

**445 Marcy Street, LLC  
20 Pray Street, Portsmouth  
Tax Map 101, Lot 3-1**

**Applicant's Narrative**

The Applicant, Blue Sky Development Group, LLC and the owner, 445 Marcy Street, LLC<sup>1</sup>, are developing the property at 20 Pray Street, which is presently a vacant lot.

The applicant received approval on July 2, 2025 from the Historic District Commission to construct a single-family dwelling with a detached garage with accessory use space on the property. The applicant desires to utilize the accessory space for an accessory dwelling unit. In consultation with Portsmouth Planning Department staff, we have determined that the recent amendments to RSA 674:71, :72 and :73, effective as of July 1, 2025, obviate the need for a Conditional Use Permit from the Planning Board for the proposed ADU.

Nevertheless, as proposed, the parking for the ADU is sited so as to be accessed via a second driveway on Partridge Street. This requires a variance from section 10.1114.31, which incorporates section 3.3.2.3 of the Site Plan Review Regulations, limiting driveways to one per lot.

In addition, as this is a through lot with frontage on both Pray and Partridge Streets, it has front yards on both streets. While the ADU meets the applicable front yard setback requirement from Partridge Street, it is closer to Partridge Street than the primary dwelling. This requires a variance from section 10.571 which prohibits an accessory structure from being closer to a street than the principal building.

The applicant could avoid the need for the driveway variance by proposing a 24 wide driveway on Pray Street, however, the applicant believes that a more effective and harmonious design would be to site the driveway on Partridge Street.

The applicant maintains the project as proposed meets all necessary criteria for granting the requested variances.

**Granting the requested variances will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest.** The “public interest” and “spirit and intent” requirements are considered together pursuant to Malachy Glen Associates v. Chichester,

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<sup>1</sup> As of the date of this submission, 445 Marcy Street, LLC is the owner of record of the property. It is anticipated that title to the property will have been conveyed to Blue Sky Development Group, LLC by the time this matter is considered by the Board.

152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

The essentially residential characteristics of the neighborhood would not be altered in any manner whatsoever by permitting a second driveway on Partridge Street or by permitting an accessory structure to be closer to Partridge Street than the primary structure on this through lot. The proposed development otherwise meets all dimensional requirements and the design has been thoroughly vetted and approved by the HDC. Thus, the essentially residential character of the neighborhood will remain. A single-family dwelling, which is permitted by right in this zone, and an ADU, which is required to be permitted pursuant to state law, both of which will feature modern, code-compliant construction, will not threaten the health, safety and welfare of the public in any manner.

Were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened.

**Substantial justice would be done by granting the variance.** Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If “there is no benefit to the public that would outweigh the hardship to the applicant” this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011). That is, “any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, *supra* at 109. “Property” has been interpreted to mean not the tangible property itself, but rather the right to possess, use, enjoy and dispose of it. Burrows v. City of Keene, 121 N.H. 590, 597 (1981).

The proposed ADU will add much needed housing, consistent with local and state policy encouraging its introduction. The property is a through lot which has Pray Street as its primary front lot line. Compliance with the requirement that an accessory building be further set back from the secondary street line makes no sense on a through lot. A second driveway on Partridge Street is preferable to a 24 foot wide common driveway on Pray Street, as the latter would increase the potential for conflicts with the primary dwelling and with neighboring properties’ driveways on Pray Street.

In this case, there is no benefit to the public in denying the variances that is not far outweighed by the hardship upon the owner. Denying the variances would serve no public purpose that is not significantly outweighed by the resulting detriment to the applicant.

**The values of surrounding properties will not be diminished by granting the variance.** The proposed single-family dwelling and ADU will be new, fully code compliant construction with appropriate landscaping, vegetation and screening and will enhance the neighborhood significantly. The applicant will be making a substantial investment into the

property that will benefit the neighborhood. The project will comply with all setbacks and other dimensional requirements. The proposal to site a second driveway on Partridge Street is preferable to the alternative available. The values of the surrounding properties will not be diminished if the variances are granted.

**There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship.**

The property in question is a through lot with frontage on Pray and Partridge Streets. This is a special condition that distinguishes this property from others in the area. If this were a conventional lot with frontage on a single street, no variance from section 10.571 would be necessary, and the opportunity to site the parking space associated with the ADU to minimize conflicts would not be present.

**The use is a reasonable use.** A residential dwelling and detached ADU are permitted in this zone and are consistent with the uses within the immediate vicinity of this property. If the use is permitted, it is deemed reasonable. Vigean v. Hudson, 151 NH 747 (2005).

**There is no fair and substantial relationship between the purpose of the ordinance and its application to this particular property.**

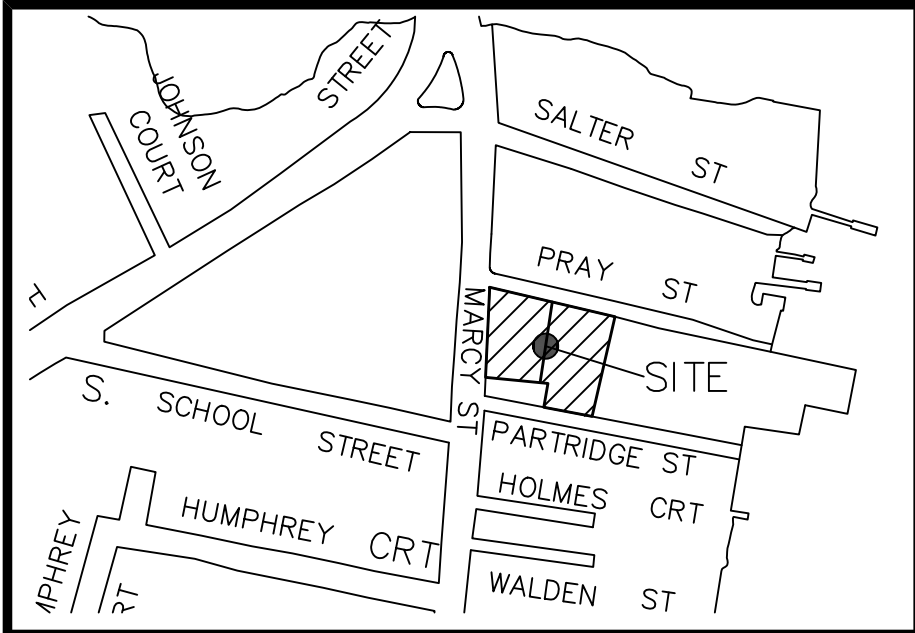
The proposed accessory structure is very obviously subservient to the primary dwelling, notwithstanding it being closer to Partridge Street, and would be fully compliant with section 10.517 but for the fact that this is a through lot with frontage on two streets. The prohibition on more than one driveway per lot is intended to mitigate possible conflicts among driveways on neighboring parcels. Siting a second driveway on the opposite side of the property, as opposed to having a much larger driveway on Pray Street, servicing the property, accomplishes the ordinance's purpose of mitigating potential vehicular conflicts among neighboring properties. There is no fair and substantial relationship between the purposes of these ordinances and their relationship to this property.

