



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-036**

To: Chair and Members of the Committee of Adjustment
From: Jason Partridge, Planner
Date of Meeting: May 17, 2021
Application for: Minor Variance
File Number: D13-019-2021
Address: 2812 Battersea Road
Owner: Matthew Cooper
Applicant: Matthew Cooper & Mandy Mclellan

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 2812 Battersea Road. The applicant requesting relief from the requirements regarding the interior yard setback to build a 35.4 square metre accessory building within the rear yard of the property. The resulting new rear yard accessory building complies with all minimum rear yard, height and landscaped open space requirements.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

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Variance Number 1:

By-Law Number 76-26: Section 9 (2) (e) Interior Side Yard Setback

Requirement:12 Metres

Proposed:1.2 Metres

Variance Requested:10.8 Metres

Recommendation:

That minor variance application, File Number D13-019-2021, for the property located at 2812 Battersea Road seeking relief from the interior yard setback, in order to permit the construction of 35.4 square metres rear yard accessory building, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-036.

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Authorizing Signatures:



Jason Partridge, Planner

In Consultation with the following Management of the Community Services Group:

Tim Park, Acting Director, Planning Services

James Bar, Acting Manager, Development Approvals

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Options/Discussion:

On March 25, 2021, a minor variance application was submitted by Matthew Cooper, on behalf of the owner, Matthew Cooper & Mandy Mclellan, with respect to the property located at 2812 Battersea Road.

The purpose of the application is to permit the construction of accessory building within the rear yard near the interior lot line of the property. The total area of the proposed accessory building is 35.4 square metres.

In support of the application, the applicant has submitted the following:

- Site Plan (Exhibit G)
Elevations (Exhibit H)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using “Look-up a Specific Address”. If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

Site Characteristics

The subject property is located on the east side of Battersea Road and is situated within an established rural residential cluster in the Mount Chesney area (Exhibit B – Key Map and Exhibit F – Neighbourhood Context). The site is currently developed with a single-family dwelling on a private well and septic services. The surrounding area includes single family dwellings, municipal owned roads, and agricultural uses.

The subject property is designated Rural Lands on Schedule 3-B – Land Use, in the Official Plan, and is split zoned the Residential Type 1 Zone (R1) and the Restricted Agricultural Zone (A1) in Zoning By-Law Number 76-26.

Application

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

Provincial Policy Statement

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being

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considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

1) The general intent and purpose of the Official Plan are maintained

The subject property is designated Rural Lands in the City of Kingston Official Plan.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

The existing residential use and zoning are consistent with the Rural Lands designation. The proposed accessory building is a minor accessory use to the permitted use and the minor variance requested only affects how close to a side lot line the accessory use is permitted. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area. The accessory building represents a reinvestment to the property that will result in a minor development on the subject property. No additional dwelling units are proposed. There is no increase in density or intensity of uses. The proposed rear yard accessory building is consistent with the intent of this policy.

2. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;

The proposed accessory building will result in a development that is consistent with the built form of existing rear yard accessory buildings found on nearby residential properties located north, south and east of the subject property along Battersea Road. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties.

3. The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;

The proposal involves the construction of an accessory building within the rear yard of the subject property. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility. One parking spot is required and provided

4. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;

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The size and location of the proposed shed has no impact on urban design; and, there are no matters of built heritage on this property.

5. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable;

The subject property is not on the City's Heritage Register and as such a Heritage Impact Statement is not required.

6. The resulting *development* has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;

The site is located outside of the Urban Boundary and is developed with sufficient private services. The proposed accessory building will not require any private services for its intended storage use related to the single-family dwelling.

7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;

The proposed variance is considered minor and the development is consistent with the existing built form along Battersea Road. Therefore, a zoning by-law amendment is not required.

8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application;

As part of the recommendation, suggested conditions have been listed. The conditions may be added, altered or removed at the Committee's discretion.

9. The degree to which such approval may set an undesirable precedent for the immediate area.

The surrounding residential uses include Single Family Dwellings. The approval of the requested variance is considered minor and will not set a precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed will not result in any negative impacts to adjacent properties or to the neighbourhood.

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2) The general intent and purpose of the zoning by-law are maintained

The subject property is split zoned 'R1' and 'A1' in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The accessory building is proposed within the portion of the property zoned 'A1'. The 'A1' zone permits an accessory dwelling house, a converted dwelling house, a single-family dwelling house, a cemetery, a church, a conservation use, a crematorium, a farm, but not including a specialized farm as defined herein, a farm produce outlet, a forestry use, a fraternal lodge, a home occupation, a livestock sales barn, a public use, in accordance with the provisions of Section 5(18) hereof, a riding stable and a seasonal fruit, vegetable, flower or farm produce sales outlet, provided such produce is the product of the farm on which such sales outlet is located. The proposed rear yard accessory building is a permitted use within the 'A1' Zone (Exhibit E)

The proposal requires a variance to Section 76-26: Section 9 (2) (e)

Variance Number 1:

By-Law Number 76-26: Section 9 (2) (e) Interior Side Yard Setback

Requirement:12 Metres

Proposed:1.2 Metres

Variance Requested:10.8 Metres

A variance is required from Section 9 (2) (e) of Zoning By-Law Number 76-26 to seek relief for the accessory building from the minimum setback from the interior lot line Section 9 (2) (e). Within Section 9 (2) (e) the minimum setback from the interior lot line is 12 metres. The proposed rear yard accessory building will be setback 1.2 metres, which does not comply with the minimum interior yard setback of Section 9 (2) (e). As such, the applicant is seeking a variance of 10.8 metres to construct the rear yard accessory building.

