

# REPORT TO COUNCIL



**Date:** August 22, 2012

**To:** City Manager

**From:** Land Use Management, Community Sustainability (GS)

**Application:** Z11-0082

**Owner:** Bernard Rinas  
Christine Rinas

**Address:** 4165 Wallace Hill Road

**Applicant:** Bernard Rinas  
Christine Rinas

**Subject:** Rezoning Application

**Existing OCP Designation:** Resource Protection Area

**Existing Zone:** A1 - Agriculture 1

**Proposed Zone:** A1c - Agriculture 1 with Carriage House

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## 1.0 Recommendation

THAT Rezoning Application No. Z11-0082 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Parcel B (DD 278127F) of Lot A, Section 3, Township 26, ODYD, Plan 12667, located at 4165 Wallace Hill Road, Kelowna, B.C. from the A1 - Agriculture 1 zone to the A1c - Agriculture 1 with Carriage House zone, be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zone amending bylaw be considered subject to the decommissioning of the existing mobile home to the satisfaction of the Manager, Building & Permitting;

AND THAT final adoption of the zone amending bylaw be considered subject to the registration of a Section 219 Restrictive Covenant which restricts future use of the mobile home to accessory uses (i.e. non-dwelling) only;

AND THAT final adoption of the zone amending bylaw be considered subject to the requirements of Interior Health Authority being completed to their satisfaction;

AND FURTHER THAT the suite be eligible for final occupancy prior to final adoption of the zone.

## 2.0 Purpose

The applicant is proposing to rezone the subject property from the A1 - Agriculture 1 zone to the A1c - Agriculture 1 with Carriage House zone in order to legalize an existing suite within an existing accessory building.

A handwritten signature in black ink, appearing to be "GR".

### **3.0 Land Use Management**

The subject property is a 0.75 ha lot with A1 zoning in the Agricultural Land Reserve, though the ALC Act regulations do not apply to this parcel given the combination of the size (i.e. less than 2 acres) and that the subject parcel was created prior to 1972. The applicant would otherwise require a non-farm use approval from the ALC prior to rezoning consideration by the City and which is typical of ALR properties if not for this criteria being satisfied.

The A1 zone allows for limited residential uses including a principal dwelling and a carriage house if zoned as such and if the dwelling is constructed to meet the regulations of the zoning bylaw. Rural landowners are encouraged to provide for secondary suites within the principal dwelling recognizing that carriage houses are not a good use of agricultural land. While this proposal is for a carriage house, it's location above a garage and workshop and within close proximity of the modest principal dwelling does limit the impact on arable land.

The A1 zone does not however allow for up to three dwellings on a parcel, unless the subject property can qualify for a farm worker dwelling. Given the size and lack of agricultural production onsite, the parcel would not qualify for farm work housing. With three current dwellings onsite, one must be removed in order for the subject property to be compliant with the zoning and the OCP Future Land Use designation of Resource Protection Area.

The existing suite in the accessory building meets zoning regulations and should be able to meet Building Code requirements with minimal modifications. Staff support rezoning to the A1c zone to legalize the dwelling in the accessory structure, subject to the immediate removal of a currently occupied mobile home.

### **4.0 Proposal**

#### **4.1 Background**

In April 2002 the applicants applied for a Building Permit to construct a two storey addition to an existing garage/workshop proposed to be used as a "garage and storage room". As part of the inspection process, City staff became aware that the second floor of the accessory structure was being developed as a dwelling. Staff directed the applicants to obtain the correct zoning (A1s) prior to continuing with the construction of the dwelling portion, but allowed the applicant to proceed with construction of the shell of the building. Construction of the suite was halted pending appropriate zoning and issuance of permits.

In December 2003 the applicant applied for rezoning and a complete application was obtained in January 2004. In February 2004 the applicants advised that they were withdrawing their application for rezoning and apparently abandoning their plan for the dwelling portion of the structure. In March 2004 the accessory structure (garage/storage area) received an Occupancy Permit with no dwelling component.

