



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Kieran O'Boyle
2 Kilmorane Heights
Kilrush Road
Ennis
Co. Clare
V95 HN3Y**

17th August 2023

Section 5 referral Reference R23-55 – Kieran O'Boyle

Is the replacement of a garage door at 2 Kilmorane Heights, Kilrush Road with a window development and if so is it exempted development?

A Chara,

I refer to your application received on 24th July 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas

**Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate**

**An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach**
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department
Economic Development Directorate**
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



**DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

Reference No.: R23-55



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-55

Is the replacement of a garage door at 2 Kilmorane Heights, Kilrush Road with a window development and if so is it exempted development?

AND WHEREAS, Kieran O'Boyle has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

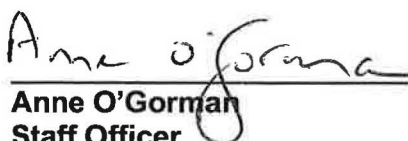
- (a) Sections 2, 3 and 4 of the Planning and Development Act, as amended, and
- (b) Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)

And whereas Clare County Council has concluded:

(a) Clare County Council has concluded that the works to be undertaken constitute development that is exempted development by reason of the provisions of Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the replacement of a garage door with a window at 2 Kilmorane Heights, Kilrush Road, Ennis, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

17th August 2023

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

82243

Reference Number:

R23-55

Date Referral Received:

24th July 2023

Name of Applicant:

Kieran O'Boyle

**Location of works in question:
Co. Clare, V95 HN3Y**

2 Kilmorene Heights, Kilrush Road, Ennis,

Section 5 referral Reference R23-55 – Kieran O'Boyle

Is the replacement of a garage door at 2 Kilmorene Heights, Kilrush Road with a window development and if so is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, as amended, and
- (b) Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)

AND WHEREAS Clare County Council has concluded:

(a) Clare County Council has concluded that the works to be undertaken constitute development that is exempted development by reason of the provisions of Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Kieran O'Donnell, Administrative Officer, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Kieran O'Donnell, Administrative Officer, hereby declare that the replacement of a garage door with a window at 2 Kilmorene

Heights, Kilrush Road, Ennis, Co. Clare is considered development which is exempted development.

Signed:


KIERAN O'DONNELL
ADMINISTRATIVE OFFICER 

Date:

17th August 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R23-55
APPLICANT(S):	Kieran O'Boyle
REFERENCE:	Is the replacement of a garage door at 2 Kilmoreane Heights, Kilrush Road with a window development and if so, is it exempted development?
LOCATION:	2 Kilmoreane Heights, Kilrush Road, Ennis, Co Clare V95 HN3Y
DUE DATE:	18 th August 2023

Site Location

The site is located at Kilmoreane Heights, a small residential area on the Kilrush Road, approximately 5.5km from Ennis.

Recent Onsite Planning History

There is no recent planning history on site.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Kieran O'Boyle, the owner of the property.

The applicant is seeking a Section 5 Declaration as to whether the replacement of a garage door with a window is considered to be development and if so, is it exempted development?

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

S.3.(1) In this Act, "*development*" means, except where the context otherwise requires, **the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.**

'Works' are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 4(1)(h) of the Planning and Development Act states that '*development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*'

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the replacement of replacement of a garage door with a window is considered to be development and if so, is it exempted development.

Particulars of the Development

Having reviewed the file, I consider that the proposal would result in the carrying out of works on, in, over, or under land would as per Section 3(1) of the Planning and Development Act, 2000 (as amended) would constitute development.

However, I consider that the proposal would fall within the definition of works which are exempt under the provisions of Articles 6 and 9 of Schedule 2, Part 1 (Exempted Development) Class 1 - *Development within the curtilage of a house* which states that:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

Conclusions

WHEREAS a question has arisen as to whether the replacement of a garage door with a window is considered to be development and if so, is it exempted development?

AND WHEREAS Clare County Council in considering this referral had particular regard to:

(a) Sections 2, 3 and 4 of the Planning and Development Act, as amended, and

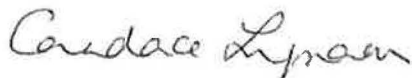
(b) Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)

AND WHEREAS Clare County Council has concluded that the works to be undertaken constitute development that is exempted development by reason of the provisions of Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)

NOW THEREFORE Clare County Council in exercise of its powers conferred on it by Section 5(2) of the Planning & Development Act 2000 (as amended) hereby decides that the replacement of ~~replacement of~~ a garage door with a window at 2 Kilmore Heights, Kilrush Road, Ennis is considered to be development, and is exempted development.



