

**BEFORE THE
WASHINGTON STATE BOUNDARY REVIEW BOARD
FOR SPOKANE COUNTY**

In the Matter of	}	FILE No. 582-04
ANNEXATION OF 644 ACRES	}	
TO THE CITY OF LIBERTY LAKE	}	RESOLUTION AND
(INLAND EMPIRE PAPER)	}	HEARING DECISION

HEARING DECISION

BRB 582-04: Proposed Annexation of 644 Acres to the City of Liberty Lake (Inland Empire Paper) is hereby **DENIED** by the Washington State Boundary Review Board pursuant to RCW 36.93.170, "Factors to be considered by the Board", RCW 36.93.180, "Objectives of the Boundary Review Board", and RCW 36.09.157, "Decisions to be consistent with the Growth Management Act".

LEGAL DESCRIPTION

All that certain real property located in the County of Spokane, State of Washington and consisting of the following:

All that certain real property located in the County of Spokane, State of Washington and consisting of the following four (4) parcels (Parcels A through D):

Parcel A - Government Lots 7 and 8 and the Southeast Quarter of Section 8, Township 25 North, Range 45 East, W.M.; TOGETHER WITH that portion of the bed of the Spokane River adjoining the north line of the above described parcel and southerly of the centerline of said Spokane River.

Parcel B - Government Lots 5 and 6 and the South half of the Southwest quarter of Section 9, Township 25 North, Range 45 East, W.M.; TOGETHER WITH that portion of the bed of the Spokane River adjoining the North line of the above described parcel and southerly of the centerline of said Spokane River.

Parcel C - That portion of the Northwest quarter of Section 16, Township 25 North, Range 45 East, W.M., lying northerly of the southerly right of way of the former Chicago,

Milwaukee, St. Paul and Pacific Railway right of way; EXCEPT that portion lying within the existing right of way for PSH No. 2 (I-90).

Parcel D - The Northeast quarter of Section 17, Township 25 North, Range 45 East, W.M.; EXCEPT that portion lying within the existing right of way for PSH No. 2 (I-90); TOGETHER WITH that portion of the Southeast quarter of said Section 17 lying northerly of the southerly boundary of the Spokane Valley Irrigation District Number 10 canal right of way.

RESOLUTION

WHEREAS, pursuant to the provisions of the Revised Code of Washington (RCW 36.93.100), the Washington State Boundary Review Board for Spokane County is required to review and approve, disapprove, or modify any of the actions set forth in RCW 36.93.090 whenever its jurisdiction is invoked;

WHEREAS, the annexation process was initiated when property owners of more than ten percent of the assessed value notified the Liberty Lake City Council of their intention to commence annexation proceedings;

WHEREAS, the City of Liberty Lake issued an environmental checklist and DNS (Determination of Nonsignificance) on March 24, 2004 for the proposal;

WHEREAS, owners of sixty percent of the assessed value in the proposed annexation area signed a petition to annex to the City of Liberty Lake;

WHEREAS, the Liberty Lake City Council conducted a public hearing on the proposed annexation on July 20, 2004 and adopted Resolution 04-068 indicating the City's intent to annex the area and directed its staff to file a notice with the Boundary Review Board;

WHEREAS, the petition was certified as sufficient by the Spokane County Assessor on August 2, 2004;

WHEREAS, a Notice of Intention was filed with the Boundary Review Board on August 5, 2004 by the City of Liberty Lake proposing the annexation of 644 acres;

WHEREAS, the City of Liberty Lake invoked the Board's jurisdiction at the same time that the Notice of Intention was filed;

WHEREAS, the Notice of Intention was then circulated to affected agencies and interested parties on August 18, 2004 for review and comments;

WHEREAS, the Boundary Review Board at a special meeting held September 24, 2004 set a public hearing on the proposed annexation for October 11, 2004, at 7:00 pm at the

Liberty Lake Sewer and Water District Office, 22510 East Mission Road in Liberty Lake and directed its staff to advertise the area for the hearing;

WHEREAS, the area proposed for annexation was posted with a Notice of Public Hearing on September 23, 2004 in at least ten places;

WHEREAS, property owners in the annexation area were mailed a notice of the public hearing on September 7, 2004;

WHEREAS, public notice procedures pursuant to RCW 36.93.160 were carried out including: notice to affected jurisdictions thirty days prior to the public hearing (September 7, 2004), publication of legal notices in the *Spokesman Review* (September 12, 2004, September 26, 2004, and October 3, 2004); *Valley News Herald* (October 1, 2004); and the *Liberty Lake Splash* (September 30, 2004);

WHEREAS, the Board held a special meeting on September 27, 2004 which was advertised pursuant to RCW 42.30.080 to inspect the proposed annexation area;

WHEREAS, prior to the public hearing, the Board received the following exhibits:

Exhibit 1: Letter submitted by Doug Smith, Director of Planning and Community Development Department, City of Liberty Lake, requesting jurisdiction be invoked

