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**CITY OF KELOWNA  
MEMORANDUM**

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**Date:** May 4, 2006  
**To:** City Manager  
**From:** Planning & Corporate Services Department  
**Subject:**

**APPLICATION NO.** DVP05-0153      **APPLICANT:** Gorio Enterprises Ltd.  
**AT:** 1355 DeHart Rd.      **OWNERS:** Greg Caldwell  
Cheryl Caldwell

**PURPOSE:** TO OBTAIN A DEVELOPMENT VARIANCE PERMIT TO VARY THE  
MAXIMUM ALLOWABLE SQUARE FOOTAGE FOR A HOME BASED  
BUSINESSES, MAJOR FROM 50 M<sup>2</sup> TO 84 M<sup>2</sup>.

**EXISTING ZONE:** RU1 – LARGE LOT HOUSING

**REPORT PREPARED BY:** NELSON WIGHT

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## **1.0 RECOMMENDATION**

THAT Council authorize the issuance of Development Variance Permit No. DVP05-0153 for Lot B, Section 32, Township 29, ODYD, Plan 34931 located on DeHart Road, Kelowna, B.C.:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

**Section 9.3.3 – Home Based Businesses, Major – maximum allowable area**

To vary the maximum allowable floor area for a major home based business to allow one that:

- (a) occupies 45% of the dwelling, where the Bylaw requires that no more than 25% of the floor area of the dwelling unit be used for the home-based business; and
- (b) has 84 m<sup>2</sup> of floor area, where the Bylaw requires that the home-based business not exceed a floor area of 50 m<sup>2</sup>.

## **2.0 SUMMARY**

This development variance permit application seeks to vary the maximum allowable area used for a home based business, from 50 m<sup>2</sup> to 84 m<sup>2</sup>.

## **3.0 BACKGROUND**

### **3.1 The Proposal**

The Applicant is proposing to use a newly constructed 84 m<sup>2</sup> (904 ft<sup>2</sup>) addition to a single family dwelling to accommodate a sculpture studio. Conflict with the Zoning Bylaw arises out of the sculptural studio activity, which is classed as a "HOME BASED BUSINESSES, MAJOR". Although the use is allowed in the RU1 zone, there are certain limits on the use. In this case the area devoted to this secondary use exceeds the maximum allowable area significantly, which is why the Applicant has applied for a variance.

The table below shows this application's compliance with the requirements of the RU1 zone:

CRITERIA	PROPOSAL	RU1 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	1,430 m <sup>2</sup> (0.35 ac)	550 m <sup>2</sup>
Lot Width	40 m	16.5 m
Lot Depth	38 m	30.0 m
Development Regulations		
Site Coverage (buildings)	<40%	40%
Site Coverage (buildings/parking)	<50%	50%
Height	1-storey	9.5 m / 2 ½ storeys
Front	18 m	4.5 m
Side (east)	4.5 m	4.5 m (flanking street)
Side (west)	8.9 m (house)	2.0 m for a 1 or 1 ½ storey 2.3 m for a 2 or 2 ½ storey
Side (west) to accessory bldg.	1.65 m	1.0 M
Rear	10 m	7.5 m
Rear to accessory bldg.	1.7 m	1.5 m
Other requirements		
Floor area for home-based business, major	84 m <sup>2</sup> <sup>A</sup>	50 m <sup>2</sup>

<sup>A</sup> The Applicant is applying to vary this requirement to allow a home-based business, major floor area of 84 m<sup>2</sup>, where no more than 50 m<sup>2</sup> is permitted.

