



January 8, 2007

**Agricultural Land Commission**  
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Burnaby, British Columbia V5G 4K6  
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Reply to the attention of Martin Collins

Lynda Shykora  
Administrator, Township of Spallumcheen  
4144 Spallumcheen Way,  
Spallumcheen, B.C. V0E 1B6

Dear Madam:

**Re: Application # T-36892**

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of the Township of Spallumcheen's application for non farm uses on the properties noted below containing existing businesses that exceed the area(s) permitted for Home Based Businesses in Bylaw 1584. The application was submitted pursuant to section 20(3) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission had opportunity to meet with the affected landowners and discuss their businesses and agricultural implications on Monday December 11, 2006

The Commission advises that although fifteen businesses were referenced in the application, the following was not reviewed for the following reasons

- PID 005-331-765 Triple B Contracting (Barrie Seed) because the landowner indicated that he was bringing his business into compliance with the Home Based Industry bylaw.

The Commission writes to advise that it approved the properties identified in the attached decision by Resolution #695/2006, for non farm uses, subject to the registration of a covenant against the title of each property in favour of the Township of Spallumcheen, restricting the non farm uses to the buildings and outside storage as noted. The decision is also subject to compliance 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.

The decision noted above is recorded as Resolution # **645/2006**.

Please provide confirmation that covenants have been registered against the titles of the above noted properties, and a copy of the adopted bylaw (when available).

Please quote your application number in any future correspondence.

Yours truly,  
PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of North Okanagan, Attention Rob Smailes



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### **Sweetwater Springs**

- Commissioners Irvine and Sidhu
- Staff : Martin Collins (Planner)

Staff and Commissioners viewed the site, noting the ancillary buildings, totalling 290 sq meters, used for bottling water. The proprietor was not available to discuss the business.

### **Blue Mountain Nursery**

- Commissioners Irvine and Sidhu
- Staff: Martin Collins (Planner)
- Murray Blackwell (proprietor)

Donald Morris toured the Commission through the large greenhouse structures. The business was closed for the season, but the Commission noted that there was a fairly large (though empty) retail area in the front of the largest greenhouse. Mr Morris confirmed that he sold products (such as pots, fertilizer soil and mulch) that was not grown on the property.

### **Triple B Contracting (Barrie Seed)**

- Commissioners Irvine and Sidhu
- Staff: Martin Collins (Planner)
- Barrie Seed – landowner

Mr Seed indicated to the Commissioners that he was scaling back his business to the size permitted by the Home Based Industry bylaw (185 sq meters) because he was not prepared to give up access to and use of about half of his property (“no disturb” setbacks of 30 meters), as required by the Township of Spallumcheen in conjunction with the Riparian Areas Regulation and the *Fish Protection Act*. The southerly boundary of the property (about 400 meters long) is co-incident with a stream. There are several outbuildings on the property which will be used for the applicant’s private purposes. Currently there are several dumptrucks and loaders stored in the yard area near the stream. The applicant intends to sell most of the heavy equipment as soon as possible.

### **Chickadee Ridge Miniatures**

- Commissioners Irvine and Sidhu
- Staff: Martin Collins (Planner)
- Lorne Major (proprietor)

The Commission noted the 158 sq meter retail sales building and exotic animal viewing facility. The sales facility was located in a covered, though open walled portion of the building. The remainder of the property (which was only partially within the ALR) was given over to a residence and pasture areas for miniature horses and other grazing animals (alpacas, cattle etc.)

**Specialty Steel Ltd**

No site visit was undertaken. A telephone conversation with the applicant's wife prior to December 12 indicated that the Township had refused their request to expand the structure by 100 sq meters.

The Commissioners recalled its 2003 site visit to the property and its tour of the facilities.

**Log Barn Foods Co.**

- Commissioners Irvine and Sidhu
- Staff: Martin Collins (Planner)
- Fred Isaac, (proprietor)

Fred Issac is using an pre-existing pig barn to house a food processing business, and has constructed a retail building closer to Highway #97 for sale of fresh seasonal fruits and vegetables. He indicated that he had leases with farmers in the Okanagan Valley, but did not provide any evidence to confirm this assertion. .

**Early Bird Transfer Co.**

- Commissioners Irvine and Sidhu
- Staff: Martin Collins (Planner)

The Commission did not meet with the proprietor Reuben Reimer, but inspected the 12 ha property and noting two large structures totalling 668 sq meters (for repairing trucks) and a 0.4 ha area used for storing/staging trucks.

