



# Committee Report

**Date of Report:** August 29, 2023  
**Date & Type of Meeting:** September 13, 2023, Rural Affairs Committee  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2303K - Ondrysek  
**Electoral Area/Municipality** K

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider a Development Variance Permit in Electoral Area 'K'. The variance would authorize the applicant to operate a "Home Based Business" that employs a total of six (6) persons who are not a resident of the dwelling whereas the zoning bylaw allows a maximum of two (2) persons who are not a resident of the dwelling to be employed by the Home Based Business.

Staff recommend that the Board approve the Development Variance Permit.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

<b>Property Owner:</b> Roman Ondrysek and Helena Ondrysek
<b>Property Location:</b> 209 Kilarney Crescent, Edgewood, Electoral Area 'K'
<b>Legal Description:</b> LOT 14 DISTRICT LOTS 182A AND 183A KOOTENAY DISTRICT PLAN 6069 (PID: 014-211-149)
<b>Property Size:</b> 0.2 hectares (0.53 acres)
<b>Current Zoning:</b> Suburban Residential 'K' (R1K)
<b>Current Official Community Plan Designation:</b> Suburban Residential (R1)

### SURROUNDING LAND USES

<b>North:</b> Suburban Residential (R1)
<b>East:</b> Suburban Residential (R1)
<b>South:</b> Suburban Residential (R1)
<b>West:</b> Suburban Residential (R1)

### Background Information and Subject Property

The subject property is located in Electoral Area 'K' in the Town of Edgewood. The property is part of survey plan NEP6069, an 18 lot subdivision created in 1967. The 0.2 ha parcel has been improved with a one-family dwelling and a small storage shed. It is surrounded by similar sized residential properties that are also zoned/designed

Suburban Residential. The applicant has indicated that all required parking spaces can be accommodated on the subject property.

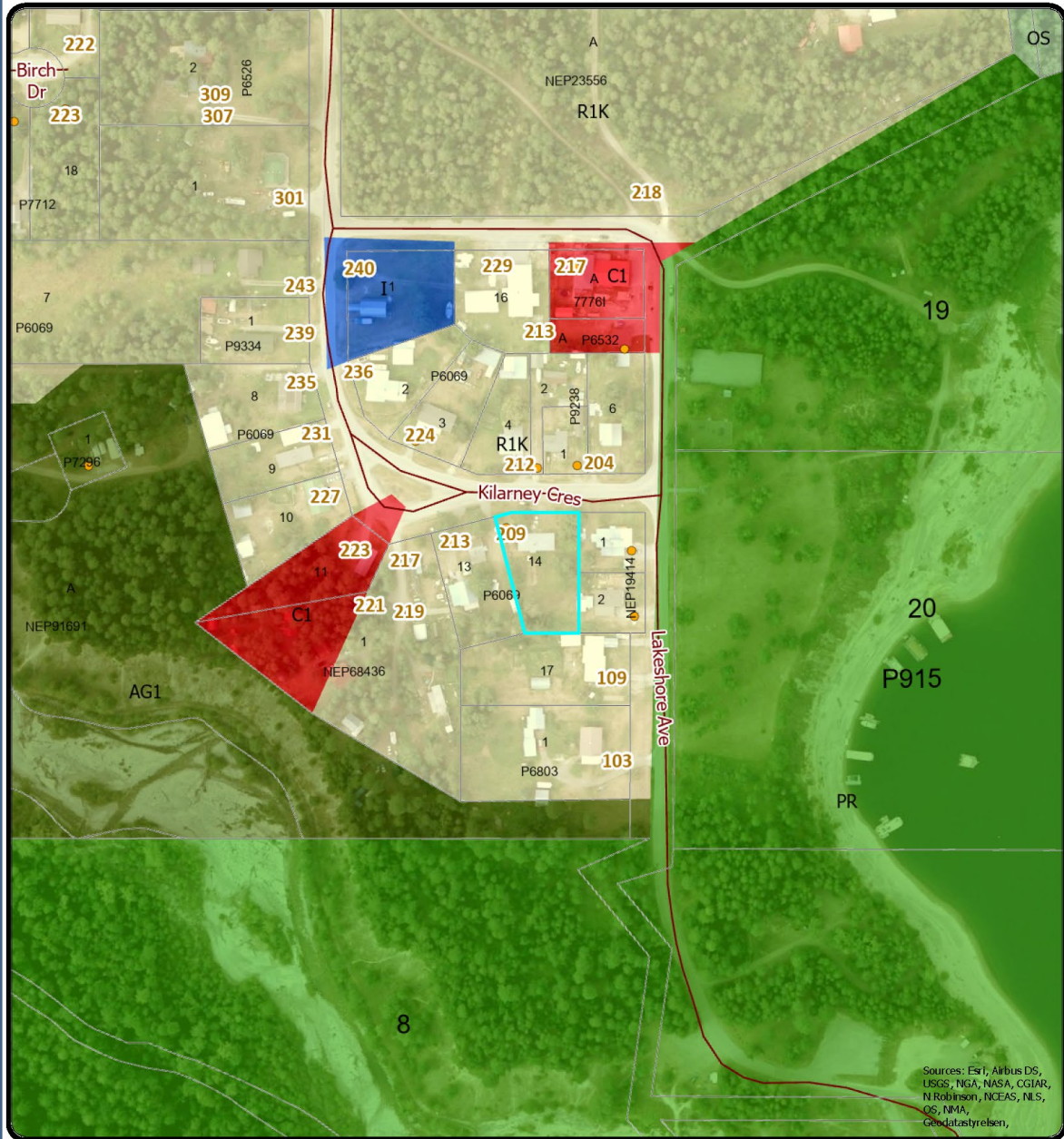
The business, Okanagan Ribbons Ltd., makes coloured event and award ribbons by hand using sewing machines, hot glue guns and small-scale printing by “hot stamp” technology or with the use of a digital printer. The business would be operated entirely within the basement of the existing dwelling (see “Figure 4 – basement floor plan” for more detail).