#### **4.2 Project Description**

The applicants are now seeking to rezone the subject property from the A1 - Agricultural 1 zone to the A1c - Agricultural 1 with Carriage House zone to permit a suite in the accessory building.

The accessory building contains a double car garage and shop on the main level. The suite is located on the second storey and consists of a living room, a kitchen, a bathroom and one bedroom.

At some point between the final inspection by City staff and June 2010 the owners converted the structure to a dwelling without the benefit of rezoning and Building Permits. As in 2003, City

staff have been working with the applicants to obtain the required zoning and permits to legalize both the dwelling (structure) and the subject property to allow for the carriage house.

Among the complicating factors is the presence of a third dwelling unit onsite. In addition to the existing principal dwelling and suite in the accessory dwelling, both of which are occupied, a mobile home is also present and being occupied.

4.3 Site Context

The subject property is located on the east side of Wallace Hill Road in the far reaches of Southeast Kelowna Sector. The subject property is a 0.75 ha lot with A1 zoning in the Agricultural Land Reserve. The property was created prior to 1972 and the ALC Act regulations on the use of agricultural land do not apply.

A Development Permit (Form & Character) is not required for this development as secondary suites in the A1 zone are exempted.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use	ALR
North	A1 - Agriculture 1	Rural/agricultural	Yes
East	A1 - Agriculture 1	Rural/agricultural	Yes
South	A1 - Agriculture 1	Rural/agricultural	Yes
West	A1 - Agriculture 1	Rural/agricultural	Yes/No

Subject Property Map: 4165 Wallace Hill Road



#### 4.4 Zoning Analysis

The development complies with the regulations of the A1c - Agriculture with Carriage House regulations as follows:

Zoning Analysis Table		
CRITERIA	A1c ZONE REQUIREMENTS	PROPOSAL
<b>Existing Lot/Subdivision Regulations</b>		
Lot Area	40,000 m <sup>2</sup>	7,470 m <sup>2</sup> Ⓢ
Lot Width	40.0 m	48.8 m
Lot Depth	N/A	153.3 m
Site Coverage	Max 10 %	~ 6 %
<b>Development Regulations</b>		
Height	13.0 m	6.7 m
Front Yard	12.0 m	58.2 m
Side Yard (south)	3.0 m	5.1 m
Side Yard (north)	3.0 m	28.6 m
Rear Yard	10.0 m	85.0 m
Total Floor Area (m <sup>2</sup> ) -Secondary suite	Max. 90 m <sup>2</sup>	81 m <sup>2</sup>
<b>Other Regulations</b>		
Minimum Parking Requirements	3	exceeds
Private Open Space	30 m <sup>2</sup>	exceeds
Proximity of Accessory Building to Principal Building	Min 5.0 m	36.6 m

Ⓢ Existing non-conforming lot size.

#### 5.0 Current Development Policies

##### 5.1 2030 Official Community Plan: Greening Our Future

The subject property has a future land use designation of Resource Protection Area and relevant policies include:

Objective 5.33 Protect and enhance local agriculture<sup>1</sup>.

Policy. 1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Policy .3 Urban Uses. Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Objective 5.34 Preserve productive agricultural land<sup>2</sup>.

<sup>1</sup> City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.33.

Policy .1 Secondary Suites. Encourage secondary suites on agricultural land to be located within a permitted principal dwelling.

Policy .3 Homeplating. Locate buildings and structures, including farm help housing and farm retail sales area and structures, on agricultural parcels in close proximity to one another and where appropriate, near the existing road frontage. The goal should be to maximize use of existing infrastructure and reduce impacts on productive agricultural lands.

Objective 6.2 Improve energy efficiency and reduce community greenhouse gas emissions<sup>3</sup>.

