## File No. FAC-02-24

# SPOKANE COUNTY DEPARTMENT OF BUILDING & PLANNING ANALYSIS May 22, 2024

## "Farm & Agriculture Conservation Land" CURRENT USE ASSESSMENT Chapter 84.34 RCW

RCW 84.34.010 Legislative declaration. The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens. The legislature further declares that assessment practices must be so designed as to permit the continued availability of open space lands for these purposes, and it is the intent of this chapter to provide. The legislature further declares its intent that farm and agricultural lands shall be valued based on their value for use as authorized by Section 11 of Article VII of the Constitution of the State of Washington. [1973 1st ex.s. c 212 § 1; 1970 ex.s. c 87 § 1.]

**RCW 84.34.020 Definitions.** As used in this chapter, unless a different meaning is required by the context:

- 8) "Farm and agricultural conservation land" means either:
- (a) Land that was previously classified under subsection (2) [ Farm and Agricultural Land ] of this section, that no longer meets the criteria of subsection (2) [Farm and Agricultural Land] of this section, and that is reclassified under subsection (1) [Open Space Farm and Agricultural Conservation Land] of this section; or
- (b) Land that is traditional farmland that is not classified under Chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.  $2005 \circ 57 \ 1; 2004 \circ 217 \ 1; 2002 \circ 315 \ 1; 2001 \circ 249 \ 12; 1998 \circ 320 \ 7; 1997 \circ 429 \ 31; 1992 \circ 69 \ 4; 1988 \circ 253 \ 3; 1983 \circ 3 \ 227; 1973 1st ex.s. <math>\circ 212 \ 2; 1970 \ ex.s. \ 87 \ 2.]$

RCW 84.34 provides an opportunity for owners of property currently classified under the Open Space Farm and Agriculture Land, but which no longer qualify for that classification, or traditional farmland not currently classified under the Open Space Taxation Act, to apply for the Farm and Agriculture Conservation Tax classification. This classification allows those owners of qualifying agricultural land to obtain up to a 50% tax deferral while their qualifying agricultural land is idle, provided they develop a plan to produce a qualifying agricultural product that will meet the income standards of the county's Farm and Agricultural program and show intent to return to that program. Applications will be rated according to Spokane County's adopted Public Benefit Rating Form.

Spokane County recognizes the State Legislature's intent to promote the production of food, and fiber and implements it with the adoption of a Public Benefit Rating System that allows the county to rate properties according to their potential to return to commercial agriculture production. Spokane County's Farm & Agriculture Conservation Program enables the county to tax productive, but currently idle farmland at a current use value rather than at the highest and best use, thereby promoting the state's interest.

PROPERTY OWNERS: Gina Baker-Osterback & Sonia Baker-Vanderbrake

13117 E. Black Rd. Chattaroy, WA. 99003

Tammi D. Bouchard and Robert J. Congleton

5502 E. Woolard Rd. Colbert, WA 99005

PROJECT PLANNER: Robert Brock, AICP

## I. ASSESSOR'S PARCEL NUMBER(S):

37232.9006, 37144.9062, 37232.9013, 48342.9003, 48273.9018, 37141.9048

## II. GENERAL LOCATION, ZONING, and IMPROVEMENTS:

The subject properties are situated in three locations. All are owned by Osterback & Vanderbrake except as noted below.

Parcels 37232.9006 and 37232.9013 are located adjacent to and north of Colbert Rd., approximately 250 feet west of its intersection with Boston Rd., in the NW ¼ of Section 23, Township 27, Range 43. Zoned Rural Conservation and Rural Activity Center. Each parcel has a dwelling and several outbuildings.

Parcels 37141.9048 (Bouchard & Congleton) and 37144.9062 are located 1,400 feet south of the intersection of Woolard Rd. and Hardesty Rd. in NE ¼ of Section 14, Township 27, Range 43. Zoned Rural Conservation. The 9048 parcel has a dwelling, a manufactured home, and several outbuildings. The 9062 parcel has no structures.

Parcels 48273.9018 and 48342.9003 are located east of and adjacent to Madison Rd., approximately 4/10 of a mile north of its intersection with Black Rd., and. in the SW ¼ of Section 27, Township 28, Range 44. Zoned Rural Traditional. The 9018 parcel has several outbuildings, and the 9003 parcel has no structures.

### III. ZONING:

Noted in section II above.

### IV. PROPOSAL:

The property owners are requesting to change from the tax classification of "Farm and Agricultural Land" to a tax classification of "Farm and Agriculture Conservation" according to RCW 84.34.020(8)(a). The application consists of six parcels totaling approximately **194.2** acres. The applicants indicate that the land was part of a much larger farm that has been farmed by the family for many generations, and they can trace their ancestors' presence on the land back to when it was homesteaded in 1891. The separated parcels were used for growing alfalfa and raising cattle, chickens, and pigs, with some smaller-scale milk and egg production. The current owners of the properties are descendants of the original farming family. They recently inherited the land and are themselves; too old to actively farm it. They propose to keep the land in a farm-ready condition so that the next owners can have the opportunity to farm it.