Respectfully Submitted,

Date: August 19, 2025

*Christopher P. Mulligan*

Christopher P. Mulligan, Esquire  
Attorney for the Applicant



LOCUS  
(N.T.S.)

OWNERS

APN 101-2 (40 PRAY ST)  
SANDERS LOBSTER CO. INC.  
54 PRAY STREET  
PORTSMOUTH, NH 03801  
2042/0383

APN 101-3  
445 MARCY STREET LLC.  
30 WALDEN STREET  
PORTSMOUTH, NH 03801  
5829/1409

APN 101-4  
MICHELE E. MCLAUGHLIN  
469 MARCY STREET  
PORTSMOUTH, NH 03801  
2803/1555

APN 101-5  
MARCY STREET INVESTMENTS  
54 PRAY STREET  
PORTSMOUTH, NH 03801  
2862/1897

APN 101-8  
ROBERT W. MORIN, III REV. TRUST  
20 PARTRIDGE STREET  
PORTSMOUTH, NH 03801  
3460/747

APN 101-9  
MARCY STREET REV. TRUST  
JOHN TYLER MARKLEY, TRUSTEE  
KRISTINE CUDAHY, TRUSTEE  
PO BOX 268  
CENTER HARBOR, NH 03226  
6299/1657

APN 101-74  
KRISTEN L. BENSON  
478 MARCY STREET  
PORTSMOUTH, NH 03801  
5799/040

APN 101-75  
RALPH J. MONTGOMERY REV. TRUST  
RALPH J. MONTGOMERY, TRUSTEE  
466 MARCY STREET  
PORTSMOUTH, NH 03801  
6122/014

APN 101-76  
SARAH J. MINOR REV. TRUST  
SARAH J. MINOR, TRUSTEE  
65 LAUREL COURT  
PORTSMOUTH, NH 03801  
5222/1652

APN 101-77  
JOHN & CAROL EBERLEIN  
454 MARCY STREET  
PORTSMOUTH, NH 03801  
6199/1736

APN 101-78  
JANINE CONTILLO  
MICHAEL J. VITALE  
442 MARCY STREET  
PORTSMOUTH, NH 03801  
3491/568

APN 102-36  
MARK & NANCY MININBERG  
7 PORTWALK PLACE, #1523  
PORTSMOUTH, NH 03801  
6204/2930

APN 101-37  
BRUCE L. ADDISON REV. TRUST  
SALLY E. ELSHOUT REV. TRUST  
17 PRAY STREET  
PORTSMOUTH, NH 03801  
6254/2072

NOTES:

- OWNER OF RECORD.....445 MARCY STREET, LLC.  
ADDRESS.....30 WALDEN STREET, PORTSMOUTH, NH 03801  
DEED REFERENCE.....5829/1409  
TAX SHEET / LOT.....101-03  
PARCEL AREA.....14,947 S.F. 0.34 ACRES
- ZONED:.....GENERAL RESIDENCE B FRONT YARD SETBACK .....5'  
MINIMUM LOT AREA..5,000 S.F. SIDE YARD SETBACK .....10'  
FRONTAGE.....80' REAR YARD SETBACK .....25'
- THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET.
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
- HORIZONTAL DATUM: NAD 1983 ESTABLISHED BY SURVEY GRADE GPS OBSERVATION AND NGS "OPUS" SOLUTION. REFERENCE FRAME: NAD83 (2011)(EPOCH: 2010.0000), US SURVEY FOOT.  
VERTICAL DATUM: NAVD 1988. PRIMARY BENCHMARK: CITY OF PORTSMOUTH "ROBE"
- PORTIONS OF PROPOSED LOTS 1 & 2 LIE WITHIN THE FLOODPLAIN DISTRICT (FP) AS DEFINED BY SECTION 10.613.10 OF THE PORTSMOUTH ZONING ORDINANCE. A PORTION OF THE PROPOSED LOT 1 AND ALL OF PROPOSED LOT 2 LIE WITHIN THE EXTENDED FLOOD HAZARD AREA AS DEFINED BY SECTION 10.622.20 OF THE PORTSMOUTH ZONING ORDINANCE.
- A PORTION OF THE PARCEL SHOWN HEREON LIES WITHIN ZONE AE (ELEVATION 8.3) & ZONE X (AREA OF MINIMAL FLOOD HAZARD) AS IDENTIFIED ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP NUMBER 33015C0278F, EFFECTIVE DATE 1/29/2021 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- APPROXIMATE 250' SETBACK TO THE HIGHEST OBSERVABLE TIDE LINE PER THE CITY OF PORTSMOUTH TAX MAPS.
- THE DRIVEWAY FOR LOT 1 SHALL BE AT LEAST 30' FROM THE INTERSECTION OF PRAY & MARCY STREETS.
- LOT 1 HAS STORM WATER DRAINAGE RIGHTS OVER LOT 2.

REFERENCE PLANS:

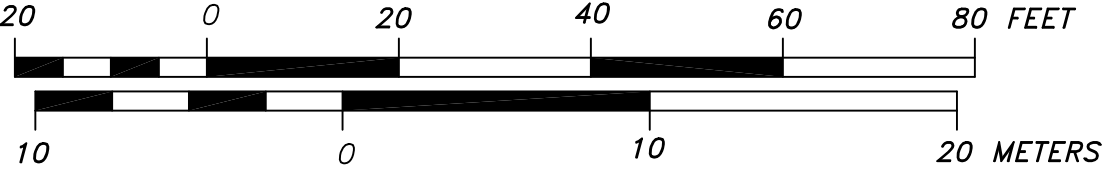
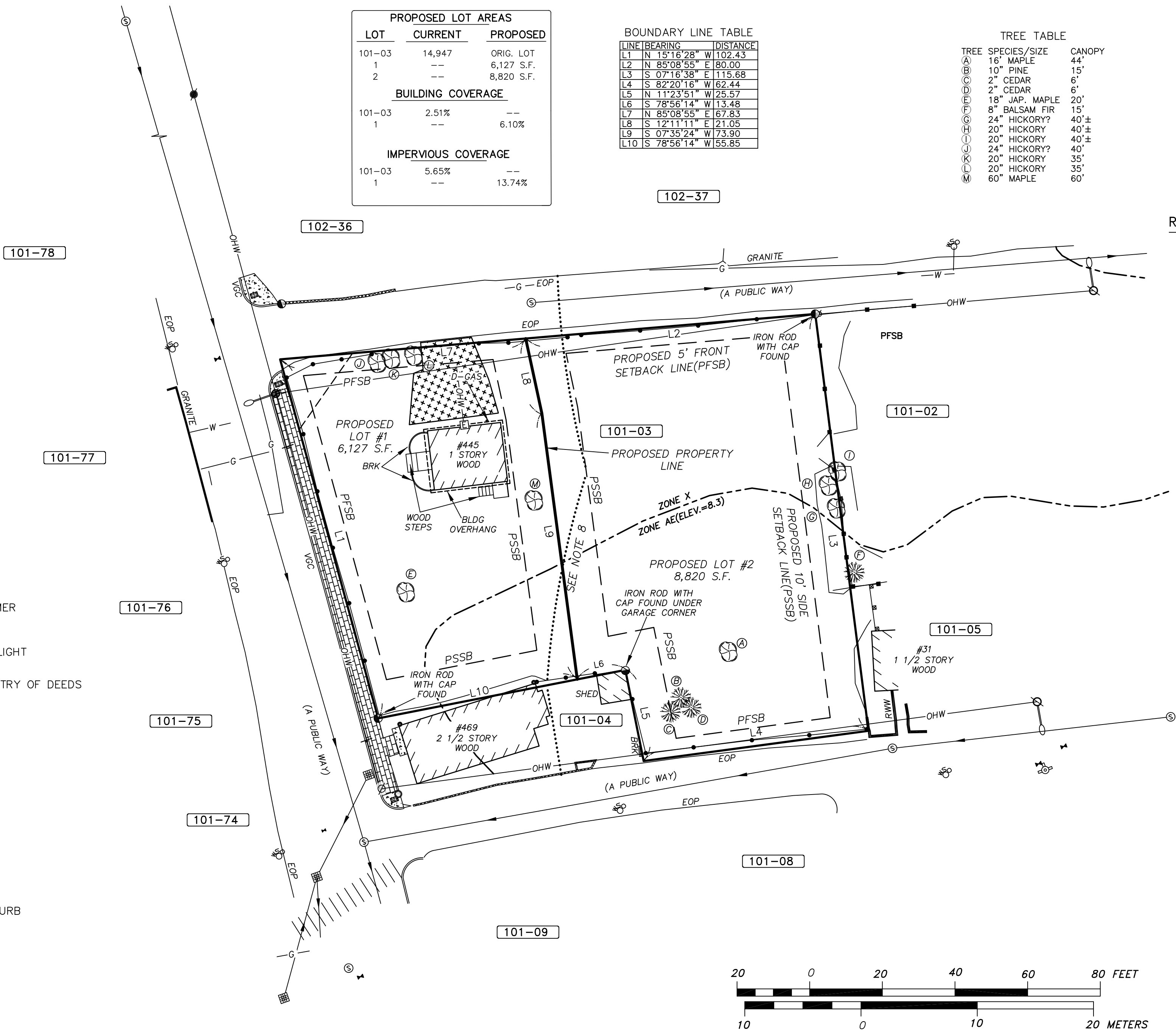
- EXISTING CONDITIONS PLAN 445 MARCY STREET RESIDENCE, TAX MAP 101, LOT 03, DATED 10-11-2021 BY ALTUS ENGINEERING, INC. NOT RECORDED.
- PLAT OF LAND, #445 MARCY STREET, PORTSMOUTH, NEW HAMPSHIRE FOR JAMES H. SANDERS, DATED 9/1/94. RECORDED AS RCRD PLAN #D-23172.

- LEGEND:
- IRON ROD (AS NOTED)
  - SURVEY NAIL (AS NOTED)
  - POST & RAIL FENCE
  - WOOD FENCE
  - BRICK SIDEWALK
  - CONCRETE
  - STONE RETAINING WALL
  - CRUSHED STONE
  - UTILITY POLE
  - UTILITY POLE W/TRANSFORMER
  - GUY
  - OVERHEAD WIRES
  - UTILITY POLE WITH ARM & LIGHT
  - ELECTRIC METER
  - ROCKINGHAM COUNTY REGISTRY OF DEEDS
  - TAX SHEET / LOT NO.
  - EDGE OF PAVEMENT
  - LANDSCAPED AREA
  - CATCH BASIN
  - SEWER MANHOLE
  - SEWER CLEAN OUT
  - WATER LINE
  - SEWER LINE
  - DRAIN LINE
  - GAS LINE
  - WATER GATE VALVE
  - WATER SHUT OFF VALVE
  - HYDRANT
  - VERTICAL FACED GRANITE CURB
  - WOOD RETAINING WALL
  - PUBLIC SERVICE CO. OF NH
  - PLASTIC GAS LINE
  - GAS METER
  - DECIDUOUS TREE
  - CONIFEROUS TREE
  - DOWN SPOUT
  - DISCONTINUED GAS SERVICE

| PROPOSED LOT AREAS  |         |            |
|---------------------|---------|------------|
| LOT                 | CURRENT | PROPOSED   |
| 101-03              | 14,947  | ORIG. LOT  |
| 1                   | --      | 6,127 S.F. |
| 2                   | --      | 8,820 S.F. |
| BUILDING COVERAGE   |         |            |
| 101-03              | 2.51%   | --         |
| 1                   | --      | 6.10%      |
| IMPERVIOUS COVERAGE |         |            |
| 101-03              | 5.65%   | --         |
| 1                   | --      | 13.74%     |

| BOUNDARY LINE TABLE |                      |
|---------------------|----------------------|
| LINE                | BEARING DISTANCE     |
| L1                  | N 15°16'28" W 102.43 |
| L2                  | N 85°08'55" E 80.00  |
| L3                  | S 07°16'38" E 115.68 |
| L4                  | S 82°20'16" W 62.44  |
| L5                  | N 11°23'51" W 25.57  |
| L6                  | S 78°56'14" W 113.48 |
| L7                  | N 85°08'55" E 67.83  |
| L8                  | S 12°11'11" E 21.05  |
| L9                  | S 07°35'24" W 73.90  |
| L10                 | S 78°56'14" W 155.85 |

| TREE TABLE |                |        |
|------------|----------------|--------|
| TREE       | SPECIES/SIZE   | CANOPY |
| (A)        | 16" MAPLE      | 44'    |
| (B)        | 10" PINE       | 15'    |
| (C)        | 2" CEDAR       | 6'     |
| (D)        | 2" CEDAR       | 6'     |
| (E)        | 18" JAP. MAPLE | 20'    |
| (F)        | 8" BALSAM FIR  | 15'    |
| (G)        | 24" HICKORY?   | 40'±   |
| (H)        | 20" HICKORY    | 40'±   |
| (I)        | 20" HICKORY?   | 40'±   |
| (J)        | 24" HICKORY?   | 40'    |
| (K)        | 20" HICKORY    | 35'    |
| (L)        | 20" HICKORY    | 35'    |
| (M)        | 60" MAPLE      | 60'    |