GHG Reduction Target and Actions. The City of Kelowna will, in partnership with: senior governments; local residents and businesses; NGOs; external agencies; and utility providers, work towards reducing community greenhouse gas emissions by 33% (from 2007 levels) by 2020.

The City of Kelowna's efforts will be focussed on creating more mixed-use neighbourhoods (as identified on the OCP Future Land Use map) and on ensuring that residents can conveniently and safely travel by bus or by foot, bicycle and other forms of active transportation to get to major community destinations while ensuring the efficient movement of goods and services.

## 5.2 City of Kelowna Agriculture Plan

### Legislative Policies

10. Secondary Suites. Support the provision of secondary suites in agricultural areas as per Land Commission Policy # 770/98 (see Attached Policy #8), which allows one suite per parcel, substantially within the footprint of an existing or proposed single family dwelling provided it is clearly secondary to the single family dwelling. Suites in accessory buildings or enlarging the footprint of an existing residence for a suite would require an ALC application.

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

- \$2500 Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permits.
- Operable bedroom windows required as per the 2006 edition of the British Columbia Building Code (BCBC 06).
- The drawings submitted for Building Permit application is to indicate the method of fire separation between the suite and the garage.
- Range hood above the stove and the washroom to vent separately to the exterior of the building.
- Full plan check for Building Code related issues will be done at time of Building Permit applications.

### 6.2 Development Engineering Department

- See attached.

### 6.3 Bylaw Services

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<sup>2</sup> City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.34.

<sup>3</sup> City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Environment Chapter; pp. 6.1 & 6.2.

- Bylaw Services has an open Service Request assisting the Building & Permitting Department to bring this occupied illegal dwelling into conformance.

6.4 Fire Department

- The addresses for both residences are to be visible from Wallace Hill Rd.

6.5 Interior Health Authority

- Our office has record of 3 onsite wastewater systems at this Property from 1967 (3 bedroom single family dwelling), 1972 (2-bedroom mobile home) & 1990 (shop with a system sized for a 1-bedroom capacity). For the sewerage system record from 1990 (ie. shop), our office only has copy of the original permit to construct, but does not have record confirming final approval authorizing backfill and use. It is noted that the applicant is proposing to construct a secondary suite within an existing shop and the site plan provided within the referenced rezoning application only shows the location of a sewerage system for the single family dwelling. Accordingly, we recommend that the applicant provides your department with confirmation that the sewerage system was constructed per the permit issued in 1990 for the shop which is to be converted to a secondary suite.

6.6 Southeast Kelowna Irrigation District

- No comment.

7.0 Application Chronology

Date of Original Application:	December 3, 2004
Date Original Application Withdrawn:	February 13, 2004
Date of Occupancy Permit:	March 4, 2004
Date New Application Received:	November 2, 2011

Report prepared by:

  
Greg Sauer, Environment & Land Use Planner

Reviewed by:



Todd Cashin, Manager, Environment & Land Use

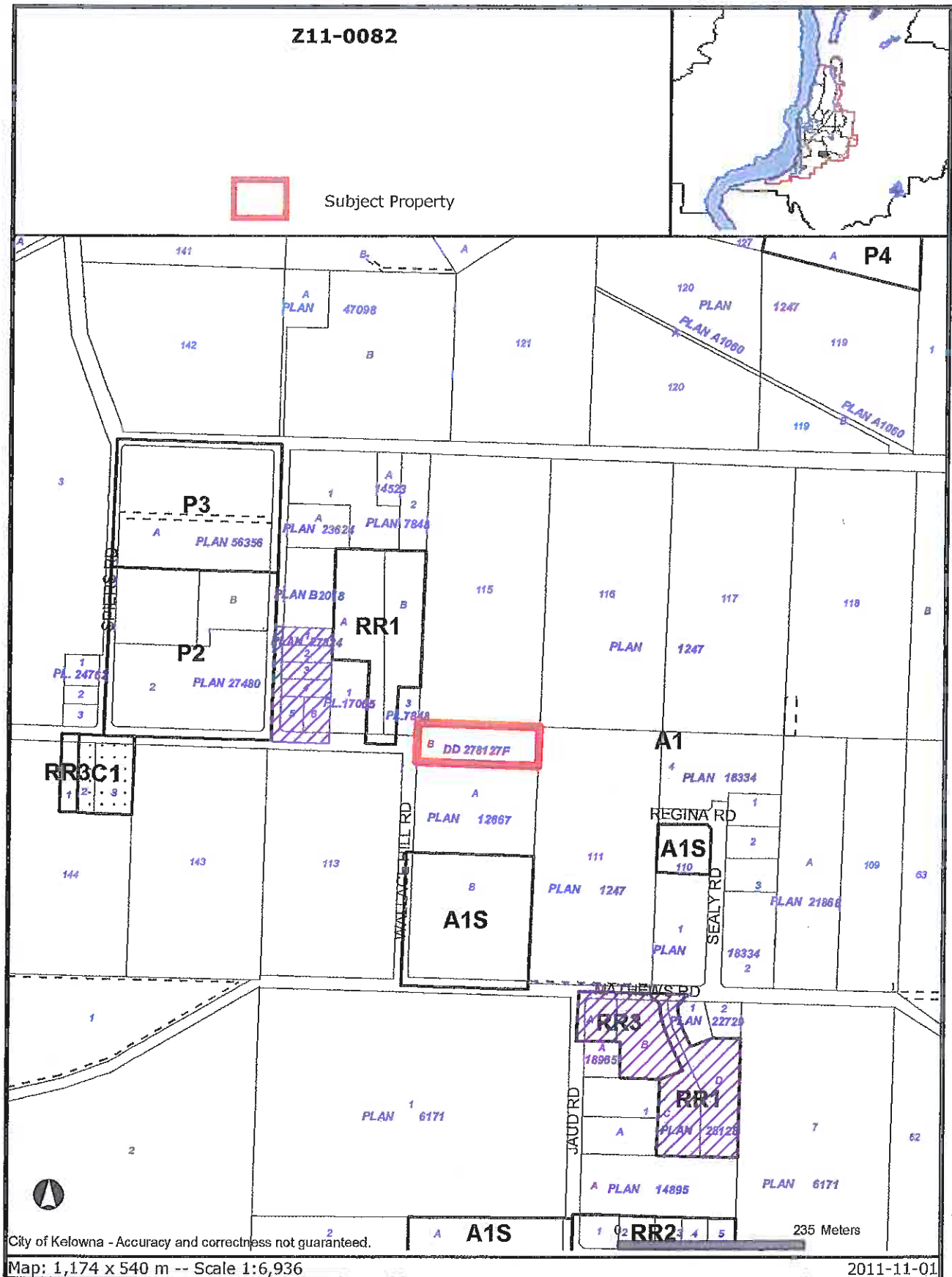
Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Attachments:

Subject Property Map  
Site Plan (x2)  
Floor Plan (secondary suite in accessory structure)  
Photos of Existing Dwellings/Structures  
Building Permit Documents  
Development Engineering Technical Comments

