

**CITY OF PORTSMOUTH PLANNING BOARD  
CONDITIONAL USE PERMIT APPLICATION**

**96 State LLC (“Applicant”)  
96 State Street  
Portsmouth, NH 03801  
Tax Map 107, Lot 52**

**PARKING CUP NARRATIVE****Introduction**

The Applicant, 96 State LLC, is submitting a revised Conditional Use Permit (“CUP”) application following a revision to the building drawings for a proposed project on its property located at 96 State Street in Portsmouth, identified on Tax Map 107 as Lot 52 (the “Property”). The application was considered by the Planning Board at its March 20, 2025 meeting, during which the Planning Board voted to continue the application to the April 17, 2025 meeting to allow time for the Applicant and an abutter to resolve outstanding questions relating to the building plans. The Applicant presented its application for a CUP to allow less off-street parking spaces than required by Section 10.1112.30 of the Portsmouth Zoning Ordinance (the “Ordinance”) to permit the conversion of the second floor of the Applicant’s property from restaurant to residential use with a small addition to be constructed on the second and third floors. Following comments from the Planning Board and an abutter of the Property, the Applicant has revised its plans to no longer include any addition to the second or third floor. The Applicant now seeks a CUP to allow for less parking than the minimum required by the Ordinance only to permit the conversion of the second floor of the Property from restaurant to residential use.

The Property is a 3,049 square foot parcel of land that contains a three-story commercial building. The Property is located within Character District 4 and is adjacent to but not located within the Downtown Overlay District. The ground and second floors of the building are occupied by the restaurant, Domo, which has been a staple of Portsmouth for the past decade. The top third floor of the building is presently used as housing for employees of the restaurant. In the past, the third floor was permitted as a spa, and used for residential purposes prior to that.

The Applicant, also the owner of the restaurant, intends to reside in the converted second floor apartment. A copy of the building design plans prepared by Winter Holben Architects is attached hereto as Exhibit A. The converted second floor would consist of a single residential dwelling unit of 1,740 square feet Gross Floor Area (“GFA”). The third floor residential dwelling unit will remain at 1,740 square feet GFA.

The Property has no designated off-street parking spaces but is located centrally downtown on State Street, which is lined with on-street parallel parking. Additionally, there is a small public parking lot between Scott Avenue and Dutton Avenue, along with the High-Hanover parking garage within 0.25 miles and the Parrott Avenue municipal lot within 0.5 miles. Additional

overnight parking is available on Washington Street and throughout the South End area. The Property has a rear alley that has been mostly used as a loading area and for tandem parking for the owners and employees of the restaurant, although it does not meet the City's standards for either use.

Due to the lack of parking spaces on-site, the Applicant seeks a CUP from the Planning Board to allow zero (0) off-street parking spaces where the minimum required by Section 10.1112.30 of the Portsmouth Zoning Ordinance (the "Ordinance") for the proposed use is thirty (30). Based on the existing use of the Property, the required number of off-street spaces is forty-six (46). The conversion of the second floor to residential use results in an overall decreased parking demand upon the Property.

### **Off-Street Parking Ordinance Criteria**

Section 10.1112.14 of the Ordinance allows the Planning Board to grant a CUP to allow a building or use to provide less than the minimum number of off-street parking spaces required by Section 10.1112.30, Section 10.1112.61 or Section 10.1115.20, as applicable, or to exceed the maximum number of off-street parking spaces allowed by Section 10.1112.51. The applicable minimum off-street parking requirements relative to the Property are as set forth in Sections 10.1112.31, 10.1112.321 and 10.1112.60, below.

#### **10.1112.31     Parking Requirements for Residential Uses**

Dwelling Unit Floor Area over 750 sq. ft.: 1.3 spaces per unit

#### **10.1112.321     Parking Requirements for Nonresidential Uses**

All eating and drinking places: 1 space per 100 s.f. GFA

**10.1112.60     Shared Parking:** Developments that contain a mix of uses on the same parcel shall reduce the number of off-street parking spaces in accordance with the methodology set forth in Section 10.1112.61. The Applicant notes, however, that using the methodology set forth in that Section does not result in a reduced number of minimum parking spaces for the Property because the residential and restaurant uses set forth in the table share the same maximum parking occupancy rates for the weekday and weekend evening periods.

### **Conditional Use Criteria**

*Section 10.1112.141: An application for a conditional use permit under this section shall include a parking demand analysis, which shall be reviewed by the City's Technical Advisory Committee prior to submission to the Planning Board, demonstrating that the proposed number of off-street parking spaces is sufficient for the proposed use.*

The Applicant submits the parking demand analysis prepared by Altus Engineering, revised April 3, 2025. Exhibit B (the "Parking Demand Analysis"). Altus Engineering has determined that forty-six (46) off street parking spaces are required by the Ordinance under the existing uses. The off-street parking requirement for the residential conversion of the second floor as proposed by the Applicant is thirty (30) spaces, which constitutes a 35% reduction in required

off-street parking spaces. See Exhibit B. The Applicant met with the City's Technical Advisory Committee on February 11, 2025 and incorporated the Committee's recommendations into the Parking Demand Analysis submitted herewith.