APPROVED FOR THE RECORD:

CHAIRMAN PORTSMOUTH PLANNING BOARD

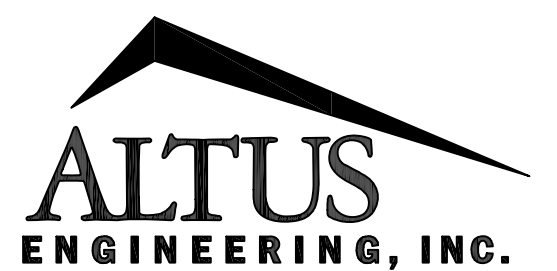
DATE



JAMES VERRA  
& ASSOCIATES, INC.  
LAND SURVEYORS

101 SHATTUCK WAY - SUITE 8  
NEWINGTON, N.H. 03801- 7876  
603-436-3557

JOB NO: 20460-A



133 COURT STREET PORTSMOUTH, NH 03801  
(603) 433-2335 www.ALTUS-ENG.com

ISSUED FOR:

APPROVAL

ISSUE DATE:

5-24-2022

| REVISIONS |                              | BY  | DATE    |
|-----------|------------------------------|-----|---------|
| NO.       | DESCRIPTION                  |     |         |
| 1         | REVISE PROP. LOTS & SETBACKS | GTD | 4-1-22  |
| 2         | PER TAC COMMENTS             | GTD | 5-20-22 |

DRAWN BY: \_\_\_\_\_ GTD  
APPROVED BY: \_\_\_\_\_ JV  
DRAWING FILE: \_\_\_\_\_ 20460-A2.DWG

SCALE:  
22" x 34" - 1" = 20'  
11" x 17" - 1" = 40'

APPLICANT:  
445 MARCY STREET, LLC.  
30 WALDEN STREET  
PORTSMOUTH, NH 03801

OWNER:  
445 MARCY STREET, LLC.  
30 WALDEN STREET  
PORTSMOUTH, NH 03801

PROJECT:  
445 MARCY STREET  
RESIDENCE  
TAX MAP 101,  
LOT 03

445 MARCY STREET  
PORTSMOUTH, NH

TITLE:  
SUBDIVISION  
PLAN  
445 MARCY STREET  
PORTSMOUTH, NH

SHEET NUMBER:  
S-1



LU-25-89

20 PRAY STREET RESIDENCE

Zoning Summary  
7/30/2025

Portsmouth Zoning Ordinance  
GRB General Residence B  
Flood Plain overlay

| Dimensional Standards 10.521  | GRB  | 20 Pray Street   |
|---|--|--|
| Minimum Lot Dimensions  |  |  |
| Lot area, sf  | 5,000  | 8,820  |
| Lot area per dwelling unit, sf  | 5,000  |  |
| # dwellings allowed based on lot area<br>(up to 2 are permitted by right) |  | 1  |
| Continuous street frontage, lf  | 80'  |  |
| Depth, lf   | 60'  |  |
| Minimum Yard Dimensions (setbacks)  |  |  |
| front   | 5'   | 5'   |
| side  | 10'  | 10'  |
| rear  | 25'  | n/a  |
| Maximum Structure Dimensions  |  |  |
| sloped roof height  | 35'  | 24'-3"   |
| Roof appurtenance height  | 8'   |  |
| Building coverage, maximum (footprint)                                    | 30%  | 2,646  |
| Open space, minimum   | 25%  | 2,205  |
| Parking   | 2 spaces for primary dwelling > 1,300sf total living area, + 1.0 space for ADU <1,300sf. |  |
| Accessory Dwelling Unit, new construction                                 | CUP<br>Condition<br>Use Permit   | 1 allowed, up to 750sf total living area, complying with dimensional lot standards |



DRAWING LIST

- A0.1 - COVER SHEET
- A1.1 - SITE & CONTEXT PLAN
- A1.2 - FLOOR PLANS
- A2.1 - ELEVATIONS
- A3.1 - PERSPECTIVE VIEWS

20 PRAY STREET ADU  
PORTSMOUTH, NEW HAMPSHIRE, 03801

PLANNING BOARD - CUP  
PROJECT NO: 1042



3 CONGRESS ST., SUITE 1  
PORTSMOUTH NH 03801  
603.988.0042  
www.ARCove.com

20 PRAY STREET  
RESIDENCE

PRAY STREET  
PORTSMOUTH, NEW HAMPSHIRE, 03801

PROJECT NO: 1042

CLIENT  
445 MARCY STREET, LLC  
1047 PROVINCE ROAD  
STRAFFORD, NH 03884

CONSULTANT  
ALTUS ENGINEERING  
133 COURT STREET  
PORTSMITH, NH 03801  
603.433.2335

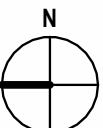
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PLANNING BOARD - CUP