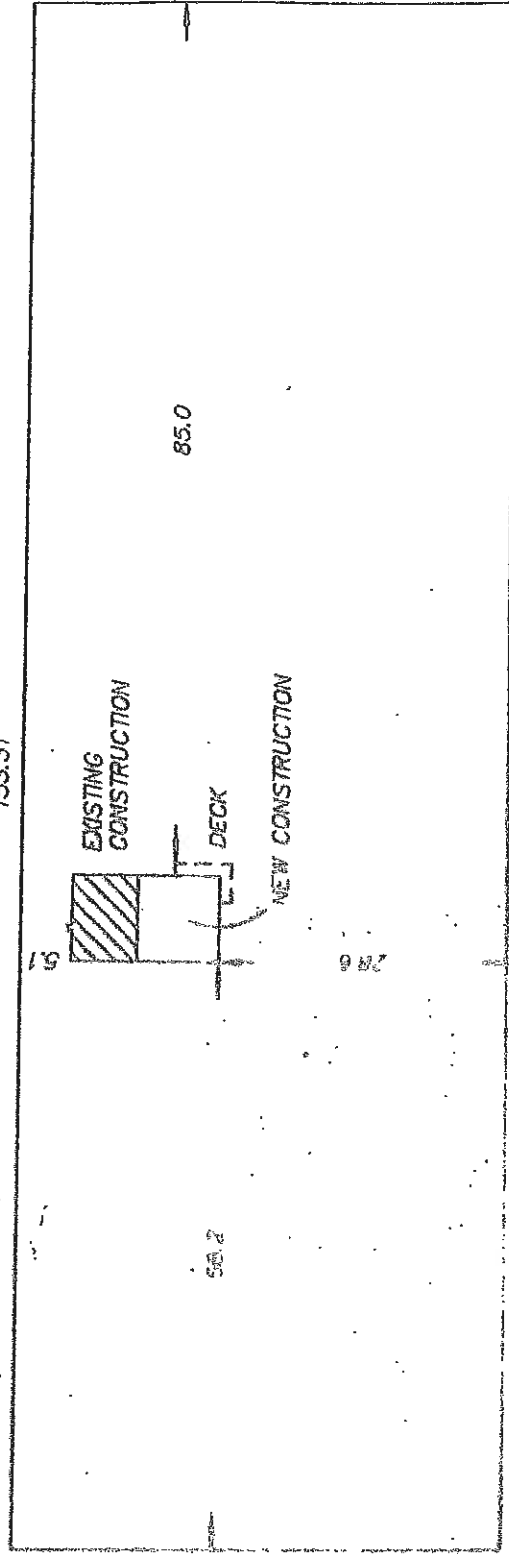
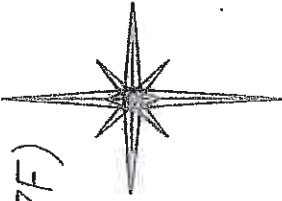


Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

B.C. LAND SURVEYOR'S CERTIFICATE OF  
 LOCATION OF BUILDING ON PARCEL B OF LOT A (DD 278127F)  
 PLAN 12667 SEC. 3 TP. 26 O.D.Y.D.

SCALE 1:750 DISTANCES ARE IN METRES.

N



Wallace Hill Road

FILE 12309 FB 267

RE: B. Rinas

THIS PLAN IS FOR MORTGAGE OR  
 MUNICIPAL PURPOSES ONLY AND IS  
 NOT TO BE USED TO DEFINE THE  
 BOUNDARIES OF THIS LOT.