**Klassen Kitchen and Design**

- Commissioners Irvine and Sidhu
- Staff: Martin Collins (Planner)
- Richard Klassen (proprietor)

The landowner houses the kitchen cabinet business in a former poultry barn and annex building on the 14.3 ha property.

**Douglas and Elaine Regehr**

- Commissioners Irvine and Sidhu
- Staff: Martin Collins (Planner)
- Doug Regehr (landowner)

The Commission viewed the three businesses on the property; a shaving bedding operation; a compressed hay operation; and a trucking company. They are all operated out of a single large barn structure totalling 660 sq meters.

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**R & D Trucking**

- Commissioners Irvine and Sidhu
- Staff: Martin Collins (Planner)
- Doug Regehr (father of the landowner – Rob Regehr)

Doug Regehr toured the Commission through the 223 sq meter building housing the wooden wedge production facility.

**Commissioner Eligible to Vote**

Commissioner Sharon McCoubrey was not present at any of the site inspections, but confirms that she is eligible to vote on the application as she was given a summary of the site inspections.

**Commission Discussion**

The Commission had no objection to all of the existing non farm uses as requested. The Commission noted that generally the businesses either occupied properties with marginal agricultural capability, or they had little impact on agricultural utility because of their small footprint, or they occupied abandoned farming structures.

The Commission wanted to emphasize that it did not support the expansion of any of the facilities without the submission of a non farm use application. It believed that some of the facilities, particularly Mustang Connection and Specialty Steel were under very significant pressure to expand, that expansion would effectively eliminate the agricultural potential of the property, given the property size and location. The Commission also indicated that it did not believe that Lot 1, Section 29 (Prato) warranted retention within the ALR given its small size and location.

In addition the Commission did not consider Triple B Contracting (Barrie Seed) request on the grounds the landowner advised the Commission that he was winding up his company and did not want to undertake the required zoning amendments (due to the takings required by the Riparian Area Regulation).

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**IT WAS**

**MOVED BY:** Commissioner S. Irvine

**SECONDED BY:** Commissioner S. Sidhu

THAT the staff report be received and the application for the following home based businesses be allowed on the grounds the businesses were longstanding enterprises, or had little, if any, impact on the agricultural utility of the parcels. As a condition of approval, the Commission requires that a covenant be placed against the title of each property, restricting the non farm uses to those permitted (as per Council's requirements).

- PID 014-012-146 (**Prato**) 420 sq meters and 148 sq meters indoors
- PID 012-504-106 (**Mustang Connection**) 587 sq meters indoors, 595 sq meter outdoors
- PID 012-521-701 (**Sweetwater Springs Ltd**) 325 sq meters indoors
- PID 006-683-223 (**Blue Mountain Nursery**) 300 sq meters indoors
- PID 008-967-539 (**Chickadee Ridge Miniatures**) 158 sq meters indoors
- PID 013-996-754 (**Specialty Steel**) 591 sq meters indoors
- PID 001-633-252 (**Log Barn Foods**) 450 sq meters processing, 191 sq meters retail
- PID 011-366-184 (**Early Bird Transfer**) 932 sq meters indoors
- PID 004-795-920 (**Klassen Kitchen and Design**) 613 sq meters – showroom and paint;  
915 sq meters – manufacturing; 522 sq meters outside storage
- PID 025-318-667 (**Douglas and Elaine Regehr**) 1179 sq meters indoors
- PID 003-997-812 (**Rob Regehr**) 223 sq meters indoors, 110 sq meters outdoors

The approvals noted above are subject to compliance with all other enactments, legislation or decisions of any agency having jurisdiction.

CARRIED



**Staff Report**  
**Application # T – 36892**  
**Applicant: Township of Spallumcheen**

**DATE RECEIVED:** August 24, 2006

**DATE PREPARED:** November 29, 2006

**TO:** Chair and Commissioners – Okanagan Panel

**FROM:** Martin Collins, Land Use Planner

**PROPOSAL:** The application is submitted by the Township of Spallumcheen on behalf of twelve (12) landowners representing fifteen (15) non farm uses within the ALR in Spallumcheen. By way of background, the application arises from a home occupation "amnesty" program initiated by the District of Spallumcheen. Over the years a number of non conforming home occupation businesses sprang up on properties throughout the District, many (but not all) of them within the ALR. These businesses were either unknown to District staff and Council, or deliberately ignored. A single high profile case located on Highway #97 - "Specialty Steel", was investigated at length by the Commission in 2003. The landowner was urged by the Commission to make a non farm use application to legalize the business. He did not do so.

