



**Board of Adjustments
Meeting Agenda
May 14, 2025
Bentonville City Hall
Meeting Time: 4:00 PM**

Registration Link: <https://us02web.zoom.us/j/88568630129>

I. Call to Order

II. Approval of Minutes

1. April 23rd Meeting Minutes

Approval of Meeting Minutes

III. New Business

IV. Old Business

1. Icebreaker LLC

Variance*

604 Southwest 5th Street ([VAR25-0008](#))

*Section 401.07 of the Zoning Code - Downtown Neighborhood (DN) District
Regulations, (e) DN Districts Setback Standards*

V. Other Business

VI. Adjournment



**Board of Adjustments
Meeting Agenda
April 23, 2025
Bentonville City Hall
Meeting Time: 4:00 PM**

Recording Link:

<https://us02web.zoom.us/rec/share/KPW0aJMwE2xTTxyZvyzeo3qGIJVxcHp0LvQICirF6q3nORFs025m-JhDjIHZj8.Vu7vallldmsgaaZW?startTime=1745440982000>

I. Call to Order

- Meeting called to order at 4:03 PM by vice-chairman BJ Phillips.
- Members present: BJ Phillips, Celia Swanson (Zoom), Kevin Barrington
- Members absent: Dean Kruithof (Chair), Danny Bennett
- Staff present: Tom Adler, Sophie McAdara, Nathan Izard

II. Approval of Minutes

1. March 12th Meeting Minutes

Approval of Meeting Minutes

- Motion to approve by Barrington, second by Swanson.
- Minutes are approved 3-0.

III. New Business

1. Icebreaker LLC

Variance*

604 Southwest 5th Street ([VAR25-0008](#))

Section 401.07 of the Zoning Code - Downtown Neighborhood (DN) District Regulations, (e) DN Districts Setback Standards

- Ms. McAdara gives an overview of the request.
- Mr. Burris, the architect representative, talks about missing middle housing, which may look like a single-family home, but has multiple units. He discusses how missing middle housing types create housing that fits into traditional neighborhoods with higher density without turning towards housing types like duplexes, apartment buildings, and townhouses that can feel out of place.
- Mr. Burris notes that the primary structures meet the setbacks and meet the intent as well.
- The unique nature of this request is that the 2-family dwelling-unit, while it meets setback requirements during the building phase, would conflict with development and zoning code when the owner decides to sell off the units individually, regarding the rear and side setback requirements.
- Mr. Adler recommends considering single-family attached as an alternate proposal, which would allow the owner to accomplish the same goals.

- Swanson comments that her concern is that the proposal is for four homes, not two homes.
- Mr. Burris responds that six townhomes can fit on the property by-right, and that this four-home configuration significantly reduces the visual and physical impact on the property.
- Mr. Burris concludes that the missing middle is a different typology, and the municipal code doesn't address the uniqueness of this housing type
- Phillips motions to table the proposal, Barrington seconds
- Item is tabled 3-0

IV. Old Business

V. Other Business

VI. Adjournment

- Vice-Chairman Phillips adjourns the meeting.

**Icebreaker LLC**

604 Southwest 5th Street

BOA Date:**Staff Report Details**

Project Number	VAR25-0008
Applicant / Current Owner	Icebreaker LLC
Site Area	+/- Acres
Current Zoning	DN-2, Downtown Medium Density Residential
Variance Request	Sec 401.07 (e) DN District Setback Standards
Related projects	N/A

Property Description

The subject property is located on 604 Southwest 5th Street. The property is presently zoned DN-2, Downtown Medium Density Residential with a future land use designation of Walkable Neighborhood.

Item was tabled at April 23rd BOA.

Regulation***Section 401.07 Downtown Neighborhood (DN) District Regulations (e) DN District Setback Standards***

DN-2, Downtown Medium Density Residential zoning requires a 12-foot front setback, 12-foot exterior side yard setback, 7-foot interior side yard setback, and 25-foot rear setback. The applicant is seeking a variance of the rear setback from 25' to 0' on the northern units, and a rear setback variance from 25' to 10' on the southern units. The applicant is requesting that this 2-family structure to be treated as one single-family structure in terms of setbacks, where instead of the interior shared wall setback on the southern units being 0', it is the rear setback that is 0' due to the way the units are oriented. The southern units will orient towards 5th street, while the northern units will orient to the side streets. With this unique setup of units on a property with three public frontages, the "side" setback for the northern lots becomes 25', functioning as a rear setback for the entire structure. See attachments for visual clarification.

Variance Request

This report will consider and analyze this request based upon the six conditions of approval from the Zoning Code. Said conditions of approval will be bolded to differentiate from staff commentary.