Exhibit 2: Information submitted by the City of Liberty Lake about the Liberty Lake Comprehensive Plan

Exhibit 3: Letter dated September 28, 2004 from the Board of County Commissioners recommending the annexation be denied

Exhibit 4: Letter received October 5, 2004 from the City of Spokane Valley requesting the annexation be disapproved;

WHEREAS, a public hearing was held on October 11, 2004, at 7:00 pm at the Liberty Lake Sewer and Water District Office, 22510 East Mission Road in Liberty Lake and a verbatim report of proceedings was created by a court reporter and all Board members were present;

WHEREAS, the Board Director administered an oath to those planning to testify;

WHEREAS, public testimony was given by:

- 1) Doug Smith, City of Liberty Lake, 1421 Meadowwood Lane
- 2) Cary Driskell, City of Spokane Valley, 11707 East Sprague
- 3) Steve Peterson, Mayor, City of Liberty Lake, 1421 Meadowwood Lane
- 4) Shirley Welch, 1509 N. Aladdin Road, Greenacres

- 5) Dick Solberg, 1819 N. Glenbrook Road, Greenacres
- 6) Jeff Malgren, Greenacres
- 7) Dick Edwards, 312 W. 32nd Avenue, Spokane
- 8) Wayne Frost, Centennial Properties, 3320 N. Argonne, Spokane;

WHEREAS, the following exhibits were received at the public hearing:

Exhibit No. 5

Comments submitted by Cheryl Bratton asking the Board to deny the annexation

Exhibit No. 6

Packet submitted October 11, 2004 by Jim Frank, Greenstone, in support of the annexation

Exhibit No. 7

2005 Budget for the City of Liberty Lake submitted by Mayor Steve Peterson, City of Liberty Lake;

WHEREAS, the Boundary Review Board continued the public hearing to Monday, November 8, 2004 at 3:15 pm in the Spokane County Public Works Building Hearing Room, 1026 West Broadway, Spokane to allow additional testimony;

WHEREAS, prior to the continued public hearing, the Board received the following exhibits:

Exhibit No. 8

Letter dated October 29, 2004 from Michael Wirt, Spokane County Library District regarding potential impacts of the proposed annexation

Exhibit No. 9

Letter dated November 1, 2004 from Mildred H. Gantt asking the Board to deny the annexation

Exhibit No. 10

Letter dated November 3, 2004 from City of Spokane Valley commenting on the Washington State Growth Management Act and the Boundary Review Board's factors and objectives;

WHEREAS, a continued public hearing was held on November 8, 2004 at 3:15 PM at the Spokane County Public Works Hearing Room and all proceedings were recorded by a court reporter and all Board members were present;

WHEREAS, the Board Planner administered an oath to those planning to testify;

WHEREAS, public testimony was given by:

- 1) Martin Rollins, Deputy Prosecuting Attorney, Spokane County
- 2) John Pederson, Planner, Spokane County
- 2) Scott Kuhta, Senior Planner, City of Spokane Valley
- 3) Cary Driskell, Deputy City Attorney, City of Spokane Valley
- 4) Shirley Welch, 1509 North Aladdin, Greenacres
- 5) Jason Wheaton, 1421 North Meadowwood Lane, Greenstone Corporation
- 6) Mike Terrell, Consultant to Greenstone, 1110 South Denny Court
- 7) Wayne Frost, 3320 North Argonne Road, Centennial Properties
- 8) Doug Smith, Director of Planning and Community Development, City of Liberty Lake;

WHEREAS, the following exhibits were received at the public hearing:

Exhibit No. 11

Map indicating residents and non-residents signing the petition in the proposed area

Exhibit No. 12

Matrix submitted by Doug Smith indicating annexations that were approved when a city's comprehensive plan was found non-compliant by a Growth Management Hearings Board (GMHB);

WHEREAS, the Boundary Review Board closed the public hearing for the admission of any evidence other than (1) the GMHB cases referred to in Exhibit No. 12 and (2) a summary of those cases to be prepared by the Board's counsel, and further scheduled a special meeting for Monday, November 15, 2004 at 3:00 pm in the Spokane County Public Works Building Hearing Room, 1026 West Broadway, Spokane;

WHEREAS, the special meeting was held on November 15, 2004 at 3:00 PM at the Spokane County Public Works Hearing Room, Spokane and all Board members were present;

WHEREAS, the Boundary Review Board considered all testimony and exhibits properly made part of the Board's record, adopted plans and policies of the Growth Management Act, the factors contained in RCW 36.93.170, and determined which objectives were met or not met by the proposal (RCW 36.93.180) and, upon a vote of five (5) in favor and none (0) opposed directed its staff to prepare a written decision disapproving the proposal;

WHEREAS, the Boundary Review Board enters its written decision concerning this matter, pursuant to RCW 36.93.160 (4), and is adopting and filing its decision with the Board of County Commissioners and the Clerk of each governmental unit directly affected on or before December 3, 2004.

