

**DATE:** December 20, 2017

**FILE:** 3090-20 / DV 3C 17

**TO:** Chair and Directors  
Electoral Areas Services Committee

**FROM:** Russell Dyson  
Chief Administrative Officer

Supported by Russell Dyson  
Chief Administrative Officer

*R. Dyson*

**RE: Development Variance Permit – 2186 Endall Road (Ludwig)  
Puntledge – Black Creek (Electoral Area C)  
Lot 6, Block 29, Comox District, Plan 3139, PID 006-285-929**

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### **Purpose**

To consider a Development Variance Permit (DVP) to increase the duration for which a temporary sawmill may operate on an agricultural property from 180 days to 3 years and to enable timber to be obtained from sources other than the subject property (Appendix A).

### **Recommendation from the Chief Administrative Officer:**

THAT the board approve the Development Variance Permit DV 3C 17 (Ludwig) to increase the duration for which a temporary sawmill may operate on an agricultural property from 180 days to 3 years and to enable timber to be obtained from sources other than the property for the property described as Lot 6, Block 29, Comox District, Plan 3139, PID 006-285-929 (2186 Endall Road);

AND THAT the Corporate Legislative Officer be authorized to execute the permit;

AND FINALLY THAT the Corporate Legislative Officer remove the notice of the permit from the land title three years from the date of the applicant applied for the DVP, being November 3, 2020.

### **Executive Summary**

- A sawmill has been operating within the Rural-ALR zone in contravention of the Agricultural Land Reserve (ALR) Regulations and the zoning bylaw;
- As a result of a bylaw compliance file, the property owners made the appropriate ALR non-farm use and development variance permit applications;
- The Agricultural Land Commission (ALC) approved the operation of the sawmill with several conditions (Appendix B), including the issuance of DVP by the Comox Valley Regional District and a 3 year term after which a new application to the ALC is required;
- To comply with the zoning bylaw, two variances are required: reducing the volume of timber that must be harvested from the farm from 80 per cent to 0 per cent and increasing the time limit from 180 days to 3 years;
- The Advisory Planning Commission (APC) did not support the application as presented based on some members' concern with the sawmill use in the ALR. The sawmill use is enabled through the ALC's order;
- This application is subject to public notification and any responses will be presented at the Electoral Areas Services Committee (EASC) meeting;
- Staff supports the variance request as it is consistent with the Official Community Plan (OCP);
- Staff also recommends following through with the ALC approval condition that an approved permit be removed from title after the three years.

Prepared by:

*J. MacLean*

Jodi MacLean, RPP, MCIP  
Rural Planner

Concurrence:

*A. Mullaly*

Alana Mullaly, M.Pl., RPP, MCIP  
Manager of Planning Services

Concurrence:

*A. MacDonald*

Ann MacDonald, RPP, MCIP  
General Manager of  
Planning and Development  
Services Branch

**Stakeholder Distribution (Upon Agenda Publication)**

Applicant	✓
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**Background/Current Situation**

A sawmill was added to the 102-hectare subject property (Figure 1 and 2) in 2003 to support an existing farm use and has been in continuous operation since 2012 when a second saw was added. At some point, the volume of timber sourced from the property dropped below 80% and the primary use of the saw became milling of out-sourced timber. Following a complaint that the sawmill was operating in contravention of the ALR regulations and Zoning Bylaw, the property owners submitted an ALR non-farm use application. By Resolution No. 170/2016, the ALC approved the operation of the sawmill for a three year period with the conditions that the footprint of the sawmill is not to expand, the sawmill remain subordinate to the agricultural use of the property, and that the approval will expire should the applicant cease to be the primary operator or no longer reside on the property. The ALC approval was also made conditional on the issuance of a DVP which must be removed from the title within 3 years.

Formerly a dairy farm, the property is now used for growing fruits and vegetables, honey production, and winery. The property is mostly cleared for agricultural production but there is approximately 48 hectares of undeveloped wetland with some tree cover on the property at the confluence of the Black Creek and Sayer Creek watercourses.