## V. ANALYSIS BASED UPON SPOKANE COUNTY CRITERIA:

### A. Eligibility:

The applicant's property is currently classified as Farm and Agriculture land or has historically been used as farmland.

## B. Priority Consideration:

The applicant has indicated that they are too old to actively farm the land and intend to keep the land in a farm-ready condition so that the next owner can resume qualifying agricultural uses. The current use of the land appears to be consistent with future agricultural activities.

### C. Additional Consideration:

All of the land in the application has rural zoning designations that allow agricultural uses. Additionally, the land is located outside the Urban Growth Boundary. Additionally, the applicant has developed a noxious weed and pest control strategy.

- Impediments to Farm and Agricultural Land:
   A stream bisects several of these properties. The county's Critical Areas
   Ordinance gives deference to agricultural activities that predate the ordinance.
- E. The applicant's Public Benefit Rating Form score is **160**, sufficient to obtain the maximum tax deferral allowable under the **Farm and Agriculture Conservation** program of 50%. See the attached Public Benefit Rating Form.

### VI. SUMMARY:

The applicants wish to reclassify six parcels totaling approximately **194.2** acres of land from the **Farm and Agricultural Land** tax classification to the **Farm and Agriculture Conservation** tax classification. They have submitted an application detailing how they will preserve their farmland and provide an opportunity for a future owner to return the land to commercial agricultural production and re-enter the Farm and Agricultural Land current use program.

### VII. TAX IMPLICATIONS:

If, at any time, the owner wishes to remove the property from the Farm and Agriculture Conservation current use tax classification, the land is subject to an additional tax equal to the difference between the amount of tax paid under the classification and the tax at true and fair value for the last seven years, plus interest at the statutory rate charged on delinquent property taxes. The land must transition into the agricultural classification within the period indicated in the farm plan and the Farm and Agriculture-Conservation Agreement or the owner must also pay a penalty of an additional 20 percent of the total dollar amount of the seven-year back taxes and interest. The assessor may grant an extension of time for good reason, at their discretion.

#### **VIII. PROPOSED CONDITIONS OF APPROVAL:**

Conditions of Approval are for reclassification of the subject property to "Farm and Agriculture Conservation" current use assessment, as conditioned and stipulated in an agreement between the property owner and the Board of Spokane County Commissioners as follows:

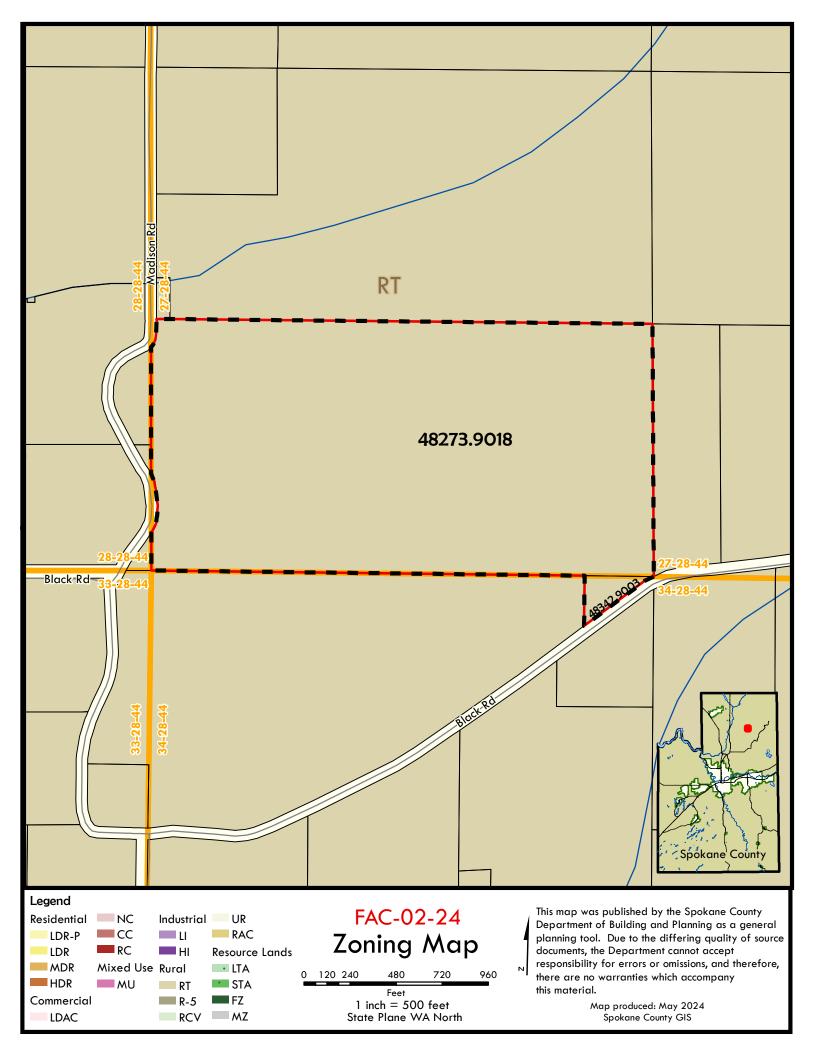
- A. The change of the tax classification to "Farm and Agriculture Conservation" according to RCW 84.34.020(8)(a) is for six parcels totaling **194.2** acres. The tax parcel numbers: **37232.9006**, **37144.9062**, **37232.9013**, **48342.9003**, **48273.9018**, and **37141.9048**.
- B. Any change in the use of the property other than that described in the Farm and Agricultural Conservation Agreement will be cause for reconsideration of the Current Use Assessment. It is the owner's responsibility to notify the Spokane County Assessor of any changes in use, or addition of structures to the property.
- C. The owner of the property in question shall submit an annual report to the Spokane County Assessor each January, on or before January 31, which summarizes activities accomplished in the previous year toward fulfillment of their obligation to keep the land in a farm-ready condition.