1. The applicant demonstrates that:

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;

The applicant does not refer to a circumstance particular to the land, structure, or building involved, but references a "Missing Middle" housing type and the inability to build a 2-family attached structure in this way under current code.

b. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

The literal interpretation of the provisions of this chapter does not deprive the applicant of constructing on this land; However, it does deprive the applicant of providing two units in the footprint of one, larger single-family home, with front entrances that are not directly adjacent as in a traditional 2-family structure.

c. That special conditions and circumstances do not result from the actions of the applicant; and

There are no special conditions or circumstances referenced by the applicant.

d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

This variance would not grant the applicant a special privilege as other homes in the DN-2, Downtown Medium Density Residential zoning district could request setback variances, or construct two single-family attached structures on this site. Additionally, another applicant could construct a single-family home in the same footprint as the applicant is requesting to construct two units. However, they are orienting the homes in a way that is not permitted on other lands, structures, or buildings in the same district.

2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

The applicant makes no reference to any nonconformities or properties in neighboring lands or zoning districts.

3. The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

The variances requested are a non-change to the buildable footprint on these lots if the applicant were to build two single-family homes that faced southwest 5th street, and is the minimum request to accomplish this layout.

4. The board of adjustment shall further make a finding that the granting of the

Variance Request

variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The granting of this variance is not injurious to the neighborhood.

5. Conditions. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable.

Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

The Board has the authority to attach any conditions to a variance request that it deems appropriate. Any conditions proposed with a variance approval should be clearly stated into the record in the approval motion.

6. Uses. Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

The applicant's request does not include a variance to use.

Conclusion

The applicant's variance request comes from Section 401.07 and (e) DN District Setback Standards. The applicant is requesting that the Board of Adjustment allow a 0-foot rear setback instead of a 25' setback for the southern units, and a 10' rear setback instead of 25' for the northern units due to orientation of the single-family attached structures.

Background

Public Comment

Has Staff received Public Comment at the time of this report?: **No**

Conditions of Approval

The following conditions of the approval are below:

1. The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application.
2. The applicant shall be required to obtain an approved building permit for the structure

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.



Burris Architecture

820 Tiger Blvd suite 4 Bentonville, AR 72712
479.319.6045

Date: March 4 2025

To: City of Bentonville BOA

PROJECT NAME: Briar Place - 01-02706-000

Re: Setback Waiver Request

Acting as the owner's agent, Burris Architecture respectfully requests a waiver from the following Bentonville Design Standard:

The site is a DN-2 zone.

The project design goal is a "Missing Middle" development, where the design of the structure appears to be a single family home, with two dwelling units in each structure. The nature of this design would have two front doors, one facing the side street, and the other facing the south street. Due to the unique nature of the architype, rear and side setbacks would require a waiver of 401.07 e. (setbacks) .

The min lot size would be met for DN-2 (two family no alley access 5000 sf). The actual area for the two lots is approx. 8400 sf.

The building structure as a whole would meet all setback requirements front side and rear

Hardship

The "Missing Middle" is an architype that desired with city urban planning, and current codes do not allow for the flexibility necessary to allow such development