Agricultural Land Commission

The ALC regulation only allows the “operation of a temporary sawmill if at least 50 per cent of the volume of timber is harvested from the farm or parcel on which the sawmill is located”. Because the operation of this sawmill involves more than 50 per cent of the timber coming from off-site sources, the non-farm use within the ALR application was required. The ALC reviewed the operation and issued Resolution No. 170/2016 (Appendix B) allowing it to continue with several conditions, including the issuance of a DVP that addresses the zoning bylaw’s conditions concerning sawmills. The ALC also issued a clarification letter stating that the intended three year limit for the temporary sawmill is three years from the date of the DVP application, being November 3, 2020 (Appendix B).

Official Community Plan

The OCP designates the property as “agricultural areas”. The following policies within this designation are relevant to this proposal:

- Policy 58(2) “require new development to support the primary function of agriculture”;
- Policy 58(10) “discourage reduction of and/or area of a viable farm operation”; and
- Policy 58(13) “protect farming integrity and function of land designated agricultural area”.

The conversion of farm land and buildings into industrial constitutes a reduction available for farm operations. However, the growth of the sawmill operation to its current level does not appear to have compromised the farming integrity and function of the property. In its review, the ALC found that at its current level the sawmill's impacts to the farm are minimal and placed a condition on its approval that the footprint of the sawmill is not to expand and that it remain subordinate to the property's primary agricultural use. The sawmill operation, at its current level, is consistent with the OCP.

### Zoning

The property is zoned Rural-ALR (RU-ALR). Section 303(3) of the Zoning Bylaw allows temporary sawmills within this zone with the following conditions:

- 1) The placement of the sawmill, including all associated storage and work areas, shall be sited a minimum of 30.0 metres (98.4 feet) from all property lines;
- 2) 80 per cent of the volume of the timber is to be harvested from the farm or lot on which the sawmill is located; and
- 3) The operation of a temporary sawmill on any one property shall be limited to no more than 180 days in a calendar year.

The applicant is seeking to vary the regulations to the following:

- 1) **0 per cent** of the volume of the timber **may** be harvested from the farm or lot on which the sawmill is located; and
- 2) The operation of a temporary sawmill on any one property shall be limited to no more than **3 years**.

With respect to the setback, the closest machinery to a property line is approximately 35 metres. While some of that 30 metre setback area was previously used for storage and work, as reflected in the ALC approved area, the applicant stated that he has since abided by the 30 metre zoning setback and is willing to continue this.

The intent of temporary sawmills is to allow property owners to make better use of timber themselves when clearing properties. For example, according to the applicant, the sawmill that is the subject of this application was originally used to cut the wood used in building some of the farm buildings on this property. However, when the sawmill remains on the property for an extended period of time and the source of timber becomes from predominately off-site, it becomes more of a permanent fixture and land use with potential for all the impacts associated with sawmills (e.g. truck traffic, noise, employment, fire service demand, etc.). The zoning bylaw makes the distinction that temporary is to mean no more than 180 days with no more than 20 per cent of the timber coming from off-site sources.

The reduction of the volume of the timber that must be harvested from the farm to zero effectively allows for total flexibility on sourcing the timber as needed. While there is still some timber available to be harvested on the farm, the purpose of the sawmill is to accommodate customer demands and they source the appropriate type of wood accordingly.

Increasing the duration under which this sawmill may operate is consistent with the term of the ALC approval and the expectations of the applicant to transition into more farm work. Should the applicant wish to extend or renew the three year term, a new application will be required unless he is able to meet the zoning regulation's requirement of sourcing 80 per cent of the timber from the farm.

**Policy Analysis**

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider issuance of a DVP that varies the provision of a bylaw, provided that the use or density of the land is not being varied, the land is not designated floodplain, or the development is not part of a phased development agreement.

**Options**

The board could either approve or deny the requested variance.

**Financial Factors**

Applicable fees have been collected for this application under the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”.

**Legal Factors**

The report and recommendations contained herein are in compliance with the LGA and the Comox Valley Regional District (CVRD) bylaws. DVP’s are permitted in certain circumstances under Section 498 of the LGA.

**Regional Growth Strategy Implications**

The Regional Growth Strategy (RGS) places the property within the “agricultural areas” designation where the intent is to reinforce the policies of the ALR in order to support agricultural practices. The RGS directs that non-farm uses do not impede agricultural activity within the ALR. The significant farming activity that has occurred alongside the operation of the sawmill is evidence that it is not impeding agricultural activity.