D.A. Goddard Land Surveying Inc.  
 200-1449 ST. PAUL STREET KELOWNA

THIS DOCUMENT IS NOT VALID UNLESS  
 SIGNED BY THE SURVEYOR AND SEALS  
 DATE 2014

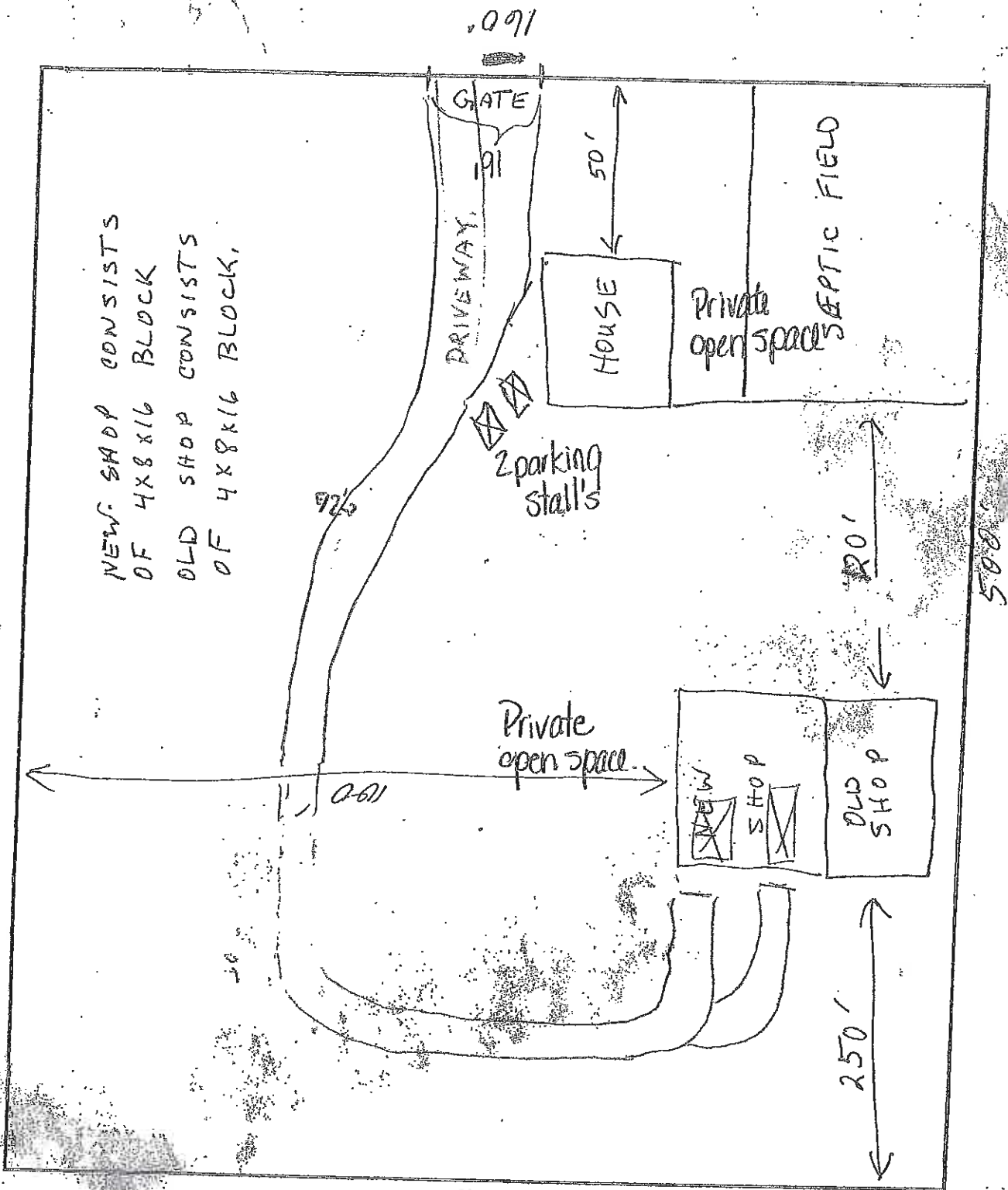
CERTIFIED CORRECT

THIS ON 20th DAY OF JULY 2014

*[Handwritten signature]*

D.A. Goddard B.C.L.S.





091

**APPROVED**

FORMING PART OF BUILDING PERMIT # 22303

THESE DRAWINGS SHALL REMAIN ON SITE

AVAILABLE TO CITY BUILDING INSPECTORS

28'

3'4"

6'3"  
6'3"

15'6" 11'1"

14'7"

6'2"

BEDROOM

14'6"

LIVING ROOM

12'8"

4'4"

FRIDGE

BATHROOM

KITCHEN

13'0"

DOOR

2'2"

8'8"

