

Request for Council Decision

District of Lake Country

MEETING TYPE:	Regular Council Meeting
MEETING DATE:	Tuesday, September 06, 2022
AUTHOR:	Zara Rockwell, Chief Building Inspector
DEPARTMENT:	Planning and Development
ITEM TITLE:	NOT2022-010 11014 Bond Road
DESCRIPTION:	To place a Notice on Title for construction of a commercial addition without a building permit

QUESTION

Does Council wish to place a Notice on Title of the property to protect the District from any liability regarding the property and to inform any potential purchasers of the deficiencies?

OPTIONS

- A. THAT Notice on Title be placed on the property at 11014 Bond Road legally described as Lot 92, Plan KAP444, Section 16, Township 20, ODYD, P.I.D. 012-393-894 pursuant to Section 57 of the Community Charter, and that the enforcement file be closed.
- B. THAT a Notice on Title not be placed on the property at 11014 Bond Road legally described as Lot 92, Plan KAP444, Section 16, Township 20, ODYD, P.I.D. 012-393-894 pursuant to Section 57 of the Community Charter and that the enforcement file be closed.
- C. THAT a Notice on Title not be placed on the property at 11014 Bond Road legally described as Lot 92, Plan KAP444, Section 16, Township 20, ODYD, P.I.D. 012-393-894 pursuant to Section 57 of the Community Charter and that the building division continue to work with property owner to bring the property into compliance.
- D. THAT Notice on Title be placed on the property at 11014 Bond Road legally described as Lot 92, Plan KAP444, Section 16, Township 20, ODYD, P.I.D. 012-393-894 pursuant to Section 57 of the Community Charter and that the building division staff investigate the option of a remedial action pursuant to Section 73 of the Community Charter process and report back to Council.

EXECUTIVE SUMMARY

District files show that an outdoor pizza hut and commercial building addition have been constructed without permits in place. To date, we have not received a complete building permit application. The property is a concern with respect to the BC Building Code 2018 Edition, and Building Regulation Bylaw 1070, 2018. As such, staff is recommending a that a Notice on Title be placed on the property and that the file be closed.

KEY INFORMATION

File Number:	NOT2021-009
Roll Number:	02354.000
Property Owner:	Charlene & Jerome Wowchuk
Legal Description:	Lot 92, Plan KAP444, Section 16, Township 20, ODYD, Except Plan B6992

PID	012-393-894				
Civic Address:	11014 Bond Road, Lake Country, BC				
OCP Designation:	Agricultural				
Zoning Designation:	A1; Agricultural				
Land Use Contract	No				
ALR:	Yes				
Parcel Size:	7.94 acres				
DP Area(s):	Agricultural; Greenhouse Gas Reduction; Multiple Unit; Commercial; Industrial;				
	Hillside; Agri-Tourism				
Water Supply:	Municipal – Okanagan Lake/Beaver Lake				
Sewer:	Septic System				
Site Summary:		Zoning:	Use:		
	North:	A1; Agricultural	Agricultural		
	East:	A1; Agricultural	Agricultural		
	South:	A1; Agricultural	Agricultural		
	West:	A1; Agricultural	Agricultural		





DESIRED BENEFIT

Adherence to the District of Lake Country Building Regulation Bylaw and BC Building Code.

STRATEGIC RELEVANCE AND COMMUNITY SUSTAINABILITY

The placement of the Notice on Title and the closing of the file will enable staff to work more closely on strategic priorities of Council and to ensure liability is minimized to the District.

UNINTENDED OUTCOMES

That building permit to construct pizza hut and commercial building addition is not issued and may pose a risk to owner and members of the public and may leave the District in a position of liability.

BACKGROUND/HISTORY

On August 13, 2019, Building Division staff became aware of a building addition constructed without proper permits in place. A letter was sent to the property owner the same day. A second letter was sent to the property owners on September 11, 2019. A building permit application was received on October 2, 2019.

An email was sent to the applicant on October 16, 2019 outlining the missing requirements for permit issuance. Building staff met with applicant to go over items required prior to permit issuance. Some information has been received. However, the application requirements were not all submitted. Outstanding items include: Evidence that the spatial separation calculations work to prevent the spread of fire from one structure to another and evidence that the septic system is adequate for the proposed additional loads.