**Intergovernmental Factors**

Agricultural Land Commission approval was granted by ALC Resolution No.’s 170/2016 and 94/2017 (Appendix B). Approval of this DVP would fulfill one of the conditions of that ALC approval. A copy of the draft DVP was forwarded to ALC staff and should they provide a comment or recommendation it will be forwarded to directors at the EASC meeting.

**Interdepartmental Involvement**

This DVP application was referred to relevant internal departments. No concerns were identified.

**Citizen/Public Relations**

APC ‘C’ reviewed this application at their meeting on November 29, 2017. The APC issued a resolution to not support the application as presented (Appendix C).

The newly formed Agricultural APC did not review this DVP application because it was in the midst of being re-configured during the application review timeline.

Notice of the requested variance will be mailed to adjacent property owners within 500.0 metres of the subject property at least 10 days prior to the EASC meeting. The notice informs these property owners/tenants as to the purpose of the permit, the land that is the subject of the permit and that further information of the proposed permit is available at the CVRD office. It also provides the date and time of the EASC meeting where the permit will be considered. Consultation with these property owners/tenants is through their written comments received prior to the EASC meeting or their attendance at the EASC meeting.

- Attachments: Appendix A – “Development Variance Permit - DV 3C 17”
- Appendix B – “ALC Resolution No.’s 170/2016 and 94/2017, and letter dated December 8, 2017”
- Appendix C – “APC Resolution concerning DP 3C 17”