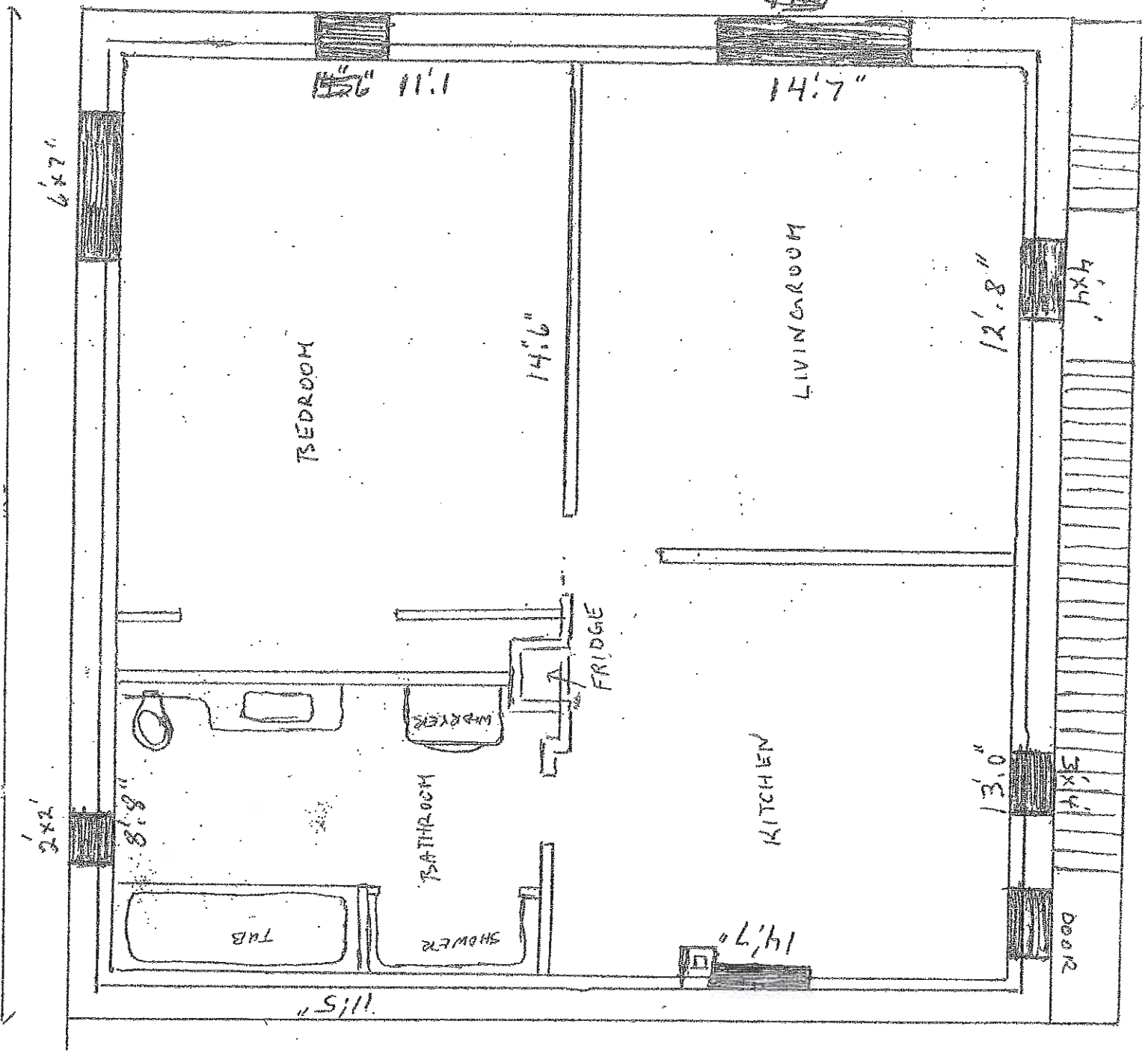
TUB

SHOWER

WASHER

14'7"

11'5"