*Section 10.1112.142: An application for a conditional use permit under this section shall identify permanent evidence-based measures to reduce parking demand, including but not limited to provision of rideshare/microtransit services or bikeshare station(s) servicing the property, proximity to public transit, car/van-pool incentives, alternative transit subsidies, provisions for teleworking, and shared parking on a separate lot subject to the requirements of 10.1112.62.*

The conversion of the second floor of the building to a residential apartment for the owners will reduce current on-street parking demand as indicated in the Parking Demand Analysis prepared by Altus Engineering. See Exhibit B. The less intensive residential use created by the conversion of the second floor to a dwelling unit occupied by the owners will replace the more intensive restaurant use, which requires more parking to accommodate patrons. The owners and employees of the business that own a vehicle and reside in the residential units will have convenient access to overnight public parking options such as the garage on High Hanover Street and the 72-hour municipal parking lot on Parrott Avenue. This will eliminate the need to utilize on-street parking spaces downtown or in the residential neighborhoods during peak hours of the day. The Property is conveniently situated directly on the COAST bus route, both reducing the need for patrons of the restaurant to park and creating convenient access for the owners and employees residing on the upper floors to public transit. Therefore, the CUP will reduce parking demand on the Property for a number of reasons.

*Section 10.1112.143: The Planning Board may grant a conditional use permit only if it finds that the number of off-street parking spaces required or allowed by the permit will be adequate and appropriate for the proposed use of the property. In making this determination, the Board may accept, modify or reject the findings of the applicant's parking demand analysis.*

The residential conversion of the second floor of the building reduces total parking demand based on the requirements set forth in the Ordinance and ITE Parking Generation Manual, Edition 6. See Exhibit B. It is important to recognize that the Property does not have any on-site parking nor does the potential exist to create any. If the entire building were to continue to be utilized as a restaurant or for other commercial purposes, the parking demand would be greater than it is with the residential conversion of the second floor. A restaurant use requires one (1) space per 100 sq. ft. of GFA. Section 10.1112.30. Presently, the parking demand based on the first and second floors alone is forty-four (44) spaces (based on 4,365 sq. ft. GFA, rounded up in accordance with Section 10.1112.22). The residential conversion of the second floor reduces allocated restaurant space to 2,625 sq. ft. GFA, resulting in a reduced parking requirement of twenty-seven (27) off-street spaces for the first floor restaurant under the Ordinance. The parking requirement for the upper two floors is three (3) spaces (rounded up from 2.6 spaces in accordance with Section 10.1112.22), for a total parking demand of thirty (30) spaces. Using calculations based on the ITE Parking Generation Manual (6th Edition), the parking demand is reduced from eighty-two (82) spaces to fifty-one (51). See Exhibit B.

Due to the lack of off-street parking, the Property relies entirely on surrounding public parking options along State Street and surrounding streets. The reduction in the size of the restaurant and more intensive use associated with it will reduce the demand for off-street parking needs, particularly during peak hours of the day.

Respectfully Submitted,

96 State Street, LLC

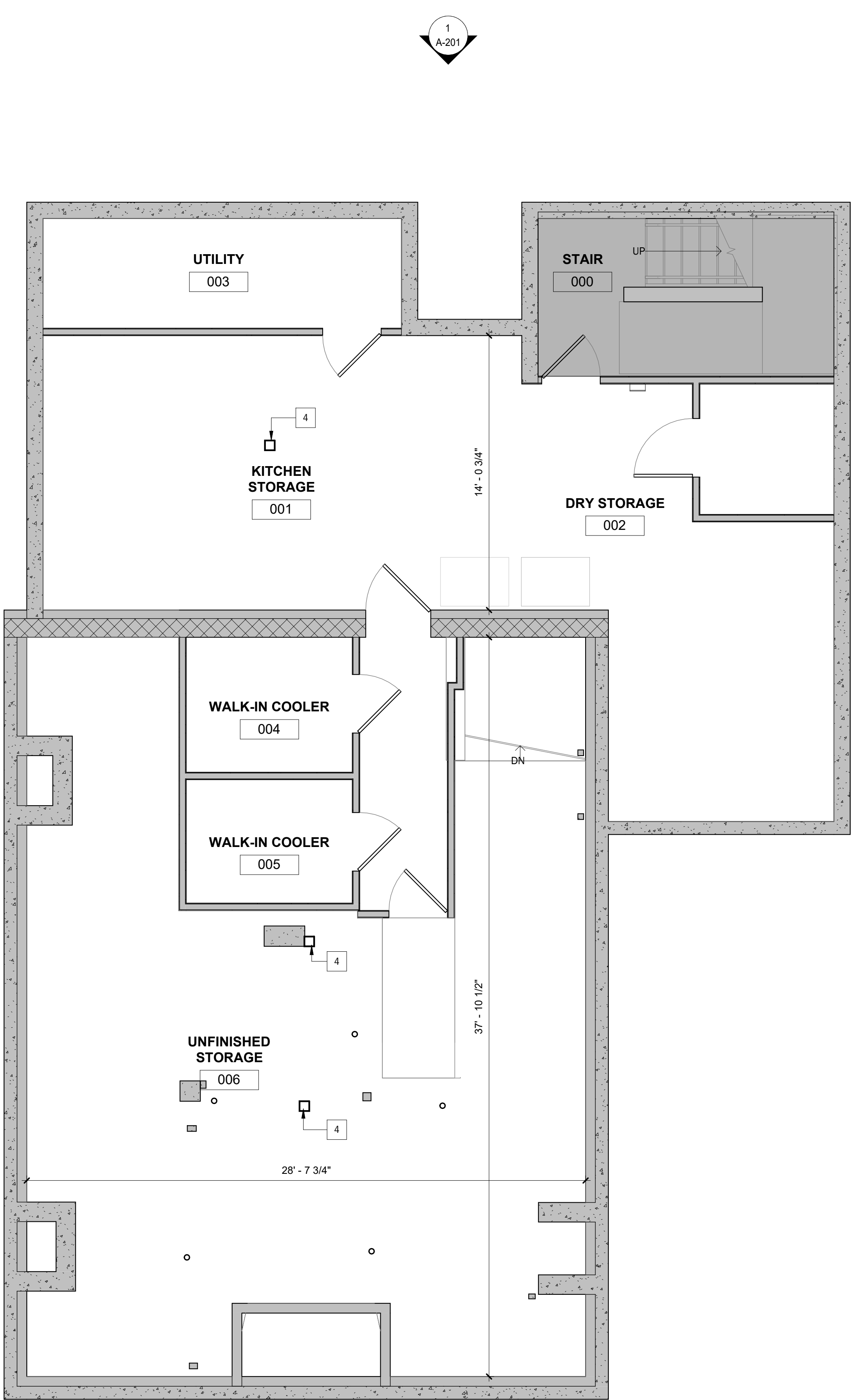
By and Through Its Attorneys,  
Durbin Law Offices PLLC