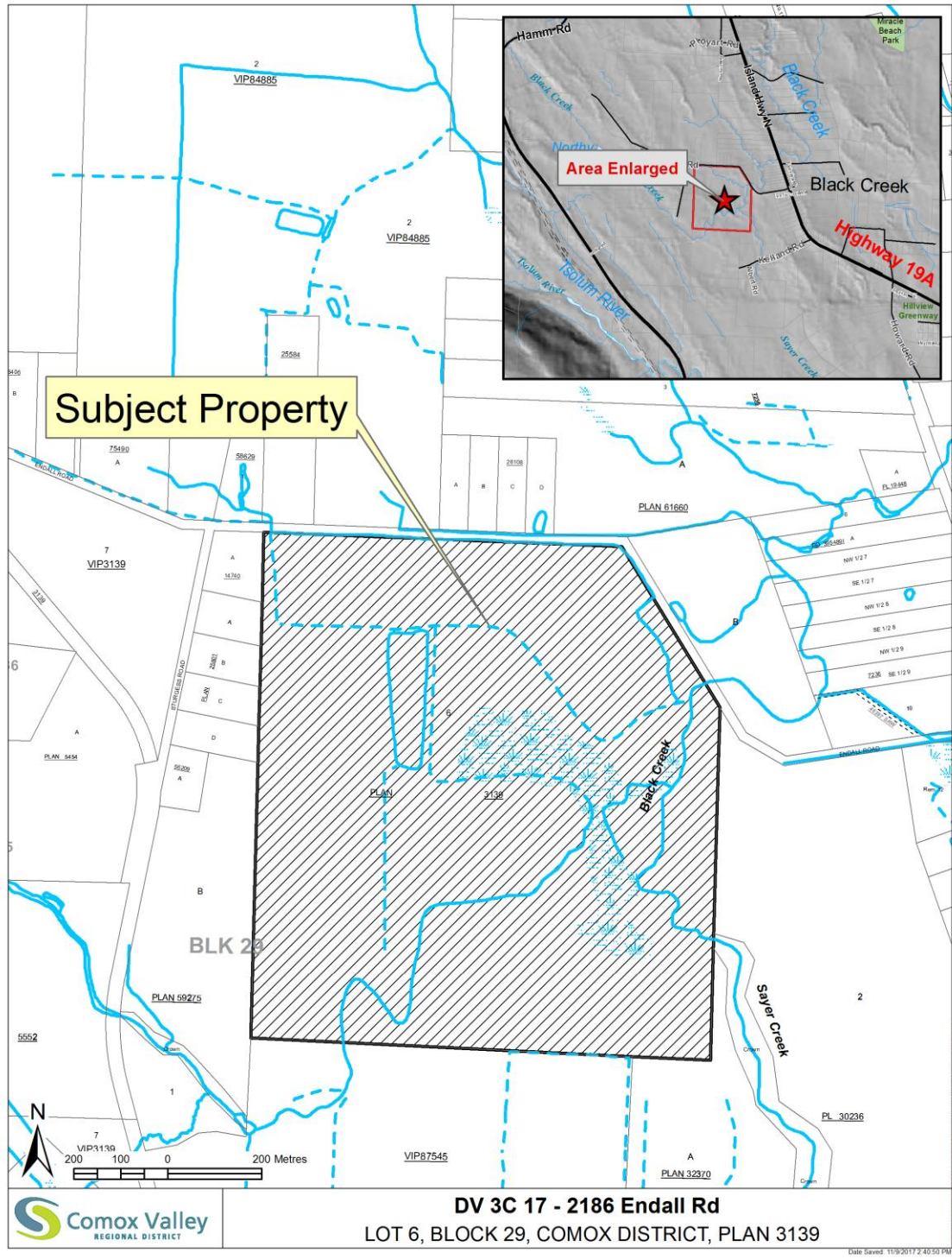


Figure 1: Subject Property

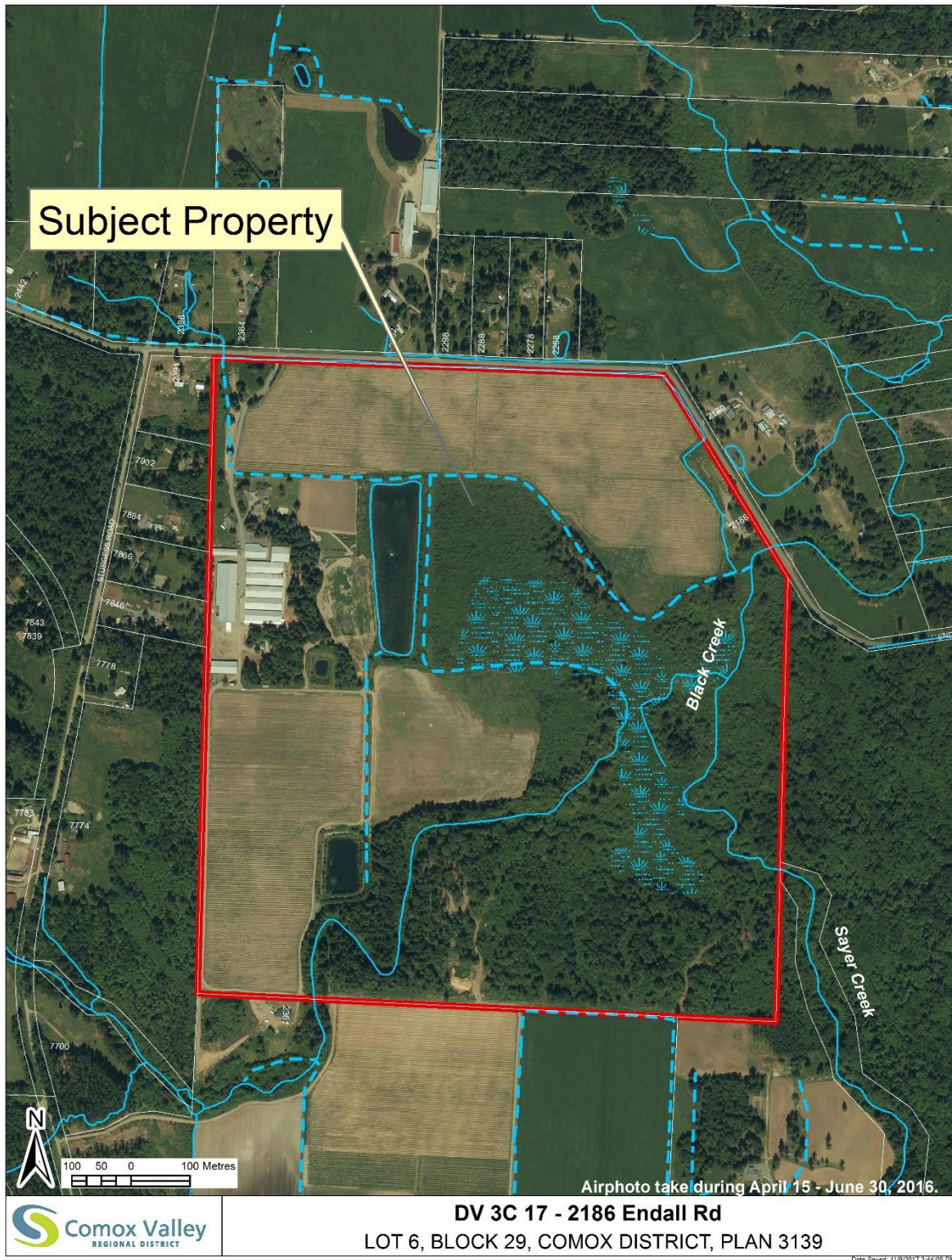


Figure 2: Air Photo of Subject Property (2016)

**DV 3C 17**

**TO: Terry & Bonnie Ludwig**

1. This Development Variance permit (DV 3C 17) is issued subject to compliance with all of the bylaws of the Comox Valley Regional District applicable thereto, except as specifically varied or supplemented by this permit.
2. This Development Variance permit applies to and only to those lands within the Comox Valley Regional District described below:  
**Legal Description: Lot 6, Block 29, Comox District, Plan 3139**  
**Parcel Identifier (PID): 006-285-929 Folio: 771 04131.025**  
**Civic Address: 2186 Endall Road**
3. The land described herein shall be developed strictly in accordance with the following terms and provisions of this permit:
  - i. THAT the development shall be carried out according to the plans and specifications attached hereto which form a part of this permit as the attached Schedule A;
  - ii. AND THAT all other buildings and structures must meet zoning requirements.
4. This development variance permit is issued following the receipt of an appropriate site declaration from the property owner.
5. This Development Variance permit (DV 3C 17) shall lapse if construction is not substantially commenced within two (2) years of the Comox Valley Regional District board's resolution regarding issuance of the development variance permit (see below). Lapsed permits cannot be renewed; therefore application for a new development permit must be made, and permit granted by the Comox Valley Regional District board, in order to proceed.
6. This Development Variance permit is **not** a Building Permit.

CERTIFIED as the **DEVELOPMENT VARIANCE PERMIT** issued by resolution of the board of the Comox Valley Regional District on \_\_\_\_\_.

\_\_\_\_\_  
James Warren  
Corporate Legislative Officer

Certified on \_\_\_\_\_

Attachments: Schedule A – “Resolution”