No. 9604

DATE: 2004-03-05

BUILDING PERMIT: 22303



CITY OF KELOWNA INSPECTION SERVICES

# OCCUPANCY PERMIT

MAILING ADDRESS: Rinas, Bernie

**PERMISSION IS GRANTED TO OCCUPY:**

Location: 4165 Wallace Hill Rd PLAN 12667 LOT B

Type: Accessory - New - Res

Work: Garage and Storage Room

**FILE COPY**

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*Building Inspector*

**NOTE:**

- (1) Any change of use or any additions or alteration of the building other than that covered by the above quoted Building Permit must be reported to the Inspection Services Department and necessary permits may be granted subject to conditions of the Bylaws of the City of Kelowna.
- (2) This permit does not include final approval of the Electrical System (except Fire Alarms), or approval of the septic tank and field (if applicable). Please contact the appropriate Provincial authority.
- (3) This occupancy permit confirms that inspections pursuant to the City of Kelowna Building Bylaw have been completed and no substantive violation of health and safety requirements has been observed. This permit is not a warranty that the subject building complies with all Municipal and Provincial regulations governing building construction nor that it is without defect.



Inspection Services  
1435 Water Street  
Kelowna BC V1Y 1J4  
(250) 469-8960  
FAX: 862-3314

Permit Number: BP 34790

# Building Permit

Authorizing

## Agri-Accessory

### 4165 Wallace Hill Rd

Lot B Plan 12667

Customer Type: Applicant

Contractor

Contractor Type: Self

Owner

Name: Rinas, Bernhard/Christine  
4165 Wallace Hill Rd  
Kelowna BC  
V1W4B6

Contact:

#### Permit Conditions:

- 1 All construction must comply with B.C Building Code 2006, reviewed plans, all applicable Bylaws along with any comments or conditions by the Building Inspector.
- 2 **This permit is issued for a new addition to be used as open shed garage for two trailers and a truck.**
- 3 Sufficient bracings required for the structural stability. Discuss it with the building Inspector.
- 4 The conditions of Development Permit Waiver DPW07-0457 and the signed section 219 covenant must be adhered to.

Issued By: Taher Ahmad 

Issue Date: 2007-08-27

Building Bylaw No. 7245

This permit is issued under the provisions of the City of Kelowna Bylaw and amendments thereto and is in accordance with the Application on file in this office.

The granting of this permit does not relieve the applicant, occupier or owner from conforming to all requirements of every pertinent bylaw and regulation enforced within the City of Kelowna and the approval of any plans or specifications in support of an application for this permit likewise does not excuse the applicant, occupier or owner from conforming to every bylaw and regulation.

#### FILE COPY

Russ Van De Sype, Building Inspector 469-8601

Owners or agents are required to request an inspection 24 hours in advance of the inspection date.

Call For Inspection: 469-8977 or Book Online at [WWW.KELOWNA.CA](http://WWW.KELOWNA.CA)

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

FILE COPY

**Date:** November 22, 2011  
**File No.:** Z11-0082

**To:** Land Use Management Department (PM)

**From:** Development Engineering Manager

**Subject:** 4165 Wallace Hill Road

A1 to A1s

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Development Engineering Services have the following requirements associated with this rezoning Application.

1. Domestic Water and Fire Protection

This development is within the service area of the Southeast Kelowna Irrigation District (SEKID). The developer is required to make satisfactory arrangements with the SEKID for these items. All charges for service connection and upgrading costs are to be paid directly to the SEKID.

2. Sanitary Sewer

Sanitary sewage is to be handled by an on-site sewage disposal system subject to approval of the Provincial Public Health Officer. Please contact the Public Health Officer.

3. Site Related Issues

Provide on-site parking for the proposed dwelling.

4. Electric Power and Telecommunication Services

It is the applicant's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for service upgrades to these services which would be at the applicant's cost.

  
\_\_\_\_\_  
Steve Muenz, P. Eng.  
Development Engineering Manager

SS