

Development Permit & Development Variance Permit DP20-0003 & DVP20-0004



This permit relates to land in the City of Kelowna municipally known as
815 Leon Ave.

and legally known as

Lot A District Lot 138 ODYD Plan EPP78759

and permits the land to be used for the following development:

Multiple Dwelling Housing.

With variances to the following sections of Zoning Bylaw No. 8000:



Section 13.12.6(b): RM6 – High Rise Apartment Housing, Development Regulations

To vary the maximum site coverage for principal buildings, accessory structures, and parking areas and driveways from 50% permitted to 76%.

Section 13.12.6(d): RM6 – High Rise Apartment Housing, Development Regulations

To vary the minimum site front yard from 6.0m required to 2.1m.

Section 7.6.1(b): Minimum Landscape Buffers, Level 3

To vary the minimum landscape buffer at the rear yard from 3.0m required to 1.1m.

Table 8.3: Required Off-Street Parking Requirements

To vary the required vehicle parking stalls from 178 to 147.

Section 8.2.11(b): Car-Share Incentives

To vary the requirement to locate a car-share vehicle within 100m of the subject property, and permit a car-share vehicle to be located outside of the 100m range

The present owner and any subsequent owner of the above described land must comply with any attached terms and conditions.

Date of Council Decision June 23, 2020

Decision By: COUNCIL

Development Permit Area: Comprehensive Development Permit Area

Existing Zone: RM6 – High Rise Apartment Housing

Future Land Use Designation: MRH – Multiple Unit Residential (High Density)

This is NOT a Building Permit.

In addition to your Development Permit, a Building Permit may be required prior to any work commencing. For further information, contact the City of Kelowna, Development Services Branch.

NOTICE

This permit does not relieve the owner or the owner's authorized agent from full compliance with the requirements of any federal, provincial or other municipal legislation, or the terms and conditions of any easement, covenant, building scheme or agreement affecting the building or land.

Owner: 815 Leon Developments Ltd., Inc.No. BC1053909

Applicant: Corey Makus; 815 Leon Developments Ltd.

Planner: Aaron Thibeault

Terry Barton
Development Planning Department Manager
Planning & Development Services

Date

1. SCOPE OF APPROVAL

This Development Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Development Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this permit, noted in the Terms and Conditions below.

The issuance of a permit limits the permit holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific variances have been authorized by the Development Permit. No implied variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

2. CONDITIONS OF APPROVAL

- a) The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A";
- b) The exterior design and finish of the building to be constructed on the land be in accordance with Schedule "B";
- c) Landscaping to be provided on the land be in accordance with Schedule "C"; and
- d) The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a Registered Landscape Architect.
- e) The car share program at the development be operated in accordance with the Agreement included as Schedule "D".
- f) The applicant be required to post with the City a security deposit in the form of a "Letter of Credit" in the amount of \$165,000 to ensure the provision of a 3rd car share vehicle within 24 months of occupancy permit.

This Development Permit is valid for two (2) years from the date of approval, with no opportunity to extend.

3. PERFORMANCE SECURITY

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Developer and be paid to the Developer or his or her designate if the security is returned. The condition of the posting of the security is that should the Developer fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may enter into an agreement with the property owner of the day to have the work carried out, and any surplus shall be paid over to the property owner of the day. Should the Developer carry out the development permitted by this Permit within the time set out above, the security shall be returned to the Developer or his or her designate. There is filed accordingly:

- a) An Irrevocable Letter of Credit **OR** certified cheque in the amount of \$364,003.91

Development Planning Department 1435 Water Street Kelowna BC V1Y 1J4 planning.cityofkelowna.ca

ATTACHMENT A	
This forms part of application # DR20-0003, DVP20-0004	
Planner Initials	<input type="text" value="AT"/>
 City of Kelowna COMMUNITY PLANNING	

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

5. INDEMNIFICATION

Upon commencement of the works authorized by this Permit the Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality said Permit.

All costs, expenses, claims that may be incurred by the Municipality where the construction, engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall ONLY be returned to the signatory of the
Landscape Agreement or their designates.**

ATTACHMENT		A
This forms part of application		
# <u>DP20-0003, DVP20-0004</u>		
Planner Initials	AT	 City of Kelowna COMMUNITY PLANNING

SCHEDULE B

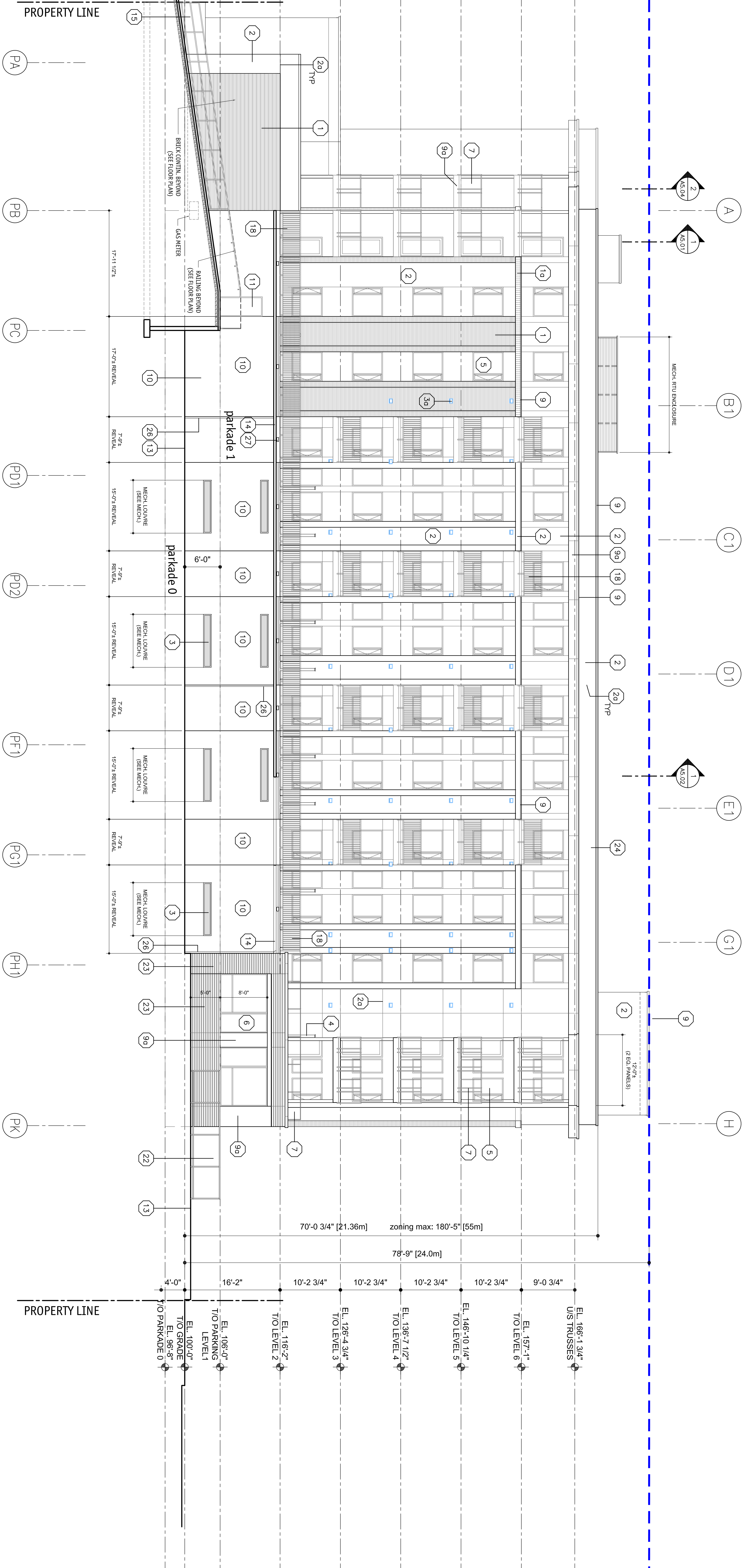
This forms part of application
DP20-0003, DVP20-0004



City of
Kelowna
COMMUNITY PLANNING

Planner
Initials

AT



NOTE:
SEE A4.01 FOR ELEVATION KEY NOTE LEGEND
& KEY PLAN

2020-05-07

DP

A4.02

BUILDING ELEVATION

Date	2020-05-07
Job No.	19-1819
Scale	AS SHOWN
Drawn	SM
Checked	JM

815 LEON AVE. KELOWNA V1Y 6J7
Drawing Number

**LEON AVENUE
6-STORY RENTAL
HOUSING**

Project Title

Revisions:

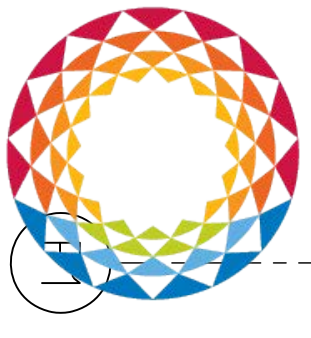
01	2020-05-08	Issued for DP
02	2020-03-02	Revised per
03	2020-03-04	60% progress
04	2020-03-27	Issued for FF BP

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SCHEDULE

B

This forms part of application
DP20-0003, DVP20-0004



City of
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COMMUNITY PLANNING

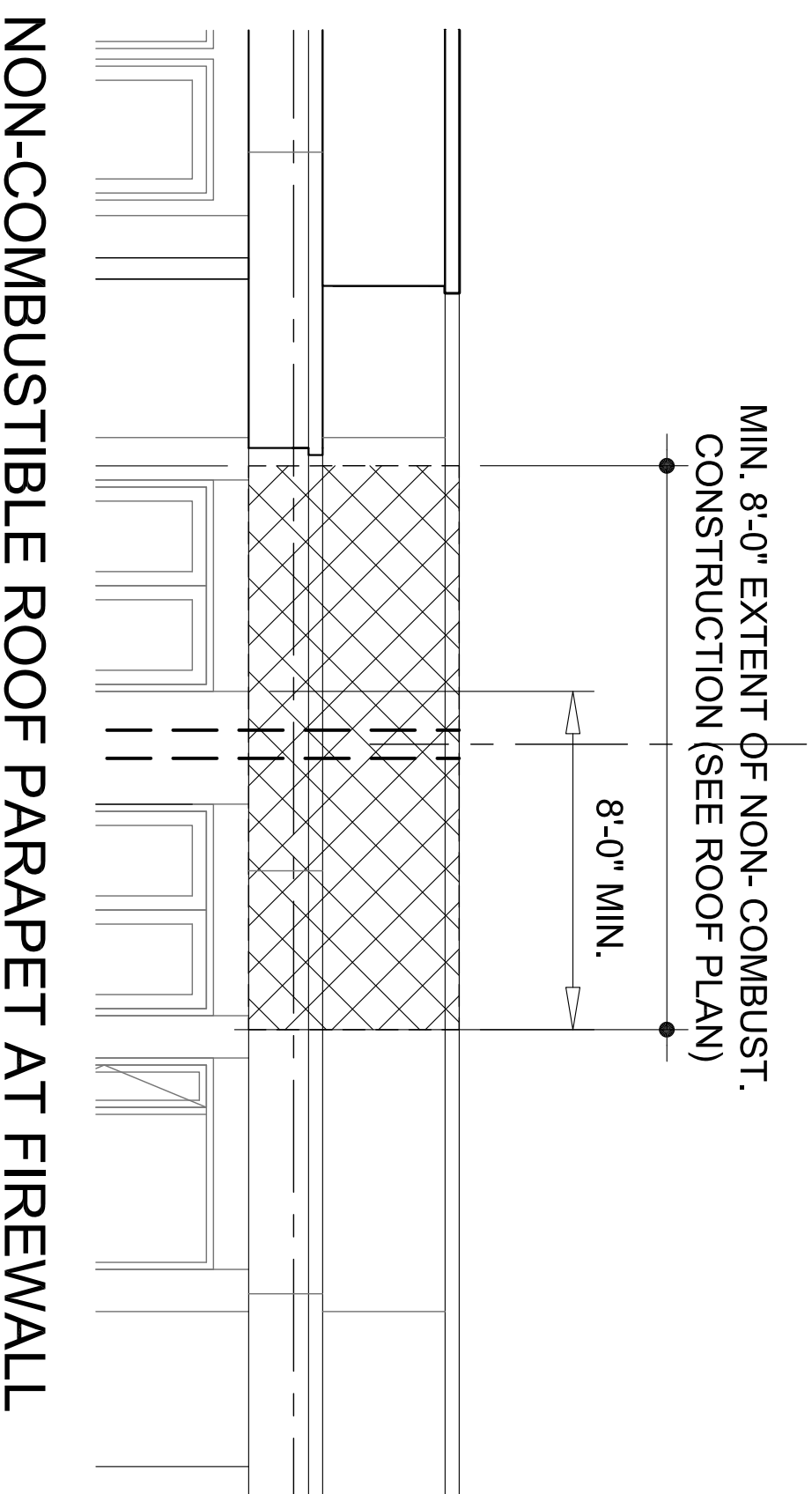
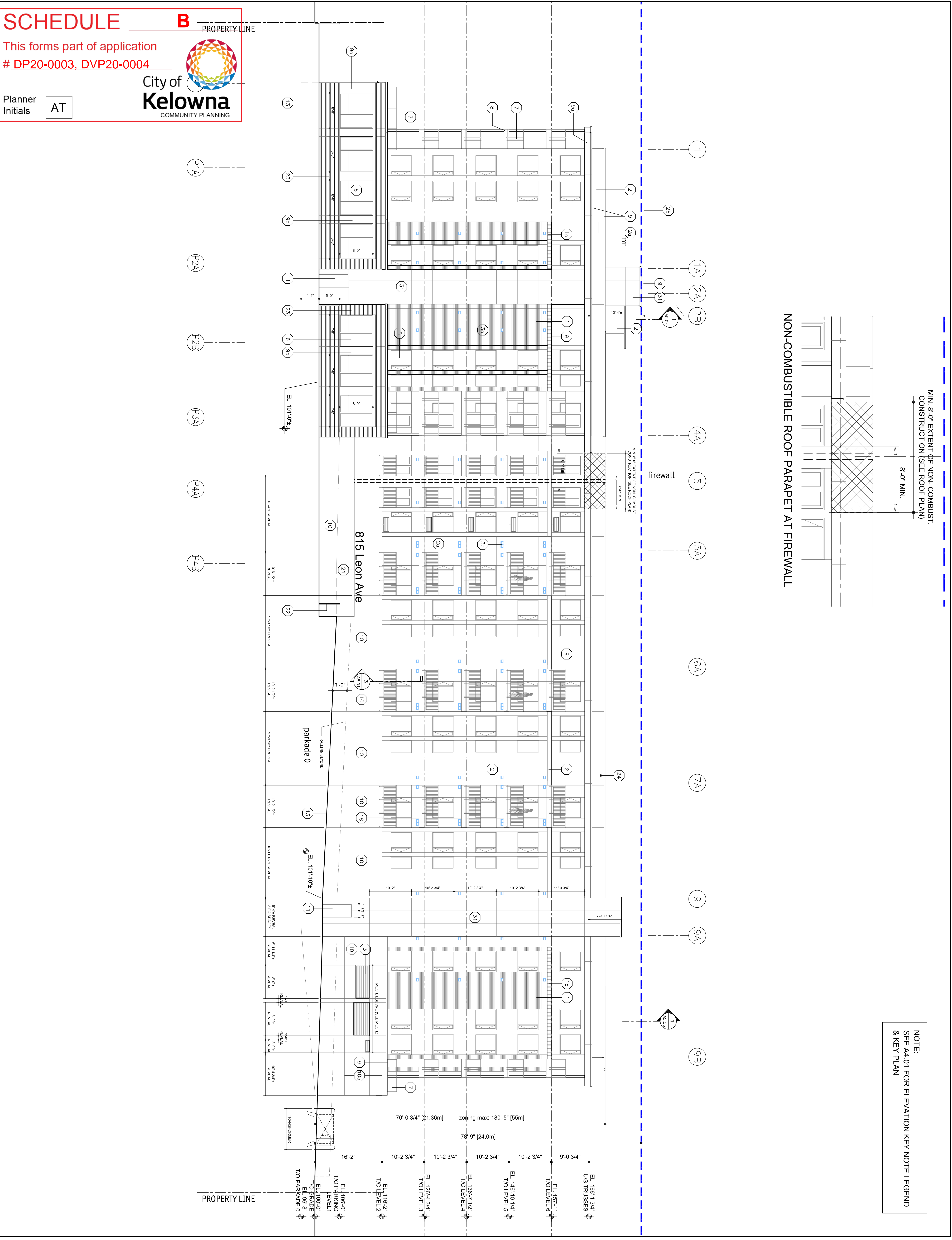
Planner
Initials

AT

P1A P2A P2B P3A P4A P4B

PROPERTY LINE

PROPERTY LINE



NOTE:
SEE A4.01 FOR ELEVATION KEY NOTE LEGEND
& KEY PLAN

2020-05-07

DP

A4.03

BUILDING ELEVATION
(Harvey Avenue)

Date	2020-05-07
Job No.	19-1819
Scale	AS SHOWN
Drawn	SM
Checked	JM

Project Title
**LEON AVENUE
6-STORY RENTAL
HOUSING**
815 LEON AVE. KELOWNA V1Y 6J7
Drawing Number

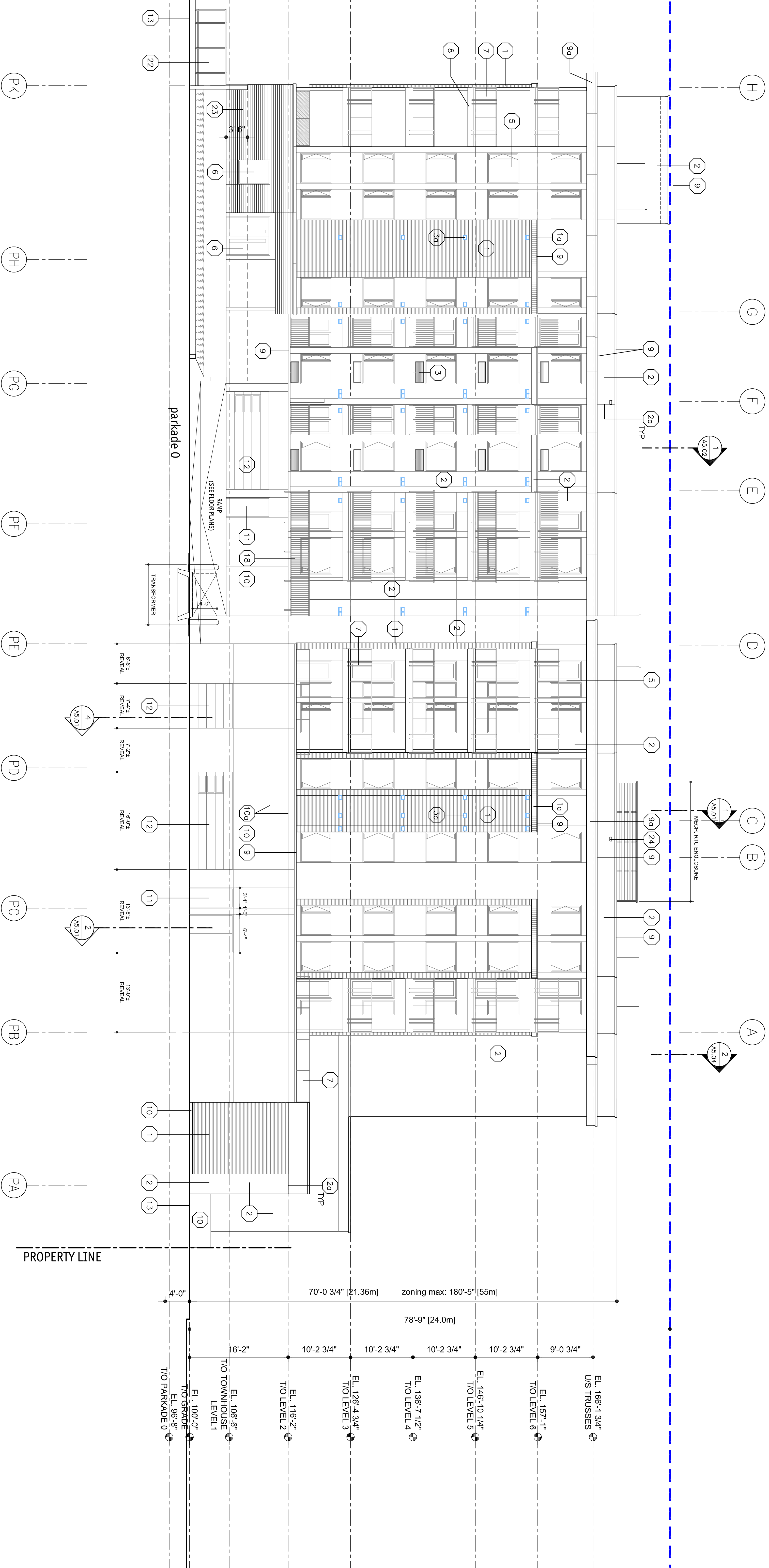
Revisions:
01 2020-03-27 Issued for IP
02 2020-03-27 Revised for IP
03 2020-03-27 60% progress
04 2020-03-27 Issued for IP
05 2020-05-08 Issued for IP

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SCHEDULE B

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DP20-0003, DVP20-0004

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PROPERTY LINE

4'-0" 70'-0 3/4" [21.36m] zoning max: 180'-5" [55m]
78'-9" [24.0m]
16'-2" 10'-2 3/4" 10'-2 3/4" 10'-2 3/4" 10'-2 3/4" 9'-0 3/4"
EL. 166'-1 3/4" U/S TRUSSES
EL. 157'-1" T/O LEVEL 6
EL. 146'-10 1/4" T/O LEVEL 5
EL. 136'-7 1/2" T/O LEVEL 4
EL. 126'-4 3/4" T/O LEVEL 3
EL. 116'-2" T/O LEVEL 2
EL. 106'-6" T/O TOWNHOUSE LEVEL 1
EL. 96'-0" T/O PARKADE 0

NOTE:
SEE A4.01 FOR ELEVATION KEY NOTE LEGEND
& KEY PLAN



2020-05-07

DP

A4.04

BUILDING ELEVATION

815 LEON AVE. KELOWNA V1Y 6S7

Project Title
**LEON AVENUE
6-STORY RENTAL
HOUSING**

Drawing Number

Drawings and Notes to be scaled. All dimensions shall be verified on site. Multiple Architectural and Mechanical details are shown. Refer to the respective drawings for details. Dimensions are shown in feet and inches. All dimensions are to the centerline unless otherwise noted.