On March 20, 2020 a letter was sent to advise the application was incomplete and would expire on April 9, 2020. Due to the council resolution to allow extension of all applications instream to be extended to December 31, 2020, another letter was sent on November 2, 2020 to advise the application was incomplete and would expire on December 31, 2021.

A registered letter was sent on March 25, 2021 to advise of the report to Council recommending Notice on Title was forthcoming.

A second building permit application was received on July 12, 2021. On September 16, 2021 a list of building permit application deficiencies was sent to the property owner/applicant. This building permit application expired on March 4, 2022. On May 3, 2022 the property owner dropped off a set of drawings and were advised a new building permit application was required. To date no application for a building permit has been made.

APPLICABLE LEGISLATION AND POLICIES

- District of Lake Country Building Regulation Bylaw, 1070, 2018
 - 8.1 OWNER'S RESPONSIBILITIES: Subject to Section 11 of this bylaw, every owner must apply for and obtain a permit, prior to:
 - o (a) construction or placement of new buildings and structures;
- BC Building Code
 - Community Charter Section 57 (Note Against Land Title that Building Regulations Contravened)
- Community Charter Section 73 (*Remedial Action Requirements Hazardous Conditions*)

Legal Implications:

Council has the authority to pass a resolution to file a Notice against the land title through the Community Charter. Courts tend to defer to the expertise of municipal Building Officials advice, and local Council decisions with respect to Notice against the land title.

A municipality owes a duty of care to subsequent owners of a building, which was made clear in Kamloops vs. Nielsen [1984]. The Court held that once the municipality had made a policy decision to regulate building construction, the municipality owed a duty to enforce the bylaw provisions to prevent injury to persons such as third-party purchasers. As the Building Regulation Bylaw requires the property owner to obtain a building permit and it is unknown to what extent the building meets or does not meet the requirements of the BC Building Code, placing a Notice on Title will at minimum inform potential purchasers of the risk.

IMPACT ON STAFF CAPACITY AND FINANCIAL RESOURCES

Staff time has been used attempting to bring this property into compliance.

Registering a Notice On Title is a small fee that will allow staff to direct their attention elsewhere. If in the future the property owner wishes to have the Notice On Title removed there is a \$300 fee for staff processing time.

ANALYSIS OF OPTIONS FOR CONSIDERATION

- Option A This option will allow staff to place the Notice on Title. This will limit liability to the District and will allow staff to close enforcement file and to direct their attention to other tasks.
- Option B This option will allow staff to close the enforcement file and to direct their attention to other tasks. However, this option does not limit liability to the District.
- Option C This option will require staff to direct more staff time to attempt to bring this property into compliance and will reduce the time allocated to other tasks. This option does not limit the liability to the District.
- Option D This option will allow staff to place the Notice on Title, and to investigate the remedial action
 process to bring the property into compliance. This will limit liability to the District and will allow staff to
 start actions that will bring the property into compliance.

This report has been prepared on consultation with the following:

(author to request inclusion of initials to show concurrence)

Tanya Garost, Chief Administrative Officer	
Reyna Seabrook, Director of Corporate Services	
Jared Kassel, Director of Planning and Development	

Attachments

A. Correspondence with Owner

Attachment A - Correspondence to Owner



Municipal Hall Community Services Department Building Division 10150 Bottom Wood Lake Road Lake Country, BC V4V 2M1 Tel: 250-766-6675 Fax: 250-766-0200 building@lakecountry.bc.ca

August 13, 2019

Charlene & Jerome Wowchuk 11014 Bond Road Lake Country, BC V4V 1J6 COPY

Re: Outdoor Kitchen at 11014 Bond Road - Without a Building Permit

Dear Sir/Madam:

Our records indicate you are the registered owner of the property located at Lot 92, Plan KAP444, located at 11014 Bond Road, Lake Country BC.

The Building Division staff has been made aware of possible bylaw contraventions on the above noted property. Specifically, information was received of construction of a deck addition without the benefit of a building permit. Please be aware that the District of Lake County Building Regulation Bylaw 1070, 2018 states:

"5. PROHIBITIONS A person must not commence or continue any construction, alteration, excavation, reconstruction, demolition, removal, relocation or change of use or occupancy of any building or structure, including other work related to construction

- (a) except in conformity with the requirements of the Building Code and this bylaw; and
- (b) unless a building official has issued a valid and subsisting permit for the work under this bylaw."

The Building Regulation Bylaw encourages owners to comply with the minimum standards established by the BC Building Code, as well as other enactments which relate to health, safety, and use of land.

The District of Lake Country Building Division wishes to work with you to ensure your property is compliant with all current regulations. Please contact our Building Division staff no later than August 23, 2019. Building Division staff are available to help you at the Community Development counter. Our office hours are Monday through Friday from 8:30 am to 4:30 pm.

Should you wish any additional information or if we can be of further assistance do not hesitate contacting 0764 building@lakecountry.bc.ca. Thank you in advance for your co-operation.

Yours truly,

Zera Rockwell RBO Chief Building Inspector



September 11, 2019

Charlene & Jerome Wowchuk 11014 Bond Road Lake Country, BC V4V 1J6

Re: SECOND NOTICE - Outdoor Kitchen at 11014 Bond Road - Without a Building Permit

Dear Sir/Madam:

Our records indicate you are the registered owner of the property located at Lot 92, Plan KAP444, located at 11014 Bond Road, Lake Country BC.

It has come to our attention that a commercial outdoor kitchen has been constructed without proper approval and permits.

You are hereby requested to either remove the Building or apply for the appropriate permits no later than September 30, 2019 in order to avoid any further legal action.

Should you wish any additional information or if we can be of further assistance do not hesitate contacting our office at building@lakecountry.bc.ca

Yours truly,

Zara Rockwell RBO Chief Building Inspector

207642

From:	Zara Rockwell
Sent:	Wednesday, October 16, 2019 10:51 AM
To:	
Cc:	
Subject:	
Attachm	
MK due	
Good Mo	orning,
We are ir	n receipt of your building permit application. Prior to issuance we require the following:
1 - 1	Approval for non-farm use from the Agricultural Land Commission (this may not be required – we are awaiting a
r	response from the ALC). For further details contact Paul Dupuis at pdupuis@lakecountry.bc.ca,
	o Spatial separation calculations, - what is a structure based on BC Bldg Code.
	o Spatial separation calculations, Bldg Code.
	 A site plan that shows the location of the building, the distances to all property lines and the distances
	to all other buildings,
• 1	Water application approval. For further details contact Janice Conklin at iconklin@lakecountry.bc.ca,
• /	A letter from a Registered Onsite Wastewater Practitioner that states that the existing septic system is adequate
	for the additional loads,
	Structural Engineer to submit
	 o Two (2) sets of engineered sealed drawings, o Schedule B, o Confirmation of Professional Liability Insurance Form,
	o Schedule B,
	o Confirmation of Professional Liability Insurance Form,
	o Copy of Professional Liability,
10/1	
V	 Mechanical Engineer to submit: Two (2) sets of engineered sealed drawings that include conformance to NFPA 96, Schedule B, Confirmation of Professional Liability Insurance Form, Copy of Professional Liability.
	o Schedule B,
	o Confirmation of Professional Liability Insurance Form,
	o Copy of Professional Liability,
	o Copy of Professional Liability, Details on installed Backflow Prevention Devices:
•	o Test Reports for Backflow Prevention Devices,
. 1	Fire Department Approval (internal process – we have initiated),
	Interior Health Department Approval,
	Interior Realth Lienartment Annroval
	Confirmation of Construction Value. This needs to include all construction, labour, drawings, etc.

Best Regards,

Zara Rockwell, RBO Chief Building Inspector Community Development Department District of Lake Country 24 Hour notice required for Inspection Requests INSPECTION REQUESTS: (250)766-6676 NEW!! BOOK ON-LINE: https://forms.lakecountry.bc.ca/Administration/Building-Inspection-Request





March 20, 2020

2

Municipal Hall Development Services Department Building Inspections 10150 Bottom Wood Lake Road Lake Country, BC V4V 2M1 Tel: 250-766-6675 Fax: 250-766-0200 building@lakecountry.bc.ca



Roll No. 02534.000 BP2019-7434

Charlene & Jerome Wowchuk 11014 Bond Road Lake Country, BC V4V 1J6

Dear Sir/Madam:

Re: Building Permit Application #2019-7434, Outdoor Kitchen at 11014 Bond Road

We are in receipt of your application dated October 2, 2019. This permit application is incomplete. The District of Lake Country Building Regulation Bylaw 1070, 2018 states: "11.23 A building permit or permit application expires 180 days from a date an application is received under this section if the building permit or permit is not issued by the application expiration date, unless the permit is not issued only due to delays caused by the District."

It is the District of Lake Country's intent to cancel this application on April 9, 2020. If you wish to discontinue the application process please email our office at <u>building@lakecountry.bc.ca</u> to retrieve your documents.

Best Regards,

Zara Rockwell Chief Building Inspector



207642

Zara Rockwell

From: Sent: To: Cc: Subject: Zara Rockwell Wednesday, October 7, 2020 4:25 PM Jamie McEwan Black Ink RE: Blind Tiger Sign off Pls

Cory,

Thank you for this information.

I have had a chance to review. Please provide the following:

- In regards to the spatial separation calculations:
 - Spatial Separation A Please show the actual % of openings,
 - Spatial Separation D the maximum unprotected openings permitted is 7.2 sq metres however there is 40 sq metres of unprotected openings shown. How will this be addressed to meet the BC Building Code requirements?
- Water Application Approval. I do not see an application in progress,
- A letter from a Registered Onsite Wastewater Practitioner that states that the existing septic system is adequate for the additional loads. (Requirement of Interior Health Authority).

Best Regards,

Zara Rockwell Chief Building Inspector District of Lake Country

From: Jamie McEwan <jmcewan@lakecountry.bc.ca> Sent: Wednesday, October 7, 2020 4:00 PM To: Zara Rockwell <zrockwell@lakecountry.bc.ca> Cc: Black Ink Subject: FW: Blind Tiger Sign off Pls

Hi Zara,

Here are some of the remaining requirements from Blind Tiger/Black Ink. Can you please briefly summarize for Corey the remaining requirements?

Warm regards,

Jamie McEwan, MA, MCIP, RPP Director of Planning & Development District of Lake Country c: 250-351-9942

From: Black Ink Sent: October 7, 2020 10:23 AM To: Jamie McEwan <<u>imcewan@lakecountry.bc.ca</u>>



COPY

Charlene & Jerome Wowchuk 11014 Bond Road Lake Country, BC V4V 1J6 Roll No. 02534.000 BP2020-7642

Dear Sir/Madam:

November 2, 2020

Re: Building Permit Application #2020-7642, Outdoor Kitchen at 1014 Bond Road

We are in receipt of your application dated October 2, 2019. This permit application is incomplete. The District of Lake Country Building Regulation Bylaw 1070, 2018 states: "11.23 A building permit or permit application expires 180 days from a date an application is received under this section if the building permit or permit is not issued by the application expiration date, unless the permit is not issued only due to delays caused by the District."

It is the District of Lake Country's intent to cancel this application on December 31, 2020. As this outdoor kitchen has already been constructed the District of Lake Country may be moving forward with further enforcement actions. If you wish to discontinue the application process please email our office at <u>building@lakecountry.bc.ca</u> to retrieve your documents.

Best Regards.

Zara Rockwell Chief,Building Inspector



March 25, 2021



Roll No. 2534.000

Charlene & Jerome Wowchuk 11014 Bond Road Lake Country, BC V4V 1J6

Via: Registered Mail

Dear Sir/Madam:

Re: Outdoor Kitchen and Cover at 11014 Bond Road - Without a Building Permit

August 13, 2019 and September 11, 2019 letters were sent requesting that you obtain a building permit for the outdoor kitchen and cover.

An application was made October 2, 2019. An email was sent October 16, 2019 outlining the outstanding requirements for permit issuance. A letter was sent on November 2, 2020 informing you that the permit application was set to expire on December 31, 2020. The work has proceeded without permits and approvals.

The deadline of September 31, 2019 to obtain a building permit for the outdoor kitchen has passed and the work has occurred without a permit, therefore we will be asking the District of Lake Country Council to place a Notice On Title for a building bylaw infraction.

Please feel free to contact our office at <u>building@lakecountry.bc.ca</u> should you require any further information.

Yours truly,

Zara Rockwell, RBO Chief Building Inspector



March 25, 2021

Charlene & Jerome Wowchuk 11014 Bond Road Lake Country, BC V4V 1J6

2021-8150.

Roll No. 2534.000

Via: Registered Mail

Dear Sir/Madam:

Re: Outdoor Kitchen and Cover at 11014 Bond Road - Without a Building Permit

August 13, 2019 and September 11, 2019 letters were sent requesting that you obtain a building permit for the outdoor kitchen and cover.

An application was made October 2, 2019. An email was sent October 16, 2019 outlining the outstanding requirements for permit issuance. A letter was sent on November 2, 2020 informing you that the permit application was set to expire on December 31, 2020. The work has proceeded without permits and approvals.

The deadline of September 31, 2019 to obtain a building permit for the outdoor kitchen has passed and the work has occurred without a permit, therefore we will be asking the District of Lake Country Council to place a Notice On Title for a building bylaw infraction.

Please feel free to contact our office at building@lakecountry.bc.ca should you require any further information.

Yours truly,

Zara Rockwell, RBO Chief Building Inspector

Karen Hynes

From: Sent: To: Subject: Karen Hynes Thursday, September 16, 2021 2:42 PM

11014 Bond Road (BP2021-8150)

Good Afternoon Jerome,

I've been assigned to do the review for the above noted building permit application and the following is required so that a full review can be completed:

1. Code analysis is required. This will be required for the entire building and include all occupancy classifications within the building.

2. Site plan is required.

- 3. Washroom locations are to be shown.
- 4. Spatial separation calculations A & D exceeds the maximum permitted openings.
- 5. Correct the table reference for spatial separation to include the exact table used for the calculation. (ie., 3.2.3.1-B or D)
- Structural Engineer is to provide more information regarding this structure. Provide a foundation plan and note sizes of footings and structural members. Structural Engineer to provide drawings on 24 x 36 as the ones submitted are too small to read.
- 7. Registered Onsite Wastewater Practitioner (ROWP) is to provide a letter stating that the septic system is adequate.
- 8. NOTE: Interior Health approval will be required prior to final occupancy.

Please note that further deficiencies may or may not follow once the entire review has been completed.

Regards,

Karen Hynes Building Inspector Planning & Development Department District of Lake Country 24 Hour notice required for Inspection Requests INSPECTION REQUESTS: (250)766-6676 NEW!! BOOK ON-LINE: <u>https://forms.lakecountry.bc.ca/Administration/Building-Inspection-Request</u>



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February 4, 2022

COPY

Charlene & Jerome Wowchuk 11014 Bond Road Lake Country, BC V4V 1J6

Roll No. 2534000 BP2021-8150

Dear Sir/Madam:

Re: Building Permit Application #2021-8150, Outdoor Pizza Hut at 11014 Bond Road

We are in receipt of your application dated July 12, 2021. This permit application is incomplete. The District of Lake Country Building Regulation Bylaw 1070, 2018 states: "11.23 A building permit or permit application expires 180 days from a date an application is received under this section if the building permit or permit is not issued by the application expiration date, unless the permit is not issued only due to delays caused by the District."

It is the District of Lake Country's intent to cancel this application on March 4, 2022. If you wish to discontinue the application process please email our office at <u>building@lakecountry.bc.ca</u> to retrieve your documents.

Best Regards,

Zará Roćkwell Chief Building Inspector

Zara Rockwell

From: Sent: To: Subject: Zara Rockwell Tuesday, May 03, 2022 3:30 PM 11014 Bond Road - Drawings

Good Afternoon,

We are in receipt of two sets of drawings that were dropped off at our counter. The building permit application expired on March 4, 2022. A new building permit application is required. Appointments are required for building permit applications and can be made at <u>building@lakecountry.bc.ca</u>

Best Regards,

Zara Rockwell, RBO Chief Building Inspector Planning & Development Department District of Lake Country 24 Hour notice required for Inspection Requests INSPECTION REQUESTS: (250)766-6676 NEW!! BOOK ON-LINE: https://forms.lakecountry.bc.ca/Administration/Building-Inspection-Request



10150 Bottom Wood Lake Road, Lake Country, BC V4V 2M1 t: 778-738-2743 f: 250-766-2903 lakecountry.bc.ca

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