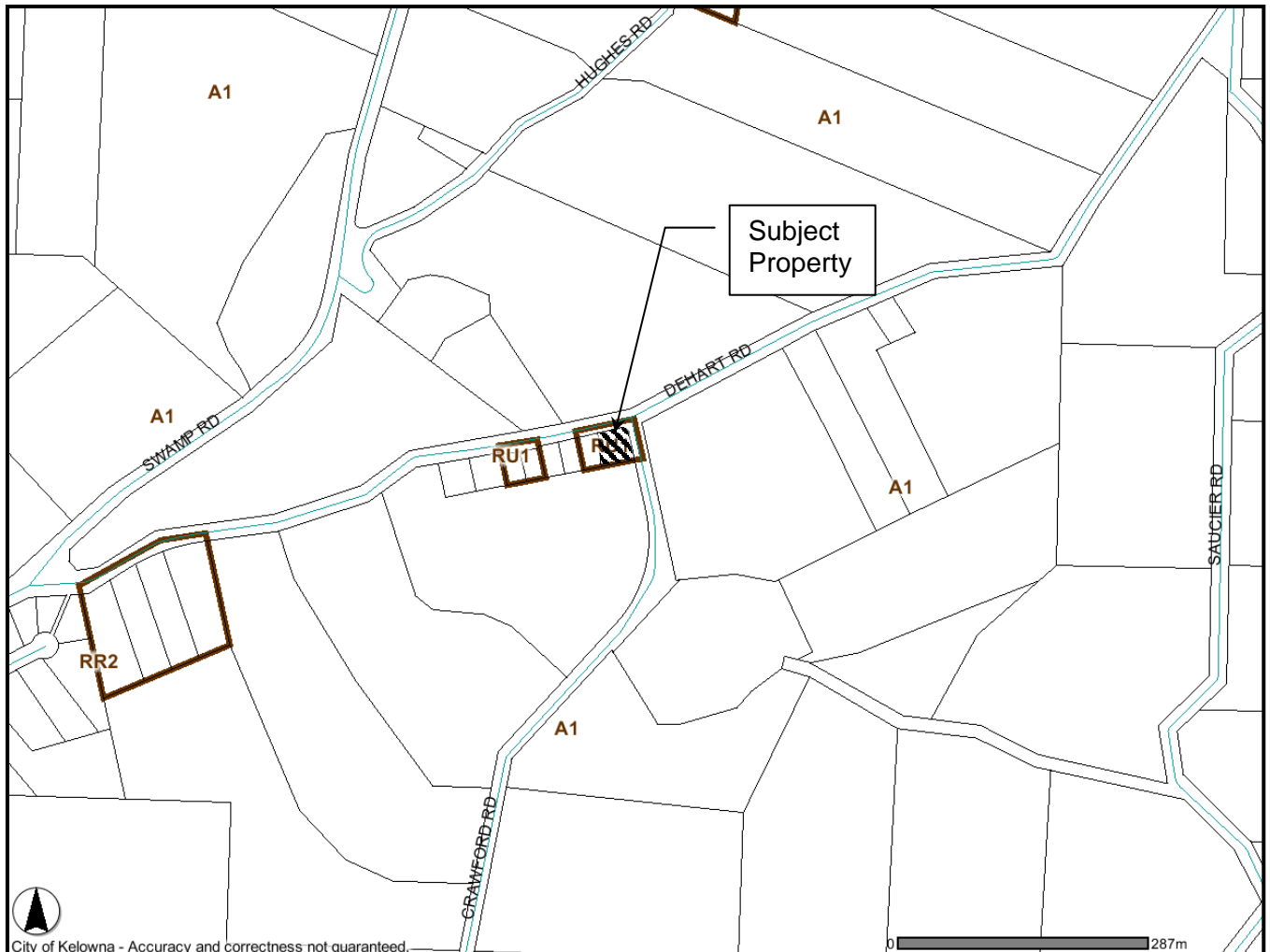
### 3.2 Site Context

The subject property is located just west of the intersection of DeHart Road and Crawford Road. More specifically, the adjacent land uses are as follows:

North-	A1 – Agriculture 1
East	A1 – Agriculture 1
South	A1 – Agriculture 1
West	RU1 – Large Lot Housing

Site Location Map

Subject property: 1355 DeHart Road



### 3.3 Existing Development Potential

The property is zoned RU1 – Large Lot Housing. The purpose is to provide a zone for single detached housing, and compatible secondary uses, on larger serviced urban lots. Principal uses are “single dwelling housing”, with secondary uses such as bed and breakfast homes, minor care centres and group homes, as well as home based businesses.

### 3.4 Current Development Policy

#### 3.4.1 Zoning Bylaw No. 8000

##### Section 9.3.3 – Home Based Businesses, Major – maximum allowable area

The major home based business shall not occupy more than 25% of the floor area of the dwelling unit, and in no case shall the combined area of the residence used for the business and an accessory building used for the business exceed 50 m<sup>2</sup>. This shall be limited to 10% if the dwelling also contains a bed and breakfast home

#### 3.4.2

Kelowna 2020 Official Community Plan (OCP)

*Future Land Use Designation* - The property is designated Rural/Agricultural, pursuant to Map 19.1 of the OCP.

3.4.3 Agricultural Land Commission Act

This property is within the Agricultural Land Reserve boundary, but exempt from the restrictions of the Agricultural Land Commission Act, pursuant to Section 23 (1) detailed below:

*Section 23 (1) Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the Land Registry Act, R.S.B.C. 1960, c. 208, less than 2 acres in area.*

**4.0 CIRCULATION COMMENTS**

4.1 Fire Department

Fire Dept access, fireflows and hydrants as per BC Building Code and City of Kelowna Subdivision Bylaw. If this is a recognized interface wildland area, a hazard assessment may be required.

4.2 Inspection Services

No concerns subject to the compliance of the applicable bylaw.

4.3 Works & Utilities

Does not compromise Works and Utilities requirements; provide an onsite turnaround to allow forward vehicular exit from either driveway access.

**5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS**

In this case the applicant is requesting a variance to the allowable size of the home based business from 50 m<sup>2</sup> to 84 m<sup>2</sup>. Given (a) the large size of the property (b) the location of the proposed addition adjacent to the streets of this corner lot, where the impact on adjoining properties is more limited, and (c) that the Applicant has the support of the affected neighbour to the west (1335 DeHart Road), Staff is supportive of the development variance permit.

Although the addition has been constructed, the Applicant has NOT been using this space for his home-based business, pending the outcome of this application.

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Andrew Bruce  
Manager of Development Services

Approved for inclusion ☐  
R.L. (Ron) Mattiussi, ACP, MCIP  
Director of Planning & Development Services

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**ATTACHMENTS**

**Location of subject property**

**Site Plan**

**Surveyor's Certificate (October 2005)**

**Site Plan (Building Permit #30360)**

**Letter of support from property owner at 1335 DeHart Road**