



**Agricultural Land Commission**  
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November 4, 2008

Reply to the attention of Brandy Ridout  
ALC File: **G-38480**

George and Lorraine MacDonnell  
3960 Senger Road  
Kelowna, BC V1W4G8

Dear Mr. and Mrs. MacDonnell:

**Re: Application to Subdivide Land in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution #641/2008 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over the 'Per:' label.

Erik Karlsen, Chair

Enclosure: Minutes/Sketch Plan

cc: City of Kelowna (A08-0005)

BR  
i/38480d1



**A meeting was held by the Provincial Agricultural Land Commission on October 8, 2008 at the Keremeos Municipal Hall located at 702-4<sup>th</sup> Street, Keremeos, BC.**

**PRESENT:** Roger Mayer Chair, Okanagan Panel  
Sid Sidhu Commissioner  
Gerald Zimmermann Commissioner  
Brandy Ridout Staff

**For Consideration**

Application: # G- 38480  
Applicant: George and Lorraine MacDonnell  
Proposal: To subdivide a 0.4 ha lot from the 2.2 ha subject property under the  
*Homesite Severance Policy.*  
Legal: PID: 027-069-656  
Lot 2, Section 11, Township 26, Osoyoos Division Yale District, Plan  
KAP83175  
Location: 3990 Senger Road, Kelowna

**Site Inspection**

A site inspection was conducted on October 6, 2008. Those in attendance were:

- Roger Mayer Chair, Okanagan Panel
- Sid Sidhu Commissioner
- Gerald Zimmermann Commissioner
- Brandy Ridout Staff
- Martin Collins Staff
- George MacDonnell Applicant

The previous applications on the property and the recent boundary line adjustment were discussed with the applicant. In 1982 a subdivision request had been conditionally approved under the *Homesite Severance Policy* (subject to consolidation of the remainder with the property to the north) for the applicant's father George A. MacDonnell as he had owned the property since 1971. The lot line adjustment undertaken in 2007 was explained by the applicant as necessary to attain farm status for the northern lot.

**Context**

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. 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.

## **Discussion**

### **Assessment of Agricultural Capability**

The agricultural capability of the soil of the subject property is approximately 60% Class 3AP, 30% Class 2A and 10% Class 2AT (tree fruit rating).

Classes:

Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

Subclasses:

A soil moisture deficiency

P stoniness

T topography

### **Assessment of Agricultural Suitability**

The Commission assessed whether factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission did not believe there are factors that render the land unsuitable for agricultural use.

### **Assessment of Impact on Agriculture**

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. As the subject property was not owned and occupied by the applicant on December 21, 1972, the Commission did not believe that the applicant qualified for consideration under the *Homesite Severance Policy*. As such, the Commission considered the request as a standard subdivision request. Despite the possibility of a no-build covenant being registered against the agricultural remainder, the Commission believed the proposed subdivision would have a negative impact on agriculture in that it would create a residential lot in the area.

### **Conclusions**

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will impact agriculture.

### **IT WAS**

**MOVED BY:** Commissioner Sidhu

**SECONDED BY:** Commissioner Mayer

THAT the application to subdivide a 0.4 ha lot from the 2.2 ha subject property under the *Homesite Severance Policy* be refused.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) *On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available,*
  - (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) *The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

**CARRIED**  
**Resolution #641/2008**