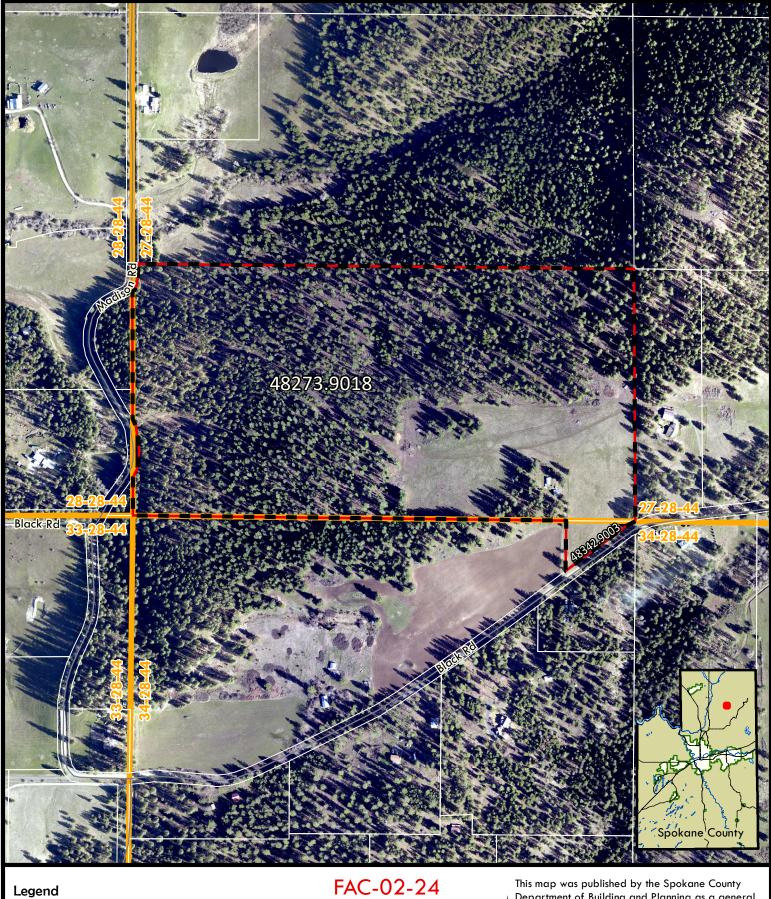
#### Attachments:

- 1. Zoning Map
- 2. Aerial Map

- Application
   Farming History
   Public Benefit Rating Form

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Preliminary

Municipal Boundaries

Sections

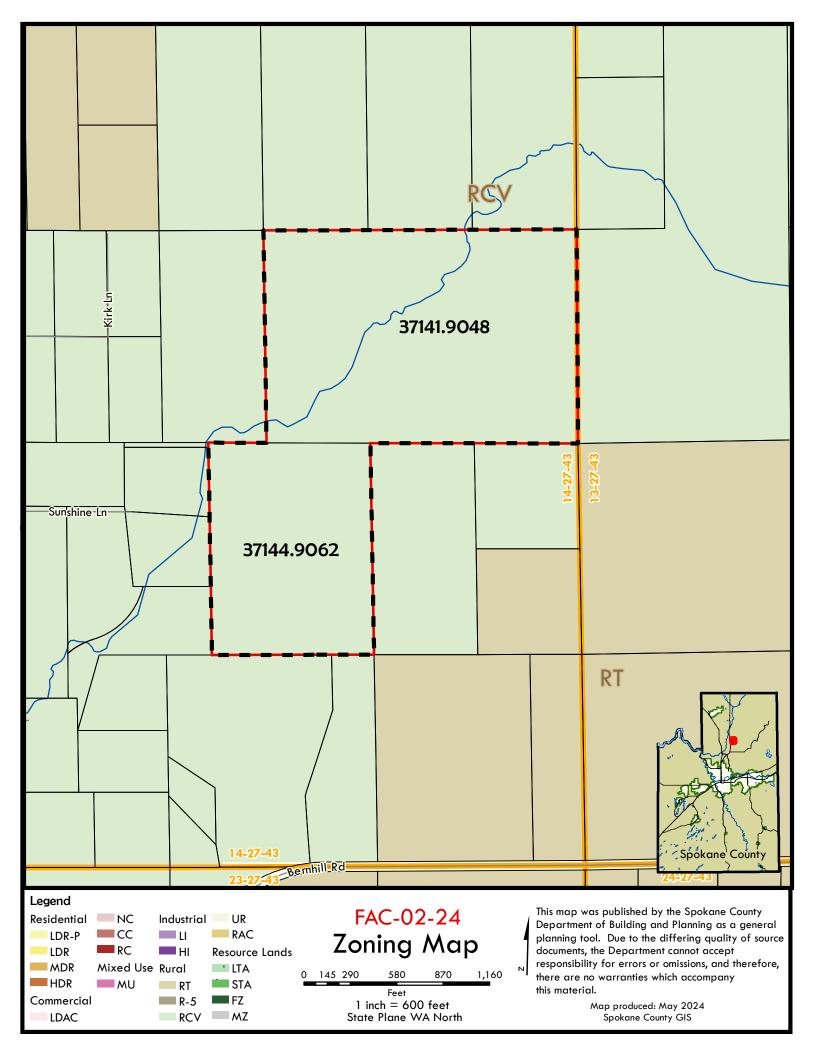
Lakes & Streams

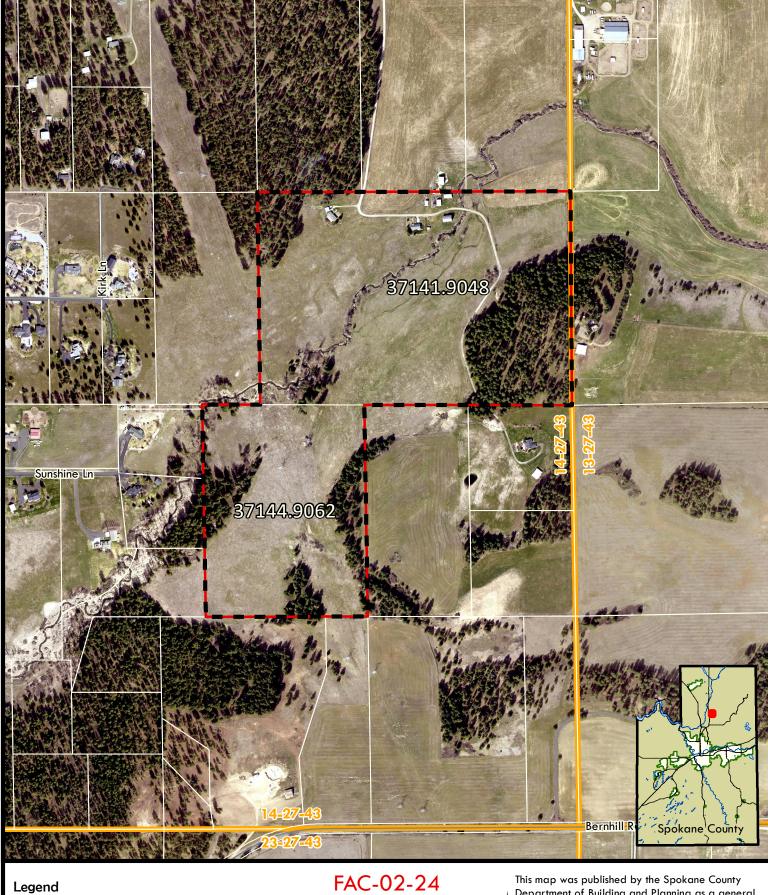
## FAC-02-24 Aerial Map

0 125 250 500 750 1,000 Feet

1 inch = 500 feet State Plane WA North This map was published by the Spokane County Department of Building and Planning as a general planning tool. Due to the differing quality of source documents, the Department cannot accept responsibility for errors or omissions, and therefore, there are no warranties which accompany this material.