Figure 1: Overview Map



V2303K: 209 Kilarney Crescent



Sources: Esri, Airbus DS, USGS, NGA, NASA, OGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen,



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**Zoning Class**

- Agriculture
- Commercial
- Institutional
- Open Space

**Legend**

- Parks and Recreation
- Residential 1
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

**Map Scale:**

1:4,000

Date: August 24, 2023



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 2: Zoning Map



Allowing 9 foot spaces/vehicle

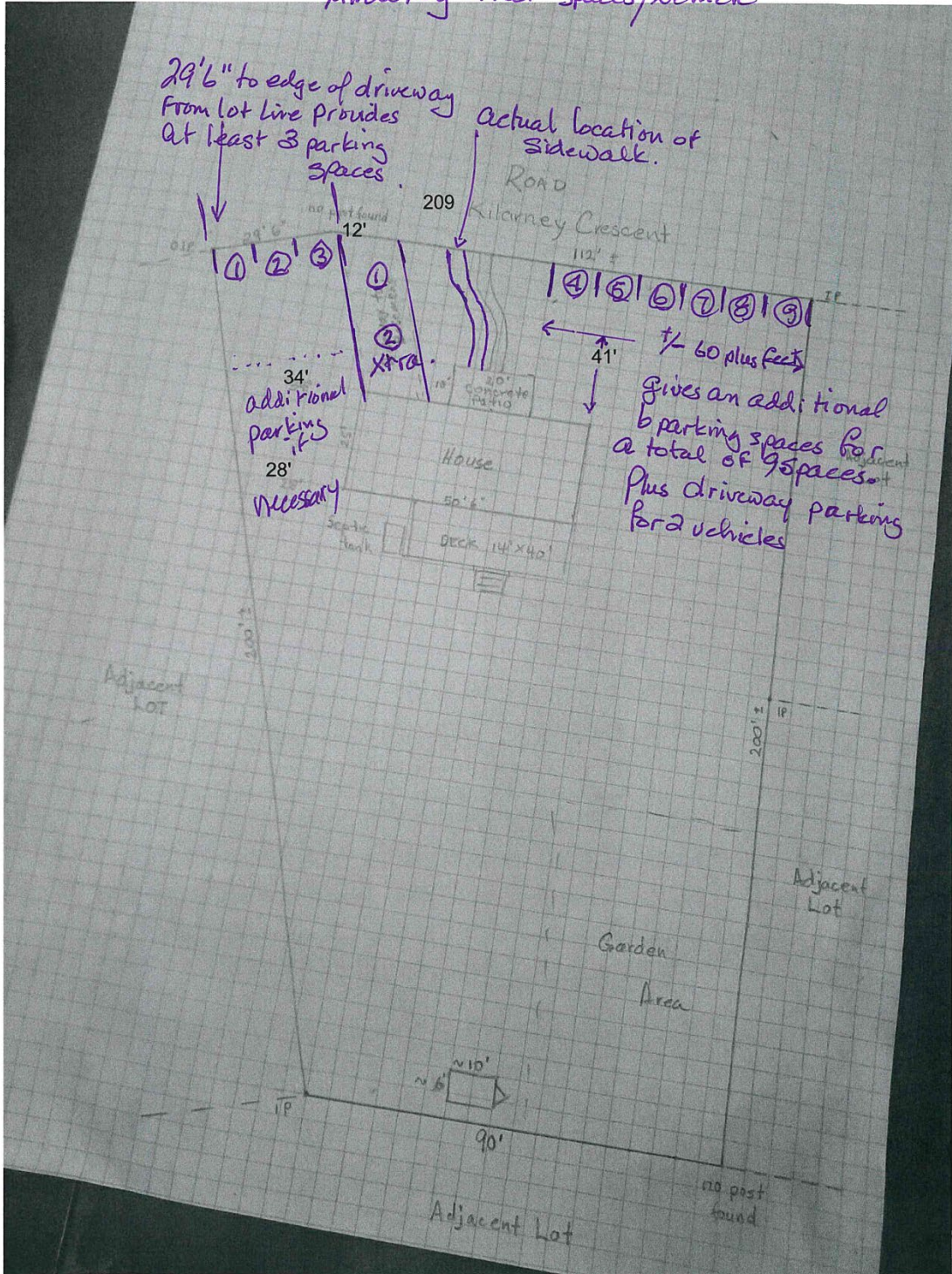


Figure 3: Site Plan with Parking Information

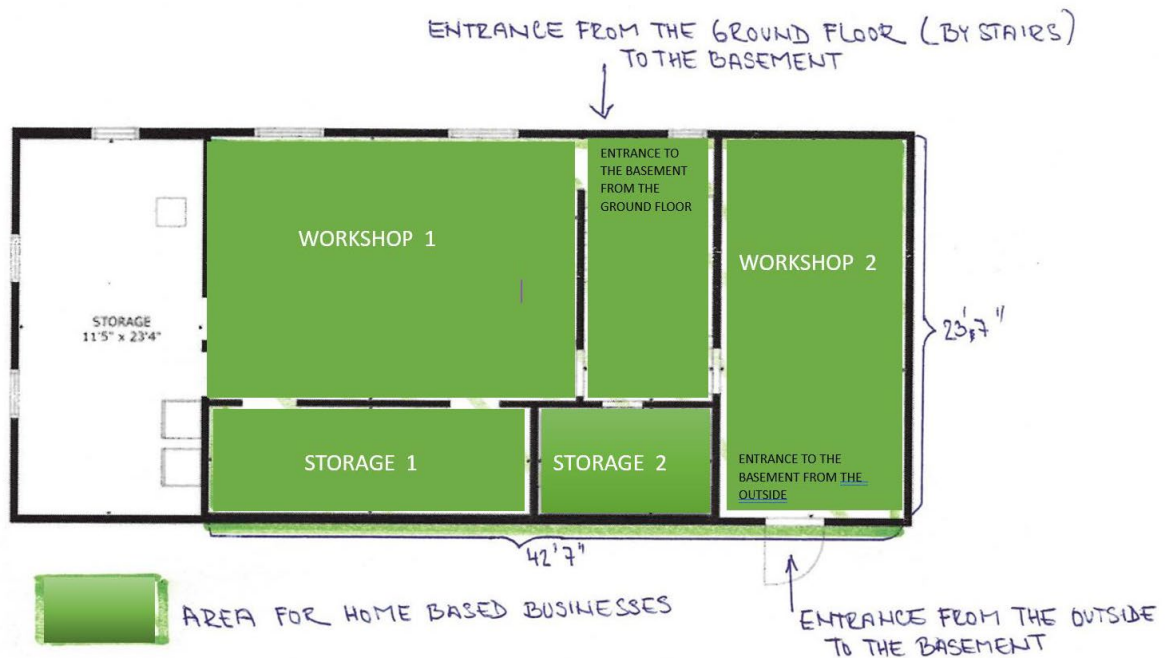


Figure 4 - Basement Floor Plan showing area used for the Home Based Business

## Planning Policy

### Electoral Area 'K' Official Community Plan Bylaw No. 2022, 2009

#### General Residential Objectives

1. To maintain opportunities for rural living through development which respects the lifestyles of area residents and the natural environment.
2. To support the provision of housing alternatives to residents, which includes the enjoyment of both rural and suburban lifestyles; and to establish suitable development policies for each form of development.
3. To identify areas considered suitable for development based on uses and densities appropriate and supportive of sustainable development patterns based on the most efficient use of existing and proposed infrastructure and community services.
4. To integrate affordable, rental and special needs housing into appropriate residential areas where community services are most accessible.