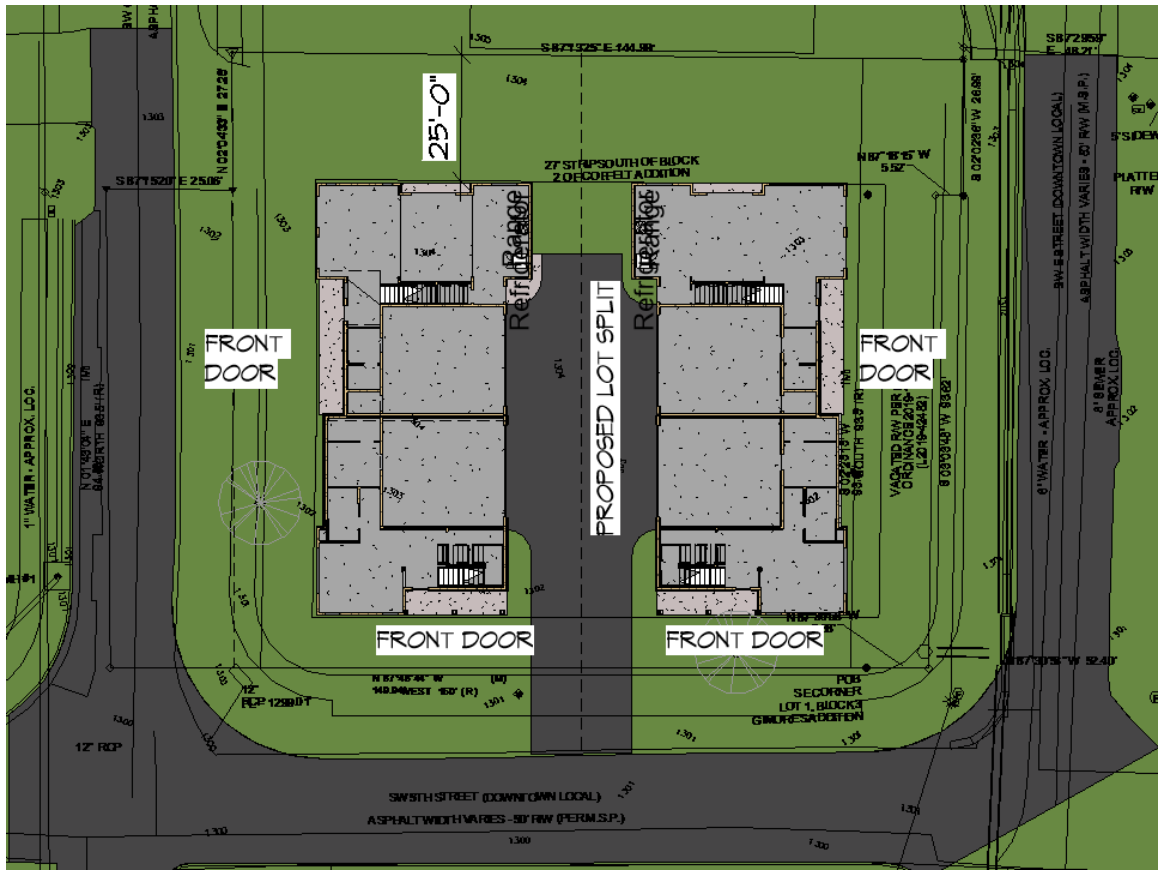
Unique Circumstance

The Missing Middle Architype is a unique design intended to create density within the appearance of a single family home.

Formal waiver request:

Rear setback reduced to 0' on south units and Rear setback reduction to 10' on the north units. .
See attached diagram.