The intent of the minimum interior side yard setback within an 'A1' zone is to protect the surrounding properties from adverse impacts from Agricultural operations. The existing and permitted use is a single-family dwelling due to its smaller lot size. A reduced Interior side yard setback would still maintain the intent of the bylaw by preventing intrusive overlook into people's yards and overdevelopment of a rear yard space with excessive sized accessory buildings. The proposed accessory building maintains a 1.2 metres setback to reduce impact on the neighbouring property. The decreased Interior side yard setback maintains the general intent and the purpose of the by-law is maintained.

3) The variance is minor in nature

The proposed rear yard accessory building will result in a development that is consistent with the existing built form of residential development along Battersea Road. The proposed accessory building will be located within the rear yard and will not result in intrusive overlook with respect to adjacent residential properties. The variances will not alter the character of the neighbourhood or the existing streetscape. The total area of the proposed accessory building is 35.4 square metres.

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The variances are considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures.

4) The variance is desirable for the appropriate development or use of the land, building or structure

The proposed development will provide the functional needs for the existing residential use. The resulting built form satisfies all applicable provisions of the zoning by-law, except for the interior lot line setback.

The proposal is appropriate and compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area. The property contains split zoning with a 'R1' zone in the front and a 'A1' zone the rear of the property. An accessory building 1.2 metres from the interior lot line would be permitted within the side yard of the property due to its split zoning. Due to the large agricultural setbacks in the rear of the property it would make it difficult for the owner to place an accessory building associated to only the residential use within the rear yard. Therefore, it would be appropriate to reduce the Interior yard setback within the rear yard of the property as it is in keeping with the character of the residential cluster of single-family dwelling in the surrounding area.

The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|--|
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Services) |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Utilities Kingston | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input type="checkbox"/> Solid Waste | <input type="checkbox"/> Kingston Hydro | <input type="checkbox"/> City's Environment Division |
| <input type="checkbox"/> Housing | <input checked="" type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input type="checkbox"/> KEDCO | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |
| <input checked="" type="checkbox"/> CRCA | <input type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input type="checkbox"/> Parks Canada | <input type="checkbox"/> KFL&A Health Unit | <input type="checkbox"/> Trans Northern Pipelines |
| <input type="checkbox"/> Hydro One | <input type="checkbox"/> Eastern Ontario Power | <input type="checkbox"/> CFB Kingston |
| <input type="checkbox"/> Kingston Airport | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> TransCanada Pipelines |

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

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Public Comments

At the time this report was finalized, no public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

There are no concurrent or relevant historic planning applications on the subject property.

Conclusion

The requested variance(s) maintain(s) the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(s) are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will permit the construction of a 35.4 square metres accessory building in the rear yard of the subject property. The proposed rear yard accessory building will improve the function of the existing residential use on the site and represents good land use planning.

Existing Policy/By-Law:

The proposed application was reviewed against the policies of the Province of Ontario and the City of Kingston to ensure that the changes would be consistent with the Province's and the City's vision of development. The following documents were assessed:

Provincial

Provincial Policy Statement, 2020

Municipal

City of Kingston Official Plan

Zoning By-Law Number 76-26

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on May 17, 2021. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 6 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard.

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Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

James Bar, Acting Manager, Development Approvals, 613-546-4291 extension 3213

Jason Partridge, Planner, 613-546-4291 extension 3216

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Public Notification Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map (76-26, Map 1)
- Exhibit F Neighbourhood Context Map (2020)
- Exhibit G Site Plan
- Exhibit H Elevations

Recommended Conditions

Application for minor variance, File Number D13-019-2021

Approval of the foregoing application shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to the property located at 2812 Battersea Road for a proposed rear yard accessory building as shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

3. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

4. Standard Archaeological Condition

The City of Kingston is in receipt of an Archaeological Assessment for the property located at 370 Brock Street prepared by Abacus Archaeological Services dated December 31st, 2020. This report is on file with the Ministry of Heritage, Sport, Tourism and Culture Industries. The City has received and relies upon the report of the professional archaeologist as filed but reserves the right to require further reports should further evidence be uncovered.


The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of the report and subject to input and review from the Ministry of Heritage, Sport, Tourism and Culture Industries. The City shall not be restricted in its ability to determine requirements related to review, assessment and/or protection should archaeological resources be

