
MEETING TYPE: Regular Council Meeting
MEETING DATE: Tuesday, August 16, 2022
AUTHOR: Zara Rockwell, Chief Building Inspector
DEPARTMENT: Planning and Development
ITEM TITLE: NOT2022-008 3223 Woodsdale Road
DESCRIPTION: To place a Notice on Title for placement of two storage containers without a 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

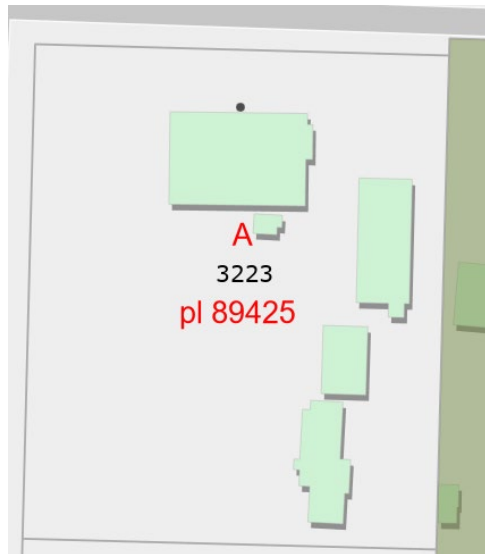
- A. THAT Notice on Title be placed on the property at 3223 Woodsdale Road legally described as Lot A, Plan KAP89425, District Lot 169, ODYD, P.I.D. 027-968-529 pursuant to Section 57 of the Community Charter, and that the enforcement file be closed.
- B. THAT a Notice on Title not be placed on the property at 3223 Woodsdale Road legally described as Lot A, Plan KAP89425, District Lot 169, ODYD, P.I.D. 027-968-529 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 3223 Woodsdale Road legally described as Lot A, Plan KAP89425, District Lot 169, ODYD, P.I.D. 027-968-529 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 3223 Woodsdale Road legally described as Lot A, Plan KAP89425, District Lot 169, ODYD, P.I.D. 027-968-529 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 two storage containers have been placed without permits in place. Building Permit 2019-7254 was issued and finalized to place 4 storage containers. After the permit was finalized, two of the storage containers were relocated without permits. An application for relocation of the storage containers was received on June 14, 2021 and has since expired, as the applicant has not provided the required information. The property is a concern with respect to the BC Building Code 2018 Edition, the 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: | NOT2022-008 | | |
| Roll Number: | 11591001 | | |
| Property Owner: | 0945725 BC Ltd | | |
| Legal Description: | Lot A, Plan KAP89425, District Lot 169, ODYD | | |
| PID | 027-968-529 | | |
| Civic Address: | 3223 Woodsdale Road, Lake Country, BC | | |
| OCP Designation: | Mixed Use Commercial | | |
| Zoning Designation: | C10: Service Commercial | | |
| Land Use Contract | No | | |
| ALR: | No | | |
| Parcel Size: | 2.742 acres | | |
| DP Area(s): | Agricultural; Greenhouse Gas Reduction; Multiple Unit; Commercial; Industrial; Agri-Tourism. | | |
| Water Supply: | Municipal – Okanagan Lake | | |
| Sewer: | Municipal | | |
| Site Summary: | | Zoning: | Use: |
| | <i>North:</i> | RM5; Medium Density Multiple Housing | Multi-Family |
| | <i>East:</i> | C2; Neighbourhood Commercial | Commercial |
| | <i>South:</i> | RM4; Low Density Multiple Housing | Multi-Family |
| | <i>West:</i> | A1; Agricultural | Residential |



**Subject
Property**



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 place the storage containers 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. The placement of the storage containers does not comply to the minimum separation distance from the coverall building. Also, it is unknown what products are being stored within, and whether these pose added risk.

BACKGROUND/HISTORY

A building permit application was received on May 8, 2019 to place 4 storage containers. The building permit was closed on November 2, 2020.

In March, 2021 it was noted that two of the storage containers had been relocated without permits.

A letter was sent to the property owner on March 15, 2021, to advise that a building permit was required. The letter stated that they would have until April 12, 2021, to apply to bring the works into compliance, or enforcement would commence.

A second letter was sent to the property owner on May 31, 2021, extending the deadline to June 18, 2021.

A building permit application was received on June 14, 2021. A list of requirements was sent to the applicant on July 6, 2021. The requirements included:

- Site plan (to scale) showing locations of the C-cans including distances to the property lines and to other structures located on the property.
- Spatial separation calculations are required. This will be required not just for the c-can but for other structures that may be impacted by the placement of the structure. Will the proposed placements trigger upgrades to the other structures? Detailed spatial calculations will help determine this. Please note that as per BC Building Code, limiting distance in Lake Country is reduced by half.
- Floor plans (to scale) are required. They are to include dimensions and rooms (if applicable).
- Zoning analysis is required.
- Building Code analysis required.
- Ventilation is to be addressed.
- Man door is required if this is occupied space.
- List of storage materials if this is to be used as storage. Combustible or flammable materials will require further information.
- Fire Department approval may be required. This will be determined once a code analysis is submitted and a list of storage materials has been created.
- Provide elevation drawings.
- If there are modifications being done to the container, the plans should clearly identify them.
- As this structure is a secondary use, the container shall be clad to match the principle building as per the District of Lake Country zoning bylaw.
- CSA approval is required.

The requirements were not received and the building permit application expired on March 4, 2022. A letter was sent to the property owner advising that further legal action will continue.

An email was received from Garth McKay on March 3, 2022 advising that he would be making a new application upon his return.

On May 12, 2022 a letter was sent to the property owner that a report recommending a Notice be placed on the Title of the property would be prepared for Council's consideration.

To date, the building division has not received a complete building permit application.

BC Building Code Section 3.1 applies to tent structures. The two c-cans have been placed immediately next to the coverall tent structure.

3.1.6.3. Clearance to Other Structures

1) Except as permitted by Sentences (2), (3) and (4), every tent and air-supported structure shall conform to Subsection 3.2.3.

2) Tents and air-supported structures

a) shall not be erected closer than 3 m to other structures on the same property except as permitted by Sentences (3) and (4), and

b) shall be sufficiently distant from one another to provide an area to be used as a means of emergency egress.

3) Tents and air-supported structures not occupied by the public

a) need not be separated from one another, and

b) are permitted to be erected less than 3 m from other structures on the same property provided this spacing does not create a hazard to the public.

4) Tents not more than 120 m² in ground area, located on fair grounds or similar open spaces, need not be separated from one another provided this does not create a hazard to the public.

3.1.6.4. Clearance to Flammable Material

1) The ground enclosed by a tent or air-supported structure and not less than 3 m of ground outside the structure shall be cleared of all flammable material or vegetation that will spread fire.

In 2013 a BC fire fighter was killed as a result of the catastrophic failure of a shipping container that was exposed to an external fire. The shipping container contained minor amounts of flammable liquids (less than 2 litres was involved), with very little venting. The adjacent fire heated the shipping container and there was a buildup of flammable vapours and pressure causing the shipping container to rupture.

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:
 - (a) construction or placement of new buildings and structures;
 - (u) the moving of buildings into or within the District;
- District of Lake Country Zoning Bylaw 561, 2007
 - 7.20 Shipping Containers
- 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.

Respectfully Submitted,

Zara Rockwell, Chief Building Inspector

This report has been prepared on consultation with the following:

(author to request inclusion of initials to show concurrence)

| | |
|--|----|
| Tanya Garost, Chief Administrative Officer | TG |
| Reyna Seabrook, Director of Corporate Services | RS |
| Jared Kassel, Director of Planning and Development | JK |

Attachments

| | |
|----|---------------------------|
| A. | Correspondence with Owner |
|----|---------------------------|



LAKE COUNTRY

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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

March 15, 2021

0945275 BC Ltd.
3223 Woodsdale Road
Lake Country, BC
V4V 1X7

COPY

Re: Building Move (C-can relocation) at 3223 Woodsdale Road – Without a Building Permit

Dear Sir/Madam:

Our records indicate you are the registered owner of the property located at Lot A, Plan KAP89425, DL169 located at 3223 Woodsdale Road, Lake Country BC.

It has come to our attention that Building Move (C-Can Relocation) has been conducted without proper approval and permits.

You are hereby requested to apply for the appropriate permits no later than April 12, 2021 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

LAKE COUNTRY



LAKE COUNTRY

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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

May 31, 2021

0945275 BC Ltd
3223 Woodsdale Road
Lake Country, BC
V4V 1X7

COPY

Re: SECOND NOTICE – Building Move (C-can relocation) at 3223 Woodsdale Road – Without a Building Permit

Dear Sir/Madam:

Our records indicate you are the registered owner of the property located at Lot A, Plan KAP89425, DL169 location at 3223 Woodsdale Road, Lake Country BC.

It has come to our attention that a building move has occurred without proper approval and permits.

You are hereby requested to apply for the appropriate permits no later than June 18, 2021 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

Karen Hynes

From: Karen Hynes
Sent: Tuesday, July 06, 2021 1:54 PM
To: [REDACTED]
Subject: 3223 Woodsdale Road (BP2021-8113) C-Can

From: Karen Hynes
Sent: Tuesday, July 06, 2021 1:52 PM
To: [REDACTED]
Subject: 3223 Woodsdale Road (BP2021-8113) C-Can

Good Afternoon Lou,

I've completed the review for the above noted building permit application and the following is required:

1. Site plan (to scale) showing locations of the C-cans including distances to the property lines and to other structures located on the property.
2. Spatial separation calculations are required. This will be required not just for the C-can but for other structures that may be impacted by the placement of the new structure. Will the proposed placements trigger upgrades to the other structures? Detailed spatial calculations will help to determine this. Please note that as per the BC Building Code (9.10.14.3), limiting distance in Lake Country is reduced by half.
3. Floor plans (to scale) are required. They are to include dimensions and rooms (if applicable).
4. Zoning analysis is required.
5. Building Code analysis is required.
6. Ventilation is to be addressed if this is occupied space.
7. Man door is required if this is occupied space.
8. List of storage materials if this is to be used as storage. Combustible or flammable materials will require further information.
9. Fire Department approval may be required. This will be determined once a code analysis is submitted and a list of storage materials has been created.
10. Provide elevation drawings.
11. If there are modifications being done to the container, the plans shall clearly identify them. (ie: existing/demo plan and proposed plan).
12. If this structure is a secondary use, the container shall be clad to match the principle building as per the District of Lake Country zoning bylaw).
13. CSA approval is required (provide specifications). If the container is being modified, a Structural engineer will be required to provide drawings and letters of assurance.

If you have any questions, please ask. Please note that further deficiencies may or may not follow once the above has been submitted.

Regards,

Karen Hynes
Building Inspector
Planning & Development Department
District of Lake Country



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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

February 4, 2022

COPY

0945725 BC Ltd
3223 Woodsdale Road
Lake Country, BC
V4V 1X7

Roll No. 11591001
BP2021-8113

Dear Sir/Madam:

Re: Building Permit Application #2021-8113, Relocation of two storage containers at 3223 Woodsdale Road

We are in receipt of your application dated June 14, 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. As the building relocation has already occurred we may continue with further enforcement. Any questions contact our office at building@lakecountry.bc.ca.

Best Regards,



Zara Rockwell
Chief Building Inspector



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

May 12, 2022

COPY

Roll No. 11591001

0945725 BC Ltd
3223 Woodsdale Road
Lake Country, BC
V4V 1X7

Via: Registered Mail

Dear Sir/Madam:

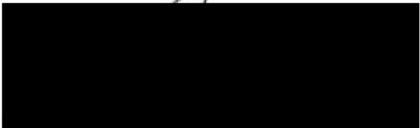
Re: Relocation of Two Storage Containers at 3223 Woodsdale Road - Without a Building Permit

March 15, 2021 and May 31, 2021 letters were sent requesting that you obtain a building permit for the relocation of the two storage containers. A building permit application was made on June 14, 2021, and a list of requirements were sent on July 6, 2021. These requirements were not submitted and the building permit application expired on March 4, 2022.

The deadline of March 4, 2022 to obtain a building permit has passed and 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