#### Residential Policies

The Regional Board:

1. Encourages land use amendment applications for the clustering of development into higher densities in order to provide efficient servicing and to maintain open space subject to:
  - a. density for that zone being maintained;
  - b. approval of all provincial agencies;
  - c. common lands are zoned for an environmental reserve and maintained as green space for the proposed development;
  - d. development of a community water system; and e. development of common access points to the cluster development.
2. Encourages a variety of housing tenures and organizational frameworks, including affordable housing, seniors housing, lease, rental, strata title, and co-operative housing.
3. Will regulate home occupations in residential areas to maintain the residential character of an area, and ensure that the home occupation does not have a negative impact on the quality of life enjoyed by residents of the area, nor generate undue conflicts with adjacent property owners and residents.

### Community Residential (R1) Policies

The Regional Board:

1. Supports that existing lots smaller than the minimum lot size permitted may be used for the purposes permitted in the designation provided that all other regulations are met.
2. Supports the development of medium density residential with lot sizes under 1.0 ha (2.47 acres) in or adjacent to existing communities.
3. Supports that the clustering of strata lots and subdivision lots shall be encouraged subject to density not exceeding the requirements in the applicable zoning bylaw and subject to the protection of green space or provision of public amenity.
4. Directs that accessory uses include provisions to allow for accessory tourist accommodation, secondary suites, home-based business, the keeping of farm animals subject to health and agricultural regulations, and the sale of site grown horticultural produce.

### Community Specific Policies

#### Edgewood

- Encourages existing commercial uses.
- Encourages the Province to consider designation of a public access point to the Lower Arrow Lake.
- Supports the development of an Engineering Study of the Eagle Creek Non-Standard Flood and Erosion Area.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

<b>Included in Financial Plan:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Financial Plan Amendment:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>Debt Bylaw Required:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Public/Gov't Approvals Required:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

The application fee has been paid in full pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

Section 498 of the Local Government Act gives authority to vary provisions of a zoning bylaw provided that they do not affect use and density.

### 3.3 Environmental Considerations

None anticipated.



### 3.4 Social Considerations:

Staff notified surrounding property owners of the proposed variance in accordance with the Planning Procedures and Fees Bylaw No. 2457. Responses were received from 3 community members with concerns about the approval of this DVP application. The concerns raised by neighbours are mostly related to:

1. Parking
2. Noise
3. Loss of Privacy and Security
4. Increased Traffic (from employees and deliveries)

### 3.5 Economic Considerations:

The proposed variance would allow the business to employ

### 3.6 Communication Considerations:

The application was referred to internal departments, other government agencies and 20 surrounding property owners. No responses were received from property owners. The following responses were received from government agencies.

#### RDCK Water Services – Environmental Coordinator

*Water Services has no concerns with this variance application as it does not affect water use.*

#### RDCK Building Services

*The owners will need a building permit application for change of use and possibly renovations to meet Building code requirements for life safety, ie. Exiting, fire resistance, unprotected openings in exterior walls near exits / decks. Fire separation with a designated fire resistance rating is required to separate the dwelling unit from basement.*

#### Interior Health Authority – Specialist Environmental Health Officer

*Thank you for the opportunity to provide comments. I have reviewed the information. Interior Health interests are not affected by this proposed DVP because the parcel is serviced by community drinking water system, the operation does not appear to produce a large amount of wastewater, and the number of employees would be similar to the number of residents in a typical residential home. In addition workers would not generating the same amount of wastewater as residents (eg are likely not regularly showering, doing laundry or washing many dishes).*

#### Ministry of Transportation and Infrastructure – Development Officer

*Thank you for the referral, the ministry has no concerns as this does not impact our legislative responsibilities including maintaining and operating Kilarney Crescent Road.*

#### BC Hydro

*We have reviewed the attached development application. BC Hydro Properties has no comments at this time on the proposed plan*

*For a new electrical service connection, the applicant may contact 1-877-520-1355 or complete an online application form available at:*

<http://www.bchydro.com/youraccount>

### 3.7 Staffing/Departmental Workplace Considerations:

Should the Board approve the requested variance, staff would issue the Permit and register a Notice of Permit on the property's Title. A Building Permit would then be required to establish the home based business in the lower level of the existing dwelling.