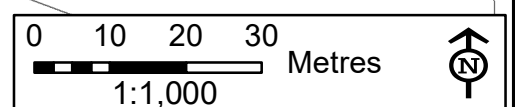
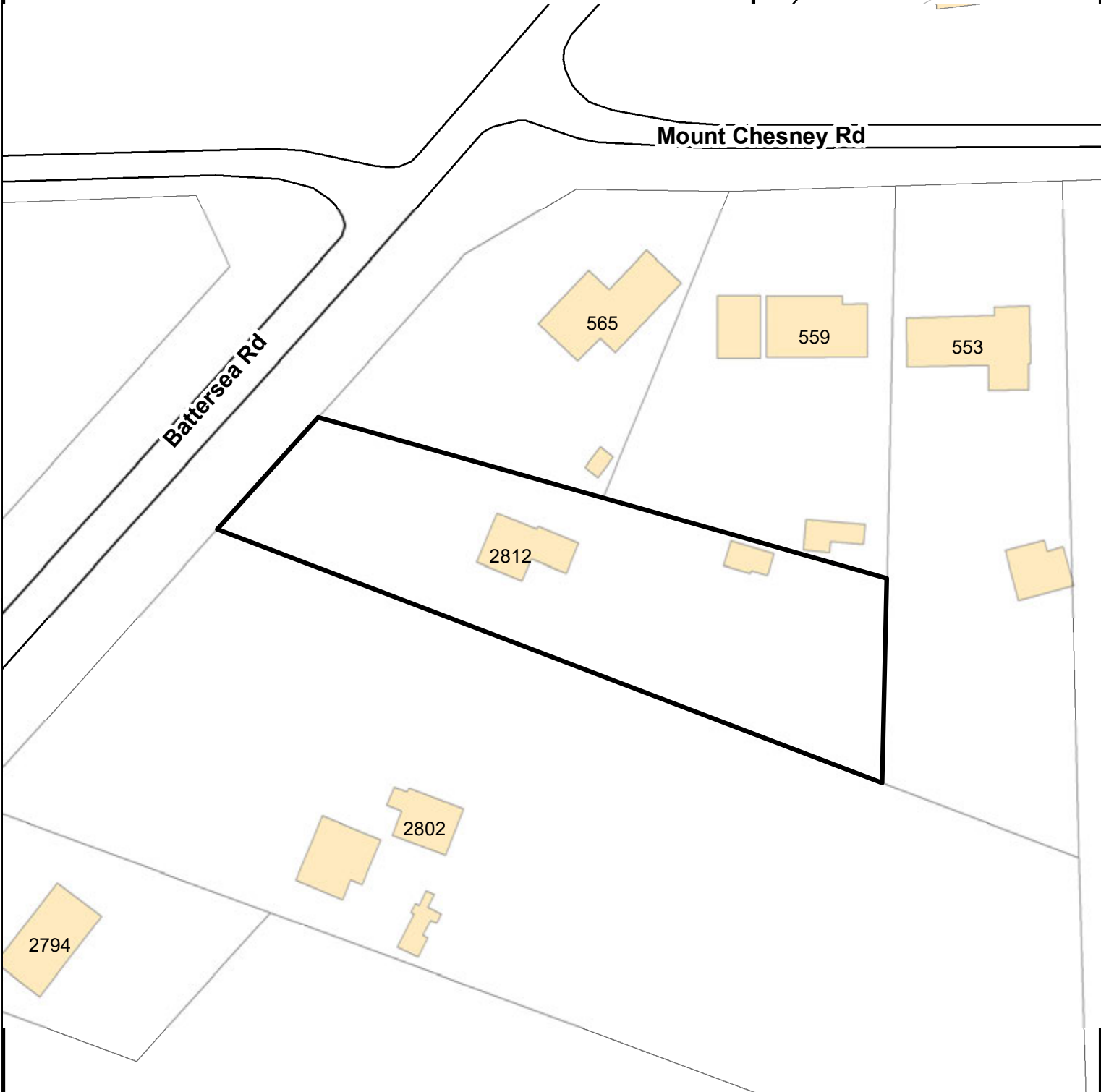
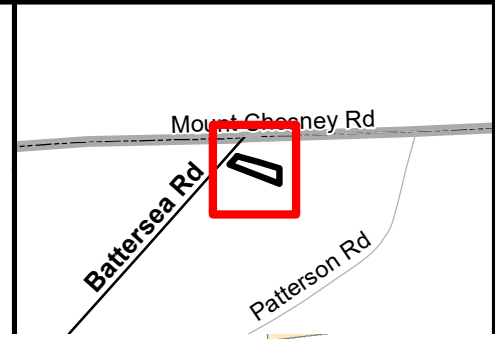
found on site. Any costs arising from such requirements of the City or any other duly authorized Government body shall be borne solely by the applicant.



Committee of Adjustment Key Map

Address: 2812 Battersea Road
File Number: D13-019-2021

 Lands Subject to Minor Variance







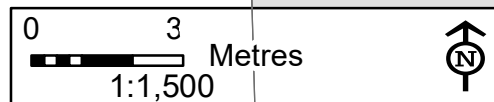
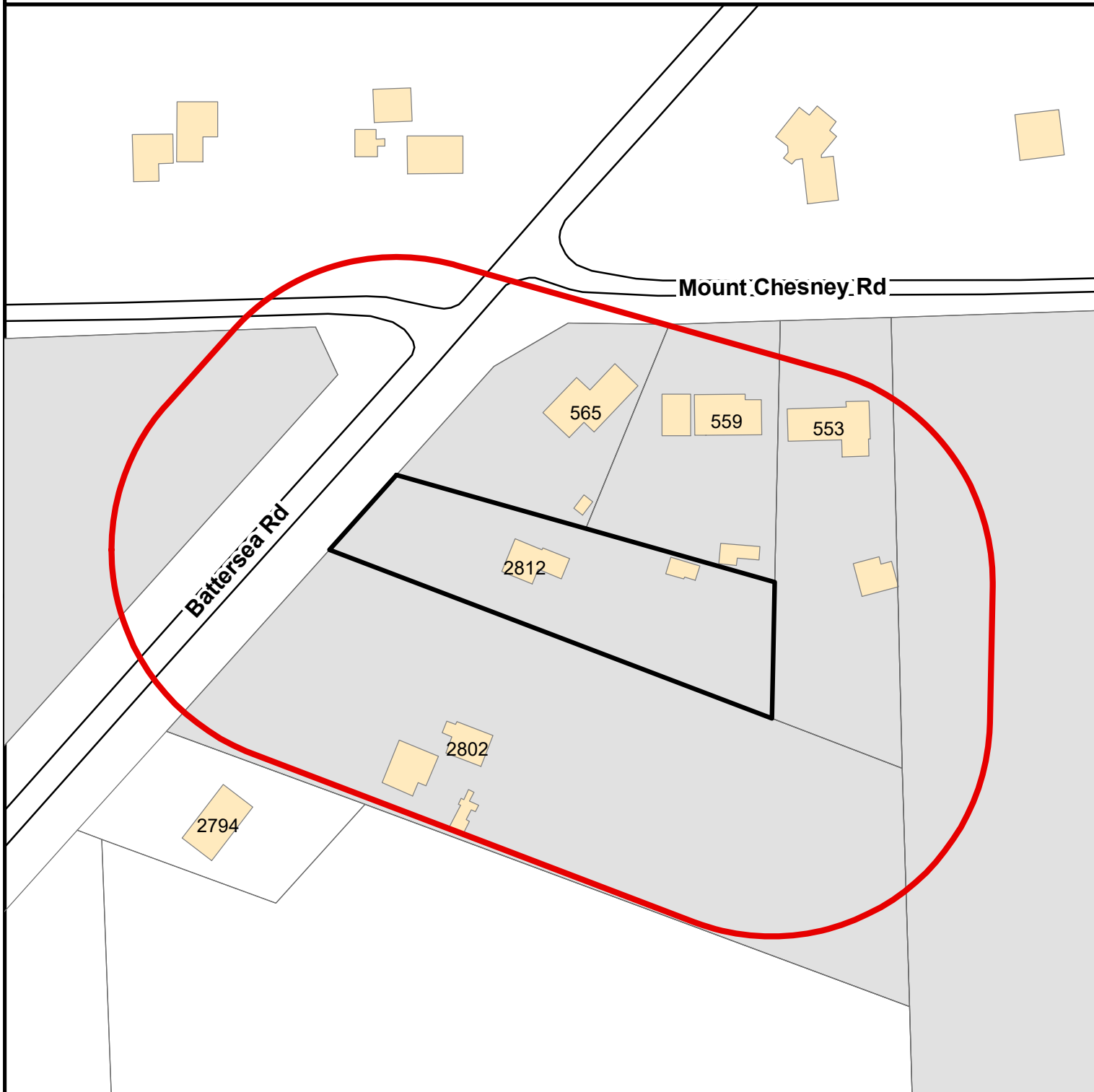