Map produced: May 2024 Spokane County GIS





Preliminary

Municipal Boundaries

Sections

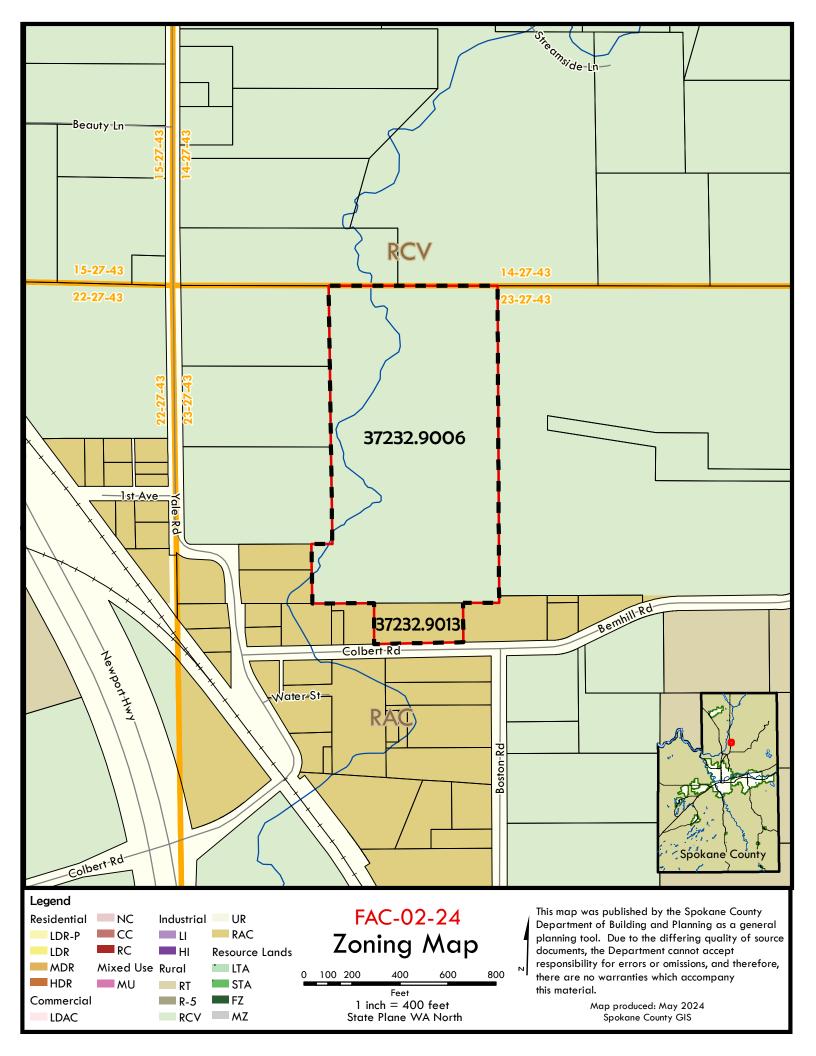
Lakes & Streams

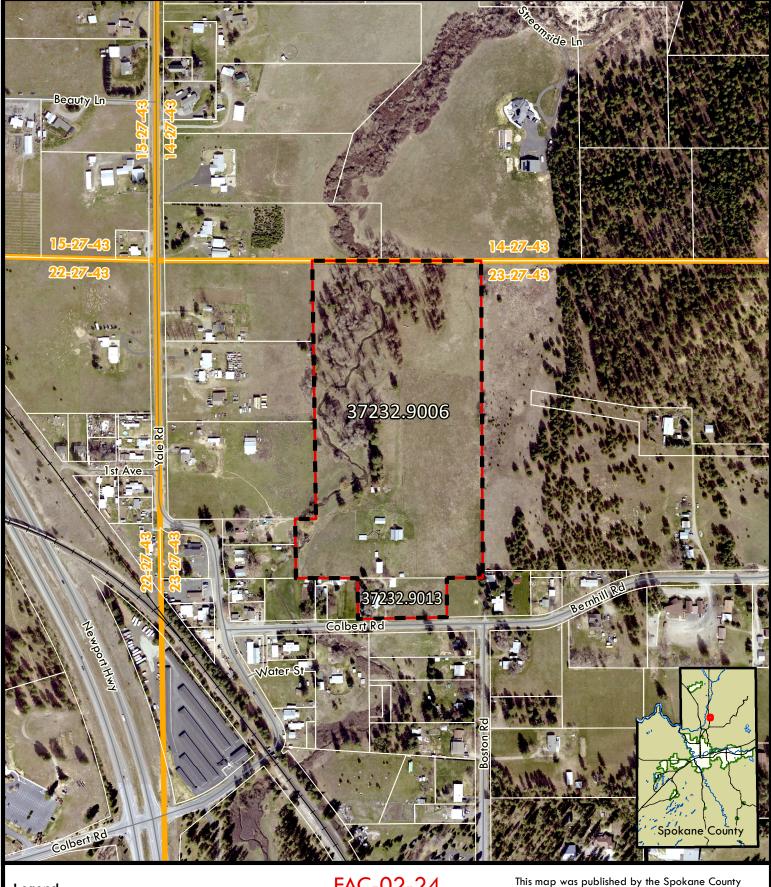
## FAC-02-24 Aerial Map

0 150 300 600 900 1,200 N

1 inch = 600 feet State Plane WA North This map was published by the Spokane County Department of Building and Planning as a general planning tool. Due to the differing quality of source documents, the Department cannot accept responsibility for errors or omissions, and therefore, there are no warranties which accompany this material.

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Preliminary

Municipal Boundaries

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Lakes & Streams

## FAC-02-24 Aerial Map

0 100 200 400 600 800 Feet

1 inch = 400 feet State Plane WA North This map was published by the Spokane County Department of Building and Planning as a general planning tool. Due to the differing quality of source documents, the Department cannot accept responsibility for errors or omissions, and therefore, there are no warranties which accompany this material.

Map produced: May 2024 Spokane County GIS From: <a href="mailto:rickosterback@yahoo.com">rickosterback@yahoo.com</a>

To: Brock, Robert W.

Subject: Baker Osterback Trust Woolard Road Colbert

**Date:** Friday, May 17, 2024 9:57:28 AM

#### Good Morning Robert

I tried to narrow down some dates to establish a narrative on historical data for the farm and this is some of what I have been able to establish. The property was homesteaded in 1891 by George Balloti who was married to Eliza, unfortunately George passed away leaving Eliza with their first born daughter to run the farm. Eliza met my great grandfather Louis Baker and they were married 4/1895 and had 10 children, one of them a boy, my grandfather John Louis Baker. He met and married my grandmother Signa Nyberg in 1927 and they had five children four boys and one girl. They were raised to work hard on the farm to supply an income for the family from the cattle, chicken and pigs. This was in the day when each day of the week was assigned a duty and Friday was the day to go to town for supplies and sell the eggs from the chickens and stop at the Hillyard Lockers to drop off the cream that had been collected from milking the cows for the week. When the children grew up and started families of their own the boys continued to help maintain the 200 acres and two of them also had their own smaller farms and worked full time jobs in Spokane. All of the grandchildren at sometime in our young lives drove tractor during having season or loaded hay bales on the trailer. I was telling an acquaintance one time where the family farm was and she said they had seen my uncles putting up hay every year and they referred to them as the" legends" because they obviously were in their retirement years, but still working on the farm.

