the submitted Planning Supporting Statement states that the property has been vacant since early 2011. Despite marketing in this intervening period, no credible interest has been shown.
26. Given the above reasoning and the general steer of the NPPF in promoting sustainable residential development, particularly through the recycling of buildings and sites within the urban area there is no primary planning policy reason that would require the safeguarding of this employment use.
27. In addition the government has signalled its clear intention to make such a change of use permitted development in Spring 2013, where no external alterations are required. There are no external alterations currently proposed.
28. Further policy support for the principle of this proposed change of use can be found through the broad application of Core Strategy Policy HOU1 through the provision of additional housing on previously developed land, and Saved UDP Policy CR13, which states that the Council will support proposals for new residential development in centres, where they would contribute to maintaining and enhancing the viability and vitality of the centre.
29. The site also falls within (UDP designated) Town Centre Development Block 6, where residential development is identified as an acceptable use, and, in the ADF

within the Tower Street Quarter where it is proposed that more than 80 new apartments will be provided – *‘a mixture of small office courts and apartments will be introduced around the Tower Street and Broadway junction...’*. Furthermore, the site is also within Regeneration Corridor 11a, which includes Dudley Town Centre, where the opportunity for residential and leisure led regeneration is specified.

30. The latest Housing Needs Survey (2011) found that in order to encourage more people to move into homes appropriate to their requirements there needs to be more smaller (1 or 2 bedrooms) homes across the borough, this office to residential conversion would contribute to this provision. Changes to the housing benefit regime will also lead to a greater requirement for smaller dwelling types.

31. It is considered that there is no in principle planning policy objection to this proposal as it accords with the development plan.

#### Impact on Dudley Town Centre Conservation Area

32. BCCS policy HOU2 ‘Housing Density, Type and Accessibility’ sets out the objectives for density and types of new housing, promoting the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics and mix of uses in the area where the proposal is located.

33. BCCS policies CSP4 ‘Place Making’, ENV2 ‘Historic Character and Local Distinctiveness’ and ENV3 ‘Design Quality’ require that all development demonstrates a clear understanding of historic character and local distinctiveness and demonstrates how proposals make a positive contribution to place-making and environmental improvement through high quality design.

34. The proposal ensures the active use of a currently vacant building which will in turn help to preserve and enhance the character and appearance of the Dudley Town Centre Conservation Area.

35. The applicant has confirmed that the existing roller shutter will be removed from the Tower Street entrance door and the existing dwarf wall and railings fronting The Broadway and Tower Street would be retained. These items can be secured by condition.
36. The fenestration of the building is a potential opportunity to improve the appearance of the building and in turn have a positive impact on the wider Conservation Area. The applicant has agreed to a condition requiring details of any replacement windows to be approved by the Council prior to their installation.
37. The only concern relates to the removal of the mature trees on the site's frontage. The applicant has advised the Council that two mature trees on the site frontage were significantly decayed and were leaning precariously, such that they posed an immediate health and safety issue especially as they fronted the highway and that immediate action was taken to remove these trees. Given the positive contribution that these trees made to the Conservation Area, a condition is proposed to ensure that replacement heavy standard trees are planted.
38. Overall Dudley Town Centre Conservation Area's special architectural and historic interest would be safeguarded, in accordance with BCCS Policies ENV2 and ENV3, and Saved UDP Policy HE4.

#### Impact upon residential amenities

39. The Head of Environmental Health and Trading Standards advises that the site would be subject to traffic noise, however, this can be adequately mitigated by imposition of a noise condition.
40. The neighbour at No.10 The Broadway sits alongside the north-western elevation of Nexia House. This western elevation is a solid wall construction with no windows. Furthermore this neighbouring property does not have habitable room windows in the elevation facing the application site. No harm upon the residential amenities of this occupier would arise.



41. Whilst there is no provision of private amenity space, the site is within a Town Centre location and the New Housing SPD acknowledges that a distinguishing feature of a town centre site is the provision of minimum garden space and that this would be regarded as typical for town centre residential units. It must be recognised that almost opposite to the site is Coronation Gardens and within walking distance there is also Priory Park meaning that future residents would therefore be well served by public open space.
42. The rear fire escape is an existing structure that served the previous use of the building as offices. There is not considered to be any additional security risks as a result of the proposed residential use upon the neighbouring dwelling.
43. It is therefore considered that the proposed use would be in accordance with Saved UDP Policies DD4 and EP7.

#### Access and parking

44. In accordance with the Parking Standards SPD a total of 16 unallocated parking spaces have been provided, with a total of 5 disabled parking spaces. A cycle store is shown and the application confirms that this would store 24 cycles in accordance with the Parking Standards SPD. There are no objections raised by the Group Engineer (Development) on the parking provision.
45. The existing use as an office would have generated considerably higher volumes of traffic through the narrow access to undercroft parking and the resulting reduction in traffic using the access as a result of the change of use to residential would be a benefit to highway safety. Furthermore, since pedestrian access to the apartments is taken directly from Tower Street there are no pedestrian/vehicle conflicts on the access. Due to these issues, the Group Engineer (Development) does not raise objection to the development based on the narrow width of the vehicle access.
46. The Parking Standards SPD requires that an electric charging point be provided adjacent to at least 1 parking space for each dwelling. Therefore the proposed

development, which provides 12 dwellings, should have 12 electric vehicle charging points, a condition is required to secure this.

47. It must also be taken into account that given that the application site is within Dudley Town Centre, there are also nearby public car parks.

48. The applicant confirms that the overall block is only 25m in length; therefore, there will be vehicle access within 45 metres of all points within the dwellings, as required by the Fire Service.

49. It is considered that BCCS Policies CEN8, TRAN2 and TRAN5 are complied with.

### Planning Obligations

50. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.

51. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

52. In determining the required planning obligations on this specific application the following three tests as set out in the CIL Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development;
- c) fairly and reasonably related in scale and kind to the development.

53. Following consideration of the above tests the following planning obligations are required for this application:

On-Site Provision (to be secured by condition)

- Economic and Community Development

54. It is considered that this contribution meets the necessary tests as stated above in that it contributes to the delivery of a sustainable development, will be provided directly on the development site itself and is deemed to be in scale and kind to the proposed development.

55. This development complies with the requirements of BCCS Policy DEL1 and the Planning Obligations SPD.

#### New Homes Bonus

56. Clause (124) of the Localism Act states that: Local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application.

57. The New Homes Bonus is designed to create an effective fiscal incentive to encourage local authorities to facilitate housing growth. It will ensure the economic benefits of growth are more visible within the local area, by matching the council tax raised on increases in effective stock.

58. The Bonus provides local authorities with monies equal to the national average for the council tax band on each additional property and paid for the following six years as a non-ring fenced grant. In addition, to ensure that affordable homes are sufficiently prioritised within supply, there will be a simple and transparent enhancement of a flat rate £350 per annum for each additional affordable home.

59. This proposal would provide 12 houses generating a grant of 12 times the national average council tax for the relevant bands per annum for 6 years.

60. Whilst this is a significant sum of money the planning merits of the proposal are acceptable in any event and therefore this is not accorded significant weight.

### Renewable Energy

61. The proposal for 12 No. apartments would be the subject of BCCS Policy ENV7. This policy requires the incorporation of measures to off-set at least 10% of the estimated residual energy demand of the development through renewable energy sources. The submission is silent on this issue. It is therefore advised that consideration is given to the imposition of an appropriate condition to ensure compliance with this policy.

## CONCLUSION

62. The proposed development would result in the delivery of a number of residential units in the local area helping to meet identified housing needs whilst bringing a vacant building back into a sustainable and beneficial use which has a positive role in supporting the overall function, vitality and viability of Dudley Town Centre. The development would be well served by off-street parking and therefore highway safety would not be harmed. The residential amenities of existing and proposed occupiers would not be harmed. With relevant conditions, Dudley Town Centre Conservation Area's special architectural and historic interest would be safeguarded. On-site planning obligations would be secured by condition. The proposal would comply with the National Planning Policy Framework (NPPF), Black Country Core Strategy, Saved UDP, Supplementary Planning Documents and Dudley Town Centre Area Development Framework (ADF).

## RECOMMENDATION

63. It is recommended that this application be approved subject to the following conditions;

## REASON FOR THE GRANT OF PLANNING PERMISSION

The proposed development would result in the delivery of a number of residential units in the local area helping to meet identified housing needs whilst bringing a vacant building back into a sustainable and beneficial use which has a positive role in supporting the overall function, vitality and viability of Dudley Town Centre. The development would be well served by off-street parking and therefore highway safety would not be harmed. The residential amenities of existing and proposed occupiers would not be harmed. With relevant conditions, Dudley Town Centre Conservation Area's special architectural and historic interest would be safeguarded. On-site planning obligations would be secured by condition. The proposal would comply with the National Planning Policy Framework (NPPF), Black Country Core Strategy policies CSP1 – The Growth Network, CSP3 – Environmental Infrastructure, DEL1 – Infrastructure Provision, DEL2 – Making the Balance between Employment Land and Housing, HOU1 – Delivering Sustainable Housing Growth, HOU2 – Housing Density Type and Accessibility, CEN2 – Hierarchy of Centres, CEN4 – Regeneration of Town Centres, TRAN2 – Managing Transport Impacts of New Development, TRAN4 – Creating Coherent Networks for Cycle and for Walking, TRAN5 – Influencing the Demand for Travel and Travel Choices, ENV1 – Nature Conservation, ENV2 – Historic Character and Local Distinctiveness, ENV3 – Design Quality, ENV7 – Renewable Energy, ENV8 – Air Quality, WM5 – Resource Management and New Development, Regeneration Corridor 11a Dudley Town Centre – Brierley Hill, Saved UDP Policies\_DD1 Urban Design, DD4 Development in Residential Areas, DD10 – Nature Conservation and Development, NC9 – Mature Trees, DTC2(V) Block 6 – Broadway/Castle Hill, HE4 – Conservation Areas, CR13 Residential Development in Centres, SO2 – Linear Open Space, SO3 – Access and Enhancement of Green Belt and Linear Open Space, EP7 – Noise Pollution, Supplementary Planning Documents - Parking Standards, New Housing Development (Revised 2013) and Planning Obligations, Design for Community Safety Supplementary Planning Guidance and Dudley Town Centre Area Development Framework (ADF).

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Black Country Core Strategy (2011), the Saved UDP (2011) and to all other relevant material considerations.

The above is intended as a summary of the reasons for the grant of planning permission. For further detail on the decision please see the application report.

### **APPROVAL STATEMENT INFORMATIVE**

*In dealing with this application the local planning authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.*

### **INFORMATIVE NOTE – THE COAL AUTHORITY**

#### **ALL DEVELOPMENTS WITHIN COALFIELD STANDING ADVICE AREAS**

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 999/00: 04A, 05 & 06.
3. The building shall not be occupied until the area shown for unallocated car parking and bin store on the plan numbered 04A has been marked out in accordance with the agreed scheme. The car parking shall remain unallocated for the lifetime of development and shall not thereafter be used for any other purpose unless otherwise agreed in writing with the local planning authority.
4. Prior to the commencement of development, details of well lit, undercover and secure cycle parking facilities (providing at least 24 cycle parking spaces) should be

submitted to and approved in writing by the LPA, and thereafter implemented before occupation in accordance with the approved details and maintained for no other purpose for the life of the development.