Planning Services

Committee of Adjustment Public Notice Notification Map

Address: 2812 Battersea Road
File Number: D13-019-2021

-  60m Public Notification Boundary
-  Subject Lands
-  Property Boundaries
-  6 Properties in Receipt of Notice (MPAC)





Planning Services

Committee of Adjustment
Official Plan, Existing Land Use

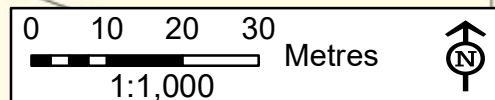
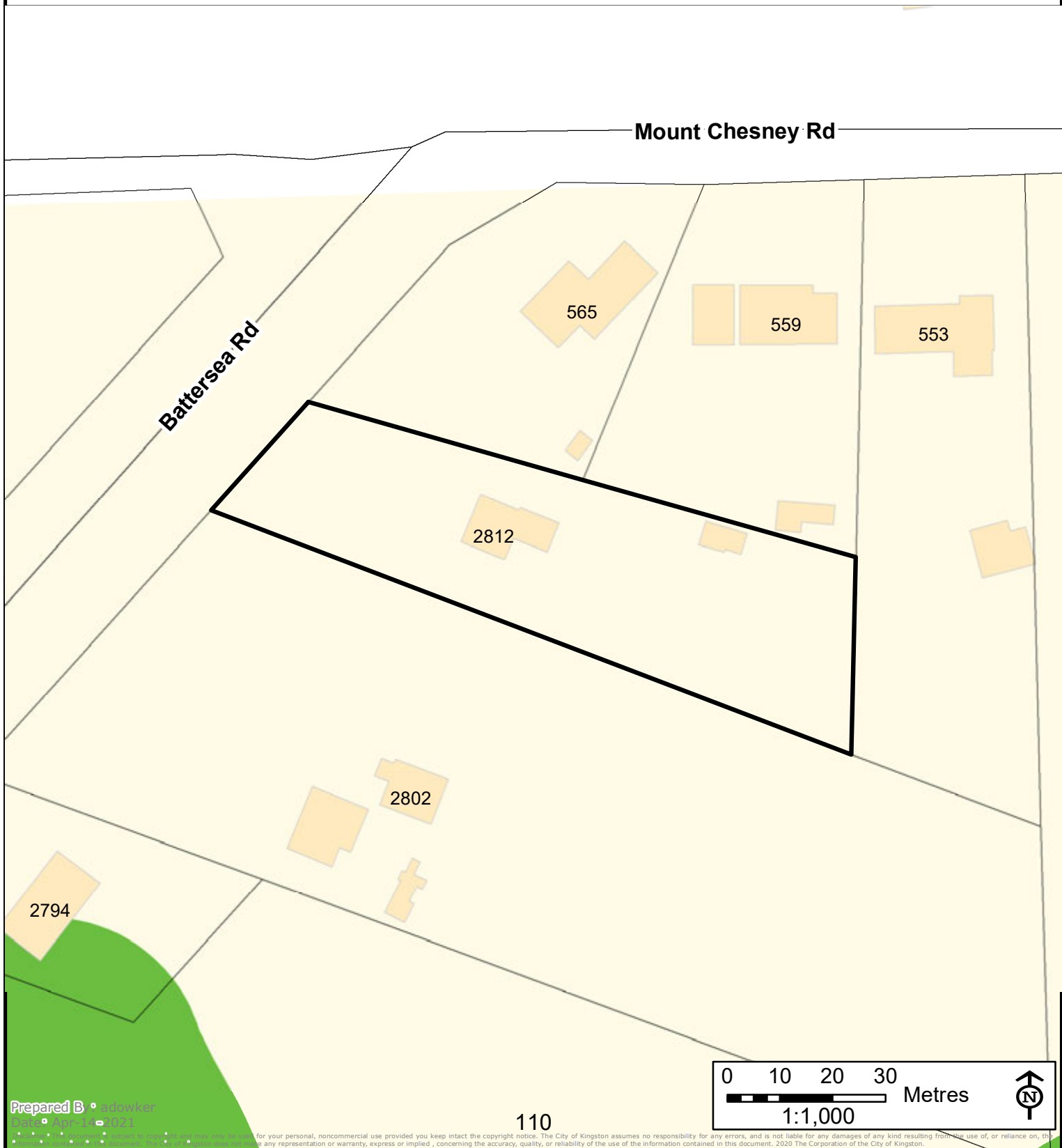
Address: 2812 Battersea Road

