

**DATE:** June 4, 2019**TO:** Chair and Directors  
Electoral Areas Services Committee**FROM:** James Warren  
General Manager of Corporate Services Branch**FILE:** 3110-20/ALR 3C 19Supported by James Warren  
General Manager of  
Corporate Services Branch*J. Warren***RE:** **Agricultural Land Reserve Non-Farm Use (Non-Adhering Residential Use)**  
**7392 Howard Road (Nadeau/Welk)**  
**Puntledge – Black Creek (Electoral Area C)**  
**Lot 15, Block 29, Comox District, Plan 2262, Except Part in Plan VIP74837,**  
**PID 006-400-906**

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**Purpose**

To consider an Agricultural Land Reserve (ALR) application (Appendix A) to allow for a secondary dwelling in the form of a manufactured home inhabited by the property owner or their immediate family.

**Recommendation from the General Manager of Corporate Services Branch:**

THAT the Agricultural Land Commission be advised that the Comox Valley Regional District supports Agricultural Land Reserve Non-Farm Use application ALR 3C 19 (Nadeau/Welk) concerning the addition of a secondary dwelling in the form of a manufactured home, located on Lot 15, Block 29, Comox District, Plan 2262, Except Part in Plan VIP74837, PID 006-400-906 (7392 Howard Road) with the recommendation that an approval be subject to the condition that the manufactured home be removed once it is no longer inhabited by the property owner or their immediate family;

AND FINALLY THAT the application ALR 3C 19 (Nadeau/Welk) for the non-farm use of property within the Agricultural Land Reserve be forwarded to the Agricultural Land Commission for final consideration.

**Executive Summary**

- The subject property is a 16 hectare farm developed with a house and farm buildings.
- The property owners would like to add a manufactured home to provide residence for themselves as they transition ownership and operation of the farm to their son and his family who intend to live in the main house.
- The new ALR regulations now require proposals for an additional dwelling in the form of a manufactured home inhabited by the property owner or their immediate family be reviewed by the Agricultural Land Commission (ALC) through a non-farm use application.
- The manufactured home is proposed to be located close to the rear property line, in the least arable but most accessible potential building site.
- Both the Agricultural Advisory Planning Commission (AAPC) and the Ministry of Agriculture Regional Agrologist reviewed the application and supports forwarding it to the ALC.

- Staff recommends the application be supported and forwarded to the ALC with the recommendation that the manufactured home be removed once it is no longer occupied by the owners or their immediate family.

Prepared by:

***J. MacLean***Jodi MacLean, MCIP, RPP  
Rural Planner

Concurrence:

***T. Trieu***Ton Trieu, MCIP, RPP  
Manager of Planning Services

Concurrence:

***S. Smith***Scott Smith, MCIP, RPP  
General Manager of Planning  
and Development Services  
Branch**Stakeholder Distribution (Upon Agenda Publication)**

Applicant	✓
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**Background/Current Situation**

The subject property is a 16.6 hectare lot along Howard Road in the Merville area (Figures 1 and 2). It is developed with a single detached dwelling, an accessory building and numerous farm buildings. Much of the land is cleared for hay production, pasture for sheep, and an area for viticulture and fruit trees. The property currently has farm classification under the *Assessment Act*.

According to the Canada Land Inventory (Figure 3), the rear of the property where the secondary dwelling is proposed has an unimproved soil classification of 5AP, improvable to 5A/5AP. Class 5 soils have very severe limitations that restrict their capability in producing perennial forage crops, and improvement practices are feasible. The front of the property, where most of the agricultural improvements are located, has an unimproved soil classification of 4AW, improvable to Class 2AD or 2AF. Land with class 4 soils have severe limitations that restrict the range of crops or require special conservation practices; class 2 soils have moderate limitations or require moderate conservation practices. The subclass A refers to a soil moisture deficiency due to insufficient precipitation or droughtiness caused by low soil water holding capacity; W refers to a limitation due to excess water; F to low fertility; D to undesirable soils structure and/or low permeability; P to stoniness.

As part of their succession plan to transfer the farm to their son, the property owners had acquired a manufactured home for them to move into so that their son's family can move into the main house. According to the application, the objective of proposal is to the transfer the farm ownership and operation over time to their son and this would be facilitated by their presence on the farm.