Assistant Planner
Date: 16/08/2023



A/Senior Executive Planner
Date: 16/08/2023



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Kieran O'Boyle
2 Kilmorane Heights
Kilrush Road
Ennis
Co. Clare
V95 HN3Y

25/07/2023

Section 5 referral Reference R23-55 – Kieran O'Boyle

Is the replacement of a garage door at 2 Kilmorane Heights, Kilrush Road with a window development and if so is it exempted development?

A Chara,

I refer to your application received on 24th July 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



Clare County Council
Aras Contae an Chláir
New Road
Ennis
Co Clare

24/07/2023 15:56:45

Receipt No. : L1CASH/0/352291
***** REPRINT *****

KIERAN O'BOYLE
2 KILMORANE HEIGHTS
KILRUSH ROAD
ENNIS
CO. CLARE

SECTION 5 REFERENCES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
Cash 80.00

Change : 0.00

Issued By : L1CASH - DEIRDRE FRENCH
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No. 0033043E

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

Planning Department,
 Economic Development Directorate,
 Clare County Council,
 New Road, Ennis,
 Co. Clare.
 V95DXP2

Telephone No. (065) 6821616
 Fax No. (065) 6892071
 Email: planoff@clarecoco.ie
 Website: www.clarecoco.ie



R23-55

REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration

KIERAN O'BOYLE

2 KILMORANE HEIGHTS

KILRUSH ROAD

ENNIS

Eircode: V95 HN34

CO. CLARE

(b) Telephone No.:

(c) Email Address:

(d) Agent's Name and address:

EIRCODE:

2. DETAILS REGARDING DECLARATION BEING SOUGHT

- (a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

Is the replacement of a garage door at 2 Kilmorane Heights, Kilrush Rd. with a window, development and if so is it exempted development?

- (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

2 Kilmorane Heights is a bungalow. On its west side is a garage which is part of the original building. We intend to convert the garage internally into an office space. The only exterior change will be replacing existing double garage doors with a window. Internally, an existing stud wall will be removed, the garage converted to an office and the existing toilet and utility room maintained - internal insulation and window upgrades will take place. Opposite neighbour made similar conversion.

- (c) List of plans, drawings etc. submitted with this request for a declaration:

(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

MAP ENCLOSED

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

(a) Postal Address of the Property/Site/Building for which the declaration sought:	2 KILMORANE HEIGHTS KILRUSH ROAD ENNIS CO. CLARE V95 HN37
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No —
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNER
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	—
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES —
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	NO. —
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	NO.
(h) Date on which 'works' in question were completed/are likely to take place:	Hopefully between September — November 2023

SIGNED: DATE: 19/7/23

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:	Fee Paid:
Date Acknowledged:	Reference No.:
Date Declaration made:	CEO No.:
Decision:	

Land Registry Compliant Map



Tailte
Éireann

**CENTRE
COORDINATES:**
ITM 530736,673149

PUBLISHED: 08/08/2023
ORDER NO.: 50039147_1

MAP SERIES: 1:2,500
MAP SHEETS: 4379-D

COMPILED AND PUBLISHED BY:
National Mapping Division of
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

Any unauthorised reproduction
infringes Tailte Éireann copyright.

No part of this publication may
be copied, reproduced or transmitted
in any form or by any means without
the prior written permission of the
copyright owner.