**Schedule A**

**File: DV 3C 17**

**Applicant: Terry & Bonnie Ludwig**

**Legal Description: Lot 6, Block 29, Comox District, Plan 3139**

**Specifications:**

THAT WHEREAS pursuant to Section 303 (3)(iii)(2) & (3) of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," temporary sawmills must operate under the following conditions:

- 2) 80 per cent of the volume of the timber is to be harvested from the farm or lot on which the sawmill is located; and
- 3) The operation of a temporary sawmill on any one property shall be limited to no more than 180 days in a calendar year;

AND WHEREAS the applicants, Terry & Bonnie Ludwig, wishes to vary the per cent of timber sourced from off site and the duration in which the sawmill may operate;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on \_\_\_\_\_, the provisions of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," as they apply to the above-noted property are to be varied as follows:

- 2) **0 per cent** of the volume of the timber **may** be harvested from the farm or lot on which the sawmill is located; and
- 3) The operation of a temporary sawmill on the subject property shall be limited to no more than **3 years**.

I HEREBY CERTIFY this copy to be a true and correct copy of Schedule A being the terms and conditions of Development Variance Permit File DV 3C 17

\_\_\_\_\_  
James Warren  
Corporate Legislative Officer

Certified on \_\_\_\_\_





**AGRICULTURAL LAND COMMISSION FILE 54419**

**REASONS FOR DECISION  
OF THE ISLAND PANEL**

**Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act***

**Applicant:**

**Terry Ludwig  
(the "Applicant")**

**Application before the Island Regional Panel:**

**Jennifer Dyson, Panel Chair  
Honey Forbes  
Clarke Gourlay**



## **THE APPLICATION**

[1] The legal description of the property involved in the application is:

Parcel Identifier: 006-285-929

Lot 6, Block 29, Plan 3139, Comox Land District

(the "Property")

[2] The Property is 102.1 ha in area.

[3] The Property has the civic address 2186A Endall Road, Black Creek, BC.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the ALCA.