In an attempt to address the problem the District initiated a bylaw review, the purpose of which was to expand the home occupation footprint and bring many on the non conforming home occupation uses into compliance with a new community standard. The Commissioners might recall its April/2004 meeting with J.O.B.S. ( a local committee of landowners interested in expanding the zoning bylaw for the Home Occupation permitted on ALR lands). Although an amended bylaw increased the size of the home occupation footprint from the previous standard of 100 sq meters to maximum of 185 sq meters and permits up to four (4) non resident employees, many businesses still exceed this threshold. As a compromise, the District intends to specifically reference non conforming home based businesses directly in the bylaw (to "grandfather" them in the form they are now). This means that any expansion of the business would require both the ALC's approval and a zoning amendment. In addition it is staff's understanding that a covenant will be registered against the title of each property restricting the land's use to that permitted in the bylaw.

Presently the Commission's Regulation #171/2002 - 3 (c) permits the following in the ALR;

*"a home occupation use, that is accessory to a dwelling, of not more than 100 m<sup>2</sup> or such other area as specified in a local government bylaw, or treaty first nation government law, applicable to the area in which the parcel is located;"*

The purpose of the application is for the Commission to review home based businesses in the ALR that exceed the District of Spallumcheen Bylaw #1584 standards, which are:

- 100 sq meters on parcels less than (or equal to 2 ha)
- 175 meters on parcels between 2 and 4 ha
- 185 sq meters on parcels 4 ha or greater

This is the second of two "batch" applications.

A number of ancillary items are recommended by the application; such as the establishment of fencing for screening (where appropriate), and the registration of a covenant to reflect existing permitted non farm uses ensure that new landowners are aware that there is a limit to the permitted non agricultural uses of the property.

This application is made pursuant to section 22(1) of the *Agricultural Land Commission Act*.

#### **BACKGROUND INFORMATION:**

Several of the properties on which the businesses are located have been the subject of a previous application. However, none of the previous applications considered the non farm uses under application.

#### **Local Government:**

The Corporation of the Township of Spallumcheen

#### **Legal Description of Property:**

##### **1. Harvey Prato (1780 Eagle Rock Rd.)**

PID: 014-012-146

Lot 1, Section 29, Township 4, Osoyoos Division of Yale District, Plan 41214;

The 0.78 ha property contains two businesses; a 420 sq meter (4528 sq ft) auto repair shop and a 148 sq meter insulation storage building (with outside storage of 550 sq meters), which employ six. The property is subject to the provision of the ALC Act because it was created in 1989. The property is surrounded by road right of way, and abuts a small lot subdivision to the south. The land has little agricultural capability due to its small size.

##### **2. Mustang Connection - (Barry Roelfsma) 135 Pleasant Valley X Road**

012 – 504-106

Lot 14, DL 46, Plan 322, (formerly Osoyoos) Division Yale District, Except Part  
Shown as Lot 3 on Plan H862 and Plan 32642

The 3 ha property contains car repair and restoration structures totaling 587 sq meters of inside and covered storage, and an outside storage area of 595 sq meters. About 0.33 ha is used for the non farm business. There are no employees besides the owners.



The applicant also wants approval to display and sell cars from the property. Currently the applicant sells cars from a non ALR across the highway. Spallumcheen staff do not support the outdoor display of vehicles for sale purposes.

**3. Sweetwater Springs Ltd. – (Stan Kozdrowski) 235 Pleasant Valley X Road**

PID: 012-521-701

Lot 5, Section 30, Township 4, Osoyoos Division of Yale District, Plan 322;

A 290 sq ft building houses a water bottling business on this 8 ha property (two adjoining 4 ha lots). The business has been operating for 15 years and employs three part time. Other buildings occupy the property (housing his car collection) but are not used for the water business.

**4. Blue Mountain Nursery Company Ltd. (Donald and Debbie Morris - 1871 Pleasant Valley Rd.)**

PID: 006-683-223

Southerly 6.25 Chains, Part South West ¼, Sec. 31, Twp. 4 KDYD

The 10 ha property encompasses a seasonal nursery business in numerous structures with totaling 1650 sq meters. Spallumcheen staff indicate that numerous plant and ancillary products such as bark mulch, sand, topsoil and compost that are offered for sale on not produced on the property.