**Planning Analysis**Agricultural Land Reserve

Revisions to the *ALC Act* and its *Agricultural Land Reserve Use Regulation* came into force in February 2019. Amongst the revisions, the allowance for an additional dwelling in the form of a manufactured home inhabited by the property owner was removed, which is what the property owner had been intending to do. Section 20.1 of the Act now specifies that a property “*may have no more than one residence per parcel*” with exceptions for “*pre-existing residential structures*” and dwellings approved through a non-farm/residential use application. ALC staff have reviewed this situation with the applicants (e.g. being in the process of acquiring a manufactured home but not yet applying for a Building Permit to site it on the land) and determined that this Non-Adhering Residential Use application is required.

### Official Community Plan

The property is designated Agricultural Areas within the Official Community Plan (OCP), Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”. It is the objective of this area designation “to promote agriculture and aquaculture as an important economic sector of the Comox Valley”. Regarding additional dwellings, Policy 59(6) encourages the property owners to limit the footprint of the additional dwellings in order to limit negative impacts of residential use on land designated agricultural area. Policy 59(5) encourages owners to locate and group buildings, including dwellings, to preserve contiguous tracts of land and to consider the long term agricultural potential of the land, avoiding arable soils, avoiding long driveways and the siting of buildings deep into the property, and limiting the size of development by keeping the footprint of dwelling units small so that greater separation between dwelling units can be achieved. While the proposed location of the additional dwelling is to the rear of the property and will necessitate an independent septic field and water well, it is accessed by an existing driveway that was part of a former gravel extraction operation. The site is located close to the property lines, in the least arable portion of the property so that it preserves tracts of land and its agricultural potential. As the primary dwelling is located closer to the middle of the property, grouping the dwellings there would have more impacts on the arable soils and farm operations. Given the property’s characteristics and the use of a heavily disturbed area away from the more arable areas, the proposed siting is consistent with the OCP.

The siting of the manufactured home on the remainder of the sand and gravel deposit will require a development permit (DP) under the steep slopes (hazardous conditions) guidelines if it is located within 7.5 metres of a slope that exceeds 30 per cent grade for a vertical distance of three or more metres. This DP application would require geotechnical report by a professional engineer addressing the stability of the slope given the proposed development and its associated impacts.

### Zoning Bylaw

The property is zoned Rural ALR. The zone limits residential density to one single detached dwelling plus additional dwelling units required by full time farm employees working on farm operations or are specifically permitted by the ALC. Should the ALC approve the application, the additional dwelling would be permitted by the ALC and would, therefore, be consistent with the zone’s density regulation.

### **Policy Analysis**

Section 20(2) of the *Agricultural Land Commission Act* (ALCA) enables a property owner to apply to the ALC to seek approval for non-farm use of agricultural land. Section 25(3) of the ALCA states that this type of application may not proceed to the ALC unless authorized by a resolution from the local government.

### **Options**

The Comox Valley Regional District (CVRD) Board may support forwarding the application to the ALC or refuse to forward the application. The board may also provide recommendations concerning the application for ALC consideration.

Staff recommends forwarding the application to the ALC, supporting the application but with the condition that the manufactured home be removed once it is no longer occupied by the owners or their immediate family.

### **Financial Factors**

Fees of \$1,500.00 (\$300.00 for the CVRD and \$1,200.00 for the ALC) have been collected for this non-farm use application in accordance with Section 35 of the ALCA.

**Legal Factors**

This report and the recommendations contained herein are in compliance with the ALCA, regulation and CVRD bylaws.

**Regional Growth Strategy Implications**

The Regional Growth Strategy, Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” (RGS) designates the subject property as being within the Agricultural Areas designation. Within this designation the intent of the RGS is “*to reinforce the policies and procedures within the ALR in order to support agricultural practices*”.

**Intergovernmental Factors**

A referral was issued to the Ministry of Agriculture for comment on this application. The Regional Agrologist visited the site with staff and the applicant on May 23, 2019, and responded supporting the application based on the property size, land composition, current agricultural activities, and commitment to expand production (Appendix B).

**Interdepartmental Involvement**

This ALR application has been circulated to CVRD departments. The CVRD holds a statutory right-of-way over the rear seven metres for trail purposes. The trail (Hillview Greenway) is unconstructed and the property owner has the option of discharging the statutory right-of-way should the trail not be constructed by 2025. The new manufactured home is proposed to be located in close proximity to that right-of-way. The parks department is concerned that siting the home at this location may impede a future ALC trail use application, as past ALC conditions for trail use have included obtaining the support of property owners adjacent to the statutory right-of-way. A written letter of support for the trail from the owner would be desirable.