[6] Pursuant to s. 20(3) of the ALCA, the Applicant is applying to continue the operation of a temporary sawmill (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

[7] On February 16, 2016, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Island Regional Panel (the "Panel").

## **RELEVANT STATUTORY PROVISIONS**

[8] The Application was made pursuant to s. 20(3) of the ALCA:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.



[9] The Panel considered the Application within the context of s. 6 of the *ALCA*:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

### **EVIDENTIARY RECORD BEFORE THE PANEL**

[10] The Panel considered the following evidence:

- 1. The Application
- 2. Local government documents
- 3. Previous application history
- 4. Agricultural capability map, ALR context map, and satellite imagery

All documentation noted above was disclosed to the Applicant and Philip Ludwig, the Applicant's son, in advance of this decision.

[11] At its meeting of January 26, 2016, the Comox Valley Regional District (the "CVRD") resolved to forward the application to the Commission. The CVRD has stated that, should the Commission approve the sawmill as a non-farm use, the Commission's approval should be conditional upon CVRD approval of a zoning amendment or issuance of a temporary use permit allowing the use on the property.

[12] The Panel reviewed previous applications involving the Property:

Application ID: 51705  
(Ludwig, 2010)

To operate a distillery to distill wine to produce pure alcohol to use in production of dessert and other fortified



wines. The application was approved by ALC Resolution #2537/2010.

Application ID: 52660  
(Ludwig, 2012)

To construct a second dwelling for the applicants' son whose close proximity is essential to the farm operation. The application was approved by ALC Resolution #187/2012.

### **SITE VISIT**

[13] On March 16, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[14] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Philip Ludwig, the Applicant's son, on March 30, 2016 (the "Site Visit Report"). The Applicant confirmed the contents of the Site Visit Report on April 20, 2016.

### **FINDINGS**

[15] BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation) (the "Regulation") conditionally permits the operation of a temporary sawmill, s. 3(1)(e) provides that:

3 (1) The following non-farm uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:

(e) operation of a temporary sawmill if at least 50% of the volume of timber is harvested from the farm or parcel on which the sawmill is located.

The Panel notes that the sawmill operation processes timber from on and off the property depending on demand for quantity and different species. In the past three



years, over 50% of the volume of timber processed at the sawmill has been sourced from off-site. The sawmill has been operating for twelve years and is considered to be permanent by the CVRD.

[16] Philip Ludwig is the son of the Applicant and is the primary operator of the sawmill. Philip and three other full time employees seasonally operate the sawmill when they are not working on the farm. At the site visit, Philip Ludwig stated that the sawmill operation supplements the income of the farm during the off-season and is important for retaining Philip and the three full time employees on the farm. Philip also stated that a large portion of the output from the mill is used for repairs and improvements on the farm.

[17] The Panel considered the following impacts of the sawmill on the agricultural operations taking place on the Property:

- The operation is currently limited to two buildings and a courtyard area which constitutes a small portion of the 102.1 ha property.
- During the site visit, Philip Ludwig stated that he has not altered the farm buildings that contain the sawmill and therefore could reclaim the buildings for agricultural use.
- The sawmill equipment is portable and can be easily removed.

Based on the above, the Panel believes that the sawmill operation is ancillary to the activity on the farm and finds that the impacts are minimal or null at its current level of operation.

## **DECISION**

[18] For the reasons given above, the Panel approves the Proposal to continue the operation of a temporary/portable sawmill.



[19] The Proposal is approved subject to the following conditions:

- a. The approval is valid for a period of three (3) years beginning the date of the issuance of a temporary use permit from CVRD;
- b. The Applicants must obtain a temporary use permit from CVRD within six (6) months from the date of this decision;
- c. The footprint of the sawmill is to remain in substantial compliance with the sketch plan attached to the decision;
- d. The temporary sawmill use remains subordinate to the primary agricultural use of the Property; and
- e. Approval for non-farm use is granted for the sole benefit of Philip Ludwig and is non-transferable. Should Philip Ludwig no longer reside on the Property, or ceases to be the primary operator, the non-farm use approval will expire.

[20] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[21] Panel Chair Jennifer Dyson concurs with the decision.  
Commissioner Honey Forbes concurs with the decision.  
Commissioner Clarke Gourlay concurs with the decision.