File Number: D13-019-2021

Subject Lands

ENVIRONMENTAL PROTECTION AREA

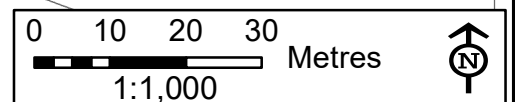
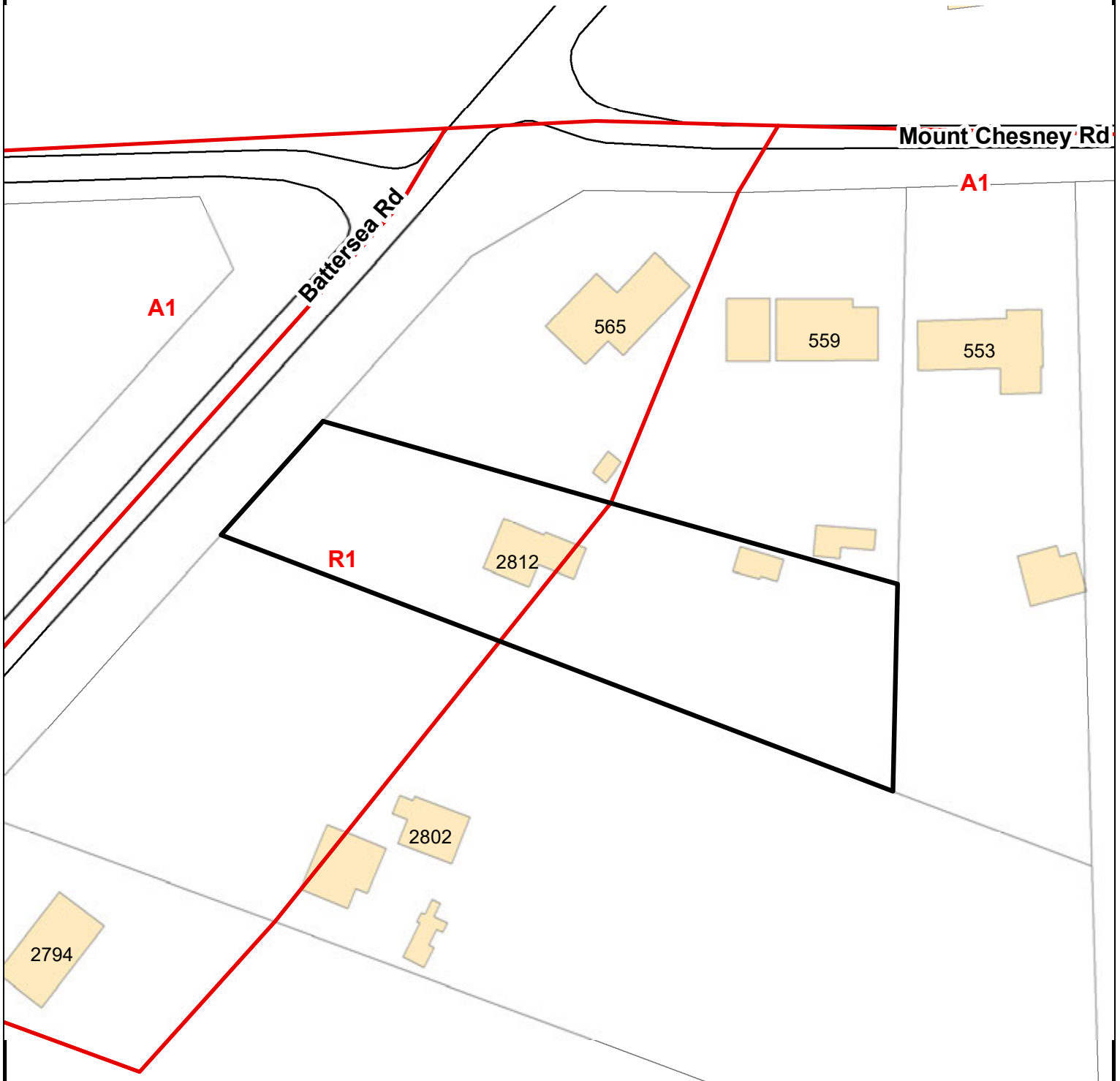
RURAL





Committee of Adjustment
Existing Zoning - By-law 76-26, Map 1
Address: 2812 Battersea Road
File Number: D13-019-2021

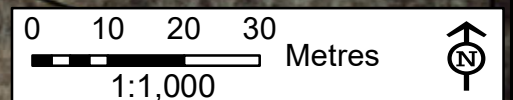
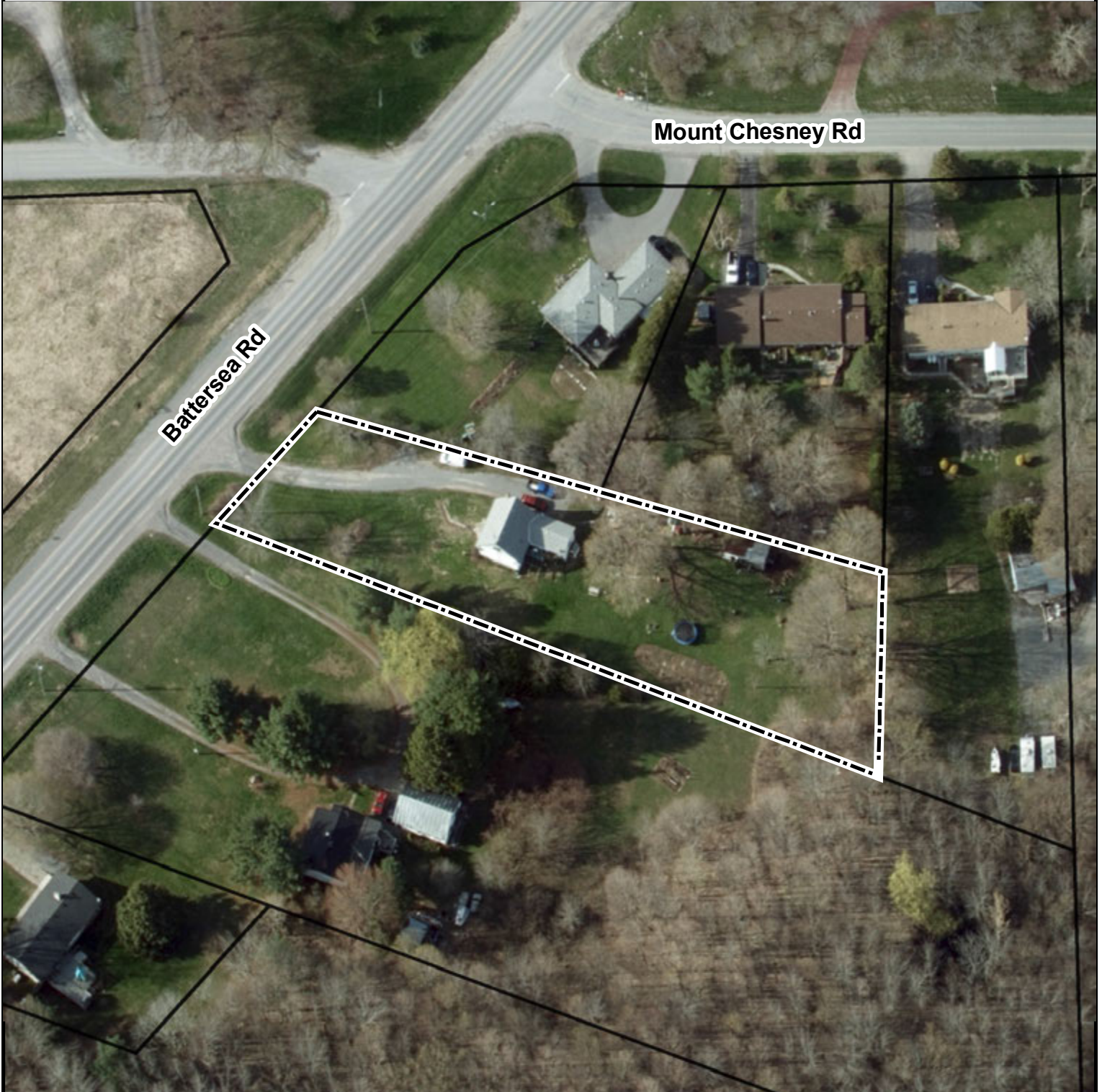
Subject Lands
 Consolidated Zoning