**5. Triple B Contracting - (Barrie Seed) 1600 Whittaker Rd.**

PID: 005-331-765

Parcel A (DDK56987F), of Pre-Emption Record Number 821, Township 17, Range 9, W6M, Kamloops Division of Yale District;

A heavy equipment and truck repair shop occupies 588 sq meters (6,340 sq ft) comprising a 182 sq meter shop and 406 sq meters of outside storage (employing between 3 and 7) on this 4 ha property. Rough pasture occupies the remainder of the property. The applicant indicates that he may not be following through on the bylaw amendment because the streamside "taking" requirements are excessive.

**6. Chickadee Ridge Miniatures (Lorne Major) 1403 McLeod Rd**

Easterly 1/2 of the Southerly 160 Rods, District Lot 990, Kamloops Division of Yale District;

The 32 ha property is used for a miniature horse breeding business, with an ancillary exotic animal petting and viewing area, children's playground and a 158 sq meter (1700 sq ft) retail sales building. The building does not appear to devote at least 50% of the floor area to the retail sale of products grown or reared on the property and therefore is not permitted outright by regulation.

**7. Specialty Steel (J. Schrauwen) 4135 Highway #97**

Parcel 4, South 1/2, Section 9, Twp. 35, KDYD, Plan B3007, EXCEPT Parcel 10 (Plan H3);

Specialty Steel is a metal fabricating business that currently occupies 590 sq meters (6,360 sq ft. (constructed in 1997, and employs three non residents, in addition to the applicant and his son. Council has a standing Resolution to remove the existing sign advertising the business

because it is not in conformity with the bylaw. The applicant had requested permission to construct a 93 sq meter (1,000 sq ft) addition, but this was refused by the District. The remainder of the property contains a residence, two outbuildings and 5 ha of dryland hay production.

**8. Log Barn Foods Co. (Fred Issac – 4782 Highway #97A)**

Lot A, District Lot 90 and 91, Osoyoos Division of Yale District, Plan 5691;

The agri-tourist operation located on the 16 ha property contains retail food sales and processing facilities that are not permitted outright by Regulation #171/2002 because less than 50% of the food that is processed and sold is grown on the subject property or on other farmlands owned by the applicant. The buildings contain 450 sq meters of processing and 191 sq meters of retail space. Up to fourteen non resident employees work in the operation.

**9. Early Bird Transfer Co. (Janet and Reuben Reimer 5008 Schubert Rd.)**

PID: 011-366-184

Lot 4, District Lot 96, Osoyoos Division of Yale District, Plan 1660;

A trucking business occupying two structures, totaling 668 sq meters, on the 12 ha property. A 0.4 ha outside area is used to park trucks. The remainder of the property is used for cattle pasture.

**10. Klassen Kitchen and Design (Richard Klassen)**

PID: 004-795-920 5125 Landsdowne Road

Lot 1, Section 8, Township 18, Range 9, W6M, KDYD, Plan 27566;

Approximately 1500 sq meters of manufacturing and showroom space is located in two principle buildings on the 14.3 ha property. The business employs six (6) non residents. The total floor space area (including outside storage) is 2000 sq meters (21,000 sq ft).

**11. Douglas and Elaine Regehr (5042 Schubert Rd.)**

PID: 025-318-667

Lot 1, District Lot 97, Osoyoos Division of Yale District, Plan KAP70654;

The 30 ha property contains three businesses; a shaving bagging business; a trucking company consisting of four trucks and three trailers operating out of an 148 sq meter building; Redi Ration Feeds in a 511 sq meter structure. The remainder of the property is also used for a small feed lot and pasture.

**12. R & D Trucking (Rob Reghr) 5233 Deep Creek Rd.**

PID: 003-997-812

Lot A, Section 36, Township 34, Osoyoos Division of Yale District, Plan 30471;

Wood products are manufactured (by five employees) in a 223 sq meter (2400 sq ft) building with an attached 110 sq meter (1200 sq ft) lean to for outside storage, on the 8.8 ha property.

**RELEVANT APPLICATIONS:**

The Commission previously reviewed a similar application for eleven (11) non farm uses in December 2005. The Commission approved all of the uses except one, which was subsequently reconsidered and allowed.