[22] Decision recorded as Resolution #170/2016.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the Agricultural Land Commission Act.



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Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #170/2016. The decision is effective upon release.

A handwritten signature in blue ink, appearing to be "CJF", is written over a horizontal line.

**Colin J. Fry, Chief Tribunal Officer**

**May 30, 2016**

**Date Released**



ALC 54419 (Ludwig)  
Conditionally Approved  
Non-Farm Use  
ALC Resolution #170/2016

Google earth

49.485442° N, 125.075157° W, elev: 57 m, eye alt: 1.62 km

Images 2016 DigitalGlobe  
©2016 Google

2005

Stunges Rd





**AGRICULTURAL LAND COMMISSION FILE 54419**

**REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER**

**Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act***

**Applicant:**

**Terry Ludwig  
(the “Applicant”)**

**Application before the Chief Executive Officer:**

**Kim Grout  
(the “CEO”)**

**THE APPLICATION**

- [1] The legal description of the property involved in the application is:  
Parcel Identifier: 006-285-929  
Lot 6, Plan 3139, Comox Land District  
(the “Property”)
- [2] The Property is 102.1 ha in area.
- [3] The Property has the civic address 2186A Endall Road, Black Creek.
- [4] Application 55419 (the “Original Application”) was made pursuant to s. 20(3) of the *Agricultural Land Commission Act* (the “ALCA”). The Original Application proposed to continue the operation of a temporary sawmill (the “Proposal”). The Proposal along with supporting documents is collectively the “Application”.
- [5] A condition of Resolution #170/2016 required “[t]he Applicants must obtain a temporary use permit from CVRD [Cowichan Valley Regional District] within six (6) months from the date of this decision.”

The CVRD has requested flexibility in the implementation of this condition as the District’s Official Community Plan (OCP) does not authorize Temporary Use Permits (TUPs) to be issued in agricultural areas, which include the Property. In order to abide by the Resolution, the Applicant would be required to amend the OCP to allow TUPs in agricultural areas. The CVRD has proposed an alternative option of using a Development Variance Permit (DVP) to vary the zoning regulations concerning a “temporary sawmill” in a way that is consistent with the Resolution #170/2016.

**RELEVANT STATUTORY PROVISIONS**

- [6] The Application was made pursuant to s. 20(3) of the ALCA:



20 (3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

[7] Pursuant to s. 27 of the *ALCA* the CEO may approve some applications:

- 27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:
- (a) specified types of applications for exclusion, subdivision or non-farm use;
  - (b) applications with respect to specified regions of British Columbia.
- (2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.
- (3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.
- (4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.
- (5) An approval of an application by the chief executive officer under subsection (3) is decision of the commission for the purposes of this Act.
- (6) The chief executive officer may not exercise a power that has been delegated to a local government, a first nation government or an authority by an agreement entered into under section 26.

[8] On June 27, 2011, the Agricultural Land Commission (the “Commission”) delegated decision-making to the CEO by Resolution #016N-2011 (File: 140-60/ALC/CEO/APPL). In accordance with section 27 of the *ALCA* the Commission has specified that the following applications may be decided by the CEO.

#### Criterion 8

Requests for minor variations of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, non-farm use and inclusion applications



provided the minor variations are consistent with the intent of the Commission's original decision;

## **BACKGROUND**

[9] In making the Original Decision, the Island Panel considered the CVRD's staff report related to the application which specifically requested that the ALC approval of a non-farm use be conditional upon obtaining, either through TUP or zoning amendment, local approval for a sawmill on the property. This was an error on the part of the CVRD and is what precipitated the request to amend the TUP requirement as conditioned in Resolution #170/2016.

## **DECISION**

[10] After reviewing the Application, I am satisfied that the Proposal is consistent with Criterion #8 of Resolution #016N/2011 and approve the Proposal.

[11] The Proposal is approved subject to the following conditions:

- a. the utilization of a DVP process, in consultation with ALC staff, to vary the zoning regulations concerning "temporary sawmill" to be consistent with Resolution #170/2016.
- b. The DVP shall include a condition that the varied regulations only apply for three (3) years.
- c. The DVP is to only apply to the subject property and be registered on title and removed from title after the three (3) year period is over.

[12] All other conditions of Resolution #170/2016 are still required to be met by the Applicant.