5. Prior to the commencement of development, details of the landscaping scheme (which shall include the provision of at least 2 heavy standard trees fronting The Broadway) for the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details before the end of the first planting season following initial occupation of the development. Any new trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
6. Development shall not begin until a scheme for protecting residents in the proposed dwellings from noise from the adjacent highway has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the permitted dwellings unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development.
7. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.
8. No development shall commence until an Economic and Community Development Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall address as a minimum, measures to increase the number of jobs open to local people available on the site and the development of initiatives that support activities to upskill local unemployed people of working age so as to support them into sustained employment as outlined in the Council's Planning Obligations Supplementary Planning Document. The development shall be implemented in accordance with the approved Statement and retained in accordance with the Statement for the lifetime of the development.
9. No development shall commence until details for the provision of 12 external electric charging points have been submitted to and approved in writing by the Local Planning Authority. The Electric Charging point(s) shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
10. Development shall not commence until details have been submitted to and approved in writing by the local planning authority of the heating appliances, flues, air intake and extraction equipment terminals. Development shall proceed in accordance with the agreed details.
11. Notwithstanding the details shown on the approved drawings prior to development, details shall be submitted to and approved in writing by the local planning authority of the proposed windows not only in terms of their colour and finish but also the

material and style glazing design, and thereafter implemented in accordance with the approved details and retained for the life of the development.

12. The existing wall and railings shall be retained in situ for the lifetime of development.
13. Prior to first use of the development hereby approved the roller shutter on the Tower Street entrance shall be removed.



AREA 2 HA  
SCALE: 1:1250 on A4  
CENTRE COORDINATES: 394549 , 290577



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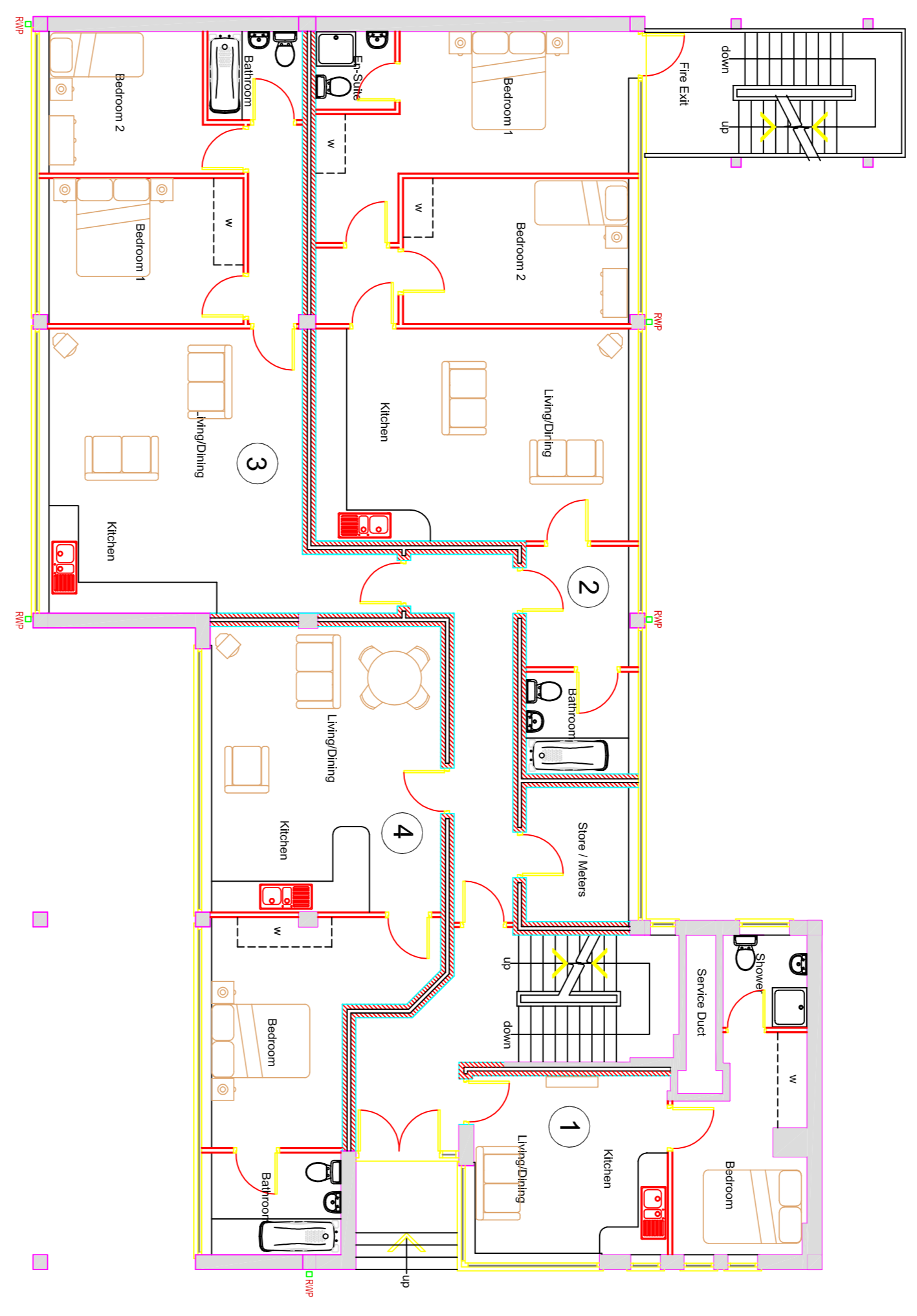
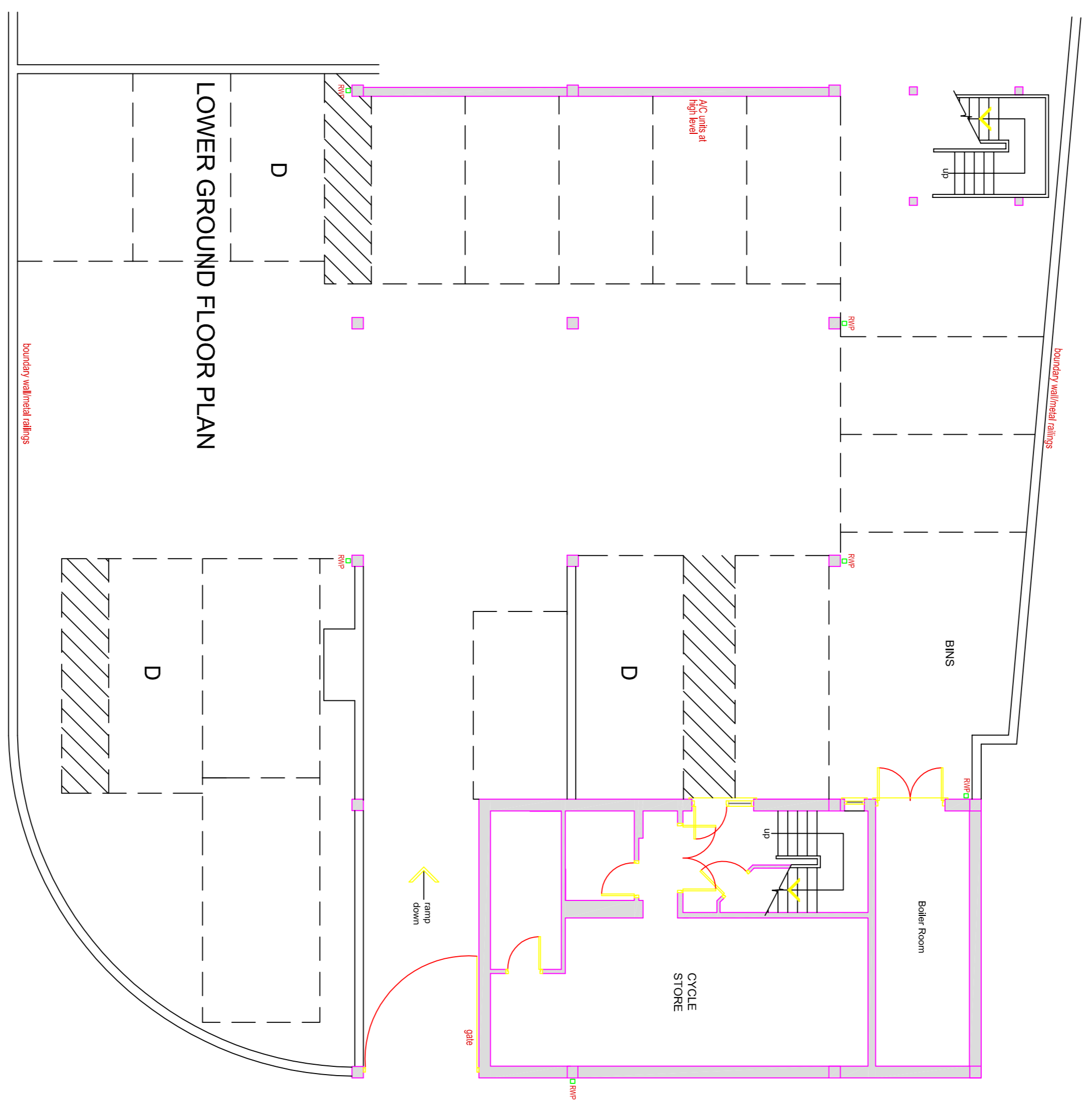
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A Jan\_13 Re-arrangement of vehicle spaces to lower ground floor plan  
 revision:      date:      name:

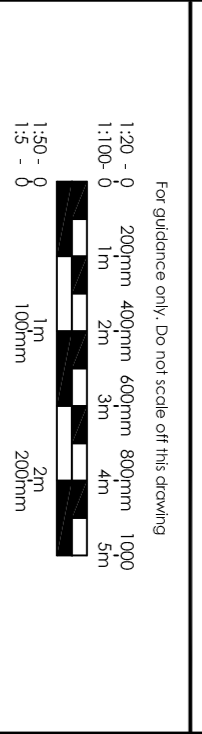
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 Title: FLOOR PLANS - AS PROPOSED  
 Status: PLANNING

Job no: 999/00 drawing no:  
 date: 09/07/12  
 scale: 1:100

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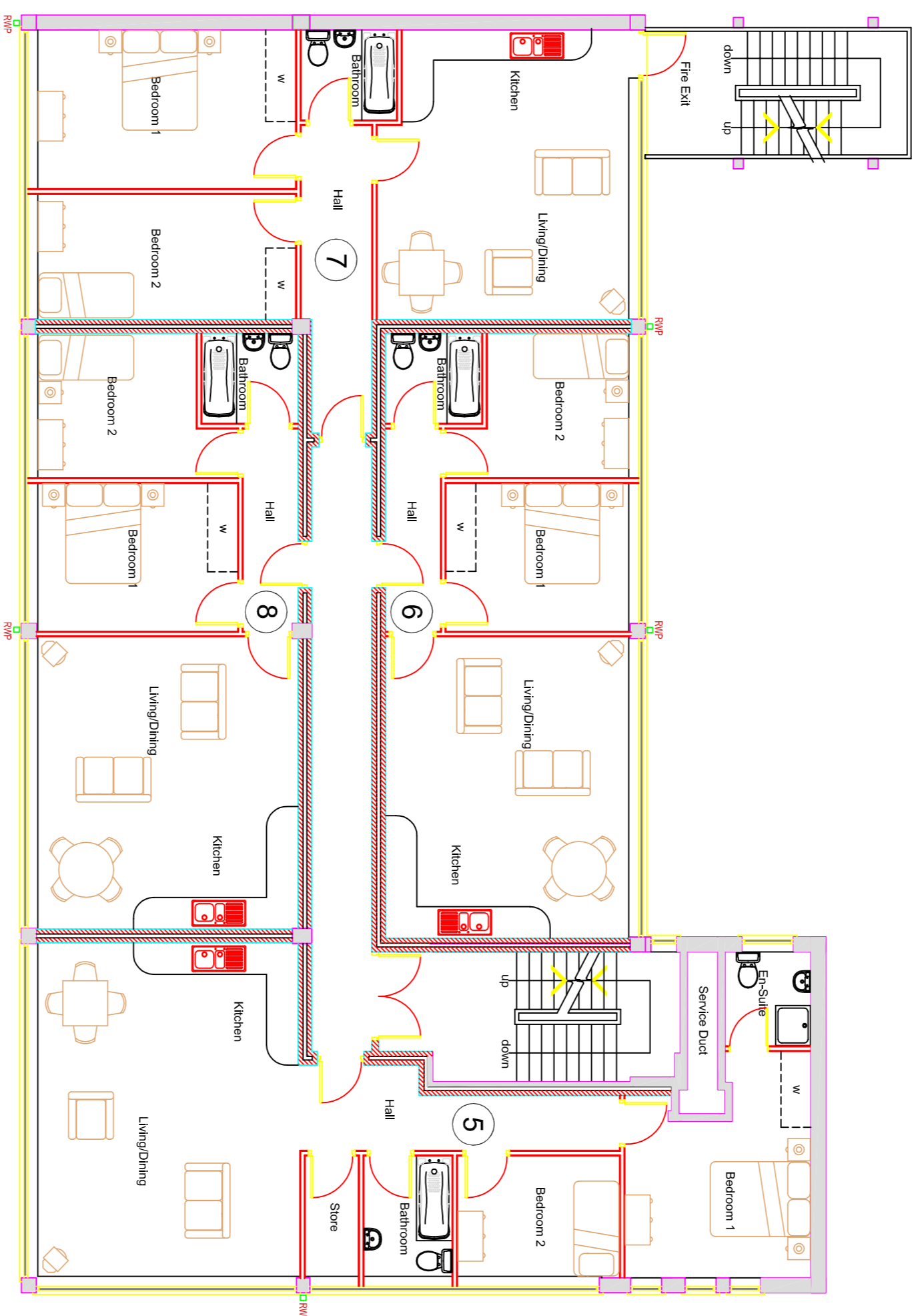
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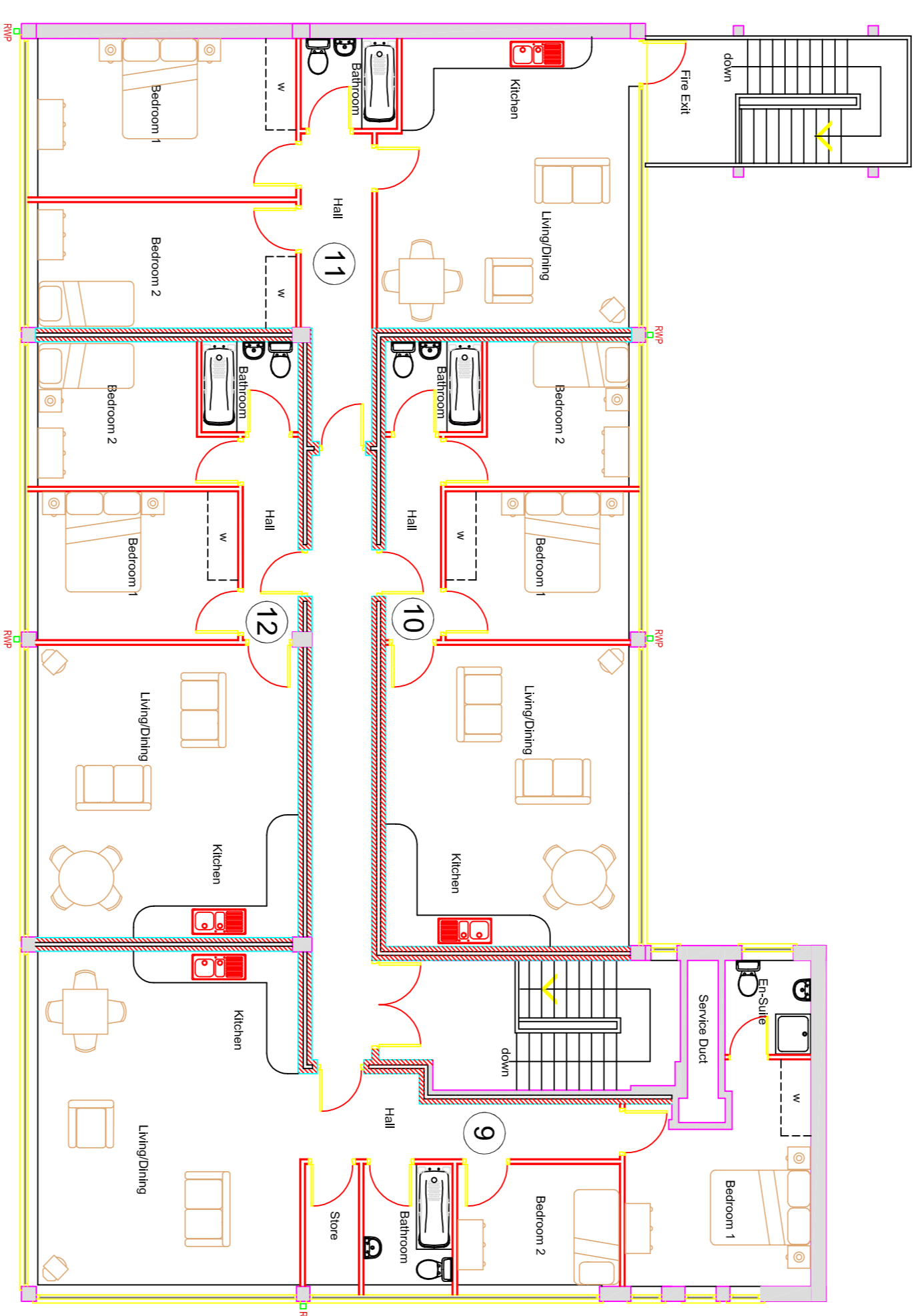
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 Title: FLOOR PLANS - AS PROPOSED  
 Status: PLANNING

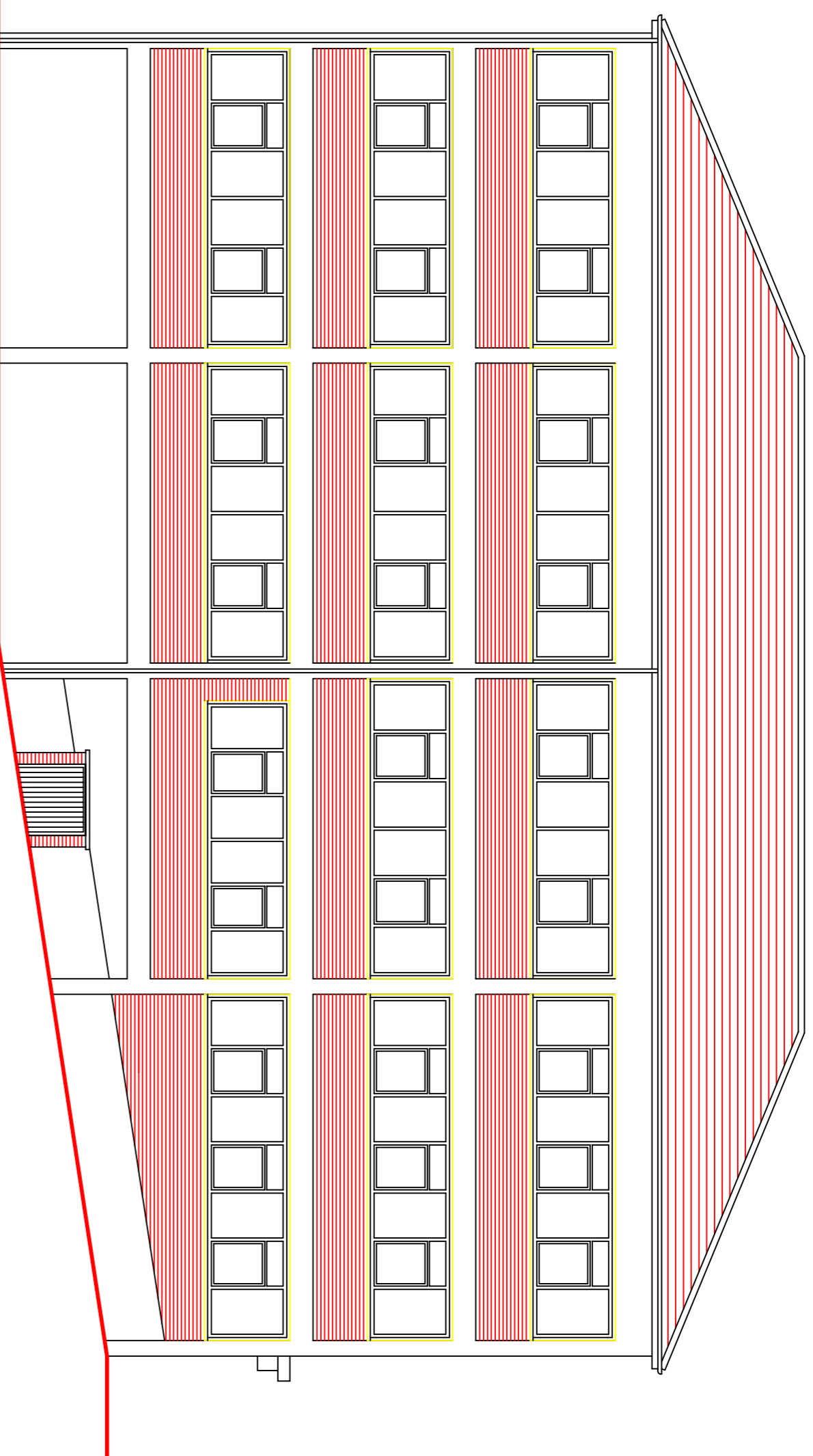
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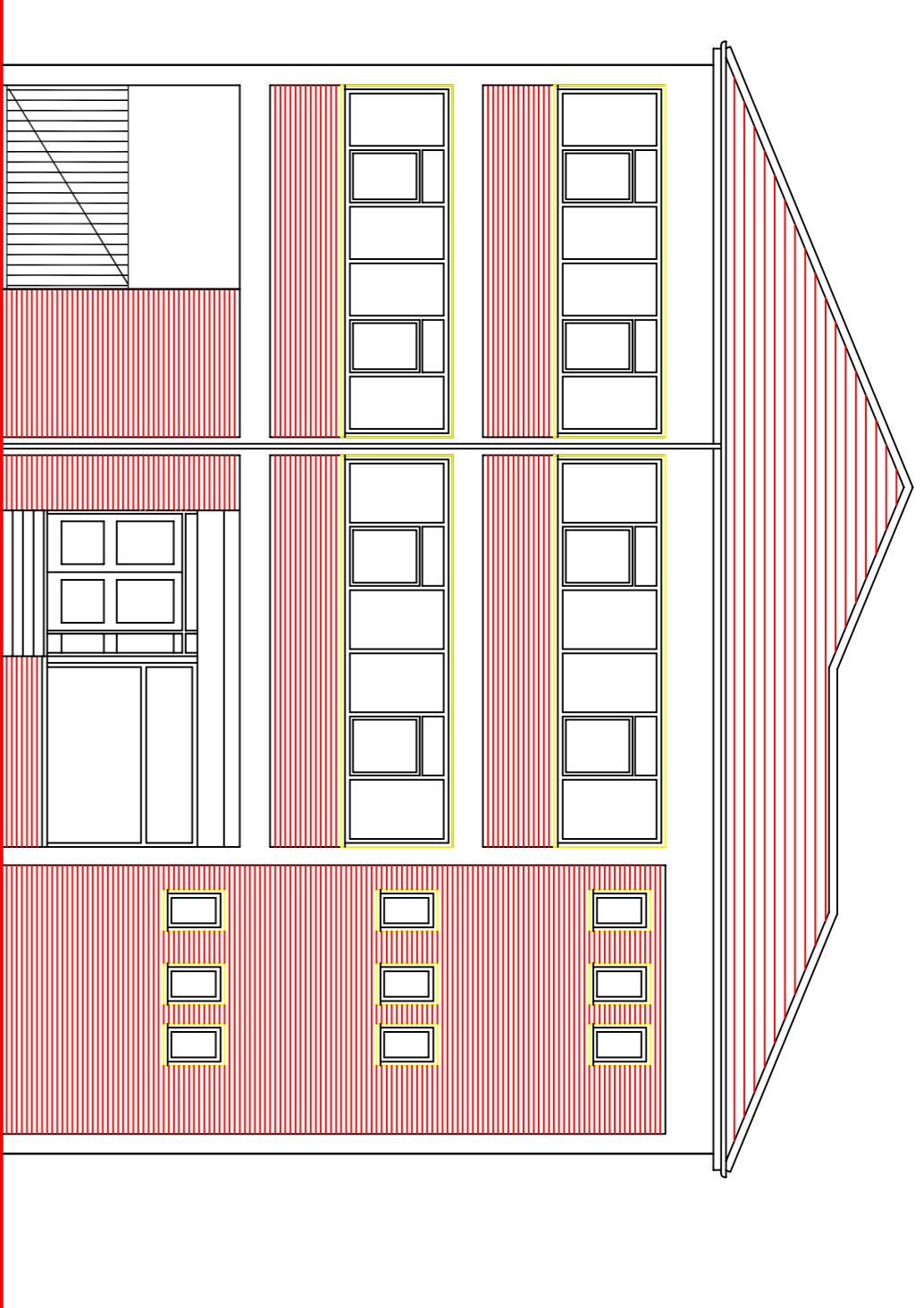
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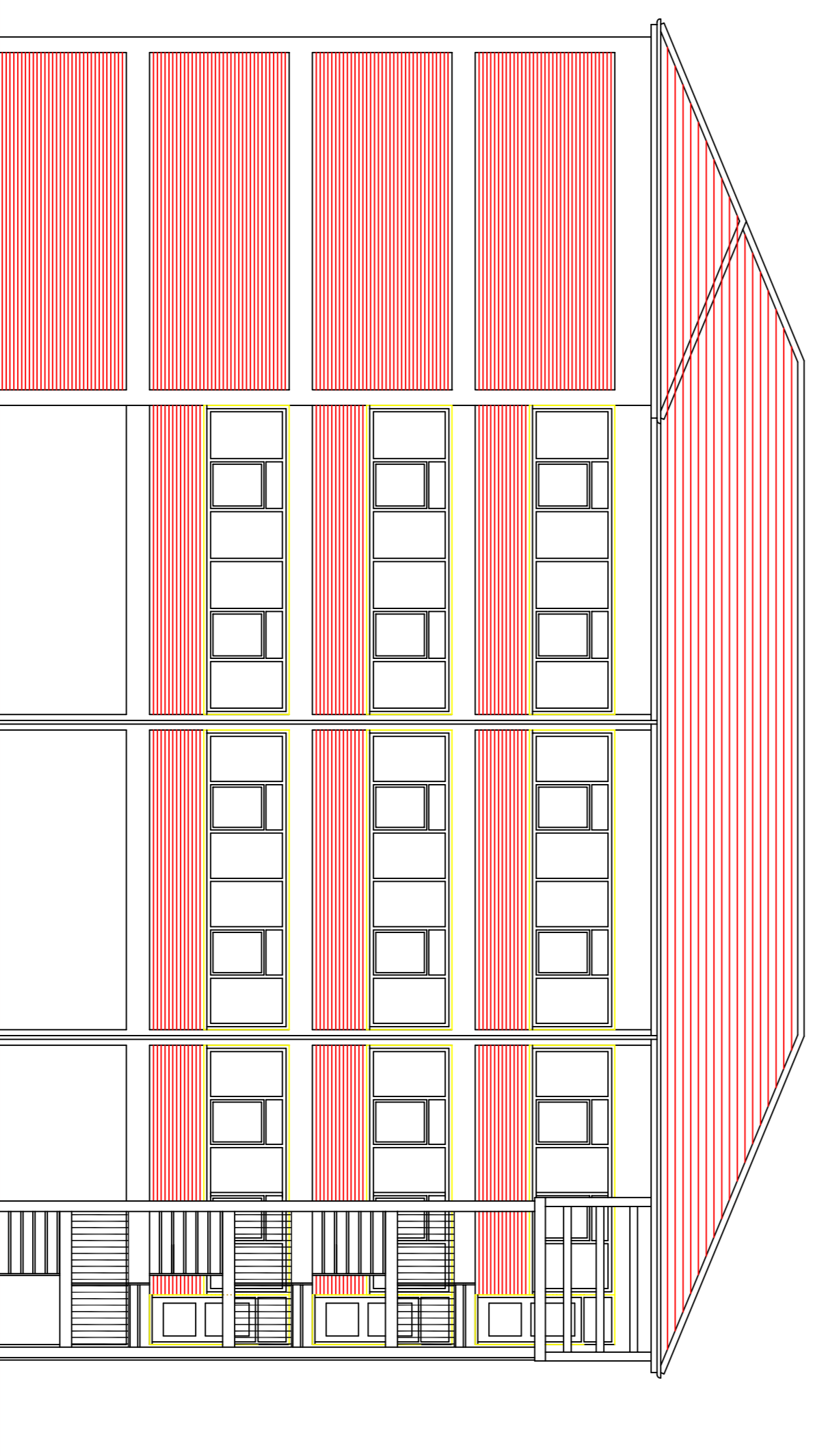