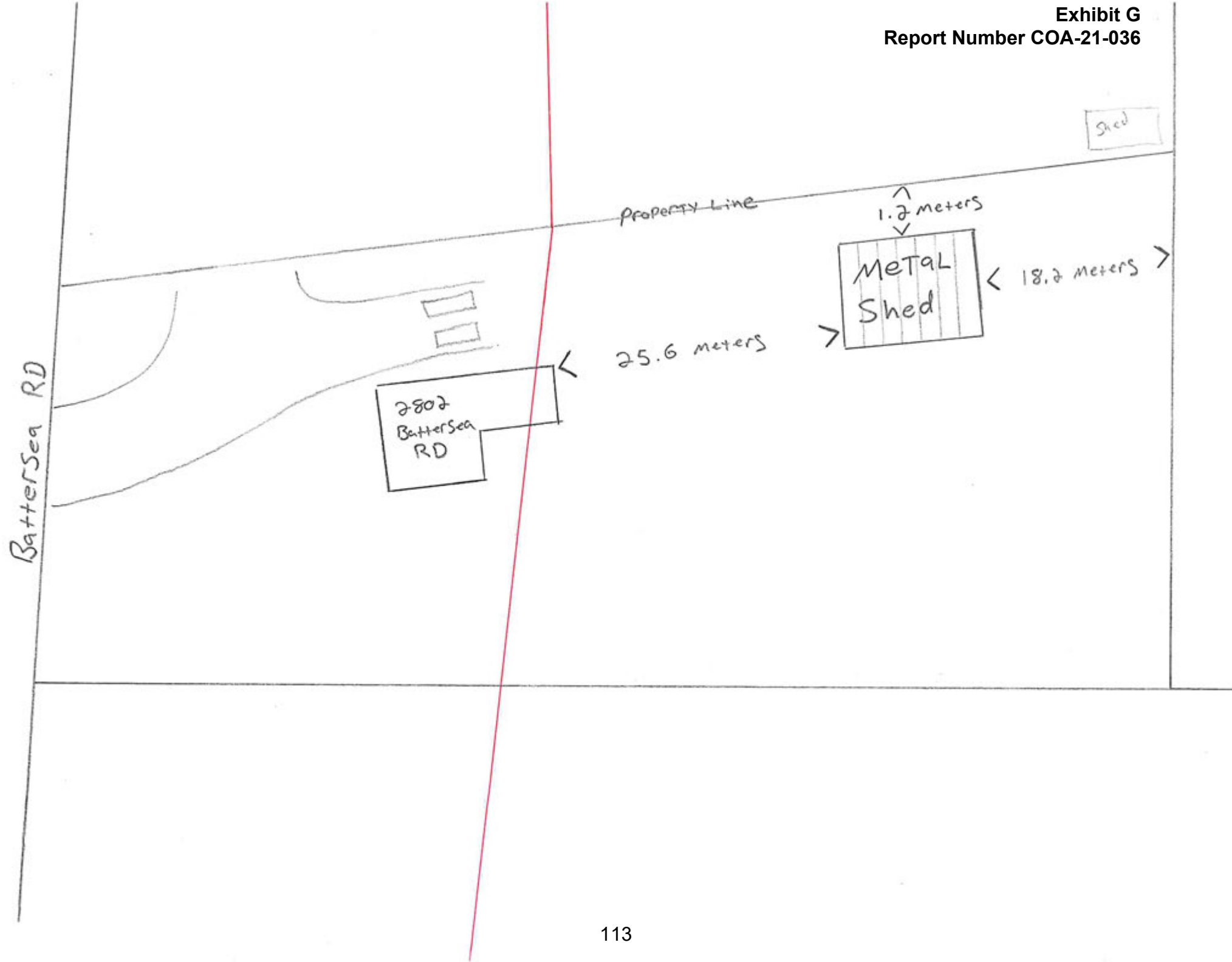


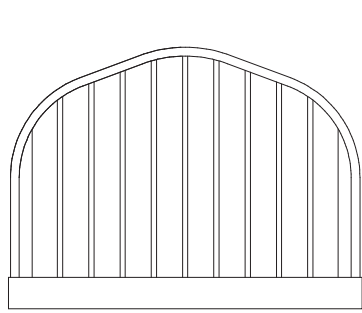


Committee of Adjustment
Neighbourhood Context (2020)
Address: 2812 Battersea Road
File Number: D13-019-2021

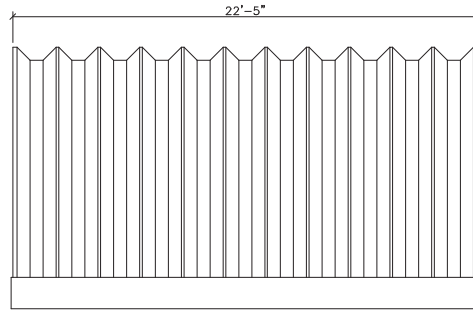
- Subject Lands
- Property Boundaries
- Proposed Parcels



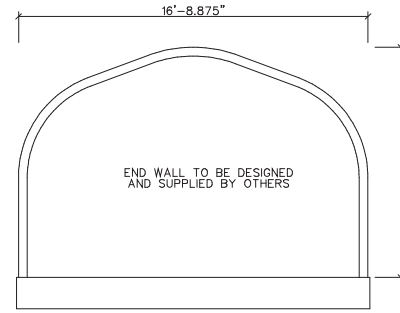




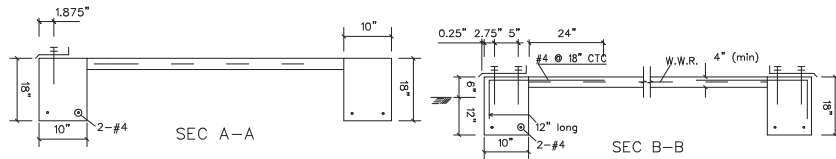
REAR ELEVATION



SIDE ELEVATION



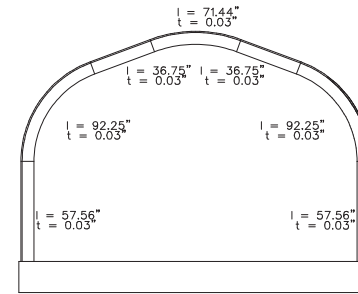
FRONT ELEVATION



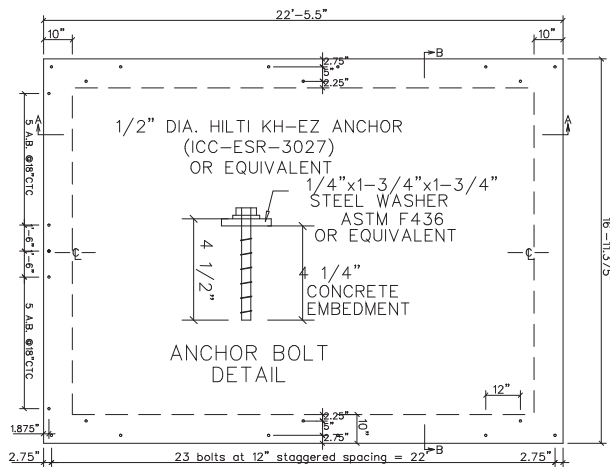
WARNING: DO NOT REMOVE OR REDUCE THE CONCRETE FLOOR OR THE REINFORCING STEEL, AND/OR RAISE THE TOPS OF THE FOOTERS ABOVE THE FLOOR OR BUILDING FAILURE MAY RESULT

Minimum Concrete Cover:

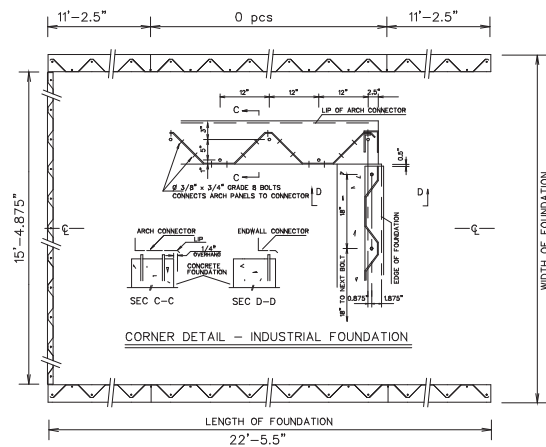
(a) Concrete Cast against earth:	3"
(b) Concrete exposed to earth or weather: No. 6 through No. 10 bars:	2"
No. 5 bar and smaller:	1.5"
(c) Concrete not exposed to earth or weather:	0.75"