Dave P Burris, AIA, NCARB
479-319-6045
dave@burrisarch.com





Pending PC Item

SW GLOVER ST

SW E ST

*Icebraker
LLC*

SW 5TH ST

SW F ST



VAR25-0008
Icebraker, LLC.
406 SE 5TH ST



BRIAR PLACE

406 SE 5TH
BENTONVILLE, AR

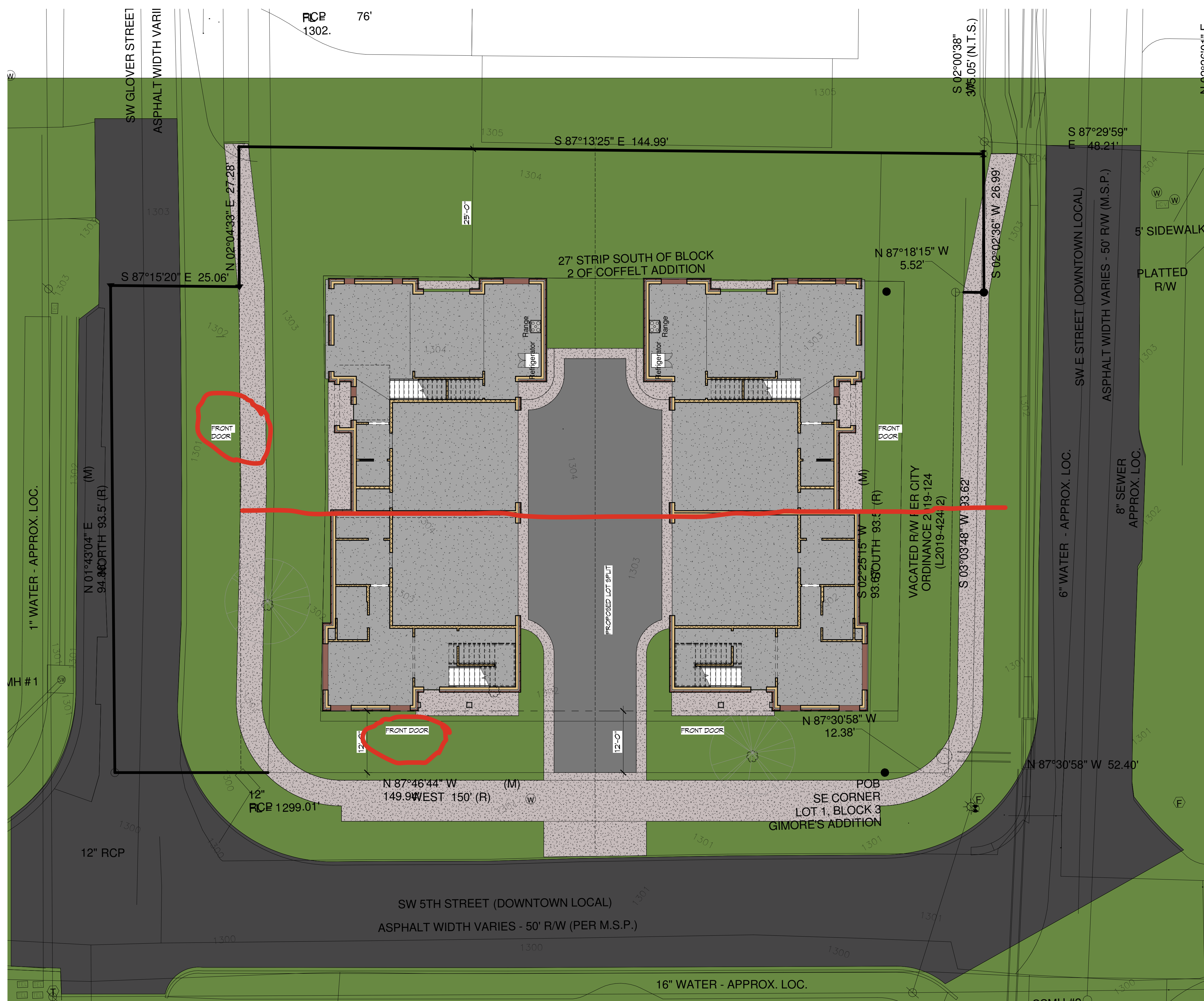
PRELIMINARY
NOT FOR CONSTRUCTION

BRIAR PLACE
406 SE 5TH
BENTONVILLE, AR

Burris
Architecture
820 Tiger Blvd., Bentonville, Ar 72712
479-636-3531

DATE: 3-12-25
JOB NO: 23041
REVISIONS

A0.0
COVER SHEET



GENERAL SITE NOTES

1. TAKE TEMPORARY CONTROL MEASURES TO PREVENT EROSION. SHEET PLOV: USE STRAW OR HAY BALES, SILT FENCING OR VEGETATIVE FILTERS AS NECESSARY TO MINIMIZE SILT MOVEMENT OFF PROPERTY.
2. CONTRACTOR SHALL FINISH GRADE SITE SO AS TO DIVERT WATER AWAY FROM BUILDING STRUCTURE.
3. ALL FILL SHALL BE COMPACTED TO 95% STANDARD OVER PROCTOR DENSITY (ASTM D-698) AND MIN 3000 P.S.F. BEARING CAPACITY.
4. MEET EXISTING GRADE AT ALL CONTRACT LIMITS OR PROPERTY LINES.
5. GENERAL CONTRACTOR TO PROVIDE ROUGH GRADING TO 6" BELOW FINISH GRADE 8" TOP SOIL TO BE REUSED OR PROVIDED FOR FINAL GRADING.
6. PROVIDE CONTROL JOINTS AND EXPANSION JOINTS IN CONCRETE WHERE SHOWN (SEE PLANS AND DETAILS). WHERE NOT SHOWN PROVIDE AS FOLLOWS:
EXPANSION JOINTS AT 20' O.C. MAX
CONTROL JOINTS AT 6' O.C. MAX AT SIDEWALKS
7. ALL UTILITY LOCATIONS ARE APPROXIMATE. FIELD VERIFY EXACT LOCATIONS.
8. ALL DISTURBED AREAS TO BE SEEDDED.
9. CONTRACTOR TO VERIFY ALL SITE CONDITIONS PRIOR TO WORK. NOTIFY ARCHITECT IF CONDITIONS VARY FROM WHAT IS SHOWN.
10. SITE PLAN IS DIAGNOSTIC IN NATURE. BOUNDARIES, UTILITIES AND OTHER SITE FEATURES SHOULD BE REFERENCED FROM A LICENSED SURVEYOR. SC SHALL CONFIRM ALL SETBACKS AND CLEARLY MARK ON SITE PRIOR TO BEGINNING CONSTRUCTION.
11. SC TO COORDINATE ALL UTILITY CONNECTIONS WITH APPROPRIATE GOVERNING BODY.
12. SITE PLAN MUST BE APPROVED BY THE BUILDING OFFICIAL AND THE PLANNING DEPARTMENT PRIOR TO BEGINNING CONSTRUCTION.
13. GENERAL CONTRACTOR IS TO SUBMIT DRAWINGS TO THE BUILDING INSPECTOR AND OBTAIN A BUILDING PERMIT PRIOR TO BEGINNING WORK.
14. GENERAL CONTRACTOR SHALL LOCATE ALL PROPERTY PINS AND CLEARLY MARK ALL BOUNDARIES PRIOR TO WORK.
15. ALL DIMENSIONS ARE SHOWN FOR BIDDING PURPOSES ONLY. ACTUAL DIMENSIONS WILL VARY WITH SITE CONDITIONS.

GENERAL NOTES:

1. CONTRACTOR IS TO INSPECT EXISTING CONDITIONS INCLUDING BUT NOT LIMITED TO UNDERGROUND WATER MAINS, SEWER, TELEPHONE, AND ELECTRIC WORK HERE UNDER ARE INDICATED ON DRAWINGS FOR DIAGNOSTIC PURPOSES. NO GUARANTEE AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. RESPONSIBILITY FOR SUCH ACCURACY AND COMPLETENESS IS DISCLAIMED. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR LOCATING UNDERGROUND INSTALLATIONS PRIOR TO EXCAVATING.
2. ALL DIMENSIONS ARE FROM FACE OF STUD, FACE OF CONC, OR CENTER LINE UNLESS NOTED OTHERWISE. DRAWINGS ARE NOT TO BE SCALED. DIMENSIONS SHALL BE IN WRITTEN INFORMATION ONLY. VERIFY DIMENSIONS PRIOR TO WORK. ALTERATIONS IN DIMENSIONS AFFECTING THE DESIGN SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT PROMPTLY FOR A RESOLUTION.
3. NOT ALL MATERIALS AND ASSEMBLIES HAVE BEEN SPECIFIED. CONTRACTOR IS TO VERIFY ALL NON-SPECIFIED ITEMS WITH OWNER & ARCHITECT PRIOR TO EXECUTING ANY WORK INVOLVING THESE ITEMS.
4. IT IS THE CONTRACTOR'S RESPONSIBILITY TO SUBMIT SUBSTITUTIONS OR DEVIATIONS FROM THE CONTRACT DOCUMENTS TO THE ARCHITECT FOR APPROVAL. NON-APPROVED DEVIATIONS WILL HOLD THE ARCHITECTS AND CONSULTING ENGINEERS HARMLESS FOR SUCH ITEMS.
5. ALL WORK TO CONFORM TO APPLICABLE CODES. THE MOST STRINGENT CODE SHALL APPLY. DISCREPANCIES IN CODES AND CONTRACT DOCUMENTS SHALL BE BROUGHT TO THE ARCHITECT'S ATTENTION IMMEDIATELY AND RESOLVED BEFORE PROCEEDING.
6. ALL MATERIALS ARE TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS AND AS SUCH ALL SUBCONTRACTORS ARE TO INSURE THAT ALL MANUFACTURER'S WARRANTIES WILL BE HONORED.
7. ALL SUBCONTRACTORS ARE RESPONSIBLE FOR INSURING THEIR SAFETY AND OF THEIR PERSONNEL ON THE JOB SITE AT ALL TIMES. THEY SHALL CARRY WORKMAN'S COMPENSATION AND LIABILITY INSURANCE FOR THEMSELVES AND THEIR EMPLOYEES. SUBCONTRACTORS AND THEIR EMPLOYEES SHALL BE PERSONALLY RESPONSIBLE TO FOLLOW ALL OSHA RULES AND REGULATIONS.
8. GENERAL CONTRACTOR IS TO COORDINATE ALL MECH, ELEC, AND PLUMBING AND PROVIDE NECESSARY CONSTRUCTION TO FACILITATE SUCH WORK INCLUDING SUPPORTS, BLOCKING, ROUGH OPENINGS ETC.
9. IT IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO REVIEW ARCHITECTURAL DRAWINGS BEFORE INSTALLATION OF MECH, ELEC, OR SYSTEMS INSTALLATION, AND SHALL NOTIFY ARCHITECT IMMEDIATELY FOR ANY DISCREPANCIES AND WORK INSTALLED IN CONFLICT WITH THE CONTRACT DOCUMENTS SHALL BE CORRECTED BY THE GENERAL CONTRACTOR AT NO EXPENSE TO THE OWNER OR ARCHITECT.
10. ALL DRAWINGS, SPECIFICATIONS AND DESIGN OF THE FOLLOWING SYSTEMS ARE TO BE PROVIDED BY OTHERS AS REQUIRED. OWNER SHALL CONTRACT WITH OTHERS UNDER SEPARATE CONTRACTS:
A. CIVIL ENGINEERING B. MECHANICAL ENGINEERING C. ELECTRICAL ENGINEERING

CODE SUMMARY

APPLICABLE CODES:
INCLUDED BUT NOT LIMITED TO, THE LATEST ADOPTED ADDITIONS OF THESE CODES AS AMENDED BY THE CITY OF BENTONVILLE AND THE STATE OF ARKANSAS

2021 International Residential Code (IRC)
(Vol. 2 with Arkansas State amendments)

THIS PROJECT IS A NEW BUILDING ON AN EXISTING DEVELOPMENT'S SITE. SITE PLANS HAVE BEEN DEVELOPED AND SUBMITTED BY A CIVIL ENGINEER UNDER A SEPARATE COVER.

THE BUILDINGS ARE NOT SPRINKLERED.

BUILDING DATA:
PROPOSED USE: TOWNHOUSE UNIT
DN-2

CONSTRUCTION TYPE: SB

ACTUAL AREA:

UNIT TYPE A:

FIRST FLOOR HEATED: 101 SF

SECOND FLOOR: 1021 SF

THIRD FLOOR: 1091 SF

GARAGE: 531 SF

UNIT TYPE B:

FIRST FLOOR HEATED: 1066 SF

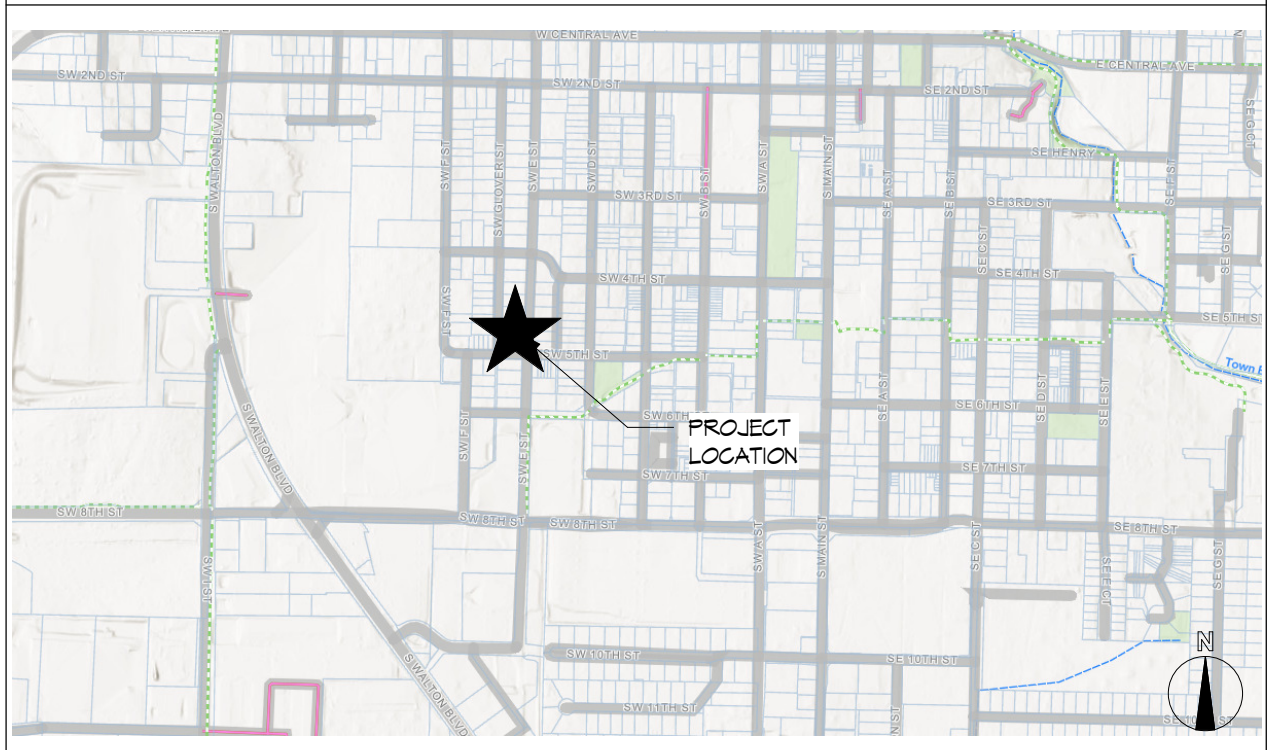
SECOND FLOOR: 1916 SF

GARAGE: 525 SF

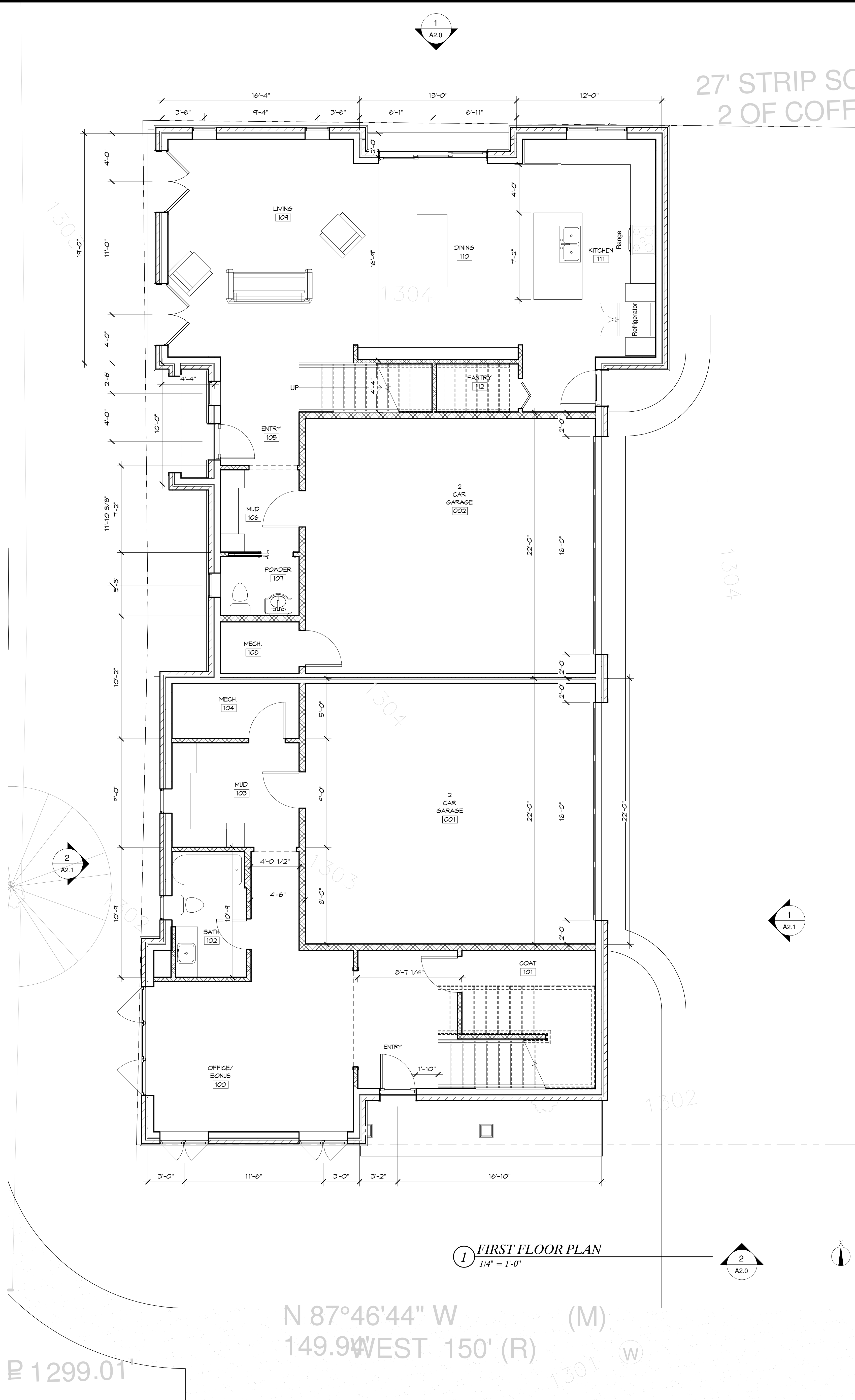
SHEET INDEX

#	SHEET NAME	ISSUE DATE	REVISION
A0.0	COVER SHEET	3-12-25	
A0.4	DRAINAGE DETAIL	3-12-25	
B1.0	FOUNDATION PLAN	3-12-25	
D1.0	DEMO PLANS	3-12-25	
A1.0	FIRST FLOOR PLAN	3-12-25	
A1.1	SECOND FLOOR PLAN	3-12-25	
A1.2	REFLECTED CEILING PLANS	3-12-25	
A1.3	ROOF PLAN	3-12-25	
A2.0	EXTERIOR ELEVATIONS	3-12-25	
A2.1	EXTERIOR ELEVATIONS	3-12-25	
A3.0	BUILDING SECTIONS	3-12-25	
A3.1	WALL SECTIONS	3-12-25	
A4.0	MILLWORK ELEVATIONS / DETAILS	3-12-25	