Dated: April 4, 2025

By:

  
\_\_\_\_\_  
Darcy Peyser, Esq.  
Derek R. Durbin, Esq  
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EXHIBIT A



1 00 - Lower Level  
1/4" = 1'-0"

PLAN GENERAL NOTES	
1.	DIMENSIONS TO FIXTURES ARE FROM FINISH FACE
2.	PLUMBING SUPPLY AND DRAIN MUST NOT ENCROACH ON ADA CLEARANCES.
3.	REFER TO SPECIFICATION FOR MORE DETAILS ON FIXTURES.
4.	PLACE LAVATORY SINK AS FAR FORWARD AS POSSIBLE AND CUT OUT REMOVABLE PLASTIC PIPE PROTECTION.
5.	PROVIDE INSULATION ON PIPES, TYP.
6.	BACK OUTLET LAV. DRAIN TO MEET ADA REQUIREMENTS.
7.	COAT HOOKS TO BE INSTALLED ON THE BACK OF ALL BATHROOM DOORS.
8.	AT EXTERIOR WALL AND PARTITION INFILL LOCATIONS, INFILL TO MATCH ADJACENT MATERIALS AND FIRE RESISTANCE RATINGS
9.	ALL INTERIOR PARTITIONS TO BE TYPE NA U.N.O.
10.	ALL FURRED WALLS TO BE TYPE 1A U.N.O

PLAN KEYNOTES	
NO.	DESCRIPTION

1	REPLACE WINDOW OR GLAZING
2	EXTERIOR MOUNTED EQUIPMENT TO BE PLACED HERE. SEE MEP DRAWINGS
3	REMOVE DENTILS AS NEEDED FOR NEW CONSTRUCTION
4	NEW POST AND FOOTINGS. SEE STRUCTURAL
5	DISPLAY CASE WALL
6	MECHAICAL SHAFT. SEE MEP DRAWINGS FOR MORE DETAIL
7	ROOF DRAIN. COORDINATE WITH MEP
8	ALIGN WINDOW AND TRIM TO STOREFRONT BELOW
9	PROVIDE ALTERNATE PRICING TO REPLACE ALL EXTERIOR WINDOWS IN KIND
10	NEW SHINGLES
11	NEW MEMBRANE ROOF
12	SEE STRUCTURAL FOR MAX OPENING AS PART OF ALTERNATE 1