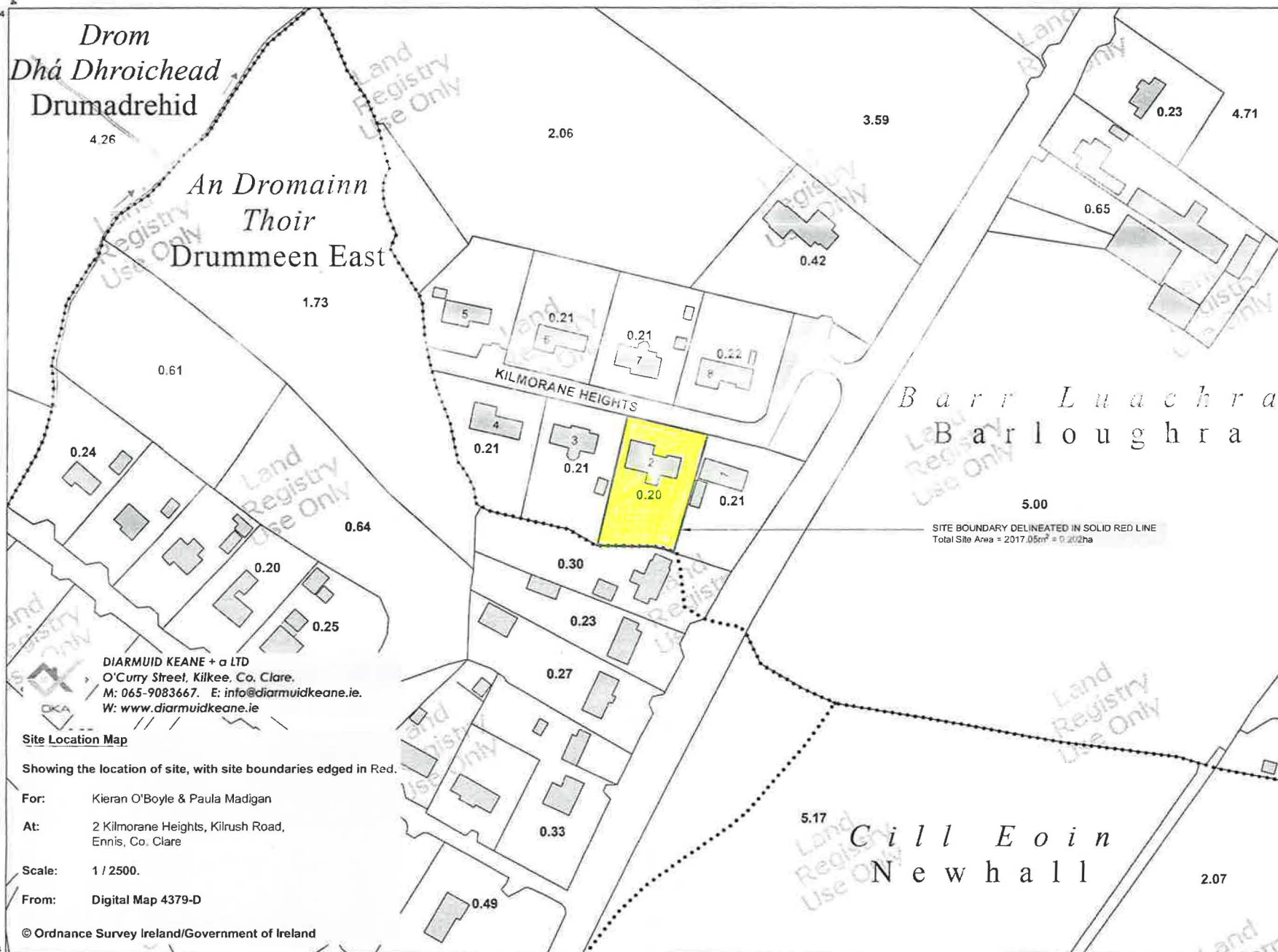
The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Topographic maps produced by the
National Mapping Division of Tailte
Éireann never show legal property
boundaries, nor do they show
ownership of physical features.

© National Mapping Division of Tailte
Éireann, 2023. All rights reserved.



This map was produced by
the National Mapping Division
of Tailte Éireann, formerly
Ordnance Survey Ireland (OSI)



DIARMUID KEANE + a LTD
O'Curry Street, Kilkee, Co. Clare.
M: 065-9083667 E: info@diarmuidkeane.ie
W: www.diarmuidkeane.ie

Site Location Map

Showing the location of site, with site boundaries edged in Red.

For: Kieran O'Boyle & Paula Madigan

At: 2 Kilmorane Heights, Kilrush Road,
Ennis, Co. Clare

Scale: 1 / 2500.

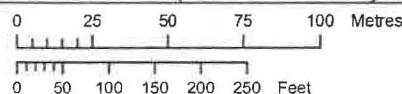
From: Digital Map 4379-D

© Ordnance Survey Ireland/Government of Ireland

CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
www.osi.ie; search 'Capture Resolution'

LEGEND:
To view the legend visit
www.osi.ie and search for
'Large Scale Legend'

OUTPUT SCALE: 1:2,500



Garage doors to be similar / same
as replaced with or front elevation.