REVISIONS

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COVER SHEET



SCALE: \_\_\_\_\_

DATE: 7/30/2025

DRAWN: Author

CHECKED: Checker

A0.1



**20 PRAY STREET  
RESIDENCE**

PRAY STREET  
PORTSMOUTH, NEW HAMPSHIRE, 03801

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603.433.2335

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PLANNING BOARD - CUP

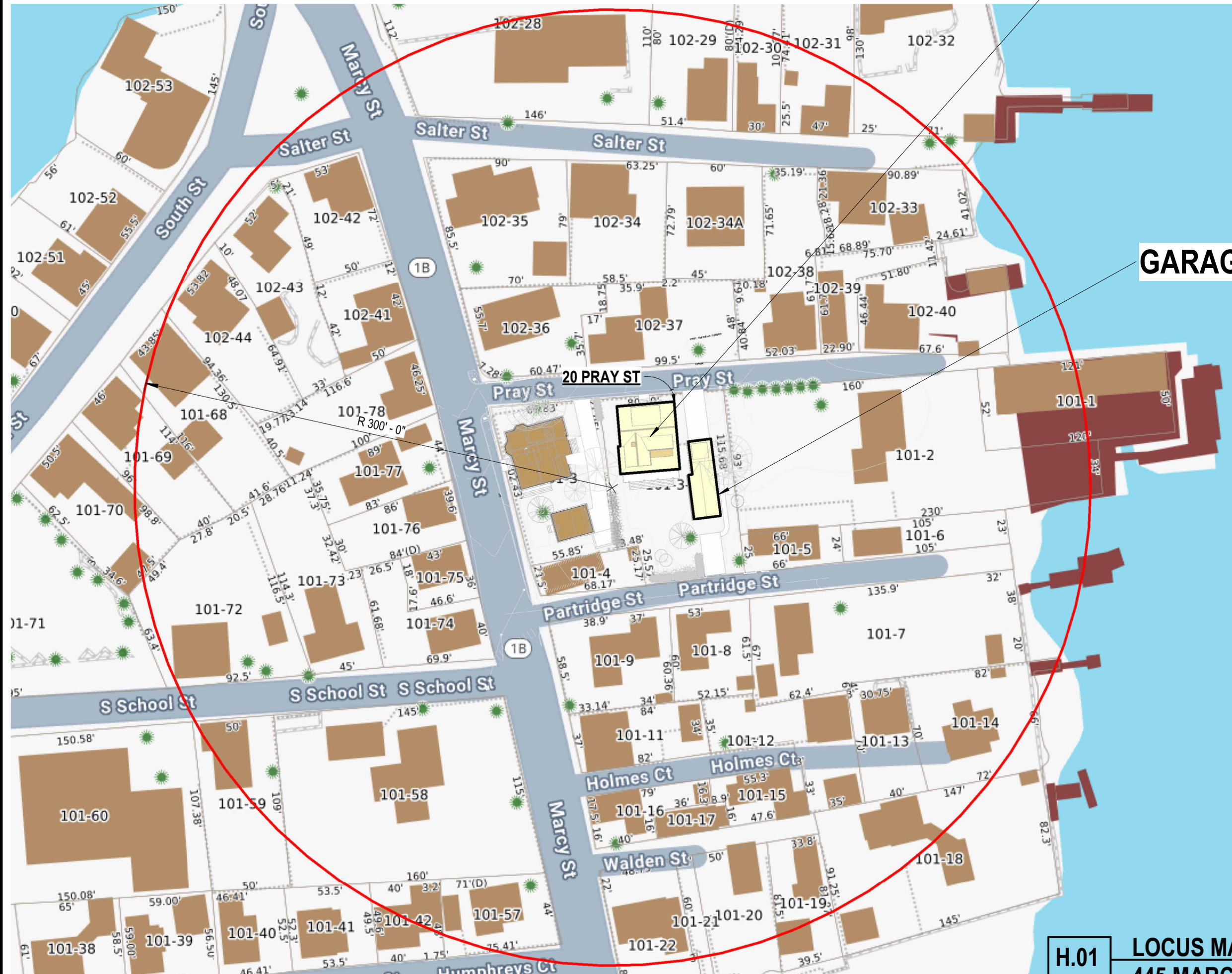
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**SITE & CONTEXT  
PLAN**

SCALE: 1/8" = 1'-0"  
DATE: 7/30/2025  
DRAWN: Author  
CHECKED: Checker

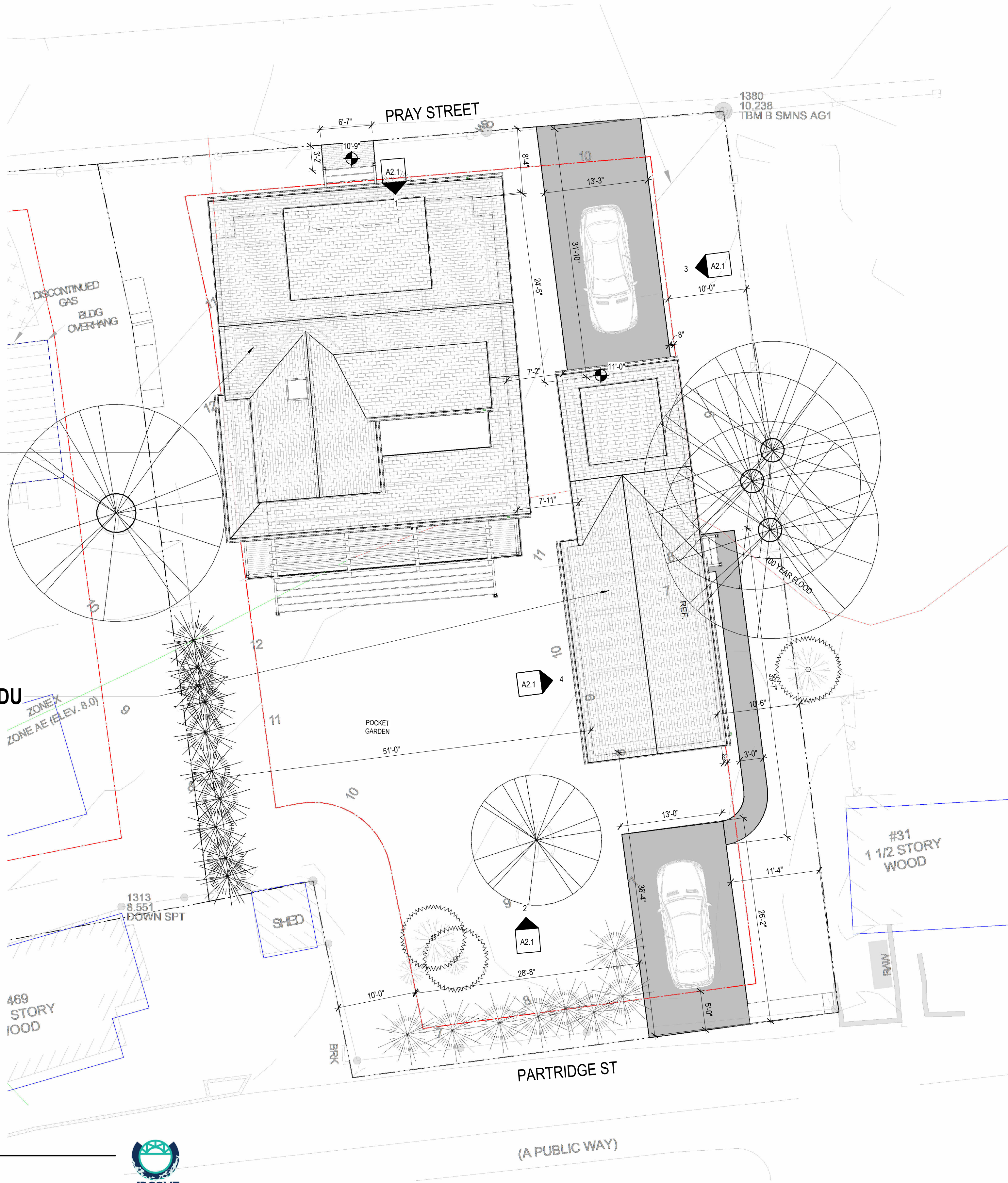
**A1.1**



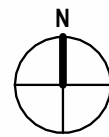
HOUSE

GARAGE & ADU

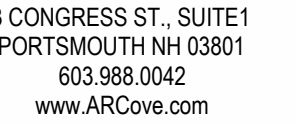
**H.01 LOCUS MAP**  
**445 MARCY ST**  
SCALE: 1" = 60'-0"  
7/30/2025