LEGEND	
	EXISTING WALL
	NEW WALL
	WINDOW TAG
	NOT IN SCOPE

96 STATE ST.

Portsmouth, NH

CONSTRUCTION DOCUMENTS

Huai Ying Zheng

**WINTER  
HOLBEN**  
architecture + design

7 WALLINGFORD SQ  
STE 2099  
KITTERY, MAINE 03904  
207.994.3104

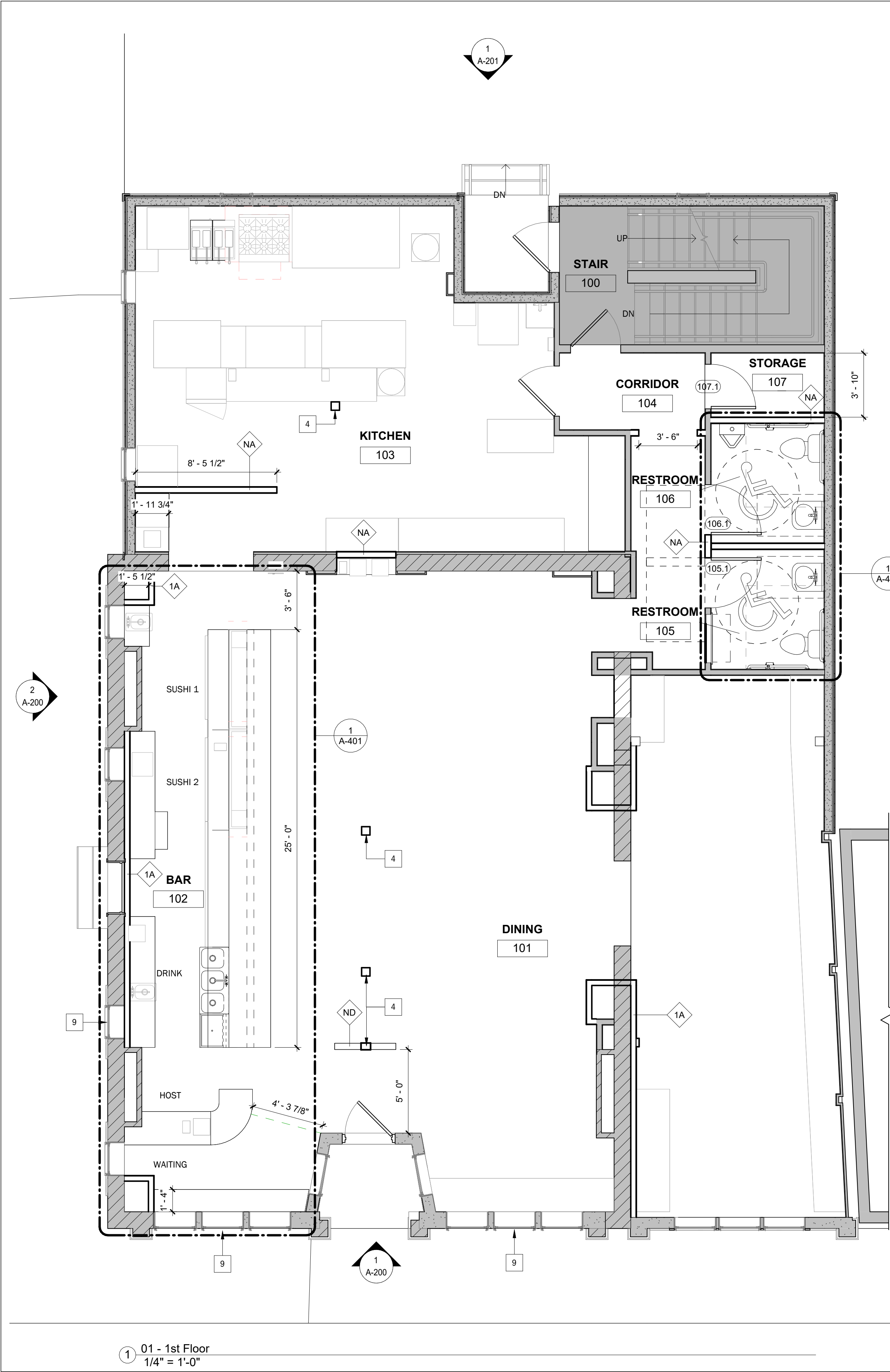
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Drawing Checked By:	BMH
Drawing Scale:	As indicated
Drawing Date:	01/29/2025
Project Number:	24051

drawing revisions:		
No.	Description	Date

Basement Plan

A-110





① 01 - 1st Floor  
1/4" = 1'-0"

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LEGEND	
	EXISTING WALL
	NEW WALL
	WINDOW TAG
	NOT IN SCOPE

96 STATE ST.

Portsmouth, NH

CONSTRUCTION DOCUMENTS

Huai Ying Zheng

WINTER  
HOLBEN  
architecture + design

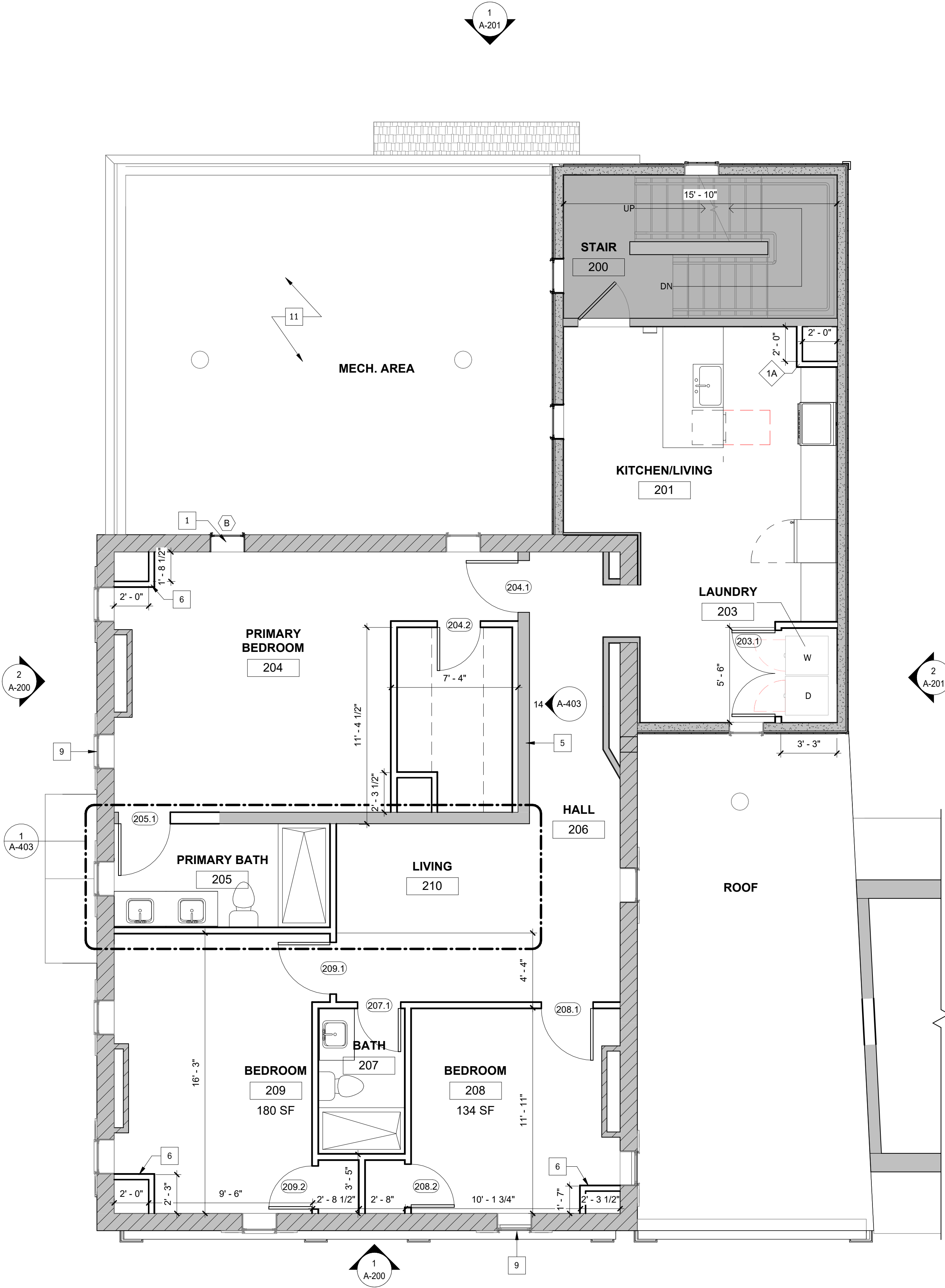
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STE 2099  
KITTERY, MAINE 03904  
207.994.3104