### 3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

## SECTION 4: OPTIONS

### Planning Discussion

A Home Based Business, as defined in RDCK Zoning Bylaw No. 1675 is permitted in the Suburban Residential 'K' (R1K) zone.

***HOME BASED BUSINESS** means any home craft, professional practice, or other means of livelihood which is carried on within a dwelling unit or accessory building or structure by a permanent resident of the dwelling unit;*

This Development Variance Permit Application has been submitted to allow the property owners an opportunity to employ more than 2 people in their Home Based Business. Staff are of the opinion that the variance being requested will not have a significant effect on the community when compared to what is permitted as-of-right in the R1K zone. The property owners are still bound to the bulk of the Home Based Business regulations in Division 607 of the Zoning Bylaw therefore there are still measures in place to ensure that the Home Based Business does not create significant noise/nuisance and disturb surrounding residents. The only regulation that is being varied by this DVP application is item #5: "No more than two (2) persons who are not a resident of the dwelling may be employed in the Home Based Business in on any R1, R2, R3, R6, R7, MFR-F, HR-I, C5 and AG zoned lot;".

Despite the seemingly significant expansion of allowable non-resident workers from 2 to 6, the intensity of activity remains in the spirit of a home-based business. The "craft" nature of the activity (hand made ribbons) is not anticipated to create significant noise, traffic, emissions or odours and the area proposed for the home-based business use within the residence remains relatively modest.

There are a number of other regulations in place that restrict the size, scale, and type of business being conducted in the dwelling and the property owners must ensure that the Home Based Business complies with all of these applicable zoning regulations.

With regards to the concerns raised by neighbours please find discussion points below:

Neighbour Concerns	Information
Parking	Employee parking will be accommodated on the applicant's private property. The Zoning Bylaw requires that off-street parking be provided for both the dwelling and the Home Based Business.



Noise	The Home Based Business will be operate within the dwelling. Based on this, noise is expected to be minimal. In accordance with Home Based Business regulation #9 in Zoning Bylaw No. 1675: <i>“There shall be minimal noise, traffic, vibration, smoke, odour, glare or electrical interference, or emissions other than that normally associated with a dwelling;”</i>
Loss of Privacy and Security	The applicant has indicated that they employ local women. In accordance with the Home Based Business regulations,
Increased Traffic	The applicant has indicated that the materials used as part of the business are “small materials” and can be delivered by smaller cars.

Planning staff support the issuance of this DVP since:

- The requested variance to allow 6 persons who are not residents of the dwelling to be employed by the Home Based Business whereas the bylaw permits 2 persons who are not residents of the dwelling is a minor change.
- The form and character of the surrounding residential area is not significantly impacted by the request to increase the number of non-residents employed by the home based business.
- The proposal is consistent with all other applicable zoning regulations in Zoning Bylaw No. 1675, 2004

Based on the above, staff recommend that the Board approve the issuance of the Development Variance Permit Application.

**Option 1**

That the Board APPROVE the issuance of Development Variance Permit V2303K to Helena Ondrysek and Roman Ondrysek for the property located at 209 Kilarney Crescent and legally described as LOT 14 DISTRICT LOTS 182A AND 183A KOOTENAY DISTRICT PLAN 6069 (PID: 014-211-149) to vary Division 607 (5) of RDCK Zoning Bylaw No. 1675, 2004 in order to permit a total of six (6) persons who are not a resident of the dwelling to be employed in the Home Based Business whereas the bylaw allows a maximum of two (2) persons who are not a resident of the dwelling to be employed in the Home Base Business.

**Option 2**

That the Board NOT APPROVE the issuance of Development Variance Permit V2303K to Helena Ondrysek and Roman Ondrysek for the property located at 209 Kilarney Crescent and legally described as LOT 14 DISTRICT LOTS 182A AND 183A KOOTENAY DISTRICT PLAN 6069 (PID: 014-211-149) to vary Division 607 (5) of RDCK Zoning Bylaw No. 1675, 2004 in order to permit a total of six (6) persons who are not a resident of the dwelling to be employed in the Home Based Business whereas the bylaw allows a maximum of two (2) persons who are not a resident of the dwelling to be employed in the Home Base Business.