**1 OVERALL SITE PLAN**  
1/8" = 1'-0"







PRAY STREET  
PORTSMOUTH, NEW HAMPSHIRE, 03801

PROJECT NO: 1042

## CLIENT

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STRAFFORD, NH 03884

## CONSULTANT

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PORTSMITH, NH 03801  
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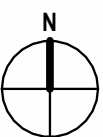
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### PLANNING BOARD - CUP

## REVISIONS

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## FLOOR PLANS



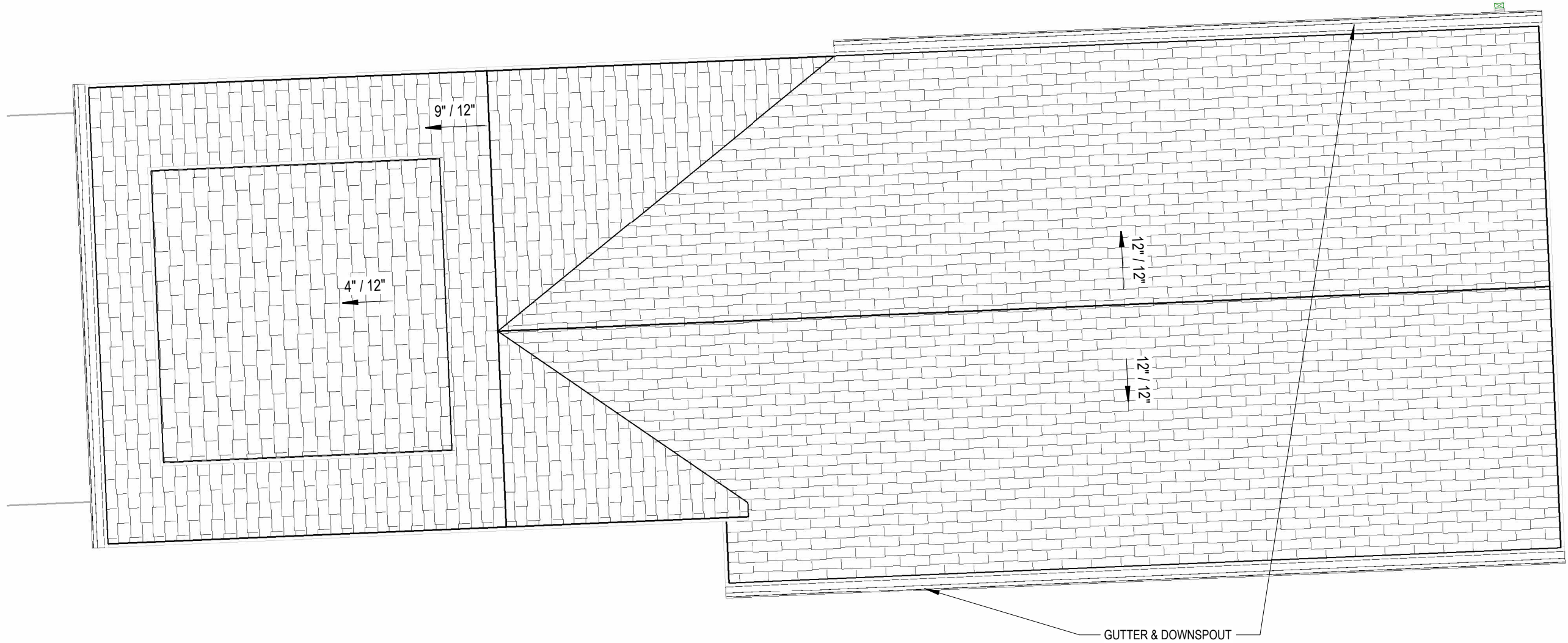
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DATE: 7/30/2025

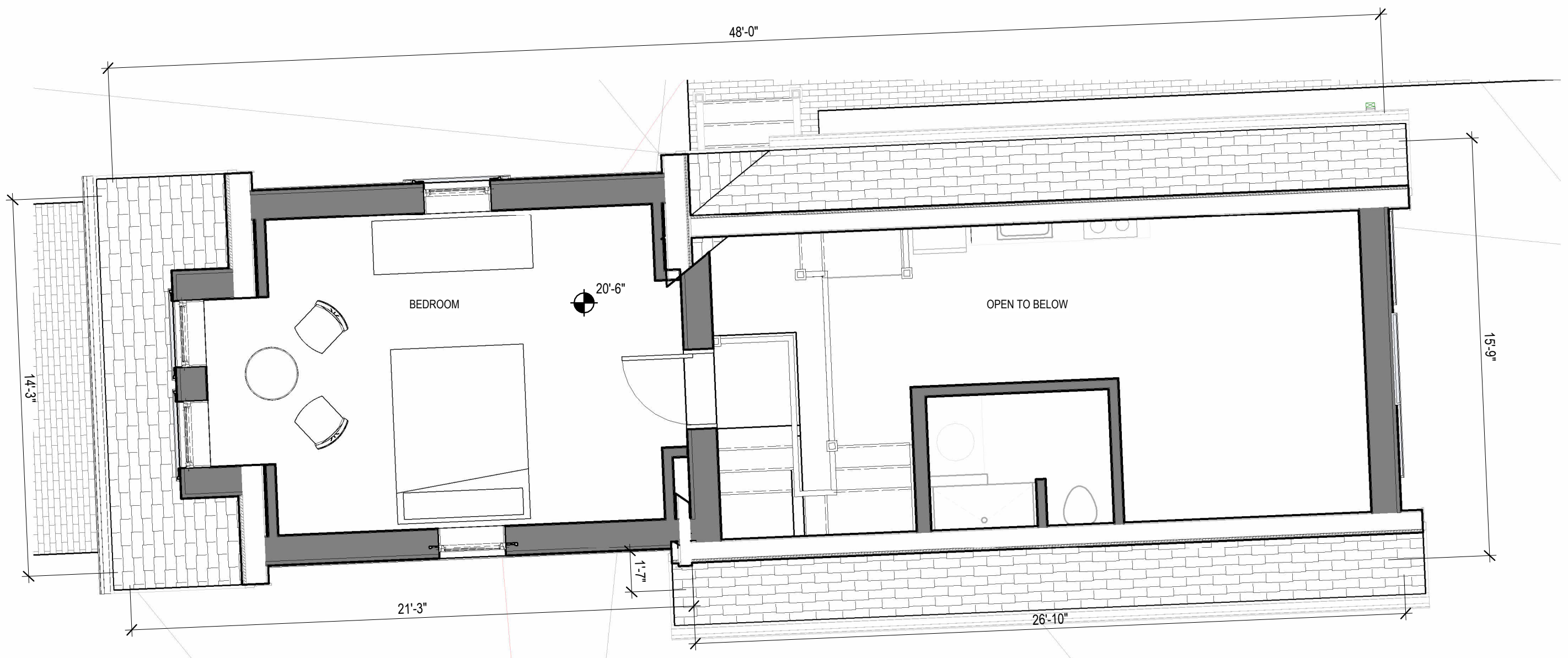
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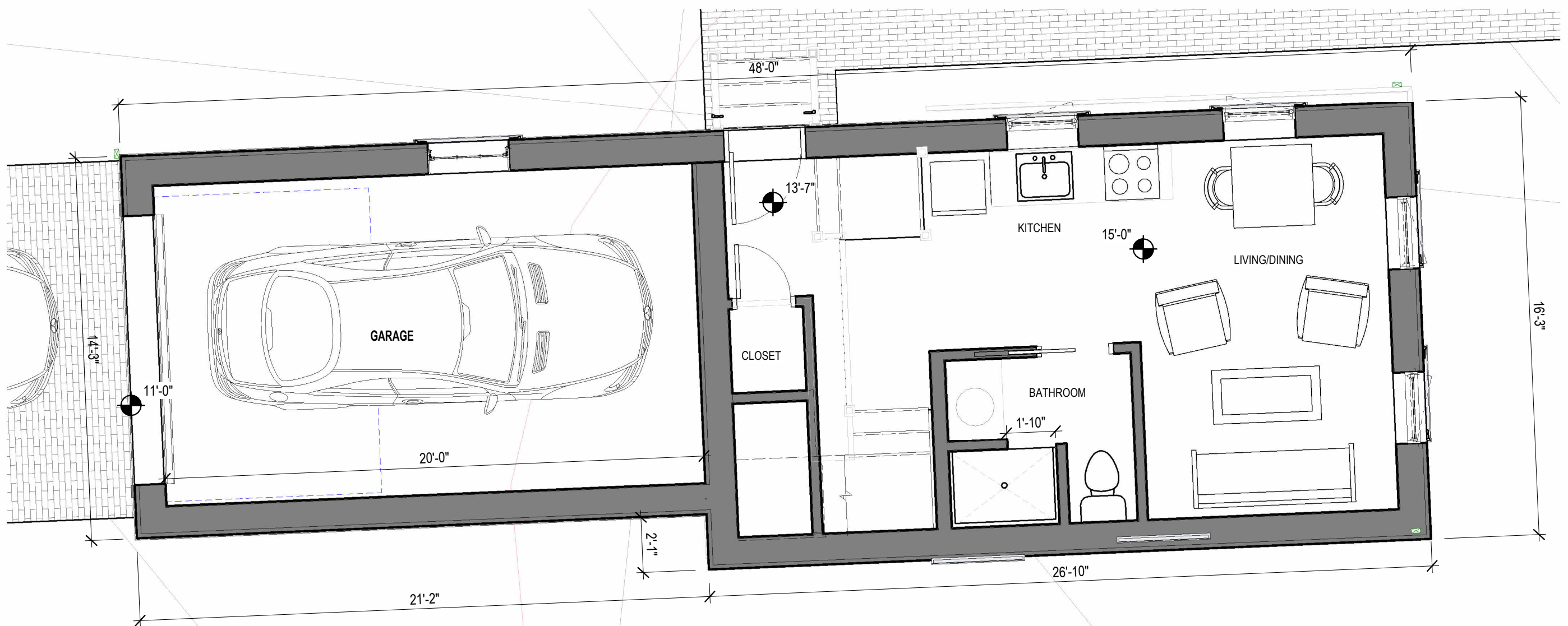
## A1.2



3 ROOF PLAN  
1/4" = 1'-0"



**2 SECOND FLOOR PLAN**  
1/4" = 1'-0"



**1 FIRST FLOOR PLAN**  
1/4" = 1'-0"





PRAY STREET  
PORTSMOUTH, NEW HAMPSHIRE, 03801

PROJECT NO: 1042

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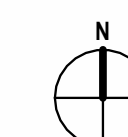
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## PLANNING BOARD - CUP