Drawn By:	PG
Drawing Checked By:	BMH
Drawing Scale:	As indicated
Drawing Date:	01/29/2025
Project Number:	24051

drawing revisions:		
No.	Description	Date

First Floor Plan

A-111



- PLAN GENERAL NOTES
1.

DIMENSIONS TO FIXTURES ARE FROM FINISH FACE
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3.

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4.

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5.

PROVIDE INSULATION ON PIPES, TYP.
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REPLACE WINDOW OR GLAZING
- 2

EXTERIOR MOUNTED EQUIPMENT TO BE PLACED HERE. SEE MEP DRAWINGS
- 3

REMOVE DENTILS AS NEEDED FOR NEW CONSTRUCTION
- 4

NEW POST AND FOOTINGS. SEE STRUCTURAL
- 5

DISPLAY CASE WALL
- 6

MECHAICAL SHAFT. SEE MEP DRAWINGS FOR MORE DETAIL
- 7

ROOF DRAIN. COORDINATE WITH MEP
- 8

ALIGN WINDOW AND TRIM TO STOREFRONT BELOW
- 9

PROVIDE ALTERNATE PRICING TO REPLACE ALL EXTERIOR WINDOWS IN KIND
- 10

NEW SHINGLES
- 11

NEW MEMBRANE ROOF
- 12

SEE STRUCTURAL FOR MAX OPENING AS PART OF ALTERNATE 1

LEGEND

- EXISTING WALL
- NEW WALL
- WINDOW TAG
- NOT IN SCOPE

02 - 2nd Floor

1/4" = 1'-0"

96 STATE ST.

Portsmouth, NH

CONSTRUCTION DOCUMENTS

Huai Ying Zheng

WINTER

HOLBEN

architecture + design

7 WALLINGFORD SQ

STE 2099

KITTERY, MAINE 03904

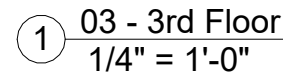
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Drawing Checked By:	BH
Drawing Scale:	As indicated
Drawing Date:	01/29/2025
Project Number:	24051

drawing revisions:		
No.	Description	Date

2nd Floor Plan

A-112



1	REPLACE WINDOW OR GLAZING
2	EXTERIOR MOUNTED EQUIPMENT TO BE PLACED HERE. SEE MEP DRAWINGS
3	REMOVE DENTILS AS NEEDED FOR NEW CONSTRUCTION
4	NEW POST AND FOOTINGS. SEE STRUCTURAL
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10	NEW SHINGLES
11	NEW MEMBRANE ROOF
12	SEE STRUCTURAL FOR MAX OPENING AS PART OF ALTERNATE 1

96 STATE ST.

Portsmouth, NH

# CONSTRUCTION DOCUMENTS

Huai Ying Zheng

**WINTER**  
**HOLBEN**  
architecture + design

7 WALLINGFORD SQ  
STE 2099  
KITTERY, MAINE 03904  
207.994.3104

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Drawing Date:	01/29/2025
Project Number:	24051

