



Staff Report
Application # MM – 38471
Applicant: Henry and Magdalene Martens
Agent: Vedder Pacific Management Inc.

DATE RECEIVED: September 10, 2008

DATE PREPARED: November 3, 2008

TO: Chair and Commissioners – South Coast Panel

FROM: Ron Wallace, Land Use Planner

PROPOSAL: The owner wishes to legalize an existing remanufacturing mill and lumber storage area on the subject property as a non-far use in the ALR.

This application is made pursuant to section 20(3) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The parcel under application adjoins a smaller parcel which is excepted from "restrictions on the use of agricultural land" by subsection 23(1) of the *Agricultural Land Commission Act*. Under subsections 23(2) and (3), a \pm 0.6 ha portion of the subject parcel is also excepted from "restrictions on the use of agricultural land" because a 30 July 1972 air photo shows that portion to have been well established in industrial (wood processing) use continuously since before 21 December 1972, and because all subsequent air photos (although they provide evidence of incremental expansion) still show the 1972 wood processing area continuing in the same use. The local government (originally the Township of Chilliwack and now the City of Chilliwack) has not been in a position to limit expansion beyond the 1972 footprint, because the Courts have found that a lawfully "non-conforming use" may expand to fill the property on which it is located. Moreover a 1970 bylaw of the Township of Chilliwack zoned the entire 4.5 ha area of the subject parcel Industrial M-2. The owners are now aware that the *Agricultural Land Commission Act* prohibited expansion beyond the 1972 footprint on the 4.5 ha parcel, thus they are applying to legalize the operation and possibly alter the boundary between the two parcels so as to place the residence on a separate parcel from the mill. It should be noted that even if the smaller parcel were consolidated with the larger parcel, the original area of the smaller parcel would continue to be excepted from "restrictions on the use of agricultural land".

Local Government:

City of Chilliwack

Legal Description of Property:

PID: 008-491-321
Lot 172, New Westminster District, EXCEPT Parcel A (Explanatory Plan 42901), Section 30,
Township 22, Plan 38215

Purchase Date:

1996-04-30

Location of Property:

41455 No 5 Road, Chilliwack

Size of Property:

4.5 ha (The entire property is in the ALR).

Present use of the Property:

Wood remanufacturing, two mills, Mobile home and residence

Surrounding Land Uses:

WEST: Farm
SOUTH: Equestrian
EAST: Equestrian
NORTH: Blueberry Farm

Agricultural Capability:

Data Source: Agricultural Capability Map # 92G.010
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

City of Chilliwack OCP 1988
Designation: Agricultural

Zoning Bylaw and Designation:

City of Chilliwack Zoning Bylaw No. 2800 (2001)
Designation: AL (Agricultural Lowland) Zone
Minimum Lot Size: 7.5 ha

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Local Council

No comments or recommendations

Local Government Staff

See attached report dated August 26, 2008.

STAFF COMMENTS:

An on-site inspection will help determine the merits of this application.

ATTACHMENTS:


1. Context Map

2. Agricultural Capability Map
3. Air photo
4. Local government staff report dated August 26, 2008

END OF REPORT



Signature



Date