**Citizen/Public Relations**

Several members of the AAPC visited the property with staff, the Regional Agrologist, and the applicant on May 23, 2019. At their meeting later that day, the AAPC passed a resolution supporting the application noting the property is a working farm and their continued presence will assist in keeping it as a working farm, as well as that the proposed location is in the least farmable area of the property and accessible by an existing internal road.

Attachments: Appendix A – “ALC application submission ALR 3C 19”

Appendix B – “Letter from Regional Agrologist Jill Hatfield, dated May 29, 2019”

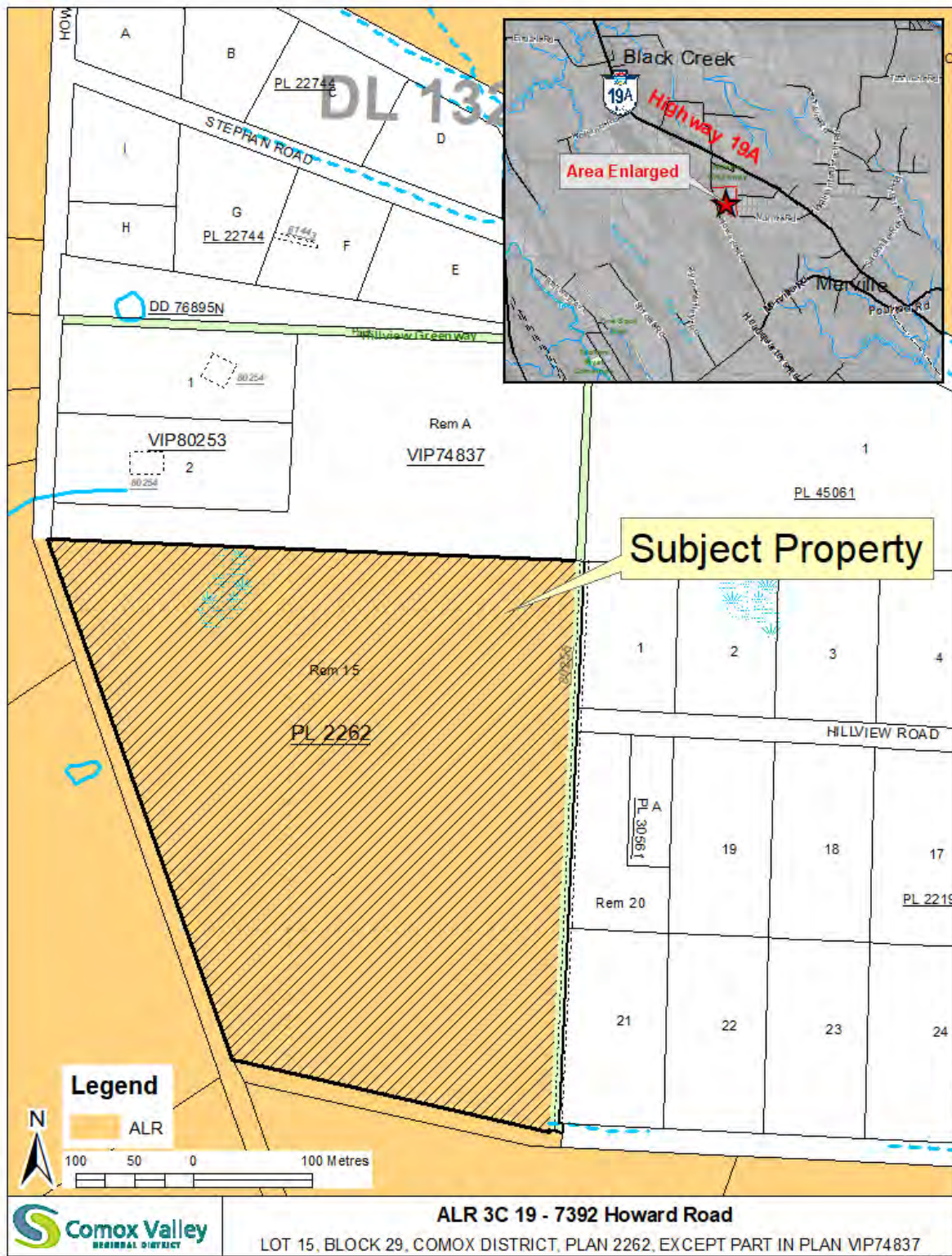


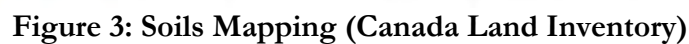
Figure 1: Subject Property





Figure 2: Air Photo (2018)







# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 59069

**Application Status:** Under LG Review

**Applicant:** Kristina Welk , William Ian Nadeau

**Agent:** Kristina Welk

**Local Government:** Comox Valley Regional District

**Local Government Date of Receipt:** 04/29/2019

**ALC Date of Receipt:** This application has not been submitted to ALC yet.

**Proposal Type:** Non-Adhering Residential Use - Additional Residence for Farm Use

**Proposal:** The purpose of our proposal is to keep our farm farming within the family. We want to put a mobile modular home on a non arable portion of land to the rear of our property for us to move into so my son and his growing family can move into the primary residence and we can transition the farm to them with guidance and mentor-ship from us.

We started our succession planning process about a year ago by first talking with our Regional District. They assured us at that time, that a Z240 mobile modular on non arable land was an acceptable secondary dwelling on ALR land. This worked well for us as having two separate dwellings allows us to maintain our privacy and dignity.

We developed; with our lawyer and accountant; a viable, long term plan for transfer that would allow the farm to continue to be productive and remain within the family. We have had an engineering firm confirm the suitability of the location for building the modular on. It will be on a section of sand and gravel not suitable for crops. We have a septic plan ready to go and have engaged with both hydro and gas. We also have the final plan for the Z240 modular with a local building company.

Over the last year we have spent thousands to get to this point doing all our due diligence to be compliant with the rules we were informed about prior to the newest bill. Our main goal is to be able to keep our farm within our family and allow us to maintain and increase the production of the family farm, keeping a healthy local food supply for our community.

## Agent Information

**Agent:** Kristina Welk

**Mailing Address:**

7392 Howard Rd

Merville, BC

V0R 2M0

Canada

**Applicant:** Kristina Welk , William Ian Nadeau



## Parcel Information

### Parcel(s) Under Application

1. **Ownership Type:** Fee Simple  
**Parcel Identifier:** 006-400-906  
**Legal Description:** Rem Lot 15 Block 29 Plan VIP 2262  
**Parcel Area:** 16.1 ha  
**Civic Address:** 7392 Howard Rd  
**Date of Purchase:** 05/08/2001  
**Farm Classification:** Yes  
**Owners**

1. **Name:** Kristina Welk  
**Address:**  
7392 Howard Rd  
Merville, BC  
V0R 2M0  
Canada
  2. **Name:** William Ian Nadeau  
**Address:**  
7392 Howard Rd  
Merville, BC  
V0R 2M0  
Canada
- 

### Ownership or Interest in Other Lands Within This Community

1. **Ownership Type:** Fee Simple  
**Parcel Identifier:** 026-577-429  
**Owner with Parcel Interest:** Kristina Welk  
**Parcel Area:** 1.5 ha  
**Land Use Type:** Residential  
**Interest Type:** Full Ownership
  2. **Ownership Type:** Fee Simple  
**Parcel Identifier:** 026-577-437  
**Owner with Parcel Interest:** Kristina Welk  
**Parcel Area:** 1.5 ha  
**Land Use Type:** Residential  
**Interest Type:** Full Ownership
- 

### Current Use of Parcels Under Application

**Applicant:** Kristina Welk , William Ian Nadeau

**1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).**

*7 ha hay crop,  
7 ha pasture,  
.5 ha viticulture,  
established orchard 22 mixed variety fruit trees,  
60 sheep for meat and fibre for our local market.*

*We used to raise beef & chickens for eggs but had to cut back as it became too much for us to manage on our own.*

**2. Quantify and describe in detail all agricultural improvements made to the parcel(s).**

*The title certificate uploaded is for 2003 when the entire parcel we purchased in 2001 was divided into 2 parcels based on it's 2 zones. 16.3 ha remained within the ALR. The other section, then CR4, became its own piece. In 2006 the CR4 piece was further subdivided. All of this had no affect on the ALR parcel, PID 006-400-906.*

*Since our purchase in 2001, we have made improvements to the farm. Our family is very invested in this parcel. Our goal is to continue to maintain & improve this land. For this a young willing back is needed ( our son). The yearly up keep on a farm is continual. We fertilize the hay & pasture fields, clear & brush ditches, repair fences & constantly remove broom. Below are a list of the big ticket items we have done to our farm delineated by year.*