**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

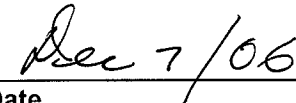
The Township of Spallumcheen forwarded the application with a recommendation of support. .

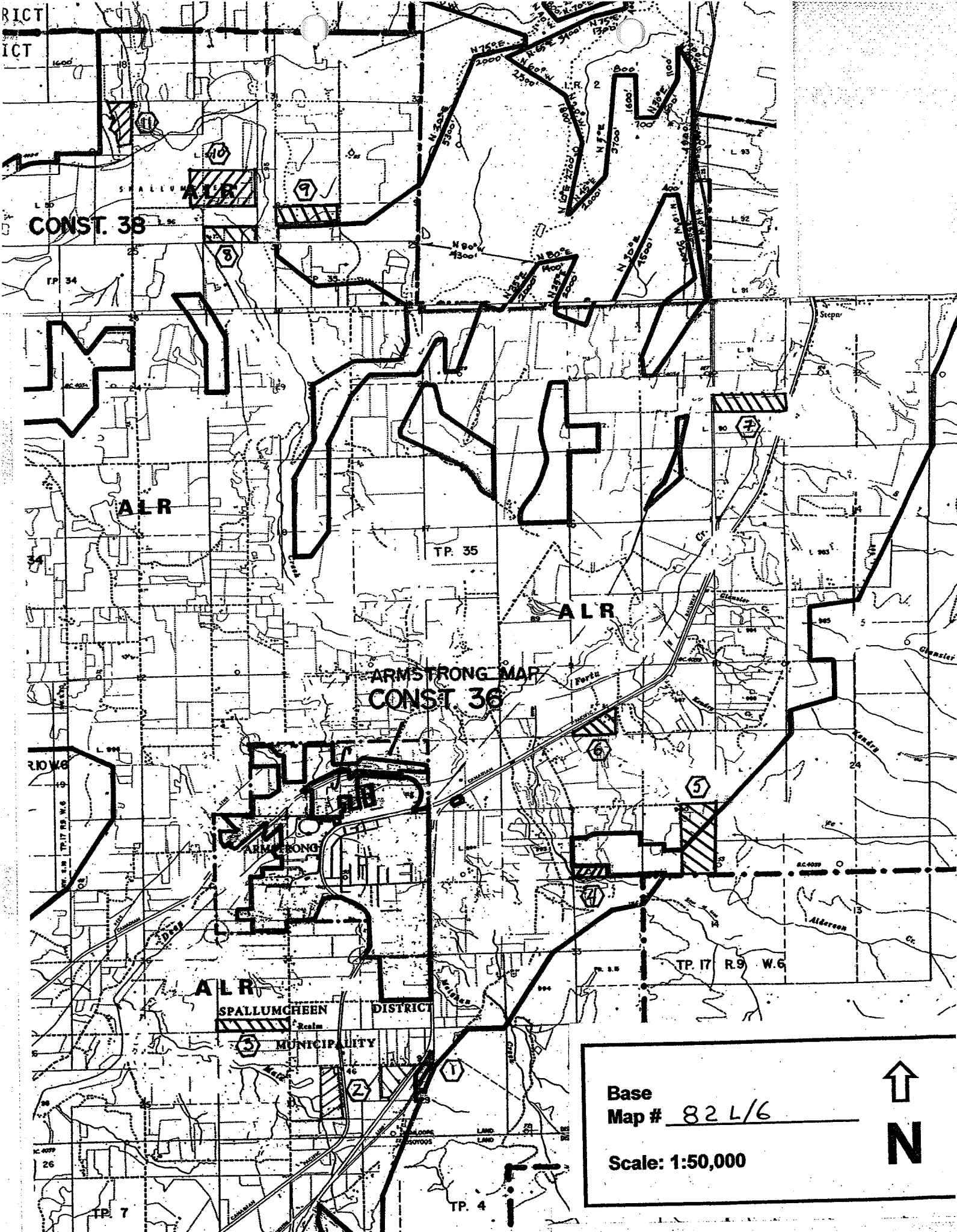
**STAFF COMMENTS:**

Staff recommends that the Commission visit the properties and discuss with the landowners how and why the businesses came to be.

**END OF REPORT**

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date



ARMSTRONG MAP  
CONST. 36

Base  
Map # 82 L/6

Scale: 1:50,000