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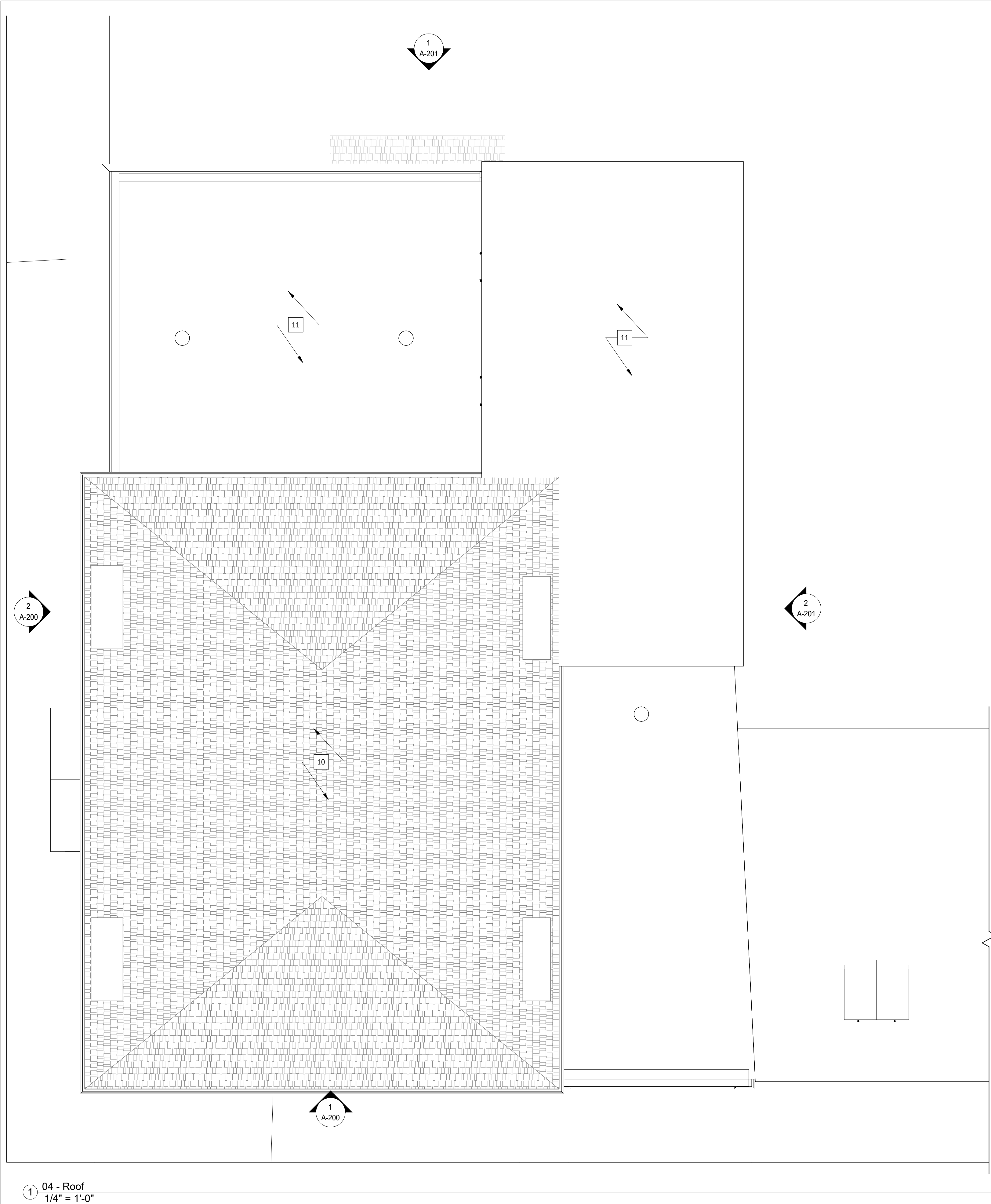
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### 3rd Floor Plan

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PLAN GENERAL NOTES	
1.	DIMENSIONS TO FIXTURES ARE FROM FINISH FACE
2.	PLUMBING SUPPLY AND DRAIN MUST NOT ENCROACH ON ADA CLEARANCES.
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LEGEND	
	EXISTING WALL
	NEW WALL
	WINDOW TAG
	NOT IN SCOPE

96 STATE ST.

Portsmouth, NH

CONSTRUCTION DOCUMENTS

Huai Ying Zheng

WINTER  
HOLBEN  
architecture + design

7 WALLINGFORD SQ  
STE 2099  
KITTERY, MAINE 03904  
207.994.3104

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Drawing Checked By:	BH
Drawing Scale:	As indicated
Drawing Date:	01/29/2025
Project Number:	24051

drawing revisions:		
No.	Description	Date

Roof Plan

A-114





① NORTH ELEVATION  
1/4" = 1'-0"

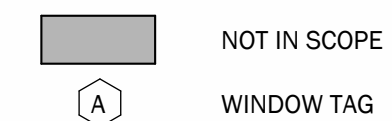


② EAST ELEVATION  
1/4" = 1'-0"

#### ELEVATION GENERAL NOTES

1. PREPARE AND REPAIR ADJACENT EXISTING SIDING AND ROOFING FOR NEW PAINT COATING, PER PAINT MANUFACTURER INSTRUCTION
2. PROPOSED WINDOWS TO RESEMBLE EXISTING WINDOWS PER HISTORIC DISTRICT COMMISSION APPROVAL
3. REFER TO MEP FOR ADDITIONAL INFORMATION ON ROOF MOUNTED EQUIPMENT