[13] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.



[14] Decision recorded as Resolution #94/2017 and is released on April 13, 2017.

A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

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**CERTIFICATION OF DECISION**

A handwritten signature in black ink, appearing to read "K. Grout", is written over a horizontal line.

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**Kim Grout, Chief Executive Officer**



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

December 8, 2017

ALC File: 54419 (Ludwig)  
Your File: File: 3110-20/ALR 4C 15

Jodi McLean  
Rural Planner, Planning and Development Services Branch  
Comox Valley Regional District  
Delivered Electronically: [jmacLean@comoxvalleyrd.ca](mailto:jmacLean@comoxvalleyrd.ca)

Dear Jodi McLean;

**Re: Application for Non-Farm Use in the Agricultural Land Reserve (ALR)**

ALC Resolution #170/2016 approved the operation of a temporary/portable sawmill at PID 006-285-929 subject to conditions including that the applicant (Terry Ludwig) obtains a temporary use permit (TUP) from the Comox Valley Regional District (CVRD) within 6 months from the date of the decision. Subsequently, #94/2017 approved the use of a CVRD-issued Development Variance Permit (DVP) rather than a TUP to vary the zoning regulations concerning a "temporary sawmill" in a way that is consistent with ALC Resolution #170/2016. A condition of this approval was that the DVP shall include a condition that the varied regulations only apply for three (3) years.

It has come to the attention of the Commission that Mr. Ludwig recently applied for the DVP, and that the Agricultural Land Commission's Compliance and Enforcement and CVRD Planning Staff require clarity on the "start date" that the Commission intended for the DVP condition that the varied regulations only apply for three (3) years.

By way of this letter I can confirm that the Commission intends that the "start date" of the DVP condition that the varied regulations only apply for three (3) years is to be the date that Mr. Ludwig applied for the DVP, namely November 3<sup>rd</sup>, 2017. As such, the Commission requests that any DVP issued by the CVRD to Mr. Ludwig for continued operation of the temporary sawmill has an expiry date of November 3<sup>rd</sup>, 2020.

Further correspondence with respect to this application may be directed to Caitlin Dorward at ([Caitlin.Dorward@gov.bc.ca](mailto:Caitlin.Dorward@gov.bc.ca)).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink that reads "CDorward". The signature is written in a cursive, flowing style.

Caitlin Dorward, Land Use Planner

cc: ALC Compliance and Enforcement (File #50310)  
Terry Ludwig

54491m1

**Draft** Minutes of the meeting of the Electoral Area ‘C’ (Puntledge-Black Creek Advisory Planning Commission of the Comox Valley Regional District held on Wednesday, **November 29, 2017** in the Comox Valley Regional District boardroom, located at 550B Comox Road, Courtenay, BC, commencing at 7:00 p.m.

3090-20/DV 3C 17 - Development Variance Permit – 2186 Endall Road (Ludwig)

THRAN/MILNE: THAT the Area 'C' Advisory Planning Commission not support the Development Variance application DV 3C 17 as presented and recommend the board refer back to the minutes of the October 28, 2015 Area “C” Advisory Planning Commission meeting for further information regarding the Agricultural Land Reserve non-farm use application 3110-20/ALR 4C 15 for this property.

CARRIED

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Minutes of the meeting of the Electoral Area ‘C’ (Puntledge-Black Creek) advisory planning commission of the Comox Valley Regional District held on Wednesday, October 28, 2015 in the Comox Valley Regional District boardroom, located at 550B Comox Road, Courtenay, BC, commencing at 7:00 p.m.

3110-20/ALR 4C 15 - Agricultural land reserve non-farm use – 2186 Endall Road – Lot 6, Block 29, Comox District, Plan 3139 (Ludwig)

GORDON/MILNE: THAT the application be referred back to staff to consider alternative methods to legitimize the sawmill operation in consideration of the following:

- The sawmill operation is an integral and complementary part of the farm operation;
- the sawmill supports the farm operation through supply of sawdust and mulch as well as continuity of employment of key staff;
- the sawmill operation is temporary in nature;
- all sawmill operations are housed in the original dairy farm buildings; and,
- the sawmill operation pre-dates the 2005 bylaw and may be grandparented if the 1986 bylaw would allow its operation.

CARRIED