**SECTION 5: RECOMMENDATIONS**

That the Board APPROVE the issuance of Development Variance Permit V2303K to Helena Ondrysek and Roman Ondrysek for the property located at 209 Kilarney Crescent and legally described as LOT 14 DISTRICT LOTS 182A AND 183A KOOTENAY DISTRICT PLAN 6069 (PID: 014-211-149) to vary Division 607 (5) of RDCK Zoning Bylaw No.

1675, 2004 in order to permit a total of six (6) persons who are not a resident of the dwelling to be employed in the Home Based Business whereas the bylaw allows a maximum of two (2) persons who are not a resident of the dwelling to be employed in the Home Base Business.

Respectfully submitted,

Zachari Giacomazzo

## CONCURRENCE

Planning Manager – Nelson Wight *Digitally approved by*

General Manager Development & Sustainability – Sangita Sudan *Digitally approved by*

Chief Administrative Officer – Stuart Horn *Digitally approved by*

### ATTACHMENTS:

**Attachment A – Development Variance Permit**

**Attachment B – Excerpt from *Zoning Bylaw No. 1675, 2004***



# Development Variance Permit

V2303K (Ondrysek)

Date: August 30, 2023

Issued pursuant to Section 498 of the *Local Government Act*

TO: Helena Ondrysek and Roman Ondrysek

### ADMINISTRATION

1. This Development Variance Permit (DVP) is issued subject to compliance with all of the bylaws of the Regional District of Central Kootenay (RDCK) applicable thereto, except as specifically varied or supplemented by this Permit.
2. The land described shall be developed strictly in accordance with the terms and conditions and provisions of this DVP, and any plans and specifications attached to this Permit that shall form a part thereof.
3. This DVP is not a Building Permit.

### APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1', '2' and '3':

Address: 209 Kilarney Crescent, Edgewood, Electoral Area 'K'  
 Legal: LOT 14 DISTRICT LOTS 182A AND 183A KOOTENAY DISTRICT PLAN 6069  
 PID: 014-211-149

### CONDITIONS

5. Development Variance  
 RDCK Zoning Bylaw No. 1675, 2004 Division 607 (5) is varied as follows:  
  
 From: No more than two (2) persons who are not a resident of the dwelling may be employed in the Home Based Business in on any R1, R2, R3, R6, R7, MFR-F, HR-I, C5 and AG zoned lot;  
  
 To: No more than six (6) persons who are not a resident of the dwelling may be employed in the Home Based Business in on any R1, R2, R3, R6, R7, MFR-F, HR-I, C5 and AG zoned lot; as shown in Schedules '1', '2' and '3'.



6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

Authorized resolution *ENTER RESOLUTION NUMBER* passed by the RDCK Board on the 13<sup>th</sup> day of September, 2023.

The Corporate Seal of  
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY  
was hereunto affixed in the presence of:

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Aimee Watson, Board Chair

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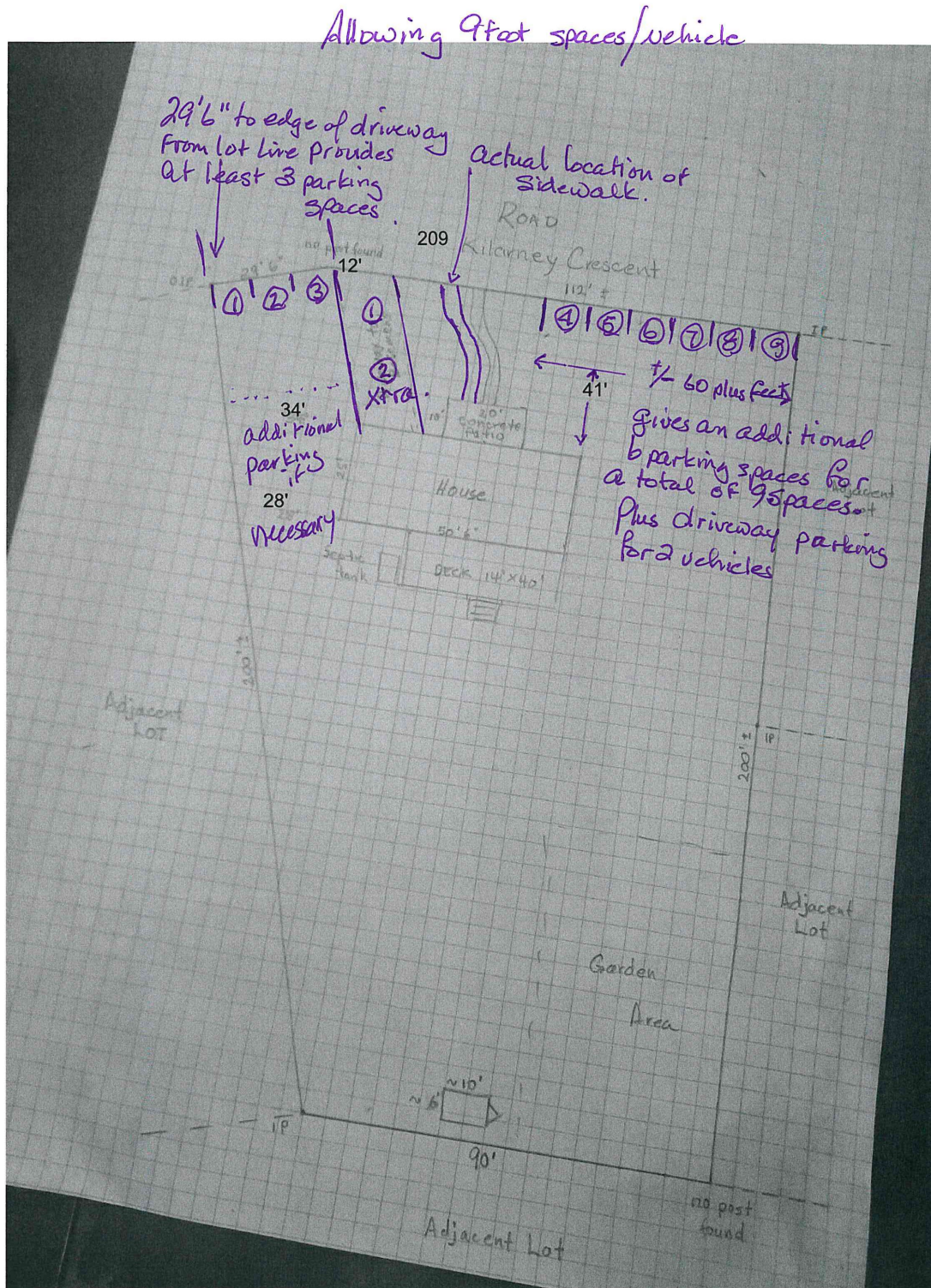
Mike Morrison, Corporate Officer