The barn was built in 1942 from the remnants of an old dance hall that was at the corner of the property approximately where the powerline goes through. There are also family stories of how the original house was added onto after the depression and during World War 11 so that they would not be in violation of any wartime laws.

Hope this is helpful Robert.

Thank you Gina Baker Osterback

## FAC-0002-2024



## **Spokane County Building and Planning**

1026 W. Broadway Avenue Spokane, WA 99260 (509) 477-3675 / (509) 477-4703 (Fax)

Email: <a href="mailto:bp@spokanecounty.org/bp">bp@spokanecounty.org/bp</a>

## PUBLIC BENEFIT RATING FORM FOR OPEN SPACE CLASSIFICATION / FARM AND AG CONSERVATION

Spa	PORTANT: Please read all brochures described in the Public Benefit Rating Form Checklist for Open ace Classification prior to completing this form.  Uan De Brake			
	ling Address 13117 EBlack Rd. Chattarry 9903Day Phone Number(s) 509-993-3091			
	Parcel Number(s) 37232.9006 37144.9062 37232.9013 48342.9003 48273.9018			
456 372	Peral Location of Property  21 E Colbert Rd  4521E Woolard Rd. Colbert  12919 E Black Rd. Chatlang  22.900 37232.9013  37144.9062 37141.9048  48273.9018 48342.9003  RT I - Property Overview			
1.	Legal Interest in Property:			
	Owner Contract Purchaser Other (Describe) Relative Representative			
2.	Total Acreage of Property 194			
3.	Acreage to be enrolled in the Farm and Ag Conservation Land Program 194			
4.	What is the Property Currently Used for? Open spaces and 37141,9048 partial farming			
5.	Is the land subject to a lease or agreement which permits any other use than its present use?  Yes  No  (Note: If yes, please attached a copy of the lease agreement.)			
6.	Are you proposing to apply a conservation easement or historic easement to your property?  ☐ Yes (type:) Does one exist now? ☐ Yes (type:)  ☐ No  Who will hold (or does hold) the easement?			
7.	Is there currently any mining claim or mining lease on the land?   Yes  No			
3.	Will you be profiting through an activity upon the land through the collection of fees, the sale of merchandise or raw materials, etc.? ☐ Yes ☒ No			
9.	Is the open space area dedicated under zoning or subdivision ordinance requirements or used to achieve the maximum development potential under zoning?   Yes No			