#### LEGEND



96 STATE ST.

Portsmouth, NH

## CONSTRUCTION DOCUMENTS

Huai Ying Zheng

**WINTER  
HOLBEN**  
architecture + design

7 WALLINGFORD SQ  
STE 2099  
KITTERY, MAINE 03904  
207.994.3104

Drawn By: PG

Drawing Checked By: BMH

Drawing Scale: As indicated

Drawing Date: 01/29/2025

Project Number: 24051

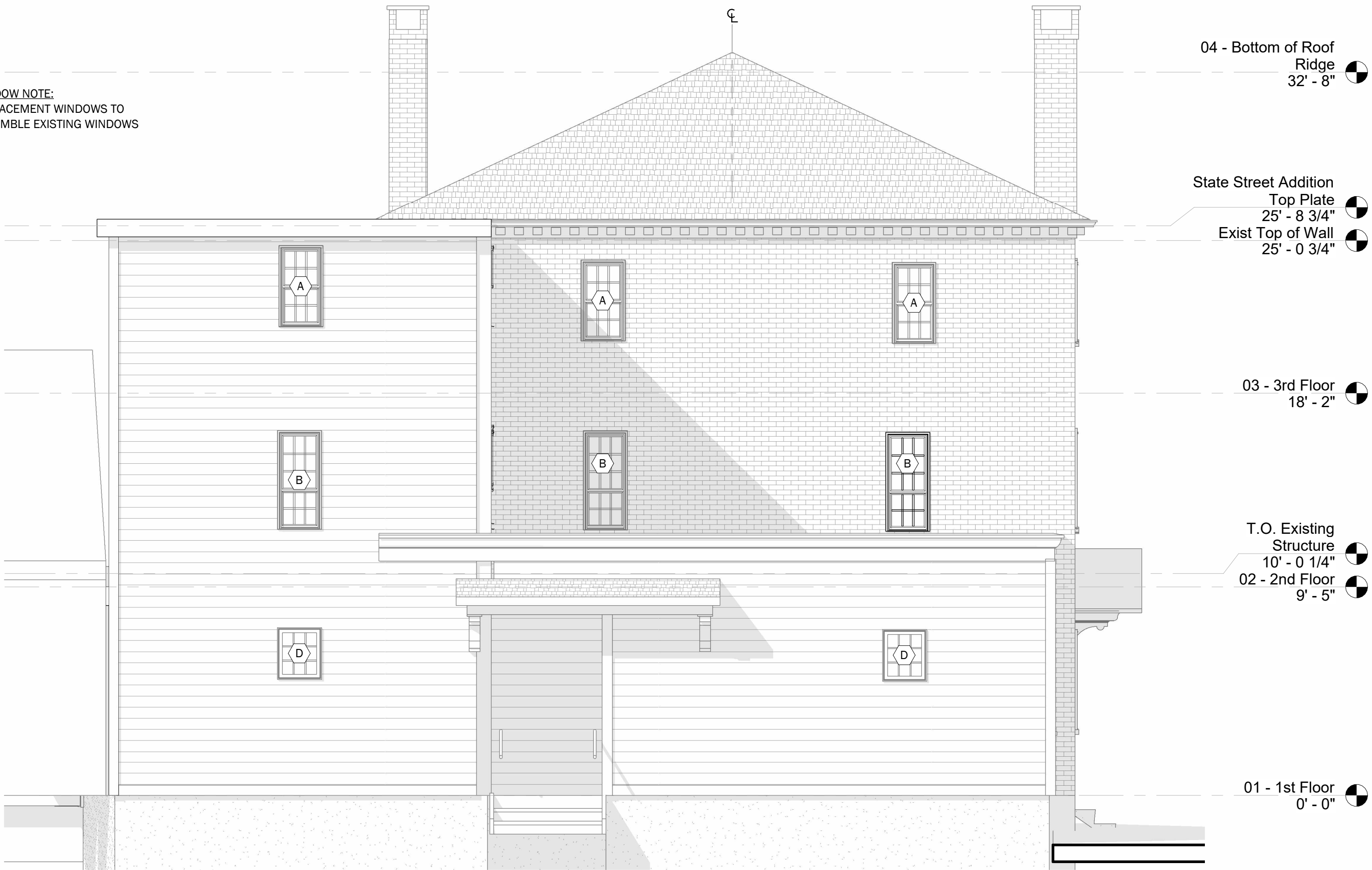
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0 Permit Comments 03/11/2025

Elevations

**A-200**



WINDOW NOTE:  
REPLACEMENT WINDOWS TO  
RESEMBLE EXISTING WINDOWS



① SOUTH ELEVATION  
1/4" = 1'-0"

04 - Bottom of Roof  
Ridge  
32' - 8"

State Street Addition  
Top Plate  
25' - 8 3/4"  
Exist Top of Wall  
25' - 0 3/4"

03 - 3rd Floor  
18' - 2"

T.O. Existing  
Structure  
10' - 0 1/4"  
02 - 2nd Floor  
9' - 5"

01 - 1st Floor  
0' - 0"



② WEST ELEVATION  
1/4" = 1'-0"

04 - Bottom of Roof  
Ridge  
32' - 8"

State Street Addition  
Top Plate  
25' - 8 3/4"  
Exist Top of Wall  
25' - 0 3/4"

03 - 3rd Floor  
18' - 2"

T.O. Existing  
Structure  
10' - 0 1/4"  
02 - 2nd Floor  
9' - 5"

01 - 1st Floor  
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#### ELEVATION GENERAL NOTES

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3. REFER TO MEP FOR ADDITIONAL INFORMATION ON ROOF MOUNTED EQUIPMENT

