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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** November 10, 2005  
**File No.:** Z04-0037

**To:** City Manager

**From:** Planning & Development Services Department

**Subject:**

**APPLICATION NO.** Z04-0037

**APPLICANTS:** Bill Ferguson  
Rob Joyal

**AT:**  
2480 Richter Street (Lot 5 Plan 645)  
2490 Richter Street (Lot 4 Plan 645)

**OWNERS:**  
Bill Ferguson & Rob Joyal  
Bill Ferguson & Rob Joyal

**PURPOSE:** TO EXTEND COUNCIL APPROVAL FOR REZONING THE SUBJECT PROPERTY TO THE RU6 – TWO DWELLING HOUSING ZONE.

**EXISTING ZONE:** P4 - UTILITIES

**PROPOSED ZONE:** RU6 – TWO DWELLING HOUSING ZONE

**REPORT PREPARED BY:** NELSON WIGHT

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**1.0 RECOMMENDATION**

THAT in accordance with the Development Application Procedures Bylaw No. 8140 the deadline for adoption of Zone Amending Bylaw No. 9286 (Z03-0037 – Bill Ferguson & Rob Joyal) be extended to February 24, 2006.

**2.0 SUMMARY**

The above noted development application was originally considered by Council at a Public Hearing on August 24, 2004. The applicant wishes to receive an extension of 6 months in order to allow additional time to address the servicing requirements of the Works and Utilities Department. Although the Bylaw officially lapsed on August 24, 2005, the Applicants did provide fees to request an extension on August 22, 2005.

Section 2.10.1 of Procedure Bylaw No. 8140 states that:

Every amendment bylaw which has not been finally adopted by Council within 12 months after the date it was given third reading, lapses and will be of no force and effect, and an applicant who wishes to proceed with its application must initiate a new application.

Section 2.10.2 of the Procedure Bylaw makes provision for Council to consider an extension to an amending bylaw for up to 6 months beyond the 12 months deadline as stated in Section 2.10.1.

### **3.0 HISTORY**

- May 2004 - Applied for rezoning: P4 to RU6
- May 2004 – Applied for DVP to allow reduced lot width for corner lot (14.7 m where 15.0 m is required)
- May 2004 – Applied for a subdivision. Sketch plan shows Lot A Plan 5291 consolidated with Lot B Plan 5291, and Lot 33 remaining as before.
- August 24, 2004 – Public hearing for rezoning, Council supported rezoning, bylaw given 3rd reading
- August 26, 2004 – DVP pulled from September 14 public hearing agenda, because Applicant could not meet conditions of zoning (servicing agreement and bonding). DVP could not be considered by Council until zoning adopted.
- August 31, 2004 – Meeting between Applicant and various City staff. Applicant desiring to have rezoning adopted without entering into a servicing agreement and providing bonding for the required frontage improvements. Staff agreed to allow the zoning to be adopted without providing bonding and entering into a servicing agreement, provided the Applicant.
  - complete road dedication for corner rounding, and
  - register a no-build covenant on both properties, essentially deferring these costs to the building permit stage.
- September 21, 2004 – Applicant applied for subdivision, showing road dedication for corner rounding. Subdivision plan provided with application shows no change to the lot lines between Lots A and 33. That is, they remain fronting Richter.
- June 22, 2005 – Staff requested direction from Applicants, as to how they wish to proceed. Subsequent to that communication, Mr. Ferguson indicated his desire to complete the rezoning application under the existing lot configuration. Staff indicated that the Applicants needed to provide a draft “no build” covenant for review.
- August 15, 2005 – 1<sup>st</sup> draft reviewed, changes required.
- August 22, 2005 – application made by Bill Ferguson to extend approving bylaw.
- October 21, 2005 – 2<sup>nd</sup> draft of “no build” covenant submitted, and reviewed; Staff is satisfied with the wording.
- November 10, 2005 – it was communicated to the Applicant that Staff could NOT SUPPORT a revised rezoning application to rezone the subject properties in their present configuration (i.e.: with lots fronting on Richter Street).

The Applicants had made application for rezoning (Z04-0037) to allow for the development of two-dwelling housing on this former utilities parcel. This application

received a favourable Public Hearing on August 24, 2004, and was given 2<sup>nd</sup> & 3<sup>rd</sup> readings the same night. The applicant had applied for a Development Variance Permit (DVP04-0059) to address the inadequate lot width for the proposed Lot A, and a technical subdivision to address the corner rounding (S04-0066).

The Planning and Corporate Services Department recommends Council consider the request for an extension favourably.

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Andrew Bruce  
Manager of Development Services

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP  
Director of Planning and Corporate Services

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**ATTACHMENTS**  
**Location of subject property**  
**Site Plan**