Spokane County Building and Planning Public Benefit Rating Form Farm and Ag Conservation Land Page 2 of 4

PART II - Farm and Agriculture Conservation Land Eligibility  A. Has the land been previously classified as farm and agricultural land under the Open Space Taxati no longer meets that criteria?	on Act, but (50 pts)
Yes. □ No. Comments:	
B. Is the land traditional farmland that has never been classified under the Open Space Taxation Act? □Yes. □ No. Comments:	(50 pts)
NOTE: If you answered "No" to both A and B above, your property is not eligible for this progr	ram.
PART III - Priority Consideration  C. Will the land return to commercial farming/agricultural production? Show us how.  Myes. D No. Comments: Family farm, Colbert properties have been farmed the last 100 years. Chattaray property has close to 200 years of and once had Diamond Match company small gage railroad process.	(25 pts) for farming ssing on
D. Have you prepared a timeline to return the land to commercial farming/agriculture? Please attach.  MYes. D No. Comments: We have aged out of farming but fully intenthese historic farming areas ready for future generations	(25 pts) +0 Ke
E. Is the use of your land consistent with agricultural uses? Describe.  Tyes. • No. Comments: fields planted with pasture grass. Mowed or cut  annually and sprayed	(25 pts)
F. Is the land part of a NRCS conservation program? Please provide documentation.  □Yes. 2.No. Comments:	(25 pts)
NOTE: A minimum of two (2) "Priority Considerations" marked "C", "D", "E", or "F" must be mand documented in order to be eligible.	narked yes
PART IV – Additional Consideration	
G. Is the property located outside of an urban growth area boundary?  ☑Yes. ☐ No. Comments:	(10 pts)
H. Does the property's acreage/square footage meet the minimum lot size for the current zoning?  ☑Yes. ☐ No. Comments:	(10 pts)

I. Have you developed a noxious weed and pest management control plan? Please  ■Yes.□ No. Comments: We have all necassary to field mow and  Control	provide. Spray for w	(10 pts)
J. Are property conditions suitable for commercial agriculture in terms of soil type, slo ■Yes. □ No. Comments:Have_been_maintained	pe? Describe.	(10 pts)
K. Please provide any other comments that would show your potential for returning the and agriculture and that you think would aid the Board when considering classification Comments: Established family farm with numerous farm build promote the farm environment	1. (10	n to 20 nts
PART V – Impediments to Farm and Agriculture Land		
Describe any impediments that may prevent returning the land to farm and agricul rock outcroppings, steep slopes, erodible soils or other considerations.  ☐Yes. ☐ No. Comments:	ture uses such a (up to 50 pt r	

## PART VI - Tax Liability Statement and Signature

Spokane County Building and Planning

Public Benefit Rating Form Farm and Ag Conservation Land

Page 3 of 4

IMPORTANT! Read all of the following information regarding tax liabilities before signing this application form. You will owe to the County the following additional taxes, interest and penalties when your property is removed or withdrawn from current use classification. The following is a summary of state law. Consult RCW Chapter 84.34 for details.

#### STATEMENT OF ADDITIONAL TAX, INTEREST, AND PENALTY DUE UPON REMOVAL OF CLASSIFICATION:

- 1. Upon removal of classification, an additional tax shall be imposed which shall be due and payable to the county treasurer 30 days after removal or upon sale or transfer, unless the new owner has signed the Notice of Continuance. The additional tax shall be the sum of the following:
  - a. The difference between the property tax paid as "Open Space Land" and the amount of property tax otherwise due and payable for the last seven years had the land not been so classified; plus
  - b. Interest upon the amounts of the difference (a), paid at the same statutory rate charged on delinquent property taxes.
  - c. A penalty of 20% shall be applied to the additional tax and interest if the classified land is applied to some other use except through compliance with the property owner's request for withdrawal process, or except as a result of those conditions listed in (2) below.

Spokane County Building and Planning Public Benefit Rating Form Farm and Ag Conservation Land Page 4 of 4

- 2. The additional tax, interest, and penalty specified in (1A) above shall not be imposed if removal resulted solely from:
  - a. Transfer to a governmental entity in exchange for other land located within the State of Washington.
  - b. A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power.
  - c. A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.
  - d. Official action by an agency of the State of Washington or by the county or city where the land is located disallows the present use of such land.
  - e. Transfer of land to a church when such land would qualify for property tax exemption pursuant to RCW 84.36.020.
  - f. Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(6)(f)).
  - g. Reclassification from: i) farm & agricultural to open space classification; ii) timber land to open space classification; and, iii) from farm and agriculture conservation land to farm and agriculture.
  - h. Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.
  - i. The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120.
  - j. The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.
  - k. The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as designated forest land under chapter 84.33 RCW, or classified under this chapter 84.34 RCW continuously since 1993. The date of death shown on the death certificate is the date used.