**Schedule 1: Subject Property**



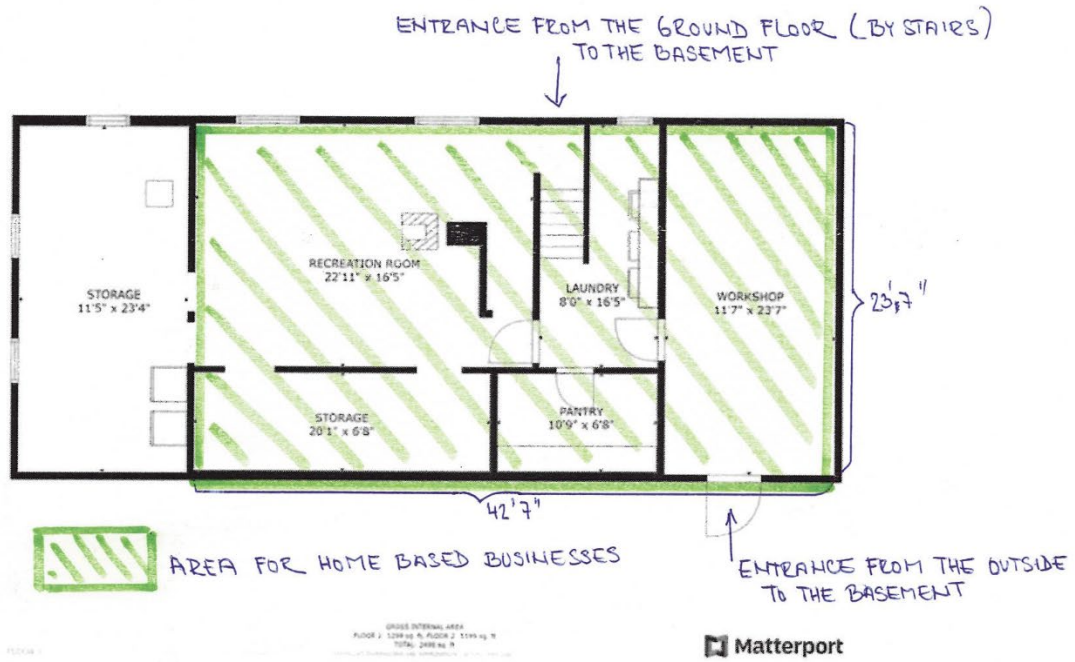


Schedule 2: Site Plan showing parking spaces





Schedule 3: Portion of dwelling used for the Home Based Business



- 5 Despite Section 605(1), for all of Electoral Area F, unless otherwise stated in the zone, no principal or accessory building or structure except a fence may be located within 4.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.

*Note: BC Building Code regulations may require greater setbacks than those identified in Section 605 and Section 606 of this bylaw.*

## **Setback Exceptions**

### **606**

- 1 Where the top surface of an underground structure projects no more than 0.6 metre above the average finished ground elevation, that structure may be sited in any portion of a lot.
- 2 Freestanding lighting poles, warning devices, antennae, masts, solar collectors, utility poles, wires, and flagpoles up to ten (10) metres in height may be sited on any portion of a lot.
- 3 Where chimneys, cornices, leaders, gutters, pilasters, belt courses, sills, bay windows, or ornamental features project beyond the face of the building, the minimum distance to an abutting lot line as permitted elsewhere in this bylaw may be reduced by not more than 0.6 metre providing such reduction shall apply only to the projecting feature.
- 4 Where steps, eaves, sunlight control projections, canopies, balconies, or porches project beyond the face of a building, the minimum distance to an abutting front lot line as permitted elsewhere in this bylaw may be reduced by not more than 1.2 metres and the minimum distance to an abutting site lot line or rear lot line as permitted elsewhere in this bylaw may be reduced by not more than 0.6 metre provided such reduction shall apply only to the projecting feature.

## **Home Based Businesses**

607 A Home Based Business, where permitted, is subject to the requirements that:

- 1 The proprietor resides on the subject property;
- 2 The activity shall be conducted in a dwelling unit or accessory building;
- 3 The site area devoted to the Home Based Business, inclusive of external storage of materials, equipment or finished products, shall not exceed 100 square metres on any R1, R2, R3, R6, R7, MFR-F, HR-I, C5 and AG zoned lot;
- 4 The site area devoted to the Home Based Business, inclusive of external storage of materials, equipment or finished products, shall not exceed 200 square metres on any R4 zoned lot;

- 5 No more than two (2) persons who are not a resident of the dwelling may be employed in the Home Based Business in on any R1, R2, R3, R6, R7, MFR-F, HR-I, C5 and AG zoned lot;
- 6 No more than four (4) persons who are not a resident of the dwelling may be employed in the Home Based Business on a lot in the R4 zone;
- 7 No change is made in the external appearance of the building which would indicate that a Home Based Business is being conducted therein; except for one un-illuminated sign not exceeding:
  - a. 0.4 square metre on a lot in the R1, MFR-F, R6 and R7 zones; or
  - b. 1.0 square metre on any R2, R3, R4, C5, HR-I and AG zoned lot.
- 8 External storage of materials, equipment or finished products shall be screened from view from adjacent properties and road right-of-ways;
- 9 There shall be minimal noise, traffic, vibration, smoke, odour, glare or electrical interference, or emissions other than that normally associated with a dwelling;
- 10 No dwelling unit or accessory building used for Home Based Businesses involving automotive mechanical or body repairs, electronic repairs, wood working, or iron working may be located within 15 metres of a lot line;
- 11 The maximum number of vehicles permitted for repair on any lot at any one time shall be limited to:
  - a. two (2) for lots zoned R1, R2, R6, R7, MFR-F, HR-I, C5; and
  - b. six (6) on any R3, R4, and AG zoned lot.
- 12 Home Based Businesses that include the caring of eight or less individuals at any one time as per the *Community Care and Assisted Living Act* shall be permitted;
- 12B Overnight accommodation shall not be permitted as a Home Based Business other than the care of six individuals or less as per the *Community Care and Assisted Living Act*;
- 13 No commodities may be offered for sale except those produced on the premises, with the exception of Electoral Area 'F' where commodities may be offered for sale, including those produced off the premises;
- 14 Two off-street parking spaces shall be provided in excess of those required for the dwelling unit.