*2001 -ditching & reclaiming- hay fields; removal of 7 hectares of broom; repaired, resided, painted all out buildings*

*2002-replacing, repairing perimeter fences, gates & wire; drainage pipe in hay fields & pasture; 1st sheep & steers*

*2003- tilled, reseeded 7 ha hay fields; cross fencing, posts & wire; electric insulators on perimeter fences, cleared 1.5 ha for new pasture; reclaiming front field 2 ha from black willow, re-dug pond*

*2004- re-generated old gravel pit 2.5 ha to pasture*

*2005- cross fenced, post & wire*

*2006-new construction 24x40 storage shed; development of vineyard site .5 ha;*

*2007- fence, posts & irrigation system to vineyard*

*2008- grape planting*

*2009- new barn construction 24x48; irrigation to fields; new pasture 1 ha, fence posts & wire*

*2010- new barn infrastructure -green -gravity feed & solar panels, internal handling system for sheep*

*2011- field repair, gates*

*2012- out buildings, repair & paint*

*2013- new equipment shed 24x46*

*2017-roof repair, all out buildings, tilled & reseeded middle hay field 2 ha*

*2018- tilled & reseeded outer hay field 2.5 ha*

**3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).**

*no non-agricultural activity*

**Adjacent Land Uses**

**North**

**Land Use Type:** Residential

**Specify Activity:** housing

## **East**

**Land Use Type:** Residential

**Specify Activity:** housing

## **South**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** dog training

## **West**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** horses

## **Proposal**

### **1. What is the purpose of the proposal?**

*The purpose of our proposal is to keep our farm farming within the family. We want to put a mobile modular home on a non arable portion of land to the rear of our property for us to move into so my son and his growing family can move into the primary residence and we can transition the farm to them with guidance and mentor-ship from us.*

*We started our succession planning process about a year ago by first talking with our Regional District. They assured us at that time, that a Z240 mobile modular on non arable land was an acceptable secondary dwelling on ALR land. This worked well for us as having two separate dwellings allows us to maintain our privacy and dignity.*

*We developed; with our lawyer and accountant; a viable, long term plan for transfer that would allow the farm to continue to be productive and remain within the family. We have had an engineering firm confirm the suitability of the location for building the modular on. It will be on a section of sand and gravel not suitable for crops. We have a septic plan ready to go and have engaged with both hydro and gas. We also have the final plan for the Z240 modular with a local building company.*

*Over the last year we have spent thousands to get to this point doing all our due diligence to be compliant with the rules we were informed about prior to the newest bill. Our main goal is to be able to keep our farm within our family and allow us to maintain and increase the production of the family farm, keeping a healthy local food supply for our community.*

### **2. Describe the necessity for an additional residence for farm use and how it will support agriculture in the short or long term.**

*The truth is, we are getting older and have already cut back on some of our farming activities. We no longer raise beef or chickens for eggs. Over the years my husband, Ian, has developed severe allergies and is unable to farm from June to August leaving the majority of the work during that busy time to me. My son has been helping me when he can with some of the major tasks and he and his family are keen to continue farming on the family property. By residing on the same parcel of land, my son and his family will have a secure base for an inter-generational transfer and farm succession. We will be able to have our privacy and dignity all while providing mentor-ship for his young family. Our farm can then return to its previous productivity and we can safeguard our contribution to a healthy local food supply.*

### **3. Describe the size, type and number, as well as occupancy of all residential structures currently located on the property.**

**Applicant:** Kristina Welk , William Ian Nadeau



*One main residence is a 321.23 meters square 3 bedroom, 3 bathroom house. 2 of us currently live in it but it is much more suitable for my son, his partner and their twin children.*

**4. What is the total floor area of the proposed additional residence in square metres?**

*135.5 m<sup>2</sup>*

**5. Describe the rationale for the proposed location of the additional residence.**

*The selected site is on non arable land. This will not interfere with the productivity of the farm. It is set apart from the main residence to protect both our and my son's family's privacy and dignity. This will also allow us to remain independent for as long as possible. We can continue to farm as well as provide mentor-ship to my son and his family as they take on more and more responsibility. We have decided on a modular because it is not a permanent structure and is possible to be moved at a later date.*

**6. What is the total area of infrastructure necessary to support the additional residence?**

*200 meters square, for our septic and a small parking area. The location we have selected makes use of existing driveways and no farm-able land will be altered or changed.*