ARCH PROFILE



FOUNDATION PLAN



INDUSTRIAL BASE CONNECTOR LAYOUT

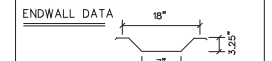
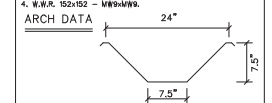
- GENERAL NOTES**
- ALL MATERIAL AND WORKMANSHIP SHALL CONFORM WITH THE REQUIREMENTS OF THE LATEST REVISION OF THE NATIONAL BUILDING CODE OF CANADA 2005. DESIGN ACCORDING TO CSA STANDARD S136-07 (INCLUDING SUPPLEMENT CAN/CSA S1985-10) NORTH AMERICAN SPECIFICATION FOR THE DESIGN OF COLD FORMED STEEL STRUCTURAL MEMBERS (APPENDIX B).
 - NO LOADS OTHER THAN THOSE GIVEN UNDER "DESIGN DATA" BELOW SHALL BE IMPOSED ON THE "STRUCTURE".
 - SPECIFIC NOTES AND DETAILS SHOWN ON THE DRAWINGS SHALL TAKE PRECEDENCE OVER THE BUILDING MANUAL SUPPLIED.
 - THE BUILDING, INCLUDING THE FOUNDATION, MUST BE CONSTRUCTED IN STRICT ACCORDANCE WITH THE DRAWING AND ERECTION INSTRUCTIONS. ANY DEVIATION, UNLESS APPROVED BY US IN WRITING, SHALL NULLIFY OUR CERTIFICATE AND SEAL AND SHALL BE THE SOLE RESPONSIBILITY OF THE ERECTOR.
 - A PROFESSIONAL ENGINEER SHOULD BE RETAINED WHERE SITE INSPECTIONS ARE WARRANTED.
 - NO ARCH PANEL MAY BE CUT OR MODIFIED UNLESS IT IS TO ACCOMMODATE AN ACCESSORY PROVIDED BY THE MANUFACTURER IN ACCORDANCE WITH ITS INSTRUCTIONS AND/OR THIS DRAWING.
 - MINIMUM SEPARATION FROM THIS BUILDING TO ANY TALLER BUILDING MUST BE THE SMALLER OF 20 FEET AND 8 TIMES THE HEIGHT DIFFERENCE.

FOUNDATION NOTES
NOTE: THE FOUNDATION ON THE DRAWING SPECIFIES THE MINIMUM REQUIREMENTS. LOCAL BUILDING CODE AND SITE CONDITIONS MAY REQUIRE A STRONGER FOUNDATION, WHICH MUST BE DESIGNED BY A LOCAL ENGINEER.

- THE FOUNDATION SHALL BE FOUNDED ON NATURAL UNDISTURBED SOIL, CAPABLE OF SAFELY SUSTAINING 75 KPa. THIS SHALL BE DESIGNED TO FULLY RESIST ALL ROTATION AT THE BASE OF THE ARCH.
- SLAB ON GRADE SHALL BE PLACED ON WELL COMPACTED SOIL, CAPABLE OF SUSTAINING 75 KPa WITHOUT APPRECIABLE SETTLEMENT.

DESIGN DATA (MATERIALS)

- CONCRETE $f_c = 25$ MPa @ 28 DAYS, CSA 423.3
- REINFORCING STEEL GRADE 400, $F_y = 400$ MPa, ASTM A815
- W.W.R. $F_y = 450$ MPa, ASTM A185.
- W.W.R. SIZE - MINIMUM.



- BOLTS:** SAE GRADE 2 OR ASTM A307
ARCH STEEL THICKNESS - SEE ARCH PROFILE
ENDWALL STEEL THICKNESS = 0.76 mm
CALVALINE SHEET STEEL
 STRUCTURAL QUALITY ASTM SPECIFICATION A793M
 55% ALUMINUM-ZINC ALLOY-COATED BY THE HOT-DIP PROCESS
 345 MPa MINIMUM YIELD
 450 MPa MINIMUM TENSILE
HSS SECTIONS SHALL CONFORM TO:
 ASTM A500 GRADE C ($F_y = 345$ MPa)
W SECTIONS SHALL CONFORM TO:
 ASTM A992 GRADE 50 ($F_y = 345$ MPa)
 OTHER SECTIONS SHALL CONFORM TO:
 ASTM A36 ($F_y = 250$ MPa)

- ARCH DESIGN DATA IN ACCORDANCE WITH NBC 2010:**
- L: ROOF LIVE LOAD (kPa) = 1
 - S_g: GROUND SNOW (kPa) = 2.40
 - S_r: ROOF SNOW FACTOR = 0.80
 - C_w: WIND EXPOSURE FACTOR = 1.0
 - C_e: MAX. SLOPE FACTOR = 1.0
 - S_r: RAIN LOAD (kPa) = 0.60
 - IMPORTANCE FACTOR (I_w) = 0.8
 - p: WIND EXTERNAL PRESSURE (kPa) = 0.25
 - v: VELOCITY PRESSURE (1/50) (kPa) = 0.35
 - C_{pe}: EXPOSURE FACTOR = 0.9
 - C_g: GUST EFFECT FACTOR = 2.0
 - S_{se}(0.2): SPECTRAL RESPONSE ACCELERATION = 0.40

LEGAL NOTE
This drawing is the property of Future Steel Buildings Int'l. Corp. Any duplication of this drawing in whole or in part is strictly forbidden. Anyone doing so will be prosecuted under the full extent of the law.

Future Steel Buildings Int'l. Corp.	
230 Chrysler Drive, Brampton, Ontario, Canada, L6S 8M6, Phone: (905) 760-8500	
SCALE:	APPROVED BY: [Signature]
DATE: 7/22/2021	DRAWN BY: [Signature]
PROJECT: 111222	ANGELO ZULLI
	LEFEBVRE, QUEBEC
NO.:	21-3179 R