## REVISIONS

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## ELEVATIONS



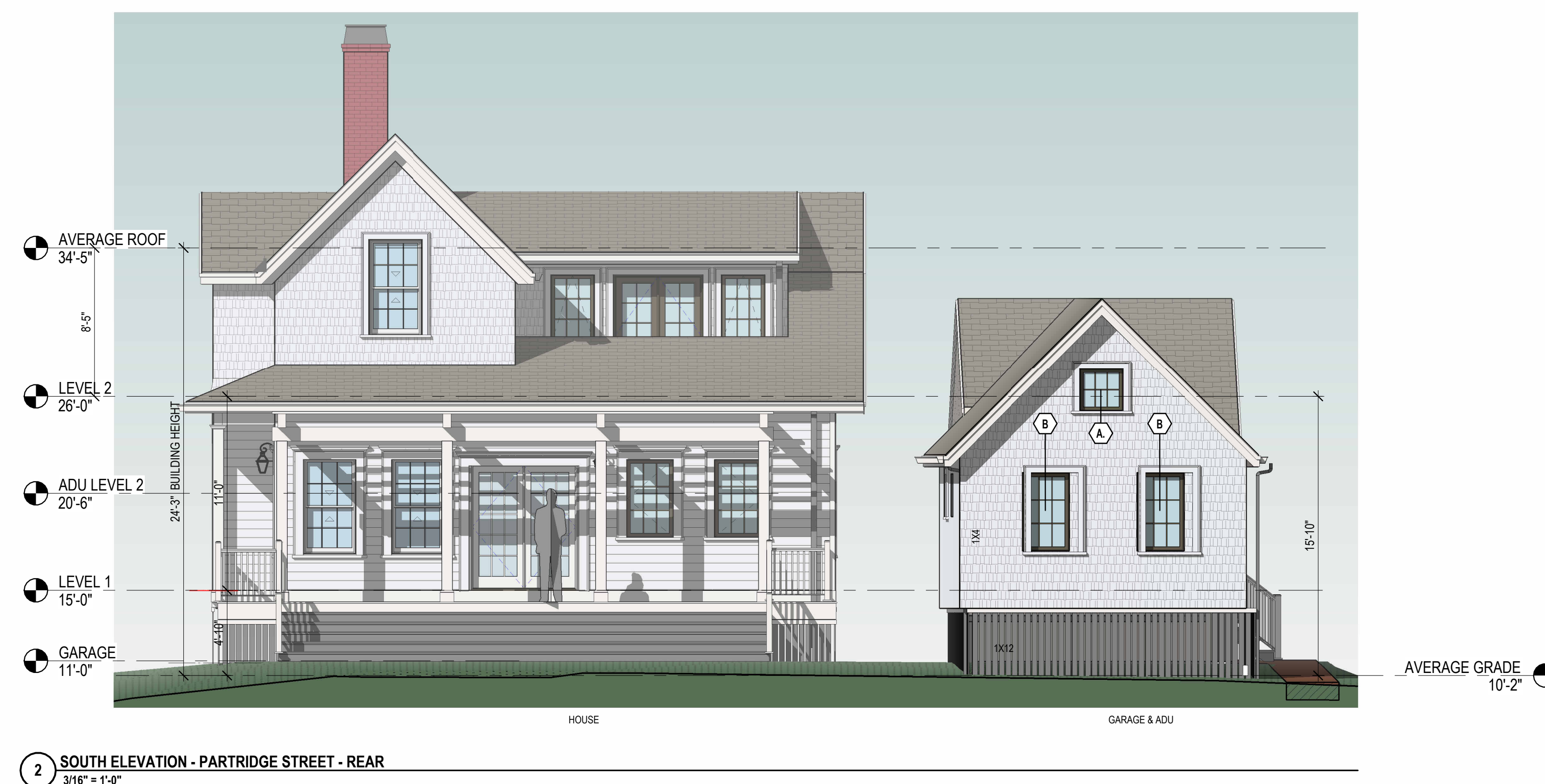
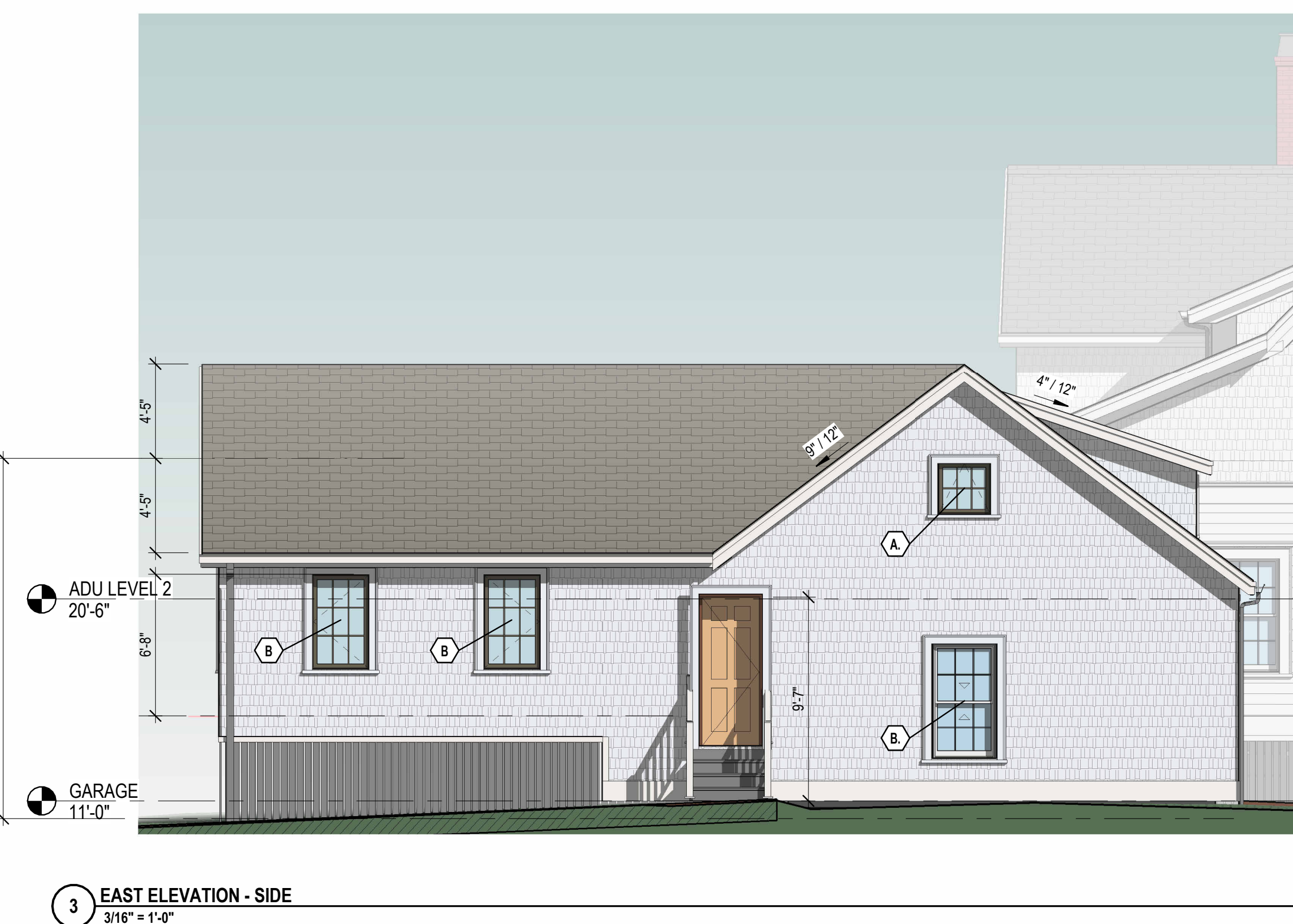
SCALE: 3/16" = 1'-0"

DATE: 7/30/2025

DRAWN: Author

CHECKED: Checker

## A2.1







2. VIEW FROM PARTRIDGE STREET

ADU



1. VIEW FROM MARCY STREET



3 CONGRESS ST., SUITE 1  
PORTSMOUTH NH 03801  
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20 PRAY STREET  
RESIDENCE

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PORTSMITH, NH 03801  
603.433.2335

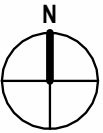
STAMP

PLANNING BOARD - CUP

REVISIONS

| NO. | DATE | DESCRIPTION |
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PERSPECTIVE  
VIEWS

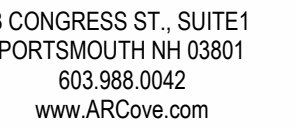


SCALE:

DATE: 7/30/2025  
DRAWN: Author  
CHECKED: Checker

A3.1





PRAY STREET  
PORTSMOUTH, NEW HAMPSHIRE, 03801

PROJECT NO: 1042

**CLIENT**

445 MARCY STREET, LLC  
1047 PROVINCE ROAD  
STRAFFORD, NH 03884

## CONSULTANT

ALTUS ENGINEERING  
133 COURT STREET  
PORTSMITH, NH 03801  
603.433.2335



## REVISIONS

[illegible]

SCALE: 1/8" = 1'-0"

DATE: 7/30/2025

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## A1.1B

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