**7. Do you need to import any fill to construct the additional residence or infrastructure?**

*No*

**Applicant Attachments**

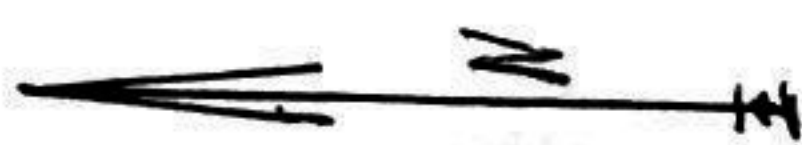
- Agent Agreement - Kris Welk
- Proposal Sketch - 59069
- Site Photo - proposed site
- Site Photo - picture #2 non arable soil
- Site Photo - picture #3
- Certificate of Title - 006-400-906

**ALC Attachments**

None.

**Decisions**

None.



PLAN 45061

PLAN 22193

20

21

HILLVIEW ROAD

SAND & GRAVEL  
not available

50.584

WOODED

LOCATION OF  
SECONDARY DWELLING  
MODULAR

Picture #1 & 2

Picture #3

SHEEP  
BARN

PASTURE

BRIDGE

HAY

EQUIPMENT  
SHED

FUEL  
SHED

GARAGE

WOODED

TREES

HOUSE

DUGOUT

HAY

282.684

NATURAL  
GAS LINE  
FROM MANHOLE  
AT 7496 HOWARD

HAYSND

PASTURE

PASTURE

SHED

SHOP

OLD  
BARN

WOODED

464.600

HOWARD ROAD

7392 HOWARD rd.

PROPOSED LOCATION OF SECONDARY DWELLING  
REM LOT 15 PLAN 2262 BLOCK 29  
COMOX DISTRICT ALR - 40 ACRES  
7392 HOWARD ROAD  
SCALE 1:2500 (METRIC)









non Arable



Site





May 29, 2019

Jodi MacLean, MCIP, RPP  
Rural Planner  
Planning and Development Services Branch  
Comox Valley Regional District

Dear Jodi McLean:

**Re: File: 3110-20 / ALR 3C 19; William Nadeau and Kristina Welk; 7392 Howard Road**

Thank you for organizing the site visit on May 23, 2019 regarding the non-adhering residential use application on Howard Road.

The changes to the Agricultural Land Commission Act that took place February 22, 2019 require an application for a non-adhering residential use if more than one dwelling per parcel is proposed. Applications for a second residence will only be approved if the additional residence is necessary for a farm use. As an administrative tribunal, the ALC can consider a wide variety of information as part of its decision making. To assist with the review of this proposal the evaluation below is based on "What the Commission Considers" criteria outlined in the link below.

<https://www.alc.gov.bc.ca/alc/content/applications-and-decisions/what-the-commission-considers>

The current owners purchased the property in 2012. The 16 hectare property has farm tax status and is currently used to produce sheep, poultry forage, and orchard and vineyard crops. The current owners have improved the pasture and hay fields in order to raise livestock. They have added an orchard and maintained the vineyard which was established by a previous owner. The current owners have also added a sheep barn.

The majority of the property has good agricultural capability, improvable to 2AF. However there is a ridge landform which was at one time used for sand and gravel extraction. The improvable agricultural capability in this area indicates 7:5AP- 3:5A. However I would suggest this specific area has a lower agriculture capability rating. The land form appears to be a continuation of the soils found on the non-ALR small acreage properties on Hillview Road to the south. The property to the east is also non-ALR while properties to the North and West are in the ALR and for the most part farmed.

The proposed location for the manufactured home is on the top of the sand and gravel ridge, backing onto the non-ALR Hillview Rd. properties. Access to the home site is through the neighbouring non-ALR property owned by the applicant's daughter. This proposed location of the mobile home and driveway access would not utilize any of the higher agricultural capability land.



The owners have recently engaged in farm succession planning with their son and his family. The son will take over the farming activities with the support of the applicants. The family plans to continue the current farming activities and intends on adding cattle to the livestock mix.

The size of the property, current agricultural activities and the commitment to expand production makes this application supportable when evaluated against the criteria noted above. Additionally the location of the mobile home on a section of the property with very limited agricultural capability further protects the productive land base. If you have any questions regarding my evaluation of the application please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jill Hatfield", is written over a light blue rectangular background.

Jill Hatfield P.Ag.  
Regional Agrologist