LOCATION MAP



1 SITE PLAN
3/32" = 1'-0"



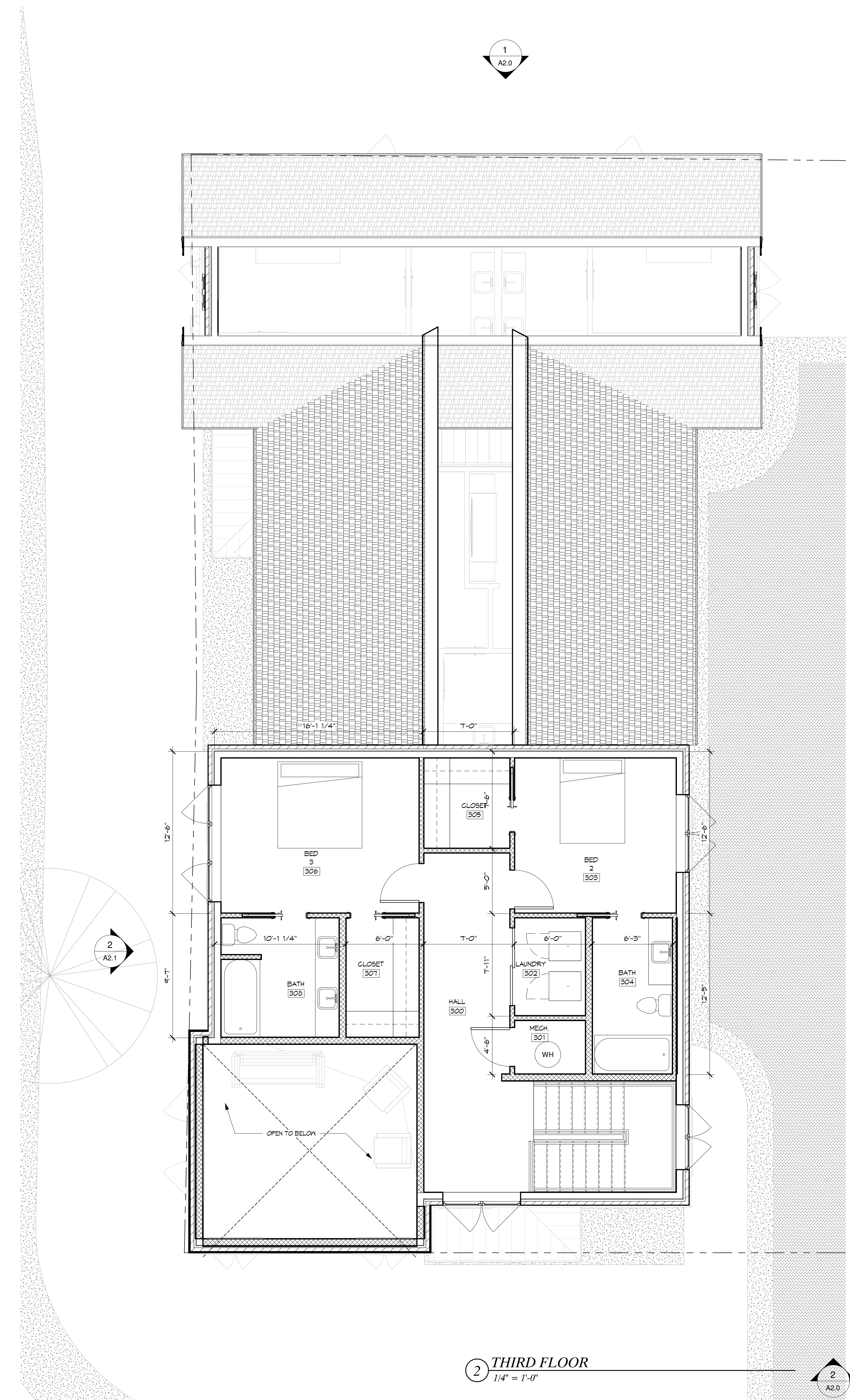
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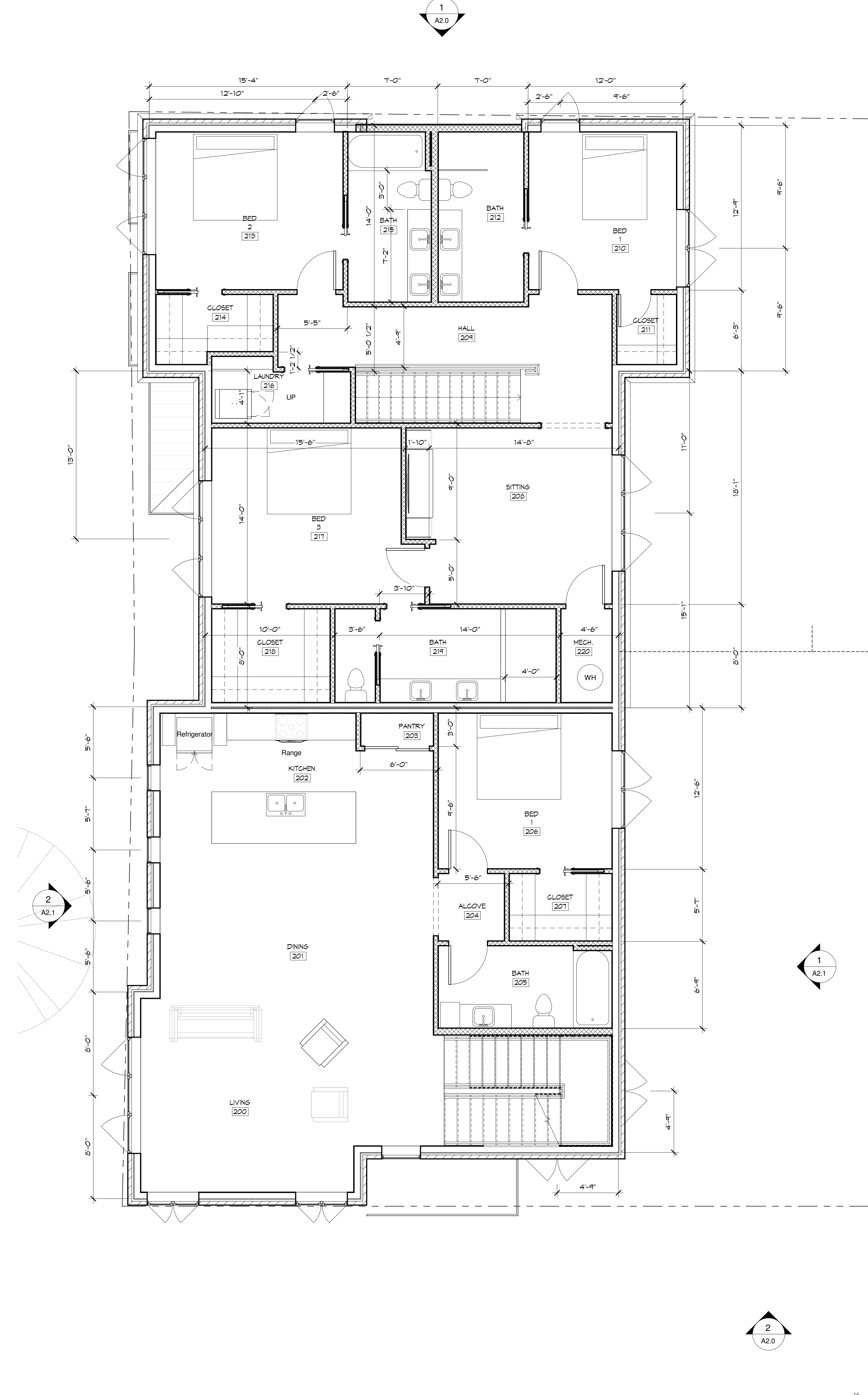
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REVISIONS:

A1.0
FIRST FLOOR PLAN



2 THIRD FLOOR
1/4" = 1'-0"



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

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A1.1
SECOND FLOOR PLAN