Removals and withdrawals from the program are processed by the Spokane County Assessor.

described above and that the above responses are made truthfuthat, should there be willful misrepresentation or willful lack of	
SUBSCRIBED and SWORN to before me this /8th day of /	narch , 20 2024. Ilenda Voot

NOTARY PUBLIC
STATE OF WASHINGTON
License Number 21034087
My Commission Expires Oct. 11, 2025

Notary Public in and for the State of Washington, residing in Spokane County

## FILED

## NOV 1 6 2021

## TIMOTHY W. FITZGERALD SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON, COUNTY OF SPOKANE			
ESTAT	E OF:	CASE NO. 21-4-02365-32	
LYLE	Deceased.	LETTERS TESTAMENTARY (LTRTS)	
		I. BASIS	
1.1	The last will of the decedent(s), late of proven and recorded in this court on:	SPOKANE COUNTY, WASHINGTON was exhibited, NOVEMBER 16, 2021.	
1.2	In that will: GINA BAKER OSTERBACK is named personal representative.		
1.3	The personal representative has quali	fied.	
	II. A	UTHORIZATION	
		<b>FERBACK</b> is authorized by this court to execute the will of	
	the above decedent according to law.	TIMOTHY W. FITZGERALD, SPOKANE COUNTY CLERK	
Dated:	NOVEMBER 16, 2021	By: Shannon Orlando Deputy Clerk	
	III. CEF	RTIFICATE OF COPY	

As clerk of the superior court of this county, I certify that the above is a true and correct copy of the Letters of Testamentary in the above-named case which was entered of record on **NOVEMBER 16**, **2021**.

I further certify that these letters are now in full force and effect.

TIMOTHY W. FITZGERALD, SPOKANE COUNTY CLERK

Dated: NOVEMBER 16, 2021

State of Washington County of Spokane

Deputy Clerk

## PUBLIC BENEFIT RATING FORM Farm and Ag Conservation Land Staff Use Only

File Number: FAC-02-24	Zoning Des	signation: <u> </u>	V. RT,	RAC
Applicant Name:	Planner:	Robert	Brock	
Date application complete & fee paid:				

#	PTS	ELIGIBILITY	COMMENTS (1 required)	PTS POSSIBLE
A.	50	Previously classified as farm and agricultural land	yes	50
В.		Traditional farmland	YES, PARCEL 37141.9048 IS NOT IN AS, BUT IS TRACTIONAL FUNKLY	50 £
#	PTS	PRIORITY CONSIDERATION	COMMENTS (2 required)	PTS POSSIBLE
C.	25	Returning the land to commercial farming/agricultural production	Entury The program due to Age. The LAND CAN FETUM TO AS USE AT CHANGE OF OWNERS HIP	25
D.	25	Timeline to return to commercial farming/agriculture	upon change of owners	25
E.	25	Use of land consistent with agricultural uses	Yes	25
F.		Land is part of a NRCS conservation program	NA	25
#	PTS	ADDITIONAL CONSIDERATION	COMMENTS	PTS POSSIBLE
G.	10	Located outside of an urban growth area boundary	Yes	10)
H.	5	Meets minimum lot size per zoning	All but one party meets Minning LOT Size STANDARDS	10
I.	10	Noxious weed and pest management control plan.	yes, currently printing	10
J.	10	Property conditions are suitable for commercial agriculture	yes - Lage parcels	10
#	PTS	APPLICANT COMMENTS	COMMENTS	PTS POSSIBLE
K.	10	Other comments that potential for returning the land to commercial farm and agriculture and that would aid the Board when considering classification.	PAST HISTORY OF AS USE GROWING A VARIETY OF CHOPS and livestock	Up to 20

## PUBLIC BENEFIT RATING FORM Farm and Ag Conservation Land Staff Use Only

#	PTS	LAND IMPEDIMENTS	COMMENTS	PTS POSSIBLE
L.	-10	Prevent the land from returning to farm and agricultural uses such as wetlands, rock outcroppings, steep slopes, erodible soils or other considerations	A Creek Flows Though Seven of The parcels.	Up to 50 pt reduction

160 TOTAL POINTS ACCUMULATED	
The Amount of Arenge	history OF Forming The Land dating  INV. Appears to be Fertile And  Significant. A High petertial  activities is present.
Planning Commission Hearing:	BoCC Consideration:  Forwarded to Assessor: