



CITY OF KELOWNA

MEMORANDUM

Date: September 28, 2016
File No.: TA16-0008
To: Land Use Management Department (LK)
From: Development Engineering Technologist (JF)
Subject: 410 Providence Ave Quilchina Residential Development Proposed 61 lots S.D.

The Development Engineering Branch comments and requirements regarding this application to Amend the CD2 zone to permit the following types on the subject property (as described in Schedule A & Map B): Hillside Single Family (Type 3 or 4) Narrow Single Family (Type 5) Row Houses (Type 6) Major Park and Open Spaces are as follows:

.1) General

- a) Provide a Pre-design report to address all offsite Utility and Transportation servicing including costs.
- b) PRIOR TO FINAL ADOPTION OF THE TEXT AMENDMENT BYLAW, a Predesign report specific to this development is required to identify all offsite servicing needs in accordance with the Subdivision, Development and Servicing Bylaw. A Servicing Agreement for all offsite works required by this subdivision must be provided, along with Performance Security, before final adoption of the Text Amendment Bylaw.
- c) Where there is a possibility of a high water table or surcharging of storm drains during major storm events, non-basement homes may be required. This must be determined by the engineer and detailed on the Lot Grading Plan required in the drainage section.
- d) The submitted design drawings in support of this application will be reviewed at the PLR application stage.

.2) Geotechnical Report

- a) Provide a comprehensive geotechnical report (3 copies), prepared by a Professional Engineer competent in the field of hydro-geotechnical engineering to address the items below: **NOTE: The City is relying on the Geotechnical Engineer's report to prevent any damage to property and/or injury to persons from occurring as a result of problems with soil slippage or soil instability related to this proposed subdivision.**

The Geotechnical reports (1 hard copy, 1 PDF) must be submitted to the Development Engineering Services Department for distribution to the Inspection Services Division and Subdivision Approval Division prior to submission of Engineering drawings or application for subdivision approval.

.3) Water

- a) The property is located within the City Water service area.
- b) For offsite works a Predesign Report is required complete with costs. Performance security and a Servicing Agreement will be required for offsite works. See comments in the "General" section.
- c) Provide an adequately sized domestic water and fire protection system complete with individual lot connections. The water system must be capable of supplying domestic and fire flow demands of the project in accordance with the Subdivision, Development & Servicing Bylaw. Provide water calculations for this subdivision to confirm this.

.4) Sanitary Sewer

- a) Provide a downstream sanitary sewer main flow analysis check for the proposed development.
- b) For offsite works, a construction cost estimate, performance security and a servicing agreement will be required.

.5) Drainage

- a) Provide an adequately sized drainage system complete with individual lot connections. The Subdivision, Development and Servicing Bylaw requires that each lot be provided with an individual connection; however, the City Engineer may permit use of individual ground water disposal systems, where soils are suitable. For on-site disposal of drainage water, a hydro geotechnical report will be required complete with a design for the disposal method (i.e. trench drain / rock pit). The Lot Grading Plan must show the design and location of these systems for each lot.
- b) Confirm if offsite works are required and how drainage will be handled on site.
- c) Confirm locations and sizes of any detention facilities if required.
- d) A Predesign report is required that addresses how Storm water Management will be dealt with. For offsite works, performance security and a Servicing Agreement will be required prior to rezoning. See comments in the "General" section.
- e) Provide the following drawings:
 - i) A detailed Lot Grading Plan (indicate on the Lot Grading Plan any slopes that are steeper than 30% and areas that have greater than 1.0 m of fill);
 - ii) A detailed Stormwater Management Plan for this subdivision; and,
 - iii) An Erosion and Sediment Control Plan.
- f) Show details of dedications, rights-of-way, setbacks and non-disturbance areas on the lot Grading Plan.

- g) Identify clearly on a contour map, or lot grading plan, the top of bank(s). Provide cross sections along the top of the bank at each property corner and at locations where there are significant changes in slope. Cross sections are to be perpendicular to the contour of the slope. Show the proposed property lines on the cross sections.

.6) Roads

- b) Dedicate and Construct Local roads in accordance to City of Kelowna standard drawing SS-R4. For local roads with a Multi Use Pathway dedicate 16.5m
- c) Construct the emergency access road in accordance with City standard SS-R2 (6.0m road).
- d) Provide traffic control and street name signs where required. The City will install all signs and traffic control devices at the developer's expense.
- e) Show Street Sign, Markings and Traffic Control Devices on the Composite drawing.
- f) Verify that physical driveway access will satisfy City requirements for all lots.

.7) Power and Telecommunication Services and Street Lights

- b) All proposed distribution and service connections are to be installed underground. Existing distribution and service connections, on that portion of a road immediately adjacent to the site, are to be relocated and installed underground
- c) Street lights must be installed on all roads.
- d) Before making application for approval of your subdivision plan, please make arrangements with Fortis BC for the pre-payment of applicable charges and tender a copy of their receipt with the subdivision application.
- e) Make servicing applications to the respective Power and Telecommunication utility companies. The utility companies are required to obtain the City's approval before commencing construction.

.8) Design and Construction

- a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.

- c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.
- e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Works & Utilities Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

.9) Servicing Agreements for Works and Services

- a) A Servicing Agreement is required for all works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No. 7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.
- b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

.10) Other Engineering Comments

- a) Provide all necessary Statutory Rights-of-Way for any utility corridors required, including those on proposed or existing City Lands.
- b) If any road dedication affects lands encumbered by a Utility right-of-way, please obtain the approval of the utility prior to application for final subdivision approval. Any works required by the utility as a consequence of the road dedication must be incorporated in the construction drawings submitted to the City's Development Engineer.


.11) Charges and Fees

- a) Development Cost Charges (DCC's) are payable
- b) Fees per the "Development Application Fees Bylaw" include:
 - i) Street/Traffic Sign Fees: at cost if required (to be determined after design).
 - ii) Survey Monument Fee: \$50.00 per newly created lot (GST exempt).
 - iii) Survey Monument, Replacement Fee: \$1,200.00 (GST exempt) – only if disturbed.
 - iv) Engineering and Inspection Fee: 3.5% of construction value (plus GST).
 - v) Latecomer Processing Fee: \$1,000.00 (plus GST) per agreement (no charge for 1 day agreements).

c) Water Extended Service Area Latecomers (ESA's):

ESA#	Front ender	Component	Anniversary (rates change)	*Rate/unit \$
14				
Available EDU's 49	<i>Kettle Valley</i>	<i>Adams Reservoir</i>	<i>Sept. 29 16</i>	\$3,880.00

*(these fees are to be confirmed at time of subdivision)



 John Filipenko ASCT
 Development Engineering Technologist

PE

Development Engineering Manager
 (initials)

CITY OF KELOWNA
MEMORANDUM

Date: September 28, 2016
File No.: OCP16-0013
To: Land Use Management Department (LK)
From: Development Engineering Technologist (JF)
Subject: 410 Providence Ave Quilchina Residential Development Proposed 61 lots S.D.

The Development Engineering Branch comments and requirements regarding this application to change the current OCP Designation from EDINST & PARK to S2RES, MRM, & PARK are as follows:


The Development Engineering Technologist for this project is John Filipenko. AScT

.1) General

All the offsite infrastructure and services upgrades are addressed in the Text Amendment Report under file TA16-0008

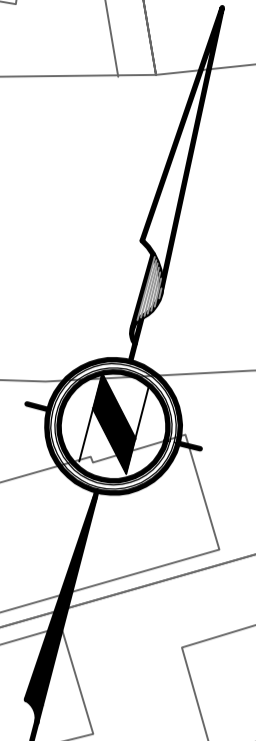
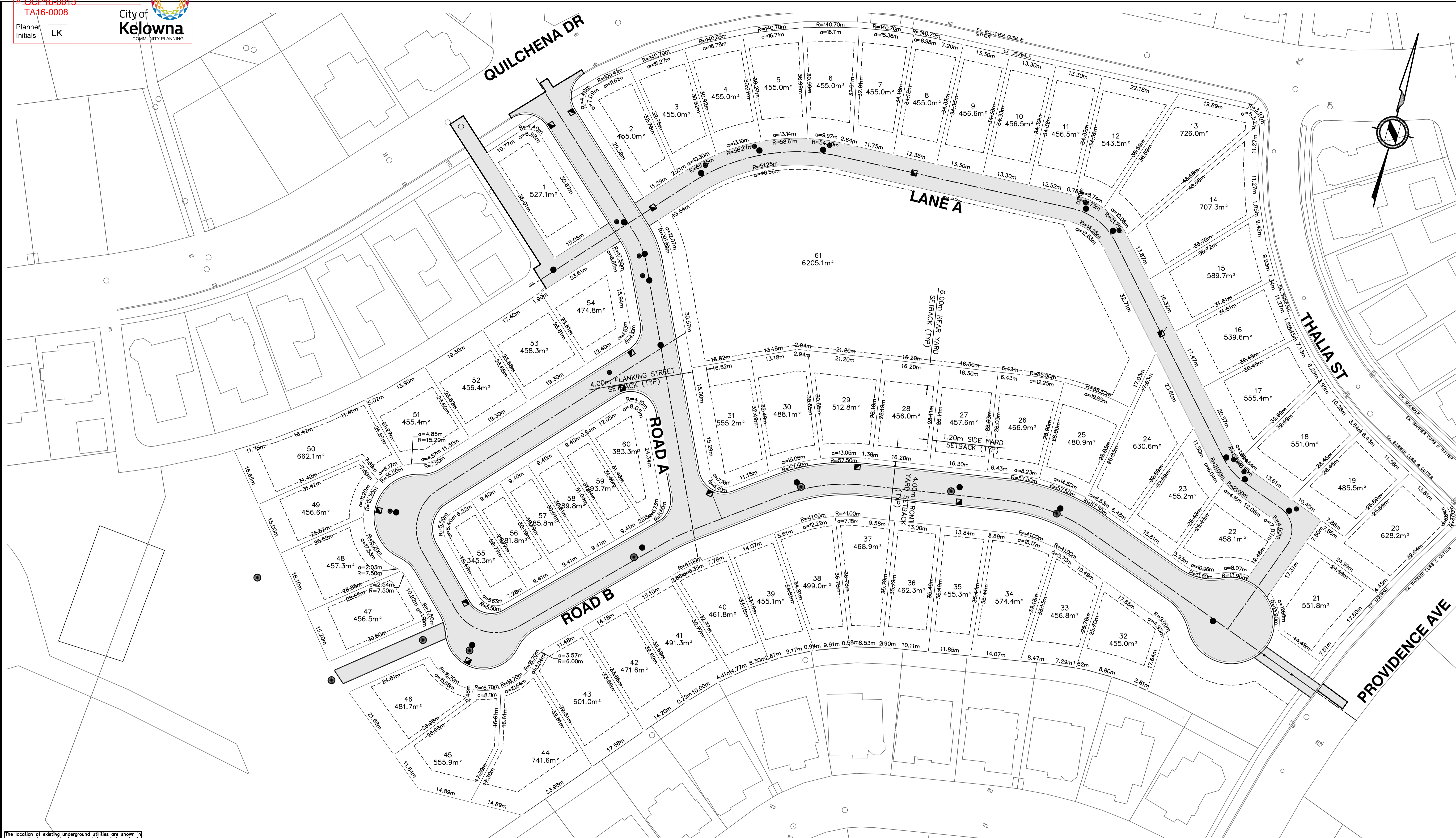


John Filipenko AScT
Development Engineering Technologist


Development Engineering Manager
(initials)



NOTICE TO IT IS THE RESPONSIBILITY OF THE CONTRACTOR'S SURVEYOR TO VERIFY THAT ALL LEGAL SURVEY DIMENSIONS SHOWN ON THE ENGINEERS DRAWINGS AGREE WITH THOSE ON THE REGISTERED LEGAL SURVEY PLAN. SHOULD THERE BE ANY DISCREPANCIES, THEN IMMEDIATELY NOTIFY THE ENGINEER OF RECORD.



The location of existing underground utilities are shown in an approximate way only & have not been independently verified by the owner or its representative. The contractor shall determine the exact location of all existing utilities before commencing work and agree to be fully responsible for any and all damages which might be occasioned by the contractor's failure to exactly locate and preserve any and all underground utilities.

LEGAL DESCRIPTION:
LOT 1, SECTION 23, TOWNSHIP 28, LAND DISTRICT 54, PLAN KAP85435
B.M. MONUMENT NO. ELEVATION:

LEGEND

WATER	MANHOLE	○ M.H.
SAN. SEWER	UTILITY POLE	● U.P.
STORM SEWER	POWER POLE	○ P.P.
GAS	LAMP STANDARD	□ L.S.
U/G TELEPHONE	CATCH BASIN	▣ C.B.
U/G ELECTRICAL	HYDRANT	⊕ H.D.
	TREES	⊙ T
	SURVEY MONUMENT	⊗

LEGEND

—	NEW PAVEMENT
▨	ASPHALT REPLACEMENT
▩	MILL AND OVERLAY

NAD 83
INSERTION BASE POINTS: 300,000, 5,500,000
Locations and offsets of existing utilities shown on this plan are not guaranteed to be accurate and must be verified in the field PRIOR TO CONSTRUCTION. The City of Kelowna does not guarantee their accuracy. Concerned persons should not rely on these documents and should verify all information shown by way of site survey and other appropriate methods. The City of Kelowna accepts no liability for use of these files or information.

APLIN MARTIN
ENGINEERING ARCHITECTURE PLANNING SURVEYING
454 Leon Avenue, Kelowna, B.C. Canada V1Y 6J3
Tel: (250) 448-0157, Fax: (778) 436-2312, Email: general@aplinmartin.com

NO.	YY/MM/DD	BY	REVISION	CHK'D
1	16/08/03	JRG	ISSUED FOR PRELIMINARY LAYOUT REVIEW	BR
0	16/07/13	JRG	ISSUED FOR REZONING/OCP AMENDMENT	BR

BASE	JRG	DESIGN	JRG
APPROVED	BR		
DATE	AUGUST 2016		
SCALE	HORIZ. 1:500 VERT. N/A		
SCALE NOT ACCURATE OVER LONG DISTANCES			

THE CITY OF KELOWNA
DESIGN AND CONSTRUCTION
VILLAGE OF KETTLE VALLEY
QUILCHENA RESIDENTIAL DEVELOPMENT
LOT PLAN

DIVISION	
DRAWING NO.	16-601-031
REV NO.	1

This forms part of application

OCP16-0013

TA16-0008

Planner
Initials

LK



MODIFICATION AGREEMENT

Dated as of the 17 day of ^{Feb} ~~January~~, 2015. (SW)

BETWEEN:

KETTLE VALLEY HOLDINGS LTD.
5636 Jasper Way
Kelowna, BC V1W 5L7

("Kettle Valley")

AND:

**THE BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 23 (CENTRAL OKANAGAN)**
1940 Haynes Road
Kelowna, BC V1X 5X7

("School Board")

WHEREAS:

- A. Pursuant to the School Agreement, Mission Hill agreed to transfer the 6 Acre Site for \$1.00 to the School Board as satisfaction in full of the balance of the SSAC due for the development of the whole of the Lands;
- B. Pursuant to the School Agreement, Mission Hill also granted to the School Board an option to acquire the 8.1 Acre Site on the terms set out in the School Agreement;
- C. The School Agreement was binding on successors and assigns;
- D. Kettle Valley acquired the Lands from Mission Hill and assumed the benefits and obligations under the School Agreement;
- E. On November 26, 2012, the School Board elected not to exercise its option to acquire the 8.1 Acre Site;
- F. Kettle Valley and the School Board have agreed that in lieu of the transfer of the 6 Acre Site, Kettle Valley will make payment of the SSAC Balance on the terms and conditions outlined in this agreement;

In consideration of the terms, covenants and conditions herein, the parties agree as follows:

1. **Definitions** The parties agree that the following terms shall have the following meanings in this agreement:
 - (a) **“Confidential Information”** refers to any and all information about the School Agreement, and about this modification of School Agreement, acquired by the School Board, including without limiting the generality of the foregoing, all information, written or oral or in the form of computer data, or otherwise obtained by the School Board which is or would logically be considered to be confidential or proprietary in nature, including but not limited to all contracts, agreements, technical information, and financial information, which is or may be either applicable to or related in any way to the School Agreement, as modified by this agreement, together with analyses, compilations, studies or other documents prepared by the School Board containing or based upon, in whole or in part, information acquired by the School Board as consequence of the School Agreement, as modified.
 - (b) **“6 Acre Site”** means an undefined 6 acres of Lot 1 Section 23 Township 28 SDYD Plan KAP85435 (“Lot 1”);
 - (c) **“8.1 Acre Site”** means an undefined 8.1 acres of Lot 1;
 - (d) **“Closing Date”** means the earlier of:
 - (i) 60 days after issuance of Preliminary Layout Review by the City of Kelowna to subdivide Lot 1 into a minimum of 57 residential lots more particularly described in Section 4, or ;
 - (ii) 60 days after Kettle Valley waives the condition precedent in paragraph 4(a);
 - (e) **“Deposit”** means the deposit referred to in paragraph 3(a) in the amount of \$50,000.00;
 - (f) **“Kettle Valley”** means Kettle Valley Holdings Ltd, trustee for the Kettle Valley Development Limited Partnership;
 - (g) **“Lands”** means collectively Lot 1 Section 23 Plan 22290, except Plans 24513 25767 and 32591; and Lot 168 Section 24 Plan 32591; and Lot A Section 23 Plan 29585 except Plan 32591; and Lot A Sections 23 and 24 Plan 23380 except Plan 32591; Lot 1 Sections 23 and 24 Plan 41091; and part of the North East ¼ of Section 14; all in Township 28 SDYD;
 - (h) **“Mission Hill”** means Mission Hill Management Inc;
 - (i) **“Representatives”** means, as the case may be, the directors, officers, board members, coordinators, employees, agents, affiliates, lawyers, engineers, accountants, consultants and financial advisors of the School Board;

- (j) "School Agreement" means that certain agreement entered into between Mission Hill and the School Board and dated May 28, 1996;
 - (k) "School Board" means The Board of Education of School District No. 23 (Central Okanagan);
 - (l) "SSAC" means the School Site Acquisition Charges payable under Section 937.3 of the *Local Government Act* previously known as the School Site Acquisition Fee;
 - (m) "SSAC Balance" means the aggregate sum of \$1,057,664.00 being the sum of \$1,100,000.00 less the \$42,336.00 SSAC previously paid by Kettle Valley in respect of The Highlands subdivision (plan EPP35140);
2. Kettle Valley and the School Board hereby agree that the School Agreement is modified to replace the requirement for Kettle Valley to transfer the 6 Acre Site to the School Board in full satisfaction of the SSAC for the development of the Lands, with payment to the School Board of the SSAC Balance on the terms set out below.
3. **Payment of the SSAC Balance:** The SSAC Balance shall be payable by Kettle Valley as follows:
- (a) by payment of the Deposit of \$50,000.00 to Pushor Mitchell LLP on execution of this agreement, to be held by Pushor Mitchell LLP, in trust, as follows:
 - (i) to pay the Deposit to the School Board on the Closing Date if the transaction contemplated herein is completed;
 - (ii) to pay the Deposit to Kettle Valley on demand on or after the Closing Date if the transaction contemplated herein is not completed by reason of any default on the part of the School Board;
 - (iii) to pay the Deposit to the School Board on demand on or after the Closing Date if Kettle Valley has removed or waived the Conditions Precedent and the transaction contemplated herein is not completed for any reason whatsoever, other than by reason of a default on the part of the School Board;
 - (b) If Kettle Valley fails to pay the Deposit when required pursuant to the terms of this agreement, this agreement will be null and void, at the option of the School Board;
 - (c) by payment of the balance to the School Board by solicitor's trust cheque on the Closing Date.

4. **Kettle Valley's Condition Precedent:**

- (a) The obligation of Kettle Valley to pay the SSAC Balance on the Closing Date is subject to the City of Kelowna issuing a Preliminary Layout Review, within 2 years of the date of this agreement, for the subdivision of Lot 1 into a minimum of 57 residential lots, on conditions Kettle Valley can satisfy using commercially reasonable, and financially viable, efforts.
- (b) This condition is for the sole benefit of Kettle Valley and may be waived unilaterally by Kettle Valley, at Kettle Valley's election, in writing. If Kettle Valley does not give the School Board notice in writing of the satisfaction or waiver of this condition precedent within the time stipulated, then the Deposit will be paid to Kettle Valley and Kettle Valley's obligation to pay the SSAC Balance will be at an end and Kettle Valley will be obliged to transfer the 6 Acre Site to the School Board as contemplated in the School Agreement.

5. **Satisfaction of SSAC payable in respect of the Lands:** Upon Kettle Valley paying the SSAC Balance to the School Board:

- (a) the School Board will have no further right to acquire the 6 Acre Site;
- (b) the School Board acknowledges and agrees that the SSAC Balance is the full and final payment in satisfaction of all SSAC payable, or which may become payable, for the development and subdivision, in any manner and any number of lots or strata lots, of the Lands.

6. **Non-Payment of SSAC by Kettle Valley:** In the event that the condition precedent in Section 4 is not satisfied, or if Kettle Valley fails to pay the SSAC Balance within 26 months of the date of this agreement, unless otherwise extended or modified by agreement of the parties, in writing, then the School Agreement will continue to apply, unamended, and Kettle Valley will be obligated to transfer the 6 Acre Site to the School Board on the terms and conditions contained in the School Agreement.

7. **Confidentiality**

(a) The School Board shall:

- (i) ensure that the Confidential Information be kept in strict confidence and shall not be used for any purpose whatsoever other than for the purpose of negotiating and completing the transactions contemplated in the School Agreement as modified herein;
- (ii) ensure that the Confidential Information shall not be disclosed to any person other than the School Boards Representatives who have a need to know and the School Board shall be responsible for any breach of this provision by any of its Representatives;

- (iii) not disclose any Confidential Information to any person other than in accordance with the terms of the School Agreement, as modified herein, except in the event that the School Board or its Representatives are required by law to otherwise disclose any Confidential Information. Prior to any such disclosure, the School Board will immediately provide Kettle Valley written notice thereof so that Kettle Valley may seek a protective order or other appropriate remedy or waive compliance by the School Board with this provision. In the event that any court or administrative body requires disclosure of the Confidential Information, then the School Board or any of its Representatives required to provide such disclosure will furnish only that portion of the Confidential Information which is legally required and will each exercise their best efforts to obtain reasonable assurances that confidential treatment will be accorded such Confidential Information; and
- (iv) at the request of Kettle Valley, return all documents and materials provided hereunder, or at Kettle Valley's direction certify in writing that all such documents or material were destroyed. The School Board will require all Representatives to comply with this provision.

8. General

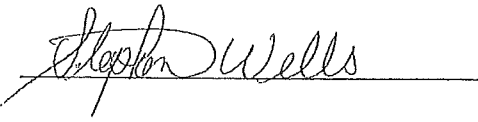
- (a) The provisions contained in this agreement, constitute the entire agreement between the parties and supersede all previous communications, representations, and agreements, whether oral or written, between the parties with respect to the subject matter of this agreement, there being no representations, warranties, terms, conditions, undertakings, or collateral agreements (express, implied, or statutory), between the parties other than as expressly set forth in this agreement.
- (b) This agreement shall enure to the benefit of and be binding upon the parties to this Agreement and their respective heirs, executors, and administrators, successors and permitted assigns.
- (c) This Agreement will be governed by and interpreted in accordance with the laws of British Columbia and the applicable laws of Canada.
- (d) All references to any part, whether a party to this Agreement or not, will be read with such changes in number and gender as the context or reference requires.
- (e) This agreement and any certificate or other writing delivered in connection with this agreement may be executed in any number of counterparts and any party to this Agreement may execute any counterpart, each of which when executed and delivered will be deemed to be an original and all of which counterparts of this agreement or such other writing, as the case may be, taken together will be deemed to be one and the same instrument. The execution of this agreement or any other writing by any party will not become effective until all counterparts, as the case may be, have been executed by all the parties to this Agreement. A copy of this agreement delivered by facsimile or other electronic means and

bearing a copy of the signature of a party to this agreement shall for all purposes be treated and accepted as an original copy thereof.

(f) Time is of the essence of this agreement.

Signed by the parties as of the date on Page 1.

KETTLE VALLEY HOLDINGS LTD.
by its authorized signatory:



Handwritten signature of Stephen Wells, written in cursive and underlined.

THE BOARD OF EDUCATION
SCHOOL DISTRICT NO. 23 (CENTRAL OKANAGAN)
by its authorized signatories:



Handwritten signature of Larry Paul, written in cursive.

Larry Paul CA
Secretary-Treasurer
S.D. No. 23

07/01/2015 9:05 AM
TMA 34748.56 lxs
DF 68200 rc

KETTLE VALLEY HOLDINGS LTD.

40691

Pushor Mitchell LLP In Trust

02/18/2015

40691

Contract-2/17/15..... 50,000.00

J101

Comment: Refundable Deposit-School Aquisition Fee

Total

50,000.00

179

MSF16001E-1

REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

C4VSS50010000

M97SF019999



Printed in Canada

ORIGINAL

-THIS AGREEMENT made this 28th day of May, 1996.

BETWEEN:

MISSION HILL MANAGEMENT INC. (Inc.#399236), a company duly incorporated pursuant to the laws of the Province of British Columbia, having an address c/o 200 - 1465 Ellis Street, Kelowna, British Columbia V1Y 2A3

(hereinafter referred to as "Mission Hill")

OF THE FIRST PART

AND:

THE BOARD OF SCHOOL TRUSTEES,
SCHOOL DISTRICT NO. 23 (CENTRAL OKANAGAN), 1940
Haynes Road, Kelowna, British Columbia V1X 5X7

(hereinafter referred to as the "School District")

OF THE SECOND PART

W H E R E A S:

A. Mission Hill is the registered owner or is entitled to become the registered owner of:

LOT 1, SEC. 23, TP. 28, SDYD, PLAN 22290, EXCEPT PLANS 24513, 25767 AND 32591;

LOT 168, SEC. 24, TP. 28, SDYD, PLAN 32591;

LOT A, SEC. 23, TP. 28, SDYD, PLAN 29585, EXCEPT PLAN 32591;

LOT A, SECS. 23 & 24, TP. 28, SDYD, PLAN 23380 EXCEPT PLAN 32591;

LOT 1, SECS. 23 & 24, TP. 28, SDYD, PLAN 41091; AND

PART OF THE NE 1/4 OF SEC. 14, TP 28, SDYD;

(hereinafter referred to as the "Lands");

B. Mission Hill has a Land Use Contract on the Lands which is in the process of being cancelled and is to be replaced with zoning through the zoning process of the City of Kelowna for commercial and residential use of the property;

C. There are certain obligations under the Land Use Contract related to schools, as well as obligations under the rezoning process and the School Sites Acquisition Act (Bill 43), R.S.B.C., which said obligations will be replacing the obligations under the Land Use Contract in effect on the Lands;

D. Mission Hill and the School District wish to enter into an agreement as outlined herein in order to clarify the agreement between the parties as to the fulfilment of all obligations under the Land Use Contract, School Sites Acquisition Act (Bill 43) and the zoning processes;

NOW THEREFORE the within Agreement shall replace all obligations as hereinbefore outlined and shall bind the parties to the following:

1. Attached hereto and marked as Schedule "A" is a plan of the Lands outlining thereon two school sites; namely, a secondary or middle school site and an elementary school site, which said school sites will be in the approximate locations as outlined on the said Schedule "A". The secondary or middle school site has approximately 14.1 acres in size and the said location and size of the secondary or middle school site has been approved by the School District and Mission Hill agrees to the transfer of the said site to the School District. With regard to the transfer of the said 14.1 acre secondary or middle school site, Mission Hill agrees to transfer 6 acres of the said property to the School District for the sum of \$1.00, receipt of which is hereby acknowledged. The remaining 8.1 acres of land will be purchased by the School District at fair market value, with the School District being responsible for full payment thereof through its own resources or by collection of sums from other developers in the area who may contribute their funds for the purposes of purchasing the said 8.1 acres. Fair market value herein shall be based upon an independent appraiser, namely Kent-MacPherson Appraisals, valuating the land

*or other agreed
appraiser acceptable
to both parties.*



as serviced institutional land. Payment in full and transfer of the land must occur by no later than the time limit outlined in paragraph 8 herein. Purchase of the lands will be subject to the approval of the Ministry of Education.

2. The School District has received the 6 acre elementary school site from Mission Hill through the Land Use Contract in approximately 1980. This said location is outlined on the plan attached hereto as Schedule "A".

3. The transfer of the 6 acre elementary school site as well as a further six acres for \$1.00 for the secondary or middle school site shall completely fulfil the obligations of Mission Hill with regard to the development of its properties as related to potential dedications of land for school purposes pursuant to School Sites Acquisition Act (Bill 43) and the Land Use Contract and/or any other legal obligations for dedications of land for school purposes. Over and above these two 6 acre transfers as outlined herein and as acknowledged in paragraph 1 herein, Mission Hill will transfer a further 8.1 acres to the School District by way of transfer for fair market value. The School District may not demand under current or future legislation any further school sites from Mission Hill or subsequent owners of the Lands.

4. With regard to the lands designated as the secondary or middle school site, in the event that the School District does not develop the secondary or middle school on the secondary or middle school site upon subdivision of the 4500th lot in the City of Kelowna Southwest Mission Sector Plan area plus a further twelve (12) months and in any event within fifty (50) years of the date of this agreement, then in that event Mission Hill and/or its successors or assigns shall have the option to buy back the said lands from the School District for the same dollar price paid by the School District to Mission Hill for the said property, plus the cost of legal fees and registration costs paid to purchase the lands and the costs expended by the School District on maintenance of the said lands as required in paragraph 5 herein, and in addition the dollar price paid by The School District as outlined herein will be increased by the increase in the cost of living during each year from the date of payment the said cost of living being that sum as designated so by Statistics Canada for the country of Canada. This increased value shall

be paid by Mission Hill being the cost of living increase for each year from the time that The School District purchases the said lands until such time as Mission Hill buys back the land pursuant to this paragraph.

5. The School District, following transfer of the said property to the School District shall be obligated to maintain the property in a neat and clean state of repair and so as to fulfil all by-laws of the City of Kelowna or Regional District of Central Okanagan or any other governing body having rules and regulations as to the appropriate cleanliness and maintenance of properties by way of weed control, litter management, etc., and so as to ensure that the said property does not become an eyesore or nuisance to the neighbours.

6. The parties agree that Mission Hill shall have the right to landscape either of the two school sites prior to the building of the school. This right to landscape however shall be conditional upon a landscaping plan being approved by the School District in writing prior to the landscaping being carried out, it being the intent that the landscaping shall make it possible to utilize the area for soccer fields, baseball fields, etc. by the neighbourhood and general use prior to the development of the site as a school building site. On construction of the school on the property, whether it be elementary school or secondary or middle school, the School District would then reimburse Mission Hill for their entire costs of providing the agreed landscaping on the said property upon which the school is being developed. The said costs as outlined herein shall be proved by a statement provided and certified by a chartered accountant hired for the purposes of determining the said costs. The School District will endeavour to enter into a land use agreement for the public use of the school sites, with the agreement to be between the City of Kelowna and School District 23 with terms similar in an agreement dated November 2, 1995 attached hereto as Schedule "B".

7. The parties agree that prior to commencement of construction of the secondary or middle or elementary schools on the properties referred to herein, the School District will consult Mission Hill if Mission Hill deems that it is necessary, as to the design of the Schools, it being understood between all parties that the entire design scheme for the Mission Hill area

is an important aspect of the marketing and development of the properties as a whole. To the extent possible The School District will endeavour to ensure that its buildings are designed to fall within the theme guidelines of the subdivision so as to enable the schools to fit into the subdivision in an aesthetically pleasing and appropriate fashion. At the same time both parties acknowledge that the design must meet Ministry of Education approval. Some aspects of the design themes for the subdivision are outlined in the documents attached hereto as Schedule "C".

8. It is agreed between the parties that the secondary or middle school site will be subdivided, if approved by the City of Kelowna, into a separate lot and shall be available for transfer to the School District at the time of the subdivision of the 200th lot within Mission Hill's Lands or in any event by no later than December 31, 2005. In the event that a separate lot for the 14 acre secondary or middle school site is not created until the second phase, then the School District shall be entitled to register an option to purchase on those lands containing that area that will be the acreage for the secondary or middle school site in order to protect its interest and right to purchase those lands. In the event, therefore, that a right or option to purchase those lands is registered against the Mission Hill property and in the event that a subdivision of those lands containing that registered interest is made prior to the transfer of the lands to the School District, the School District will provide partial releases of its option and/or right to purchase against all those individual lots that are not the lands being purchased by the School District. Therefore partial releases of the right to purchase will be provided by the School District to release those lands against which the registration is not required, within thirty (30) days of the request to provide such a partial release. It is at the time of the subdivision and creation of the 14.1 acre lot that an independent appraisal of the property by Kent-MacPherson Appraisals (or other agreed appraiser acceptable to both parties) will be carried out in order to determine the fair market value of the said 8.1 acre parcel that forms a portion of the secondary or middle school site. This appraisal shall form the basis of the fair market value and the School District shall then be entitled to purchase the parcel of land for that said fair market value as outlined in the Kent-MacPherson (or other agreed appraiser acceptable to both parties) appraisal for a period of five years from the date of the creation of the subdivided property, unless otherwise negotiated. However on the anniversary date of each year during the five year period, the cost of the appraised value of the property will increase by the increase in the cost of living during that past one year period as designated by Statistics Canada for the Country of Canada. This increased price of the land as each year goes by during the five year period shall be paid

by the School District at the time of transfer of the 8.1 acre parcel to the School District. If at the expiration of the five year period from the date of the creation of the separate lot the School District has failed or neglected to purchase the lands from Mission Hill then the School District shall lose the right to purchase the 8.1 acre parcel as outlined herein. Following the expiration of the five year period this 8.1 acre parcel may be then retained by Mission Hill and utilized by them for their development with the right to apply for the rezoning and redevelopment of the 8.1 acre parcel.

9. This agreement contains the entire agreement between the parties and everything contained herein shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors, assigns and other legal representatives of each of the parties hereto, and where there is more than one party or there is a female party or a corporation, the provisions hereto shall be read with all grammatical changes thereby rendered necessary and all covenants shall be deemed joint and several.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals and, where corporations, have caused their corporate seals to be hereunto affixed by the hands of their proper officers, duly authorized in that behalf, as of the day and year first above written.

MISSION HILL MANAGEMENT INC.

By its authorized Signatory(ies)

Per: *Joseph F. Nestman*

(Seal)

Per: *[Signature]*

SCHOOL DISTRICT NO. 23 (CENTRAL OKANAGAN)

By its authorized Signatory

Per: *W. Eaton*

(Seal)

SCHEDULE C

DESIGN THEME GUIDELINES



Subject Property Notes:
 Amend the OCP for a portion of the subject property from Education / Institutional (EDINST) to Multiple Unit Residential (Medium Density) (MRM)

Subject Property Notes:
 Amend the OCP for a portion of the subject property from Education / Institutional (EDINST) to Single/Two Unit Residential (S2RES).

Subject Property Notes:
 Amend the OCP for a portion of the subject property (Lot 1) from Education/Institutional (EDINST) to Major Park and Open Space (PARK).


Subject Property Notes:
 Amend the OCP for a portion of the subject property (Lot 2) from Education/Institutional (EDINST) to Major Park and Open Space (PARK).

**MAP "A" OCP AMENDMENT
 OCP16-0013**




SCHEDULE A

This forms part of application
 # OCP16-0013

Planner Initials **LK**



City of Kelowna
 COMMUNITY PLANNING

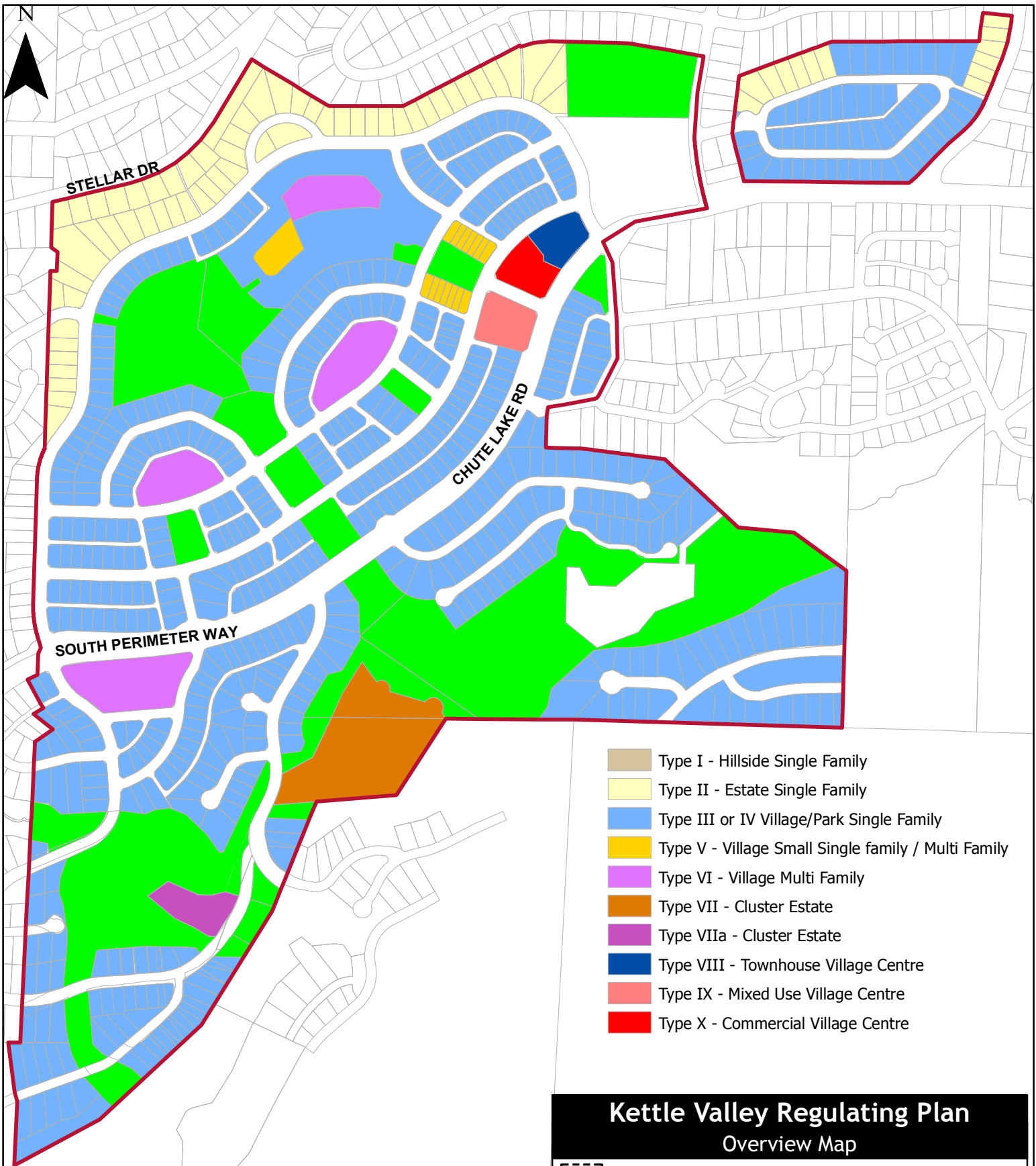
-  EDINST to MRM
-  EDINST to PARK
-  EDINST to S2RES

This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.



City of Kelowna

Rev. Monday, November 28, 2016



- Type I - Hillside Single Family
- Type II - Estate Single Family
- Type III or IV Village/Park Single Family
- Type V - Village Small Single family / Multi Family
- Type VI - Village Multi Family
- Type VII - Cluster Estate
- Type VIIa - Cluster Estate
- Type VIII - Townhouse Village Centre
- Type IX - Mixed Use Village Centre
- Type X - Commercial Village Centre

Kettle Valley Regulating Plan Overview Map

- City Boundary
- Legal Parcel
- Kettle Valley Regulating Plan Boundary

This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

0 50 100
Meters

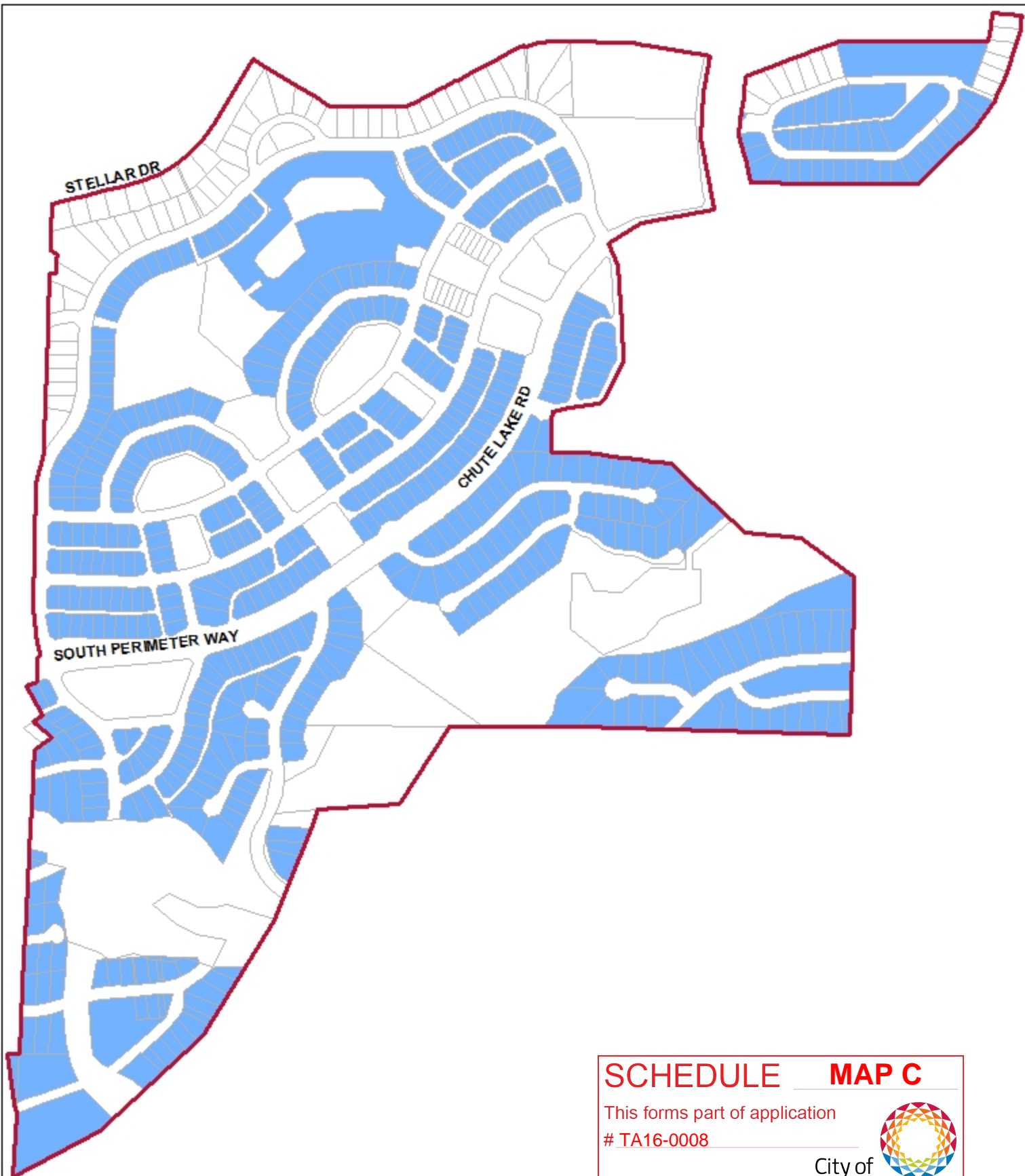
Rev. Nov 10/2016

SCHEDULE MAP B

This forms part of application
TA16-0008

Planner Initials LK


City of Kelowna
 COMMUNITY PLANNING

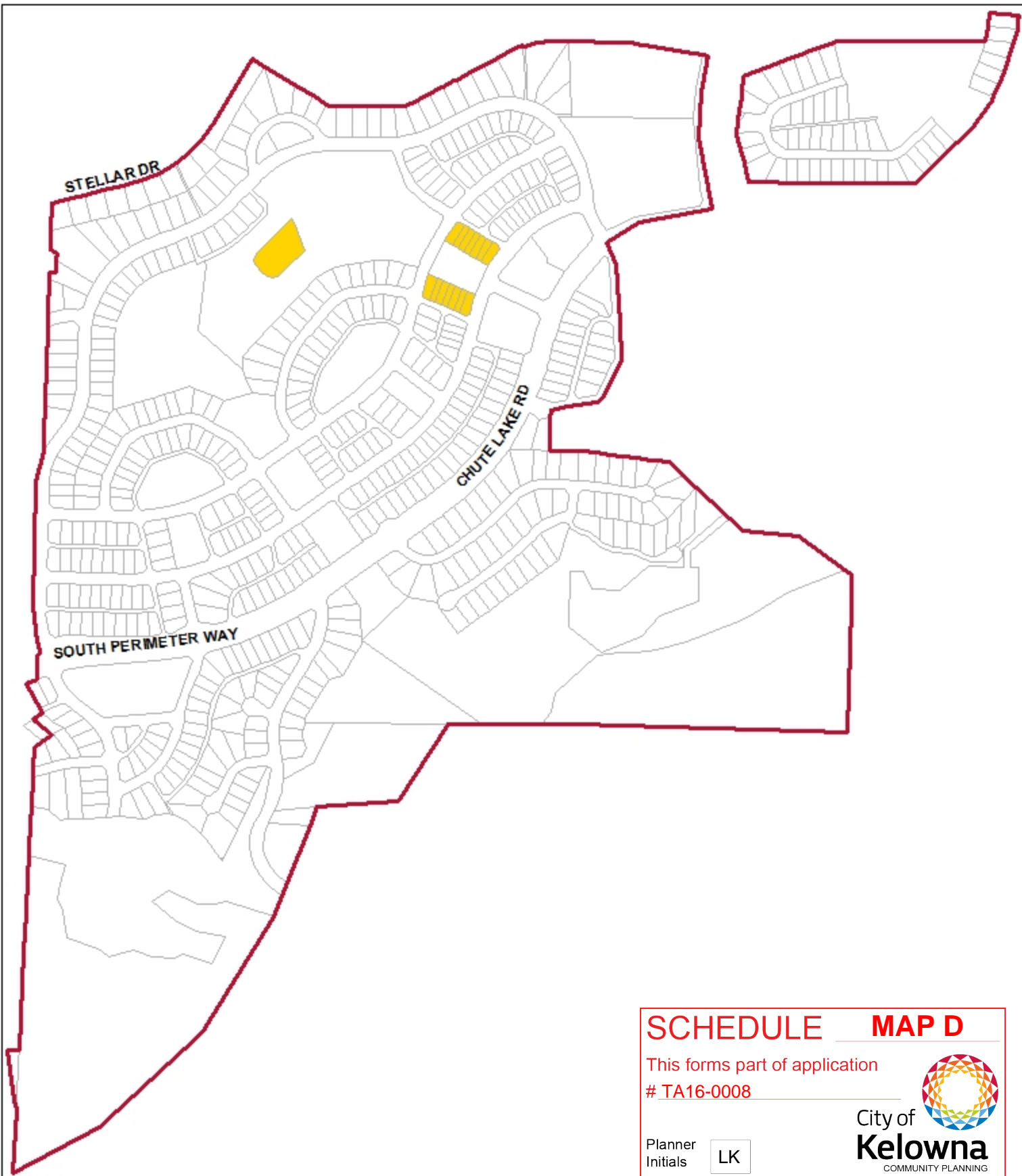


SCHEDULE MAP C

This forms part of application
TA16-0008

Planner
Initials LK



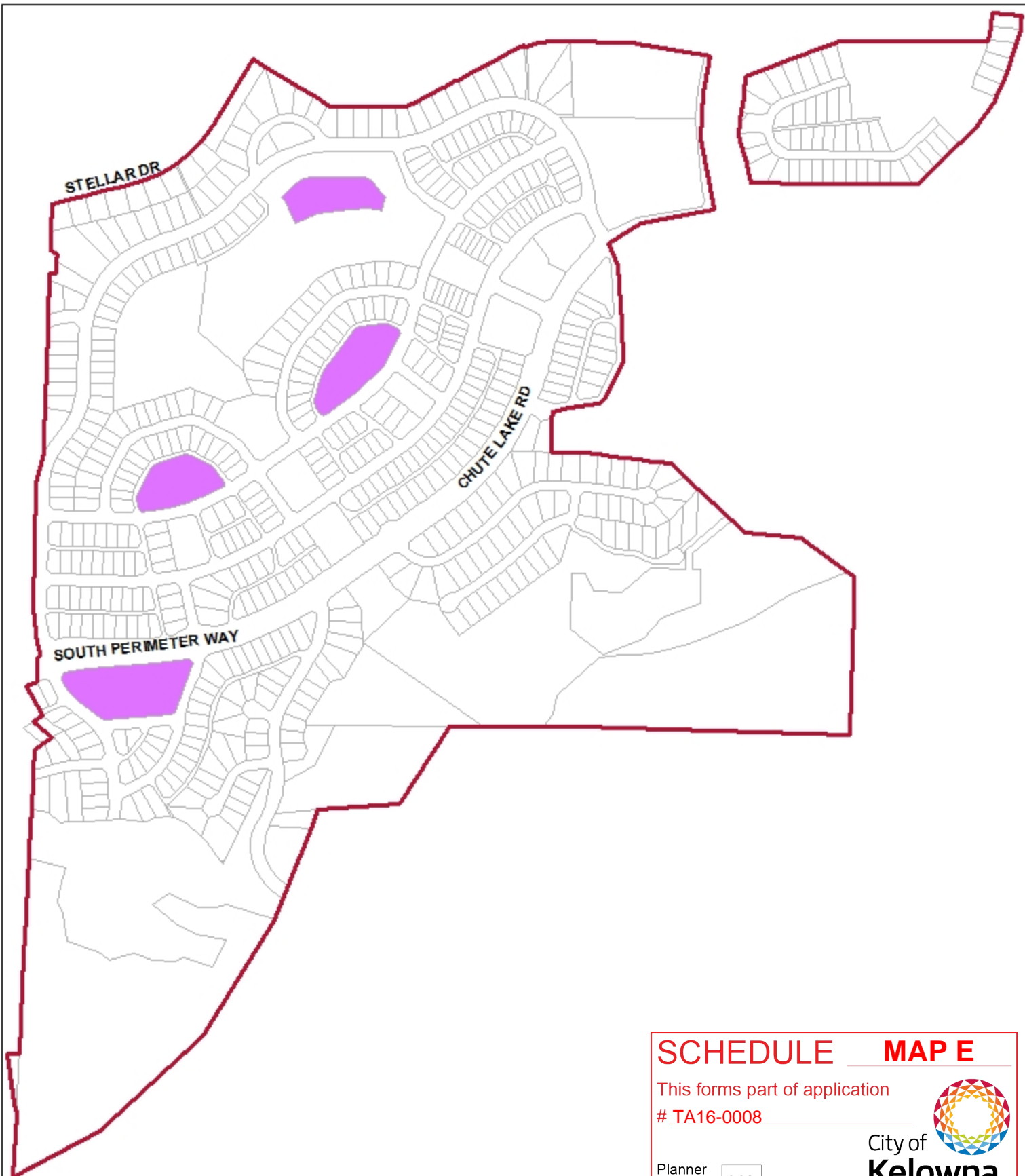


SCHEDULE MAP D

This forms part of application
TA16-0008

Planner Initials


City of **Kelowna**
COMMUNITY PLANNING

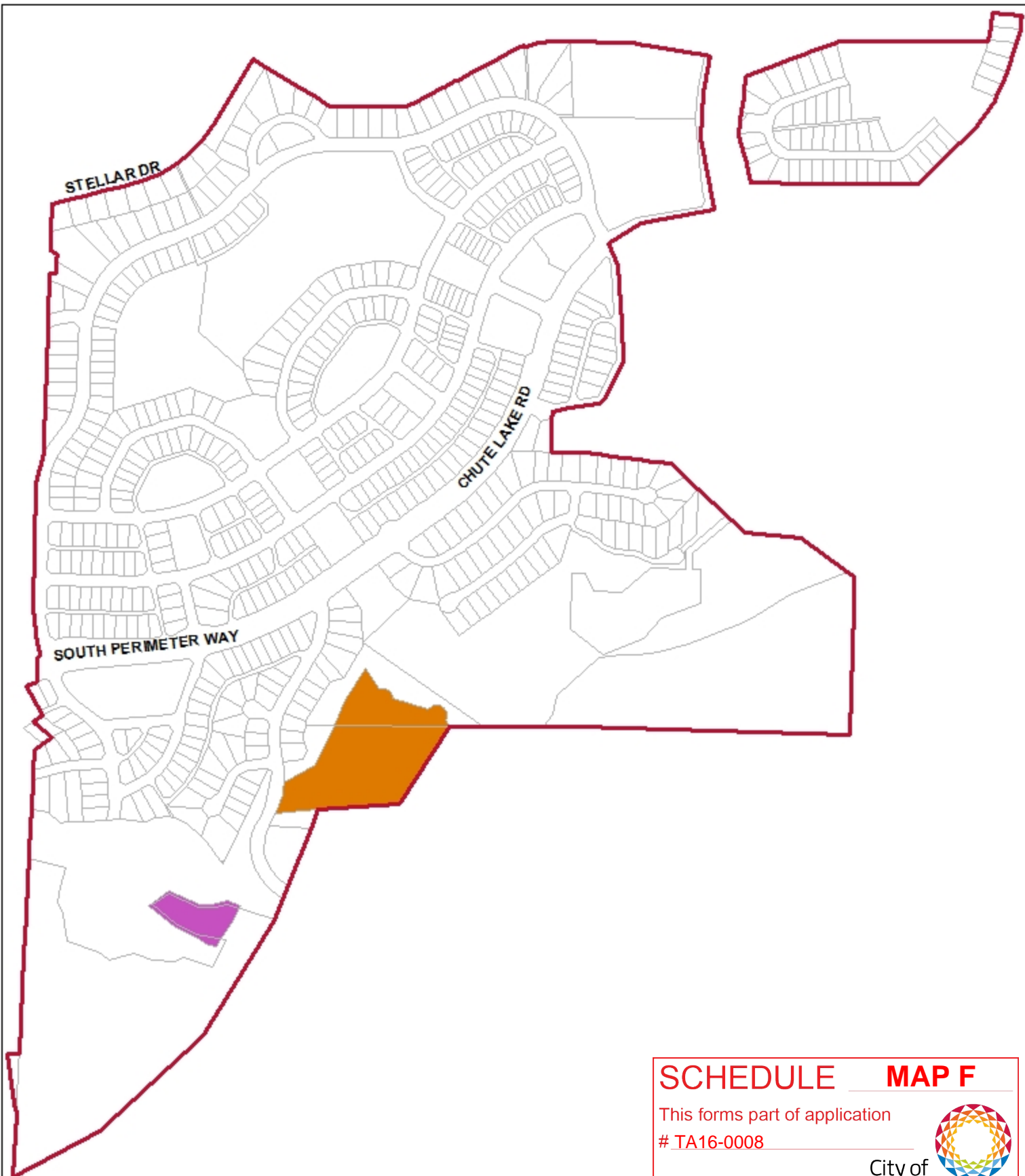


SCHEDULE MAP E

This forms part of application
TA16-0008

Planner
Initials LK





SCHEDULE MAP F

This forms part of application
TA16-0008

Planner Initials **LK**

City of **Kelowna**
COMMUNITY PLANNING