#### LEGEND

NOT IN SCOPE  
WINDOW TAG

96 STATE ST.

Portsmouth, NH

## CONSTRUCTION DOCUMENTS

Huai Ying Zheng

**WINTER  
HOLBEN**  
architecture + design

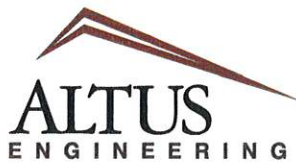
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KITTERY, MAINE 03904  
207.994.3104

Drawn By: PG  
Drawing Checked By: BMH  
Drawing Scale: As indicated  
Drawing Date: 01/29/2025  
Project Number: 24051

drawing revisions:  
No. Description Date

Elevations

A-201



# EXHIBIT B

*Civil  
Site Planning  
Environmental  
Engineering*

133 Court Street  
Portsmouth, NH  
03801-4413

## PARKING DEMAND ANALYSIS

**96 State Street  
TAX MAP 107, LOT 52  
PORTSMOUTH, NH**  
Revised April 4, 2025

96 State Street, LLC owns the property located at 96 State Street. A commercial building is sited on the 0.07-acre (per City GIS) downtown, urban parcel. The parcel is located on the corner of State and Atkinson Streets. Altus has not inspected the interior of the building, the building uses and areas have been provided to us from Winter Holben Architects. The building has three levels. A restaurant, Domo, occupies the first and second floor. It is understood that the third floor is currently used as an apartment but was permitted as a spa.

The Owner is proposing to fully convert the second and third floors to residential uses with no expansion of the structure.

Altus prepared this Parking Demand Analysis based on the following uses:

### CURRENT SPACE ALLOCATION

Basement	accessory storage	2,245 SF GFA
First floor	restaurant	2,625 SF GFA
Second floor	restaurant	1,740 SF GFA
Third floor	1 dwelling unit (> 750 SF GFA)	1,740 SF GFA

### PROPOSED SPACE ALLOCATION

Basement	accessory storage	2,245 SF GFA
First floor	restaurant	2,625 SF GFA
Second floor	1 dwelling unit (> 750 SF GFA)	1,740 SF GFA
Third floor	1 dwelling unit (> 750 SF GFA)	1,740 SF GFA

Basement accessory storage has no requirements and does create any parking demand.



## Parking spaces required for the City of Portsmouth Zoning Ordinance Section 10.1110 Off Street Parking

All eating and drinking places	1 space per 100 SF GFA
Dwelling units over 750 SF	1.3 spaces per unit

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### Existing Parking Stalls required

Restaurant 4,365 SF GFA/100 SF GFA	43.7 spaces (44)
1, 3 <sup>rd</sup> floor apartment (over 750 SF)	<u>1.3 spaces</u> (2)
	46.0 spaces
	46 spaces required <sup>1</sup>

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### Proposed Parking Stalls required

Restaurant 2,625 SF GFA/100 SF GFA	26.3 spaces (27)
2, 2 <sup>nd</sup> and 3 <sup>rd</sup> floor apartments (over 750 SF)	<u>2.6 spaces</u> (3)
	30 spaces
	30 spaces required <sup>1</sup>

Based on the City Ordinance alone, the parking spaces required for Tax Map 107, Lot 52 is reduced from 46 spaces to 30 spaces, a 35 percent reduction. There is one alley/loading space on the property.

There is parallel parking along State Street as well as a small public parking lot between Dutton and Scott Avenues. Additionally, the High Hanover Street parking garage is within 0.25 miles of the site. The Parrott Avenue surface parking lot is less than 0.5 miles from the site.

To determine the expected parking that will be generated by the existing/proposed uses, Altus normally utilizes the ITE Parking Generation Manual, 6<sup>th</sup> Edition. It is our opinion that the setting/location falls under the General Urban/Suburban category. However, the manual has limitations when it comes to small traffic generators and unique end users like 2-unit apartment buildings. Additionally, ITE states that "it contains information that can also easily be misinterpreted without sound professional judgement..."

#### Land Use Code 931 Quality Restaurant

Peak Period Parking Demand on a Saturday 7:00 to 8:00 PM

Setting/Location: General Urban/Suburban

Average rate 18.23 vehicles per 1,000 SF GFA

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<sup>1</sup> See Section 10.1112.22: "Where the computation of required off-street parking spaces results in a fractional number, the computation shall be rounded up to the next whole number."

Land Use Code Residential 220 Multifamily housing (Low-Rise)

Peak Period Parking Demand on a Saturday

Average rate 1.18 spaces per dwelling unit

**Existing Parking Demand**

Restaurant

4,365 SF GFA x 18.23 vehicles per 1,000 SF GFA = 79.6 spaces (80)

1 dwelling unit x 1.18 spaces per dwelling unit = 1.3 spaces (2)  
82 spaces

**Existing 82 spaces demand**

**Proposed Parking Demand**

Restaurant

2,625 SF GFA x 18.23 vehicles per 1,000 SF GFA = 47.9 spaces (48)

2 dwelling units x 1.18 spaces per dwelling unit = 2.4 space (3)  
50.3 spaces

**Proposed 51 space demand**

Based on ITE, it is reasonable to believe that the parking demand will be reduced by 31 spaces.

With the approval of this project, the parking demand will decrease. Thus, it is Altus' opinion that the existing building can function adequately without adverse impacts to the community with the conversion of the second and third floor spaces into two residential dwelling units.

Wde/5637 parking demand analysis rev-4 4-03-25.docx