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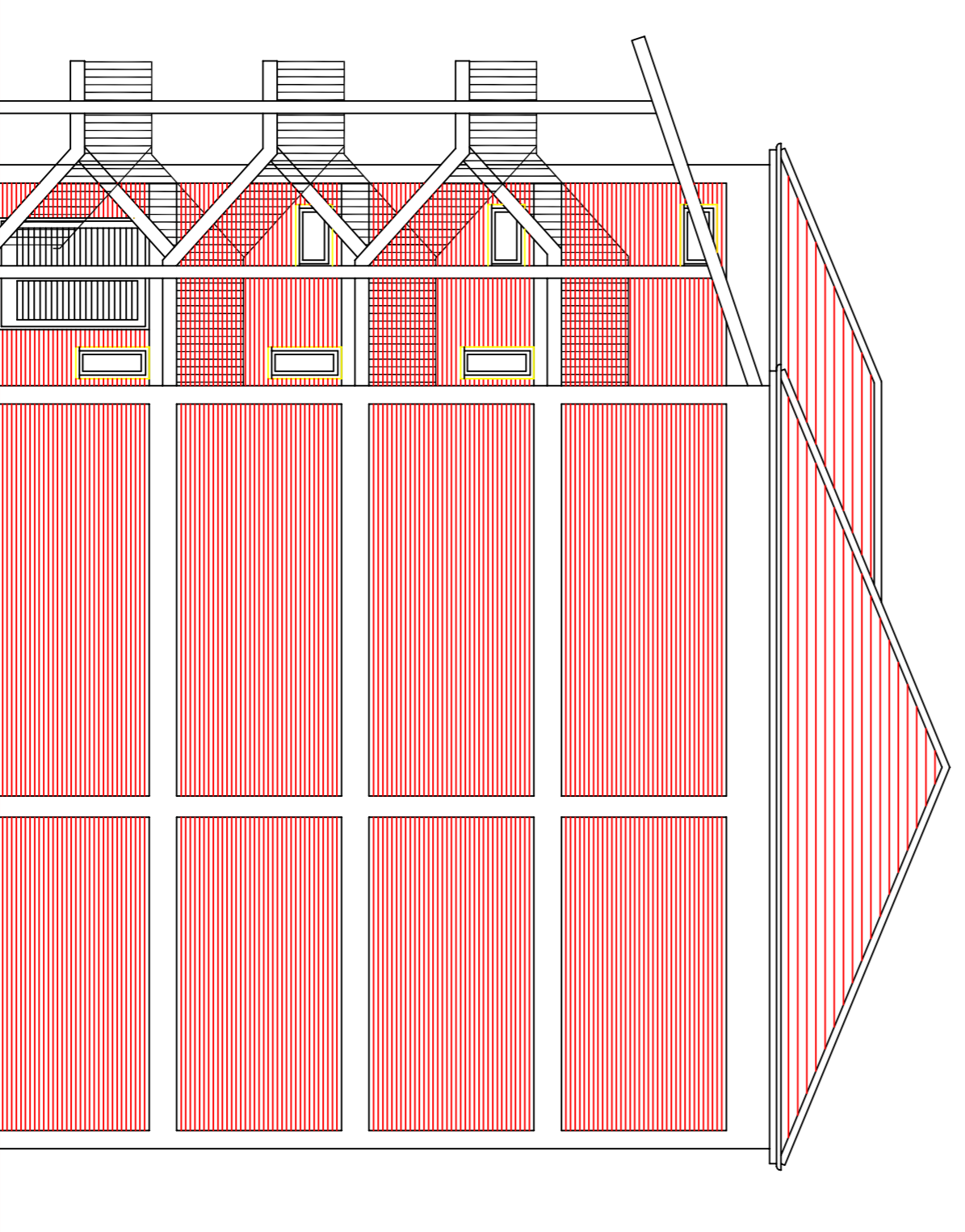
FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

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● resident: \_\_\_\_\_ date: \_\_\_\_\_ name: \_\_\_\_\_

● Client: XXXXXXXX

Project: PROPOSED ALTERATIONS TO  
NEXIA HOUSE, THE  
BROADWAY, DUDLEY

Title: ELEVATIONS  
- AS PROPOSED

Status: PLANNING

● Job no: 999/00 drawing no: \_\_\_\_\_

● date: 09/07/12

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06