01	2020-05-08	Issued for DP
02	2020-03-02	Revised for
03	2020-03-04	60% progress
04	2020-03-27	Issued for FF BP
07	2020-05-08	Issued for DP

Date: 2020-05-07
Job No.: 19-1876
Scale: AS SHOWN
Drawn: SM
Checked: JN

SCHEDULE C

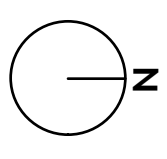
This forms part of application
 # DP20-0003, DVP20-0004

Planner Initials **AT**



OUTLAND DESIGN
LANDSCAPE ARCHITECTURE

303 - 590 KLO Road
 Kelowna, BC V1Y 7S2
 T (250) 868-9270
 www.outlanddesign.ca



PROJECT TITLE
815 LEON AVENUE

Kelowna, BC
 DRAWING TITLE

**CONCEPTUAL
 LANDSCAPE PLAN
 LEVEL 3 ROOF TERRACE**

ISSUED FOR / REVISION	
1 19.11.25	Review
2 19.11.27	Development Review
3	
4	
5	

PROJECT NO. 19-111
 DESIGN BY FB
 DRAWN BY JMC
 CHECKED BY FB
 DATE NOV. 27, 2019
 SCALE 1:200
 PAPER SIZE 24"x36"



DRAWING NUMBER

L2/4

ISSUED FOR REVIEW ONLY
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SCHEDULE D

This forms part of application

DP20-0003, DVP20-0004



City of
Kelowna
COMMUNITY PLANNING

AMENDED AND RE-STATED CO-OPERATIVE CARSHARING AGREEMENT
Plan # []
Initials [A]

THIS AGREEMENT made the 2nd day of June, 2020.

BETWEEN:

MODO CO-OPERATIVE

200 - 470 Granville Street,
Vancouver, B.C.
V6C 1V5

("Modo")

AND

815 LEON DEVELOPMENTS LTD.

612 Bernard Avenue
Kelowna, B.C.
V1Y 6P3

("Developer")

WHEREAS:

- A. Developer is proposing to develop a rental residential development on the lands located at 815 Leon Avenue in Kelowna, British Columbia and more particularly known and described as
PID: 030-471-893
legal lot description: LOT A DISTRICT LOT 138 OSOYOOS DIVISION YALE DISTRICT PLAN EPP78759
(the "**Development**");
- B. Modo is a member-owned co-operative that facilitates carsharing for individuals and businesses as an alternative to privately-owned automobiles;
- C. To become a member of Modo, individuals must purchase a minimum of fifty (50) membership shares in Modo at a par value of \$10.00 ("**Membership Shares**"), for a total investment of \$xxx;
- D. As a condition of approving the Development, the municipality of Kelowna in British Columbia (the "**Municipality**") requires the Developer to facilitate the availability of three (3) Modo co-operative vehicles (each a "**Shared Vehicle**" and, collectively, the "**Shared Vehicles**") in connection with the Development and to be available as

part of a service provided by Modo to share the use of the Shared Vehicles with Modo Members (the "**Carsharing Program**");

- E. In addition, the Municipality requires the Developer to designate two (2) parking space located at the Development for the exclusive use of the Shared Vehicles (the "**On-site Shared Vehicle Parking Spaces**" as set out in Schedule A hereto) in compliance with the construction standards for shared vehicle parking space as set out in Schedule B hereto and free-of-charge to Modo;
- F. Developer, at Developer's sole cost, will work with the Municipality for the Municipality's provision of two (2) designated on-street parking space near the location of the Development, and as further contemplated herein, for the exclusive use of the Shared Vehicles (the "**Off-site Shared Vehicle Parking Spaces**" as set out in Schedule A hereto);
- G. Modo will deliver the Shared Vehicles to the On-site Shared Vehicle Parking Spaces and Off-site Shared Vehicle Parking Space (collectively, the "**Shared Vehicle Parking Spaces**") in accordance with Schedule D and shall make the Shared Vehicles available for use in accordance with the terms of this Agreement;
- H. Modo will, at its cost, operate, maintain, repair and insure the Shared Vehicles and administer the service to share the Shared Vehicles (collectively, the "**Services**");
- I. Developer and Modo intend that the Shared Vehicles will be available for use by all members of Modo (collectively, the "**Modo Members**" and each a "**Modo Member**"), including the residents of the Development who become Modo Members;
- J. Developer and Modo entered into a Co-Operative Carsharing Agreement on May 11, 2020 (the "**Original Agreement**"). After further consultation with the Municipality, the parties wish to replaced the Original Agreement with this Agreement to state the terms and conditions of the Carsharing Program as it pertains to the Development; and
- K. Certain capitalized terms used in this Agreement and not otherwise defined will have the meanings given to them set out in Part I. [Definitions].

NOW THEREFORE in consideration of the sum of Ten (\$10.00) Dollars now paid by each party to the other (the receipt and sufficiency whereof is by each hereby acknowledged) and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

SCHEDULE		D
This forms part of application # DP20-0003, DVP20-0004		
Planner Initials	AT	 City of Kelowna <small>COMMUNITY PLANNING</small>

SCHEDULE		D
This forms part of application # <u>DP20-0003, DVP20-0004</u>		
Planner Initials	AT	 City of Kelowna <small>COMMUNITY PLANNING</small>

I. DEFINITIONS

"Agreement" means this agreement, any schedules attached hereto which are referred to in this agreement, and every properly executed instrument which by its terms amends, modifies, supplements, or extends this agreement;

"Developer" means the party defined as Developer on the first page of this Agreement and any of its heirs, executors, administrators, successors, assigns, subsidiaries or nominees who may assume the right, title or interest in the Development and/or this Agreement from the Developer named herein, and expressly includes any party which may manage or operate the Development for the Developer from time to time;

"EV Station" means one (1) electric vehicle charging station to be provided, installed, maintained and replaced by Developer, at Developer's sole cost, to be used for the sole purpose of charging a Shared Vehicle, and to be located next to the On-site Shared Vehicle Parking Spaces and connected to the EV Station Electrical Outlet;

"EV Station Electrical Outlet" means one (1) energized electrical outlet capable of 240 Volts and 30 Amps provided by Developer;

"Mediator" means a member in good standing of the Arbitrators Association of British Columbia or Mediate BC;

"Membership Obligations" means and includes any and all obligations or liabilities that a Modo Member or other person who participates in Modo's activities, including any Resident (as defined below), may have or incur to Modo or any other Modo Member or any other person as a result of or in connection with such membership in Modo, participation in the activities of Modo, use of Modo's vehicles, or otherwise associated with the ownership of shares of Modo including, without limiting the generality of the foregoing, the obligation to pay any fee, monthly administrative fee, charge, fine or other cost to Modo or any other person;

"Partnership Membership" means Developer's membership in Modo by way of ownership of the Membership Shares;

"Partner User" means a Resident (as defined below) of the Development who benefits from Modo membership privileges by way of the Partnership Membership;

"Rental Agreements" mean agreements between parties and Developer for the occupancy of residential units within the Development for any length of time and **"Rental Agreement"** means any one of them;

"Residents" means collectively, the residents of the Development and **"Resident"** means any one of them;

"Shared Electric Vehicle" means a Shared Vehicle with electric motorization;

"Shared Vehicle Minimum Term" means the term of three (3) years for each Shared Vehicle, commencing from the later of the date of issuance of the Occupancy Permit (as defined below) or the first date that the applicable Shared Vehicle is made available for use by Modo Members at a Shared Vehicle Parking Space;

"Sustainable Usage Levels" means the level of use of the Modo vehicles by Modo Members that remains cost-effective to meet Modo's usage goals; and

"Term" has the meaning ascribed thereto in Article VII.

II. PROJECT FEE

1. The price payable by the Developer to Modo for the benefits contemplated herein (deemed to be the **"Project Fee"**) will be the aggregate sum of \$xx,xxx inclusive of all applicable taxes and fees, representing the following:
 - (a) \$x,xxx for the purchase of one hundred (100) Membership Shares (the **"Subject Shares"**); and
 - (b) \$xx,xxx for Modo's purchase of the Shared Vehicles.

2. The Project Fee will be payable as follows:
 - (a) At least sixty (60) days prior to the date Developer anticipates that the occupancy permit (the **"Occupancy Permit"**) for the Development will be issued, the Developer will pay to Modo the aggregate sum of \$xx,xxx inclusive of all applicable taxes and fees. Upon payment as contemplated in this section 2. (a), Modo will issue the Subject Shares and the first two (2) Shared Vehicles as contemplated herein, and will issue a receipt to the Developer confirming payment of same.

 - (b) Pursuant to the deployment sequence of the Shared Vehicles (the **"Shared Vehicle Deployment Sequence"**) as set out in Schedule D hereto, when the earlier of the utilization of the Carsharing Program justifies for an additional Shared Vehicle to be located in one of the Shared Vehicle Parking Spaces, or within ninety (90) days of the first twenty four (24) months from the Commencement Date, Modo will provide written notice (the **"Phased Shared Vehicle Purchase Notice"**) to the Developer to pay to Modo the aggregate sum of \$xx,xxx inclusive of all applicable taxes and fees (the **"Phased Vehicle Project Fee"**) for the purchase of one (1) additional Shared Vehicle. Developer will pay to Modo the Phased Vehicle Project Fee within (60) calendar days after receipt of the Phased Shared Vehicle Purchase Notice.

SCHEDULE **D**

This forms part of application

DP20-0003, DVP20-0004



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(c) Upon payment of the Phased Vehicle Project Fee, Modo will issue a receipt (the "**Phased Vehicle Project Fee Receipt**") to the Developer confirming payment of the Phased Vehicle Project Fee to Modo.

3. For the avoidance of doubt, Developer will not pay more than a maximum total of one (1) Phased Vehicle Project Fee.
4. If the purchase price of the Shared Electric Vehicle, including taxes and governmental incentives, exceeds the amount of \$xx,xxx, the Project Fee will be adjusted and increased by the amount of the difference up to a maximum adjustment of \$xx,xxx to be paid to Modo upon presentation by Modo to Developer of a bill of sale for such vehicle, confirming its purchase by Modo.

III. BENEFITS AND OBLIGATIONS OF DEVELOPER

5. Developer agrees to designate the On-site Shared Vehicle Parking Spaces for the purposes of accessing and parking the Shared Vehicles, in compliance with the standards defined in Schedule B and free-of-charge to Modo during the Term of this Agreement.
6. Developer agrees that Modo will be the sole provider of the Carsharing Program in respect of the Shared Vehicles during the Term of this Agreement.
7. Developer agrees that throughout the Term of this Agreement, subject to section 53, the On-site Shared Vehicle Parking Spaces will be accessible to and exclusively useable by all members of Modo on a 24 hours a day, 7 days a week basis, unless a On-site Shared Vehicle Parking Space is currently in use by a member of Modo.
8. Developer permits Modo to directly authorize removal of unauthorized vehicles parked in the On-site Shared Vehicle Parking Space through the towing company contracted by Developer, or a towing company of Modo's choice in the event there is not a designated contractor or if that contractor is unavailable. The unauthorized vehicle(s) parked in the On-site Shared Vehicle Parking Spaces would be removed at the vehicles owners' risk and expense.
9. Developer will make reasonable efforts to cause the Municipality to continue to make the Off-site Shared Vehicle Parking Spaces available for the exclusive use of Modo, free-of-charge to Modo, during the Term of this Agreement.
10. At least six (6) months prior to the date Developer anticipates that the Occupancy Permit will be issued, Developer shall provide written notice (the "**Estimate Notice**") to Modo of such estimated date (the "**Estimated Occupancy Date**").

SCHEDULE D

This forms part of application

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11. Developer shall further provide Modo with written notice of the issuance of the Occupancy Permit (the "**Commencement Date**").
12. Developer will ensure that the EV Station is functional and available to be used by Modo upon the Commencement Date.
13. Developer agrees that the EV Station will be for the exclusive use of Modo during the term of this Agreement.
14. Developer agrees to pay for the electricity withdrawn from the EV Station Electrical Outlet.
15. Developer acknowledges and agrees that the Residents will not automatically become Modo Members and must join Modo and meet Modo's membership requirements in order to be eligible to use the Shared Vehicles and participate in the Carsharing Program.
16. Subject to section 52 herein, Developer will ensure that binding rules in the form attached hereto as Schedule C will be provided as a separate document with any and all Rental Agreements that Developer or its subsidiaries or any successors or assigns enter into with Residents for the occupancy of residential units within the Development for any length of time.
17. Developer agrees that Modo will not be under any obligation whatsoever to provide the Services and issue the Subject Shares if Modo has not received payment from Developer contemplated in section 2(a) by the required deadline set out in Article II of this Agreement.
18. Developer warrants that it will be the sole owner of the Development upon completion, and further warrants that it will cause its subsidiaries, any successors or assigns of Developer and any party which may manage or operate the Development from time to time its interests to be bound by the terms of this Agreement.
19. The Subject Shares will be registered in the name of and held by Developer. Developer will be the legal owner of all the Subject Shares, and their beneficial interest vests in the Residents in accordance with this Agreement.
20. The rules or regulations that Developer or its subsidiaries or any successors or assigns may oblige the Residents to follow with respect to the Carsharing Program or participation in the benefits of Modo membership privileges by way of the Partnership Membership, will include those outlined in Schedule C.
21. Every six (6) calendar months during the term of this Agreement commencing on the Commencement Date, Modo will provide Developer in writing the names of all Partner Users. Within thirty (30) calendar days after receipt of this information, Developer will

SCHEDULE D

This forms part of application

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inform Modo in writing which Partner Users have ceased to be Residents, and unless otherwise advised, Modo will cancel the former Residents' benefits of the Partnership Membership.

IV. BENEFITS AND OBLIGATIONS OF MODO

22. Modo agrees that the Partnership Membership will allow up to one hundred and eighty-six (186) Residents to become Partner Users at any one time.
23. In the event of a section 4 Project Fee adjustment, Modo will allow one (1) additional Resident to become Partner Users at any one time for every \$xxx received by Modo from Developer as part of the Project Fee adjustment.
24. Modo will use the Project Fee, less the amount required to purchase the Subject Shares, to purchase three (3) new four-wheeled automobiles, including one (1) automobile with electric motorization, for use as the Shared Vehicles, and will, forthwith upon the purchase of each Shared Vehicle, provide Developer with a copy of such Shared Vehicle's registration evidencing that such Shared Vehicle is registered in the name of Modo together with proof of insurance. For certainty, while the choice of vehicle to be purchased and deployed each time Developer makes payment as contemplated in section 2 for a Shared Vehicle will be at Modo's sole discretion, Modo will consider the Developer's preference as to the type, make and model of the Shared Vehicle to be purchased. For further certainty, the Shared Electric Vehicle will be provided by Modo on the Commencement Date.
25. Modo will deliver the Shared Vehicles to the Shared Vehicle Parking Spaces and will make the Shared Vehicles available for use by the Modo Members in accordance with the terms of this Agreement and pursuant to the Shared Vehicle Deployment Sequence. Modo further acknowledges to make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by the Municipality in order to implement the Off-site Shared Vehicle Parking Spaces.
26. In the event that the Occupancy Permit is not issued within thirty (30) days of the Estimated Occupancy Date or if access to the On-site Shared Vehicle Parking Spaces is not in accordance with section 7, Modo reserves the right to park the Shared Vehicle to be parked in such parking space at another location suitable for its use within the Carsharing Program and make the Shared Vehicles available for use by Modo Members, provided always that Modo shall deliver such the Shared Vehicles to the On-site Shared Vehicle Parking Spaces in accordance with section 25 above.
27. Modo agrees to provide the Shared Vehicles for the use of Modo Members and to cause the Shared Vehicles to be parked in the Shared Vehicle Parking Spaces at all times when not in use by a Modo Member and when not being repaired or serviced. For greater certainty, Modo will not be responsible for any costs in respect of the use

of and access to the Shared Vehicle Parking Spaces during the Term of this Agreement, including, without limitation, the maintenance of the Shared Vehicle Parking Spaces.

28. Notwithstanding the foregoing, Modo must promptly and at its own expense clean up any oil or other substance which spills or leaks from a Shared Vehicle onto the premises of the Development, failing which the Developer may clean up such spill or leak, and Modo will reimburse the Developer for the cost thereof.
29. Modo will be solely responsible for providing and paying for the Services, including but not limited to the operation, administration, maintenance, repair and insurance costs in respect of the Shared Vehicles and Carsharing Program. If a Shared Vehicle is damaged beyond repair during the Shared Vehicle Minimum Term, Modo shall promptly replace such Shared Vehicle with a vehicle of at least equivalent value and function.
30. Modo will at its sole expense install appropriate signage on the On-site Shared Vehicle Parking Spaces
31. Modo will, at its sole expense, provide the Municipality with appropriate signage for the Off-site Shared Vehicle Parking Space.
32. Modo will pay a fee to Developer in an amount equal to the amount paid by Developer for the electricity withdrawn from the EV Station, based on data logs and reports from the EV Station. The fee will be paid in arrears on a yearly basis, starting on the Commencement Date or such other date as may be agreed upon by Developer and Modo.
33. Modo acknowledges and agrees that Developer will not be responsible for any costs associated with the Shared Vehicles, Carsharing Program or the Services, including, without limitation, any applicable taxes or delivery fees in respect of the purchase of the Shared Vehicles or any user or membership fees of any of the Residents, beyond the payment of the Project Fee and the use of and access to the On-site Shared Vehicle Parking Spaces and EV Station. Furthermore, Modo also acknowledges and agrees that the Developer makes no representation or warranty with regards to the Municipality's designation, commitment or approval of the location, of the Off-site Shared Vehicle Parking Spaces and the Developer will not be held liable nor will it be deemed a breach by the Developer if the Municipality fails to provide the Off-site Shared Vehicle Parking Spaces as contemplated in this Agreement.
34. Modo reserves the right to relocate the Shared Vehicles parked in the On-site Shared Vehicle Parking Spaces if access to the On-site Shared Vehicle Parking Spaces is not in accordance with section 7 for a duration greater than twenty-four (24) consecutive hours and until access to the On-site Shared Vehicle Parking Spaces has been re-established in accordance with section 7.

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35. Modo reserves the right to relocate the Shared Electric Vehicle parked in the On-site Shared Vehicle Parking Spaces if access to and use of the EV Station is not provided in accordance with sections 12 and 13 for a duration greater than twenty-four (24) consecutive hours and until access to and use of the EV Station has been re-established in accordance with sections 11 and 12.
36. Modo will provide an orientation to all Residents who wish to participate in Modo or use Modo vehicles.
37. Modo will provide Developer with marketing materials to promote participation in the Services to Residents and prospective residents of the Development.
38. Modo represents and warrants that there are no other obligations associated with the holding of the Subject Shares beyond those which are contemplated in this Agreement, in the rules and policies of Modo regarding its shares, or at law.

V. MARKETING AND MONITORING

39. Modo acknowledges that the premises within the Development will be occupied by Residents that will change over time, and Residents who become Partner Users (in accordance with section 15 herein) will change in accordance with the current Residents.
40. Modo agrees to establish a marketing program (the "**Marketing Program**") where Modo will credit \$100 of driving credits ("**Driving Credits**") to the Modo account of each Resident who becomes a Modo Member, which Driving Credits shall only be applied to fees for usage of Modo vehicles, for the duration of the Shared Vehicle Minimum Term.
41. Throughout the duration of the marketing, leasing and occupancy phases of the Development, Developer agrees to communicate the benefits of the Carsharing Program to prospective residents and Residents. This will be done through Developer's existing communications channels such as email, website, collateral, leasing agents and property managers, with the intent to raise awareness and usage of the Services, and with the information and materials in support provided by Modo, including:
 - a) a short description of Modo and offer for the Residents on the Development's website and/or associated rental listings for residential units in the Development;
 - b) a direct email or mail to the Residents once the first Residents have moved in the Development, with a link to a dedicated "welcome" page on Modo's website;
 - c) a follow up direct email or mail to the Residents, six (6) months after the first Residents have moved in the Development, with a link to a dedicated "welcome" page on Modo's website; and

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d) a small notice (sticker or poster) in a prominent location (i.e. elevator, community room), providing a short description of the Carsharing Program and offer for the Residents.

42. During the Term of this Agreement, Developer and Modo shall allow use of each other's graphics in advertising and promotional activities conducted by either party. Such use of graphics must be in a manner whereby the graphics remain in their original form and approved by each party in writing.
43. Developer and Modo shall only use each other's wordmarks, logos or trade names during the Term of this Agreement solely in connection with activities relating to the Development. Any other use must receive the prior written approval of each party (by mail or electronic mail).
44. Developer shall permit Modo to monitor the impacts of its Services by facilitating the administration of monitoring measures including, but not limited to, the distribution of emails, surveys and questionnaires for the Residents relative to the Services, provided that the Residents, in their sole discretion, may elect not participate in any such monitoring measures.

VI. SECURITY INTEREST

45. Subject to receipt of the Project Fee, Modo agrees to grant to Developer a security interest in the Shared Vehicles which shall be registered in the British Columbia Personal Property Registry and to execute a security agreement in the form attached as Schedule E hereto.
46. Modo and Developer acknowledges and agrees that Developer may register a security interest in each Shared Vehicle for a term equal to the Shared Vehicle Minimum Term of such Shared Vehicle.

VII. NO FIXED TERM

47. This Agreement shall not have a fixed term and shall continue in full force and effect until terminated in accordance with Articles IX and XI.

VIII. MUTUAL REPRESENTATION

48. Each Party represents and warrants to the other that:
 - a) it is an entity duly organized and validly existing under the laws of its jurisdiction of organization or incorporation;

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- b) it has the requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement; and
- c) this Agreement has been duly executed and delivered on its behalf and constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms.

IX. TERMINATION AND AMENDMENT

- 49. Developer and Modo agree that, if after execution of this Agreement, Developer does not receive approval for the rezoning application relative to the Development and a development permit for the Development from the Municipality then this Agreement shall be immediately terminated and both parties will be relieved of their obligations herein.
- 50. No amendment, addition, deletion or other modification to this Agreement shall be effective unless in writing and signed by each party.
- 51. Neither party can terminate this Agreement without cause during the first 36 months after the Commencement Date. Any time following the first 36 months after the Commencement Date, either party may terminate this Agreement for any reason without prejudice by providing the other party with six (6) months' written notice of such termination. Termination may also occur by mutual agreement between the parties. For certainty, if either party terminates this Agreement without cause in accordance with this section, Developer will have no further obligation to make any payment for any Shared Vehicle not yet purchased in accordance with section 2, and Modo will have no further claim against Developer for payment for any amount contemplated under section 2 that has not been paid on account of Developer not meeting the conditions required for deployment of the second or third Shared Vehicle, respectively, in accordance with the Shared Deployment Sequence in Schedule D.
- 52. Notwithstanding section 50, Modo reserves the right to exercise its sole discretion to amend the rules governing the Subject Shares as set out in Schedule C. Upon any amendments, Modo shall immediately notify Developer, following which Developer will notify the Residents of such amendments.
- 53. Notwithstanding section 50, Developer and Modo agree that, if the usage of a Shared Vehicle falls below Sustainable Usage Levels, and only after the Shared Vehicle Minimum Term of such a Shared Vehicle has expired, Modo may exercise its sole discretion, acting reasonably, to: (i) replace such a Shared Vehicle with any vehicle of Modo's choice, or (ii) re-locate such a Shared Vehicle from the Shared Vehicle Parking Space(s), in each case so as to ensure that the terms of the Agreement are not oppressive to Modo or its members.

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54. In the event of an section 53 relocation of all Shared Vehicles, Developer will be relieved of its obligations set forth in sections 5 to 8 and 12 to 14, and Modo will be relieved of its obligations set forth in sections 27 to 29 and 32. For the avoidance of doubt, in the event of an section 53 replacement of a Shared Vehicle, the parties shall not be relieved of their obligations set forth in this section 54.
55. If the Development is destroyed and not rebuilt in a form substantially similar to the original buildings, Modo, in its sole discretion, may cancel the Subject Shares held by Developer, and Developer will not be entitled to a refund of the Subject Shares purchase price.
56. Either party shall have the right to terminate this Agreement forthwith on the dissolution, winding up or bankruptcy of the other party.

X. DEFAULT

57. A party claiming default under the terms of this Agreement must provide defaulting party with written notice of the default. Notwithstanding any other provision in this Agreement, if the defaulting party fails to correct the default within thirty (30) calendar days of receipt of the written notice, the party claiming default may terminate this Agreement immediately.

XI. DISPUTE RESOLUTION

58. If a dispute arises between the parties in connection with this Agreement, then Developer and Modo agree to use the following procedure to resolve the dispute:
 - (a) if the dispute remains unresolved for twenty (20) calendar days after a notice of dispute has been issued as per subsection 58. (b), or if a default is not cured within thirty (30) calendar days after either party notifies the other of such default, the parties shall agree upon and appoint a Mediator for the purpose of mediating such dispute. The appointment of the Mediator shall be carried out in accordance with the terms and conditions of an agreement to be entered into between the parties and the Mediator which will set out the terms of reference for the engagement of the Mediator. The parties shall divide the cost of the Mediator equally. If the parties fail or neglect to agree upon a Mediator within ten (10) calendar days, the Mediator shall be appointed by reference to a Judge of the Supreme Court of British Columbia. No one shall act as a Mediator who has any direct or indirect interest in the subject matter of the Agreement or any direct or indirect interest in the parties to this Agreement;
 - (b) the party initiating the dispute shall send a notice of dispute in writing to the other party which notice shall contain the particulars of the matter in dispute and the relevant provisions of the Agreement. The responding party shall

send a notice of reply in writing to the other party to the dispute within ten (10) days after receipt of the notice of dispute, setting out particulars of its response and any relevant provisions of the Agreement.;

- (c) after a period of ten (10) days following receipt of a responding party's written notice of reply, the parties shall request the Mediator to assist the parties to reach agreement on any unresolved dispute. The Mediator shall conduct a non-binding mediation of the dispute according to the rules and procedures as determined by the Mediator;
- (d) if the dispute has not been resolved within ten (10) days after the Mediator was requested under subsection 58. (a) to assist the parties to reach an agreement, or within such further period agreed to by the parties, the Mediator shall terminate the mediated negotiations by giving notice in writing to both parties;
- (e) except for claims for injunctive relief, all claims, disputes and other matters in question between the parties to the Agreement arising out of or relating to this Agreement which are not resolved by use of the Mediator, shall be decided by final and binding arbitration before a single arbitrator (the "**Arbitrator**") in accordance with the *Arbitration Act* (British Columbia). The parties shall agree upon the Arbitrator within fifteen (15) days of the Mediator terminating the mediated negotiations. Failing such agreement between the parties, such Arbitrator shall be finally chosen by reference to a Judge of the Supreme Court of British Columbia. The Arbitrator shall not have any direct or indirect interest in the subject matter of the Development or any direct or indirect interest in either party or subsidiaries of the parties to this Agreement. No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person not a party to this Agreement, except by written consent containing specific reference to this Agreement and signed by each party and any other person sought to be joined. This provision shall be specifically enforceable in any Court of competent jurisdiction;
- (f) the parties covenant and agree that the Arbitrator appointed hereunder has the power, among other things, to specifically declare that a party to this Agreement is in default of the terms of the Agreement and, in appropriate circumstances, declare that the Agreement is terminated and award damages for breach of contract or otherwise;
- (g) the award rendered by the Arbitrator shall be final and binding upon the parties, and judgment may be entered upon it in accordance with applicable law in any Court having jurisdiction within the Province of British Columbia; and

(h) unless otherwise agreed in writing by the parties, the parties shall continue to meet their obligations under this Agreement while the mediation and arbitration processes are continuing.

59. The dispute resolution provisions herein shall survive termination of this Agreement.

XII. NOTICES

60. Notices under this Agreement shall be provided in writing to the following the addresses or electronic mail addresses set out below:

815 Leon Developments Ltd.
612 Bernard Avenue
Kelowna, B.C.
V1Y 6P3
Email: corey@kayson.ca

MODO CO-OPERATIVE
200 – 470 Granville Street
Vancouver, BC, V6C 1V5
Email: info@Modo.coop

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61. All notices are deemed to have been delivered on the next business day following their posting or emailing.

62. Addresses for notice may be amended by written notice from one party to the other.

XIII. ASSIGNMENT

63. Neither party shall transfer or assign this Agreement to any other party without the prior written consent of the parties to this Agreement, which consent shall not be unreasonably withheld.

XIV. INDEMNITY

64. Each party agrees to indemnify and save harmless the other party from and against all losses, costs, damages, suits, actions, causes of action, claims or demands in any way resulting from, connected with or arising out of the first party's breach of its obligations under this Agreement.

65. Further to section 64 above, and without limitation to the foregoing, the parties acknowledge that Developer has placed a Letter of Credit with the Municipality in the amount of \$165,000.00 relating to the adequate provision of three (3) Shared Vehicles (the "**Letter of Credit**") within twenty-four (24) months of the Commencement Date. Modo will indemnify and save harmless Developer from any and all manner of actions, causes of action, suits, damages, loss, costs, claims, and demands of any nature

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whatsoever relating to the Letter of Credit arising out of any breach of warranty or non-fulfillment of any covenant or obligation on the part of MODO under this Agreement.

XV. GENERAL

66. Nothing in this Agreement nor the acts of the parties shall be construed, implied or deemed to create an agency, partnership or joint venture relationship between the parties. Neither party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.
67. This Agreement constitutes the entire agreement between the parties with respect to the subject-matter hereof and cancels and supersedes any prior understandings and agreements between the parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement. For further clarity, this Agreement replaces the Original Agreement.
68. Any provision of this Agreement that is or becomes unenforceable shall be unenforceable to the extent of such unenforceability without invalidating the remaining provisions hereof. To the extent permitted by applicable law, each of the parties hereby waives any provision of law that renders any provision hereof unenforceable in any respect.
69. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given. A failure to enforce any breach of this Agreement by any party does not constitute a waiver of such breach or any provision of this Agreement by such party.
70. This Agreement shall enure to the benefit of and be binding upon the parties and their heirs, executors, administrators, personal representatives, respective successors and permitted assigns.
71. The parties shall at all times do, execute, acknowledge and deliver such acts, deeds, agreements and other instruments as may be reasonably necessary or desirable to give full force and effect to the terms of this Agreement.
72. This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein and each party irrevocably attorns to the exclusive jurisdiction of the courts of the Province of British Columbia.
73. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to

constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or electronic means shall be equally effective as delivery of a manually executed counterpart thereof.

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IN WITNESS WHEREOF the parties have executed this Agreement as of the date first written above.

MODO CO-OPERATIVE, by its
authorized signatory



Name: Patrick Nangle

Title: CEO

815 LEON DEVELOPMENTS LTD., by its
authorized signatory



Name: Sam Brovender

Title: Director



Corey Markus,
DIRECTOR

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**SCHEDULE A
SHARED VEHICLE PARKING SPACES FOR SHARED VEHICLES**

ON-SITE SHARED VEHICLE PARKING SPACES

See attached.

OFF-SITE SHARED VEHICLE PARKING SPACES

See attached.

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**SCHEDULE B
CONSTRUCTION STANDARDS FOR SHARED VEHICLE PARKING SPACE**

The Shared Vehicle Parking Space shall be constructed to the satisfaction of the General Manager of Engineering Services and the Chief Building Official of the municipality where the Shared Vehicle Parking Space is being constructed, and in accordance with the following specifications and requirements:

A. General

The Shared Vehicle Parking Space shall be constructed, finished and designated in accordance with applicable municipal building permits, by-laws, policies and guidelines, including the municipal standards as required by the Parking By-law and Building By-law applying to the property upon which the Shared Vehicle Parking Space is being constructed.

B. Dimensions

The Shared Vehicle Parking Space dimensions shall be standardized:

- The minimum height shall be 2.0 meters.
- The minimum width shall be 2.9 meters.
- The minimum length shall be 5.5 meters.

Tandem parking shall not be permitted. Perpendicular and angle parking shall be preferred.

Where one side of a Shared Vehicle Parking Space abuts any portion of a fence or structure, there shall be a horizontal clearance of at least 30 centimetres between such side of the Shared Vehicle Parking Space and the said fence or structure.

C. Location

It is preferred to locate the Shared Vehicle Parking Space at either street level or lane level. If locating the Shared Vehicle Parking Space at street level or lane level is not feasible, the Shared Vehicle Parking Space shall be located at the parking level of the parkade closest to the street level, second only in selection to the siting of disability parking spaces.

If the Shared Vehicle Parking Space is located underground or above ground, the location of the Shared Vehicle Parking Space will be chosen to ensure the greatest possible visibility of the space and most convenient access to the building, second only in selection to the siting of disability parking spaces.

When several Shared Vehicle Parking Spaces are provided, the spaces shall be located next to each other or in close proximity.

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D. Access

Permitted users of the Shared Vehicle to be parked on the Shared Vehicle Parking Space must have the ability to access the Shared Vehicle Parking Space 24 hours a day, / 7 days a week.

The procedure for permitted users to self-access the Shared Vehicle Parking Space by foot when the Shared Vehicle Parking Space is located in a gated parkade shall consist in typing a code on a keypad or swiping a key fob on a fob reader. The procedure shall be simple and consistent to prevent access disruption.

In the event that a keypad is being used to provide access to the Shared Vehicle Parking Space, it should be possible to change the code of the keypad over time.

The procedure for permitted users to depart from and return to the parkade with a Shared Vehicle when the Shared Vehicle Parking Space for the Shared Vehicle is located in a gated parkade shall consist in typing a code on a keypad or swiping a key fob on a fob reader or using a remote control. The procedure shall not require for the permitted users to step out of the Shared Vehicle to perform the procedure.

In the event that remote controls are being used for permitted users to depart from and return to the parkade with a Shared Vehicle, Modo shall be provided with one more remote control than the number of Shared Vehicles to be parked in the parkade.

The location of the Shared Vehicle Parking Space and procedure to access the Shared Vehicle Parking Space in a gated parkade shall be designed to mitigate potential security concerns from users of the parkade.

E. Maneuverability

The location of the Shared Vehicle Parking Space will be chosen to ensure the Shared Vehicle can be parked in the Shared Vehicle Parking Space driving forward with an angle of approach between 0° and 90°.

An angle of approach to park the Shared Vehicle in the Shared Vehicle Parking Space between 90° and 180° or the need to park the Shared Vehicle in reverse shall not be permitted.

The location of the Shared Vehicle Parking Space shall not require a maneuver more complex than a three-point turn to drive the Shared Vehicle out of the Shared Vehicle Parking Space.

If the Shared Vehicle Parking Space is located in a parkade with an entry/exit ramp, the location of the Shared Vehicle Parking Space shall not require for the Shared Vehicle to be driven in reverse to exit the parkade.

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F. Signage

The Shared Vehicle Parking Space shall be clearly designated with signage and pavement markings.

Clear, visible and legible signs shall be placed directing users of the Shared Vehicle to the location of the Shared Vehicle Parking Space, indicating which parking space is the Shared Vehicle Parking Space and marking it as being reserved for the exclusive purpose of parking a Shared Vehicle.

A symbol (similar to that approved for a disability space) shall be stamped/painted on the Shared Vehicle Parking Space.

G. Lighting

The Shared Vehicle Parking Stall shall be illuminated to the satisfaction of the General Manager of Engineering Services of the municipality where the Shared Vehicle Parking Space is being constructed with:

- a) average illumination levels of 11 Lux with a uniformity ratio (average level to minimum level) of 3:1;
- b) luminaires situated in such a way so as not to directly throw light onto streets, lanes, or adjacent properties; and
- c) a photocell or equivalent switch that will activate the lighting system when ambient light levels are 11 Lux or less.

H. Connectivity

Sufficient 3G and/or 4G LTE cellular network reception signal of the cellular network used for the operation of the Shared Vehicle shall be supplied at the Shared Vehicle Parking Space to ensure the reliable operation of the Shared Vehicle service, with:

- a) a Received Signal Strength Indicator (RSSI) for 3G cellular network superior to -86 dBm; and
- b) a Reference Signal Received Power (RSRP) for 4G LTE cellular network superior to -106 dBm.

I. Electric Vehicle charging infrastructure

The Shared Vehicle Parking Space shall be provided with an energized electrical outlet capable of providing Level 2 charging (240 Volts/30 Amps) or higher to the Shared Vehicle Parking Space. If the Shared Vehicle is an electric vehicle, then a Level 2 electric vehicle charging station shall be supplied and installed in the Shared Vehicle Parking Space.

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SCHEDULE C RULES ATTACHING TO THE MEMBERSHIP SHARES IN MODO CO-OPERATIVE

1. _____ ("**Developer**"), or its subsidiary or assignee, has entered into an agreement (the "**Co-Operative Carsharing Agreement**") with Modo Co-operative ("**Modo**") whereby Modo has issued membership shares (the "**Modo Shares**") in Modo to Developer for the one hundred and eighty-six (186) current residents of the development located at 815 Leon Avenue in Kelowna, British Columbia (the "**Development**") so residents of the Development (each a "**Resident**" and together "**Residents**") can benefit from Modo membership privileges without the need to themselves pay Modo membership fees.
2. Developer is the legal owner of the Modo Shares, and a maximum of one hundred and eighty-six (186) current Residents can on a continuing basis enjoy the benefits of those membership shares subject to meeting Modo's eligibility requirements as set out on Modo's website from time to time.
3. A Resident may only have the benefit of the Modo Shares owned by Developer for as long as the Resident is authorized to occupy a residential unit within the Development by the terms of a rental agreement.
4. Each Resident will be responsible for and will save Developer or its subsidiaries or any successors or assigns harmless from any and all its obligations incurred and any and all actions, causes of action, costs or claims of whatsoever type or nature levied or made by Modo or by any other person as a result of or in connection with such Resident's use of Modo services or otherwise associated with the Modo Shares of, or membership in, Modo held by Developer or its subsidiaries or any successors or assigns for the benefit of such Resident.
5. Residents exercising the rights and benefits of Modo membership by way of the Modo Shares owned by Developer (each a "**Partner User**" and together "**Partner Users**") benefit from the same price plan for usage of Modo vehicles as shareholders of Modo and are not granted voting rights.
6. Each Resident may apply to become a Partner User, provided that membership privileges are granted to applying and eligible Residents on a first-come, first-served basis.
7. Residents may make use of Modo vehicles, pursuant to the Co-Operative Carsharing Agreement and pursuant to the policies and rules of membership in Modo.

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8. In order for a Resident to become a Partner User, the Resident must apply to Modo, such application including but not limited to the following:
 - a) The Resident, if holder of a driver's licence issued in British Columbia, Canada, must prove current residency at the Development by providing Modo with a copy of its current driver's records indicating the address of the Development;
 - b) The Resident, if holder of a driver's licence issued outside of British Columbia, Canada, must prove current residency at the Development by providing Modo with a copy of a bill indicating the name of the Resident and address of the Development; and
 - c) The Resident must provide contact information and any other information required by Modo regarding the Resident that would allow Modo to determine if the Resident qualifies to exercise the rights and benefits of membership as provided herein and by the rules and policies of Modo as posted on its website and updated from time-to-time.
9. A Resident eligible for a membership in Modo may only exercise the rights and benefits of membership in Modo if such Resident would otherwise qualify and/or meet the requirements for those rights and benefits as posted on Modo's website and updated from time-to-time.
10. If at any time a Resident does not meet the criteria for the rights and benefits of membership in Modo, then the Resident may not exercise any Modo membership rights and benefits until such time that the Resident may again qualify for the rights and benefits of membership according to the rules for such membership as set out herein and in the rules and policies of Modo.
11. Except as provided in these rules herein, the benefits of Modo membership may only be exercised by Residents when Residents have an interest in the Development, and the benefits may not under any circumstances be assigned, transferred or sold by Residents except as provided herein.
12. The Modo Shares owned by Developer attach to the residential units of the Development, and their beneficial interest vests in the Residents. Residents who lose the interests or rights in a residential unit of the Development will also lose the benefit of the Modo Shares owned by Developer.
13. Every six (6) calendar months, Modo will provide to Developer, in writing, the names of all Partner Users. Within thirty (30) calendar days after receipt of this information, Developer will inform Modo in writing which Partner Users have

ceased to be Residents, and unless otherwise advised, Modo will cancel the former Residents' beneficial interest in the Modo Shares owned by Developer.

14. No Resident is entitled to compensation or a refund of the Modo Shares purchase price upon the transfer of any share or benefit as provided herein, and no Resident may demand or otherwise require Modo to refund or redeem the Modo Shares.
15. Partner Users may decide to cease exercising the benefits of the Modo Shares owned by Developer, but the shares remain in the name of Developer and attach to the residential units.
16. Modo reserves the right to revoke membership privileges of any Partner User who does not book a Modo vehicle for twelve (12) consecutive months.
17. Upon destruction of the residential units in the Development, and if there is a decision not to rebuild the residential units, then the Modo Shares and the purchase price therefor will be absolutely forfeited to Modo without right of compensation of any kind.
18. If these rules herein are not provided with the rental agreement of the Residents, then any benefits of membership by way of the Modo Shares owned by Developer are suspended indefinitely until such time as the rules form part of the Residents' rental agreements.

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**SCHEDULE D
SHARED VEHICLE DEPLOYMENT SEQUENCE**

Shared Vehicle	Location of Shared Vehicle Parking Space	Time of Shared Vehicle deployment	Conditions for deployment of the Shared Vehicle
Shared Vehicle #1 (Shared Electric Vehicle)	On-site Shared Vehicle Parking Spaces	Within seven (7) days after the Commencement Date.	The On-site Shared Vehicle Parking Spaces are accessible as per section 7 of the Co-operative Carsharing Agreement.
Shared Vehicle #2	Off-site Shared Vehicle Parking Space As directed by the Municipality, the Off-site Shared Vehicle Parking Space will be a floating location on the Leon block between Ethel Street and Richter Street or a location beyond 100m of the Development in an area determined by the Municipality.	Within seven (7) days after the Commencement Date.	The On-site Shared Vehicle Parking Spaces are accessible as per section 6 of the Co-operative Carsharing Agreement. The Off-site Shared Vehicle Parking Space is available for the exclusive use of Modo, free-of-charge to Modo;
Shared Vehicle #3	Off-site Shared Vehicle Parking Spaces As directed by the Municipality, the Off-site Shared Vehicle Parking Space will be the remaining location noted above for Shared Vehicle #2 that has not been utilized at the time of issuance of Shared Vehicle #3.	Within 60 days after all conditions set out in the column titled "Conditions for deployment of the Shared Vehicle" for Shared Vehicle #3 are met or earlier if deemed appropriate by Modo. Notwithstanding the above, Shared Vehicle #3 will be deployed no later than 24 months from the Commencement Date as long as Developer makes payment of the Phased Vehicle Project Fee for Shared Vehicle #3, regardless of whether the other "Conditions for deployment of the Shared Vehicle" are met.	Shared Vehicles #1 and #2 are available to Modo Members as part of the Carsharing Program; Aggregate utilization of all Modo vehicles located within one (1) kilometre radius of the Development is equal or superior to the 40th percentile of Modo's vehicle fleet overall during an entire fiscal quarter; The On-site Shared Vehicle Parking Spaces are accessible as per section 6 of the Co-operative Carsharing Agreement; and The Phased Vehicle Project Fee for Shared Vehicle #3 has been paid to Modo.

For further clarity, the parties acknowledge that notwithstanding the two Off-site Shared Vehicle Parking Spaces described in the Shared Vehicle Deployment Sequence, Developer will provide two (2) On-site Shared Vehicle Parking Spaces. Modo, with direction from the Municipality, may relocate one of the Shared Vehicles to the remaining On-site Vehicle Parking Space at anytime during the Term.

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**City of
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**SCHEDULE E
SECURITY AGREEMENT**

BY:
MODO CO-OPERATIVE
200 - 470 Granville Street,
Vancouver, B.C.
V6C 4V5

(the "**Grantor**")

IN FAVOUR OF:

815 Leon Developments Ltd.
612 Bernard Avenue
Kelowna, B.C.
V1Y 6P3

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(the "**Secured Party**")

WHEREAS:

- A. The Secured Party has financed the acquisition by the Grantor of _____, Vehicle Identification Numbers:

(the "Shared Vehicles"); and

- B. The Grantor has agreed to deliver this Agreement to create security over the interest it has in the Shared Vehicles for the benefit of the Secured Party.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the covenants and agreements herein contained the Grantors and the Secured Party hereby agree as follows:

- Security Interest in the Shared Vehicles.** As continuing security for the performance by the Grantor of its obligations set forth in the Co-operative Carsharing Agreement attached hereto (the "**Co-op Car Agreement**"), the Grantor grants to the Secured Party a security interest (the "**Security Interest**") in the Shared Vehicles.
- Grant of Security Interest in Proceeds of Collateral.** The Grantor also grants the Secured Party a security interest in the proceeds derived directly or indirectly from any dealing with the Shared Vehicles, including but not limited to, accounts receivable, bills of exchange, insurance proceeds, chattel paper, intangibles, motor

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vehicles, and all other after acquired property ~~constituting proceeds.~~ The Grantor acknowledges that the Security Interest hereby created attaches upon the execution of this Security Agreement, that the value has been given and that the Grantor has rights in the Shared Vehicles.

3. **Use and Location of the Shared Vehicles.** The Grantor will not sell, lease or otherwise dispose of the Shared Vehicles without the prior written consent of the Secured Party and the Grantor will keep the Shared Vehicles in good condition, reasonable wear and tear excepted.
4. **No Liens on Shared Vehicles.** The Grantor shall not permit any lien, charge, encumbrance or security interest (each, a "Lien") to attach to the Shared Vehicles which ranks prior to or equal with or could in any event rank prior to the equal with the rank of the Security Interest. The Grantor shall not enter into any agreement with any person which would obtain prior or equal rank for any Lien over the rank of the 'Security Interest'.
5. **Name of Grantor.** The Grantor covenants not to change its name without giving fifteen (15) days' prior written notice to the Secured Party (so as to enable the Secured Party to amend its registration in respect of this Agreement and protect its rights hereunder).
6. **Default.** It shall be a "Default" under this agreement if
 - a. the Grantor breaches or fails to perform any of the terms, conditions, obligations or covenants to be observed and performed by the Grantor under the Co-op Car Agreement, and persists in such failure or breach after thirty (30) days notice by the Secured Party requiring that the Grantor remedy such failure or breach,
 - b. the Grantor commits an act of bankruptcy or becomes insolvent or files a proposal or a notice of intention to file a proposal,
 - c. an assignment for the benefit of creditors under applicable bankruptcy or similar legislation is made or a petition is filed,
 - d. an order is made, a resolution is passed, or any other step is taken for the bankruptcy, liquidation, dissolution or winding-up of the Grantor or for any arrangement or composition of its debts, or
 - e. a receiver, receiver and manager or receiver-manager of the Grantor is appointed.
7. **Remedies.** The Security Interest is immediately enforceable, upon the occurrence of a Default, and the Secured Party, at its option, may exercise at any time following such Default any or all of the rights, remedies, privileges and powers available to it under this Agreement, the *Personal Property Security Act* (British Columbia) or any other applicable legislation. All rights, remedies, privileges and powers of the Secured Party hereunder are cumulative and no such right, remedy, privilege or power is exhaustive but is in addition to each other right, remedy, privilege and power of the Secured Party hereunder or under any other agreement, instrument or document now or hereafter existing at law or in equity or by statute.

8. **Costs of Enforcement.** The Grantor will be responsible for payment of all costs, charges and expenses (including legal costs on a solicitor and own client basis) of the Secured Party of and incidental to any proceeding taken to enforce the remedies of this Agreement.
9. **Loss, Injury or Destruction.** The loss, injury or destruction of the Shared Vehicles shall not operate in any manner to release the Grantor from its obligations to the Secured Party under the Co-op Car Agreement.
10. **Term.** The Security Interest granted hereunder shall terminate and be of no further force and effect as of the expiry of the Shared Vehicle Minimum Term (as defined in the Co-Op Car Agreement).
11. **Amendment.** This Agreement may be altered or amended only by an agreement in writing signed by the parties hereto.
12. **Binding Effect.** This Agreement shall endure to the benefit of and be binding upon the heirs, executors, administrators, legal and personal representatives, successors and permitted assigns of the parities, as applicable.
13. **Governing Law.** This Agreement is governed by and will be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute on and the same instrument.
15. **Execution by Electronic Means.** This Agreement may be executed by the Grantors and transmitted by facsimile or other electronic means, and when it is executed and transmitted this Agreement shall be for all purposes as effective as if the Grantor had delivered an executed original Agreement.

IN WITNESS WHEREOF the Grantor has executed this Agreement on the ___ day of _____, ____.

MODO CO-OPERATIVE

Name: _____
Title: _____

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DEVELOPMENT PERMIT GUIDELINES

Comprehensive Development Permit Area

Consideration has been given to the following guidelines as identified in Section 14.A. of the City of Kelowna Official Community Plan relating to Comprehensive Development Permit Areas:

COMPREHENSIVE DEVELOPMENT PERMIT AREA	YES	NO	N/A
Authenticity and Regional Expression			
Do landscaping and building form convey a character that is distinct to Kelowna and the Central Okanagan?	✓		
Are materials in keeping with the character of the region?	✓		
Are colours used common in the region's natural landscape?	✓		
Does the design provide for a transition between the indoors and outdoors?	✓		
Context			
Does the proposal maintain the established or envisioned architectural character of the neighbourhood?	✓		
Does interim development consider neighbouring properties designated for more intensive development?	✓		
Are façade treatments facing residential areas attractive and context sensitive?	✓		
Are architectural elements aligned from one building to the next?			✓
For exterior changes, is the original character of the building respected and enhanced?			✓
Is the design unique without visually dominating neighbouring buildings?	✓		
For developments with multiple buildings, is there a sense of architectural unity and cohesiveness?			✓
Relationship to the Street			
Do buildings create the desired streetscape rhythm?	✓		
Are parkade entrances located at grade?	✓		
For buildings with multiple street frontages, is equal emphasis given to each frontage?			✓
Massing and Height			
Does the design mitigate the actual and perceived mass of buildings?	✓		
Does the height consider shading and view impacts for neighbouring properties and transition to less intensive areas?	✓		
Human Scale			
Are architectural elements scaled for pedestrians?	✓		
Are façades articulated with indentations and projections?	✓		

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COMPREHENSIVE DEVELOPMENT PERMIT AREA	City of Kelowna COMMUNITY PLANNING	YES	NO	N/A
Are top, middle and bottom building elements distinguished?	Planner Initials: <input type="text" value="AT"/>			
Do proposed buildings have an identifiable base, middle and top?		✓		
Are building facades designed with a balance of vertical and horizontal proportions?		✓		
Are horizontal glazed areas divided into vertically proportioned windows separated by mullions or building structures?		✓		
Does the design incorporate roof overhangs and the use of awnings, louvers, canopies and other window screening techniques?		✓		
Is the visual impact of enclosed elevator shafts reduced through architectural treatments?		✓		
Exterior Elevations and Materials				
Are buildings finished with materials that are natural, local, durable and appropriate to the character of the development?		✓		
Are entrances visually prominent, accessible and recognizable?		✓		
Are higher quality materials continued around building corners or edges that are visible to the public?		✓		
Are a variety of materials used to create contrast, enhance the pedestrian environment and reduce the apparent mass of a building?		✓		
Are elements other than colour used as the dominant feature of a building?		✓		
Public and Private Open Space				
Does public open space promote interaction and movement through the site?		✓		
Are public and private open spaces oriented to take advantage of and protect from the elements?		✓		
Is there an appropriate transition between public and private open spaces?		✓		
Are amenities such as benches, garbage receptacles, bicycle stands and community notice boards included on site?		✓		
Site Access				
Is the safe and convenient movement of pedestrians prioritized?		✓		
Are alternative and active modes of transportation supported through the site design?		✓		
Are identifiable and well-lit pathways provided to front entrances?		✓		
Do paved surfaces provide visual interest?		✓		
Is parking located behind or inside buildings, or below grade?		✓		
Are large expanses of parking separated by landscaping or buildings?		✓		
Are vehicle and service accesses from lower order roads or lanes?		✓		



COMPREHENSIVE DEVELOPMENT PERMIT AREA	YES	NO	City of Kelowna COMMUNITY PLANNING
Do vehicle and service accesses have minimal impact on the streetscape and public views? <small>Initials AT</small>	✓		
Is visible and secure bicycle parking provided in new parking structures and parking lots?	✓		
Environmental Design and Green Building			
Does the proposal consider solar gain and exposure?	✓		
Are green walls or shade trees incorporated in the design?	✓		
Does the site layout minimize stormwater runoff?	✓		
Are sustainable construction methods and materials used in the project?	✓		
Are green building strategies incorporated into the design?	✓		
Decks, Balconies, Rooftops and Common Outdoor Amenity Space			
Are decks, balconies or common outdoor amenity spaces provided?	✓		
Does hard and soft landscaping enhance the usability of decks, balconies and outdoor amenity spaces?	✓		
Are large flat expanses of roof enhanced with texture, colour or landscaping where they are visible from above or adjacent properties?	✓		
Amenities, Ancillary Services and Utilities			
Are loading, garage, storage, utility and other ancillary services located away from public view?	✓		
Are vents, mechanical rooms / equipment and elevator penthouses integrated with the roof or screened with finishes compatible with the building's design?	✓		
Landscape Development and Irrigation Water Conservation			
Does landscaping:	-	-	-
• Compliment and soften the building's architectural features and mitigate undesirable elements?	✓		
• Maintain the dominant pattern of landscaping along the street and surrounding properties?	✓		
• Enhance the pedestrian environment and the sense of personal safety?	✓		
• Screen parking areas, mechanical functions, and garbage and recycling areas?	✓		
• Respect required sightlines from roadways and enhance public views?	✓		
• Retain existing healthy mature trees and vegetation?		✓	
• Use native plants that are drought tolerant?	✓		
• Define distinct private outdoor space for all ground-level dwellings?	✓		
Do any fences and retaining walls create visual interest and enhance the pedestrian environment?	✓		

COMPREHENSIVE DEVELOPMENT PERMIT AREA	YES	NO	N/A
Do parking lots have one shade tree per four parking stalls?		✓	
Does the Landscape Architect's Landscape Water Conservation Report:	-	-	-
<ul style="list-style-type: none"> Meet the requirements for Landscape Water Budget calculations for the landscaped area? 	✓		
<ul style="list-style-type: none"> Indicate how the development complies with or varies from the Landscape Water Conservation Guidelines? 	✓		
<i>Landscape Water Conservation Guidelines</i>			
Are plants grouped into "hydro-zones" of high, medium and low or unirrigated / unwatered areas?			
Does at least 25% of the total landscaped area require no irrigation / watering?		✓	
Does at least 25% of the total landscaped area require low water use?		✓	
Does at most 50% of the total landscaped area require medium or high water use?		✓	
Is mulch cover provided for shrubs and groundcover to reduce soil evaporation?	✓		
Do water features such as pools and fountains use recirculated water systems?			✓
Do landscape installation standards meet the requirements of the BC Landscape Standard and / or the Master Municipal Construction Document?	✓		
Are the required written declarations signed by a qualified Landscape Architect?	✓		
<i>Irrigation System Guidelines</i>			
Is the Irrigation Plan prepared by a Qualified Professional?	✓		
Are irrigation circuits grouped into "hydro-zones" of high, medium and low or unirrigated / unwatered areas consistent with the landscaping plan?	✓		
Is drip or low volume irrigation used?	✓		
Are the required written declarations signed by a qualified Certified Irrigation Designer?	✓		
Crime prevention			
Are CPTED practices as related to landscaping, siting, form and exterior design included in the design?	✓		
Are building materials vandalism resistant?	✓		
Universal Accessible Design			
Is access for persons with disabilities integrated into the overall site plan and clearly visible from the principal entrance?	✓		
Are the site layout, services and amenities easy to understand and navigate?	✓		

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November 28, 2019

City of Kelowna, Planning
1435 Water Street
Kelowna, BC V1Y 1J4



Attn: Mr. Aaron Thibeault, Planner

RE: OCP Amendment, Rezoning and Development Permit Application – 815 Leon Ave

Dear Aaron,

The attached submission is an Official Community Plan amendment, Rezoning, and Development Permit application for 815 Leon Avenue. Further to our application discussions, we are pleased to propose a purpose-built rental building comprised of a blend of street-oriented townhomes and apartment units. We are excited to introduce a new housing option to this transitional and vibrant area of the city. There are a variety of floorplans which will offer a broad demographic the ability to make this new residence their home. The development is committed to offer a long term, affordable housing solution to Kelowna residents who desire a housing option close to the downtown core.

Project Description

The application proposes 127 dwelling units containing a mix of townhomes and apartments in a six-storey structure. The property frontage will be oriented toward Leon Avenue between Richter and Ethel Streets and borders Harvey Avenue to the south. The new building is responsive to the neighboring properties and is a positive introduction to the streetscape. Careful attention has been given to responding to the residential dwellings to the north and the busy streetscape along Highway 97. The proposed increase in density is an appropriate approach for this location.

In order to facilitate this new development, the following is requested:

Official Community Plan

- To amend the current OCP from Multiple Unit Residential (Medium Density – MRM) to Multiple Unit Residential (High Density – MRH).

Rezoning Application

- Rezone the site from RU6 – Two Dwelling Housing to RM6 – High Rise Apartment Housing (with a height limitation) in alignment with the proposed changes to the OCP.

Development Permit

- Included is a proposal for a rental apartment consisting of 127 units with structured parking and residential amenities to support the completed development. There are three variances requested for the project which are described in detail within.

Development Variances

- The zoning summary included in the drawing package has detailed information on the following requested variances:

DVP 1 - Site coverage area

DVP 2 - Front yard set back

DVP 3 - Parking requirements

DVP 4 – Landscape buffer



Project Rationale

Our community continues to grow in population with increased levels forecast to the year 2040. Providing affordable housing options is a key priority for our community. Providing housing within the Urban Core is a mandate of the present Council. The Harvey Avenue corridor is a location suitable for increased density with recent buildings representative of this proposed development. Prato Square, Cambridge House, and Central Green are all current examples of new residential developments along Highway 97 within close proximity to downtown. Beyond the recent buildings mentioned, there are also pre-existing 4, 5, & 12 storey structures within the residential block of this location.

We believe the requested rezoning with a six-storey height limitation and a minor OCP amendment is an appropriate designation for the subject site. The available FAR contained within the RM6 zone lends itself to a greater ability to organize the livable spaces and density consistent with surrounding multi-unit buildings. The scale and exterior materials selected are also responsive to the architectural language of the Urban Core. A resident in this location will enjoy close community amenities, walkable activities, and everything the downtown area offers while realizing an affordable rental lifestyle.

Site Access and Vehicle Movement

Extensive efforts have gone into minimizing hard surfaces and streamlining traffic circulation. A pre-existing SRW on the adjacent property to this site has enabled the development to access the property with minimal new asphalt paving. Traffic is directed from either Richter or Ethel Street, onto Leon Avenue and into a shared drive aisle perpendicular the roadway. The driveway is a shared entry with our neighbour to the east, 863 Leon Avenue. This lane has allowed a greater expanse of green space and activation of each façade of the building.

The parking levels are situated to the rear of the property with entrance doors concealed from Harvey Avenue utilizing landscape and architectural screening.

A dual entry parade has eliminated ramps and unnecessary underground space. Surface parking is also contained within the drive aisle to streamline the tenant and visitor experience. Parking stalls are also primarily 'Full Size Vehicle' with a mixture of 'Medium Size Vehicle' stalls. Each of these spaces will be effective for any type of vehicle to be parked.

Landscape and Lifestyle Amenities

The townhome units that line the frontage of Leon Avenue all have front entry doors that are oriented to the streetscape as well as a dedicated parking stall connected to the home. Young families or those interested in compact, urban living will enjoy these homes. Each townhome also has an outdoor patio which interfaces with the walkway in front of the development creating a warm and inviting presence.

As you make your way up in the building, second level apartments will have outdoor garden and patio areas for private use. Having the ability to enjoy the indoor/outdoor climate in the Okanagan is a priority for planning in this development.

Finally, diverse common amenities are planned for the interior of the building. These 'themed' rooms will allow a multitude of uses. Other lifestyle amenities contemplated include a fitness area, dog park and pet recreation, dog wash, relaxation areas, and dedicated resident storage on each floor level. Planning for the development is aimed at a lifestyle for long-term rental residents. We want to ensure this building will feel like 'home'.

Community Well-Being and Connectedness

There are two primary considerations in this section, crime prevention and urban interaction. As part of the community well-being, safety measures such as security cameras, secure tenant access, generous lighting, and activated building faces have all been contemplated. Crime prevention and a sense of safety is a primary need for all of us. The rental homes in this development respond to our basic need for secure shelter. An active property manager and welcoming lobby environment will also add to the comfort of all residents within the development.

The urban interaction surrounding the subject property is significant. The installation and ongoing improvements to the Ethel Street Active Transportation Corridor is a feature we are truly excited about. Walking, running, and cycling from the development is even greater now with the addition of dedicated bike lanes. The Knowles Heritage Park is 400m from the front entrance of the development and provides a beautiful public park for residents to enjoy. Also, being steps from the Urban Core, there are a multitude of restaurants, events, and community amenities that are all available. Being 'plugged-in' will be easy to do from this development.

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Closing

This application is a significant opportunity to add new housing options within the downtown neighborhood. The proposal offers a variety of high-quality rental homes which will respond to the continued demand and sustainability of our growing city. The location of the project reinforces the consistent theme of building forms along our city's busiest roadway.

As a group of local business owners and residents, we look forward to receiving the support of Staff and Council for this Development Permit Application. We welcome your feedback as we work together to enhance our community.

Kind Regards,

Sincerely,



Mr. Corey Makus
Partner, 815 Leon Developments Ltd.



cc: Rob Haberman
Sam Brovender
West Point Projects Ltd.