FINDINGS

BRB 582-04: Proposed Annexation of 644 acres to the City of Liberty Lake (Inland Empire Paper) was DENIED by the Washington State Boundary Review Board for Spokane County. This action is based upon the following findings pursuant to RCW 36.93.170, "Factors to be considered by the Board", RCW 36.93.180, "Objectives of the Boundary Review Board", and RCW 36.09.157, "Decisions to be consistent with the Growth Management Act".

POPULATION AND TERRITORY

Population density

The proposed annexation area is predominantly vacant land zoned for residential and industrial uses. The development plan for this area is a combination of residential, commercial and industrial uses. The 20-year projected population for the annexation area is 5,000.

The population of the City of Liberty Lake is 5,527 and the existing population density is 1077 people per square mile. There are 140 residences and approximately 350 persons presently residing within the proposed annexation area. The land area proposed for annexation is 644 acres and the total land area of Liberty Lake is 3,287 acres. The population density of the City of Liberty Lake with the annexation area included is 957 persons per square mile. To give some perspective, the population densities for other Spokane County cities and towns are listed below:

Table 1: Population Density of Spokane County Cities (2000)

Name of City	Population	Land Area (Sq Miles)	Population Density
Spokane	195,629	59	3,315/sq mi
Millwood	1,649	1	2,356/sq mi
Cheney	8,832	4	2,154/sq mi
Spokane Valley	80,700	38	2,124/sq mi
Medical Lake	3,758	4	1,043/sq mi
Liberty Lake (2004)	5,527	5	1077/sq mi
<i>Liberty Lake with annexation</i>	<i>5,877</i>	<i>6</i>	<i>957/sq mi</i>
Airway Heights	4,500	5	900/sq mi
Deer Park	3,017	6	479/sq mi

Land Area and Uses

The current land use of the proposed annexation area is residential to the west, mixed commercial to the east, large tract residential across the river to the north, and rifle range to the south. The area is bordered by the City of Liberty Lake on the east, Interstate 90 to

the south, City of Spokane Valley at Hodges Road to the west, and the Spokane River to the north. Much of the area is currently being used for agricultural purposes with medium density residential located in the east central portion of the area bisected by Mission Road. New homes are being built as a part of the River Crossing PUD recently approved for 487 home sites on 144 acres.

Future development plans for the rest of the annexation area specify a mix of land uses.

Comprehensive Plans and Zoning

The land is currently under the jurisdiction of Spokane County. The entire annexation area is within Spokane County's Urban Growth Area (UGA). There are three comprehensive planning designations within the area: urban activity centers, medium residential and light industrial. Urban activity centers are planned residential and commercial areas consisting of offices, recreation and cultural facilities, and shopping services. The medium residential category provides for 6 to 15 dwelling units per acre. Light Industrial is intended for industrial areas that have a special emphasis and attention given to aesthetics, landscaping, and internal and community compatibility; consisting predominantly of industrial uses, but may incorporate office and commercial uses that support and compliment the industrial area.

In August 2001, the City of Liberty Lake incorporated as a new city and was required by the Growth Management Act to adopt its Comprehensive Plan within three years from that. The City Council adopted its plan on September 16, 2003. In its plan, the proposed annexation area was included as a future city annexation area.

A timely appeal of the City of Liberty Lake's Comprehensive Plan was made by the City of Spokane Valley to the Eastern Washington Growth Management Hearings Board (EWGMHB). The EWGMHB found that the City of Liberty Lake Comprehensive Plan (Liberty Lake Ordinance No. 118) was non-compliant with the provisions of the Growth Management Act for failure to meet the requirements of the Spokane County Countywide Planning Policies and for the Capital Facilities Plan (RCW 36.70A.070 (3)). Dates and conditions were set by which to remedy the noncompliance [Exhibit 4].

Service agreements entered into under RCW 36.115 or 39.34

The purpose of RCW 36.115 is to establish a flexible process by which local governments enter into service agreements that establish which jurisdictions shall provide various local government services and facilities within specified geographic areas and how those services and facilities will be financed.

The purpose of RCW 39.34 is to allow local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

No evidence was presented that agreements contemplated by this factor were in place.

Interlocal agreements between a county and its cities

Spokane County has not finalized interlocal agreements with its cities.

Per capita assessed valuation

The assessed valuation of the 644-acre area is \$15,177,790. Property owners are listed in Exhibit D of the Notice of Intention.

Topography, natural boundaries and drainage basins, proximity to other populated areas

The topography of the proposed annexation area is relatively flat. The Spokane River borders the northern portion of the annexation area.

The predominant soil types found in the area are as follows:

Garrison gravelly loam, 0 to 15 percent slopes, (GgA) is found throughout the proposed annexation area. This soil type is medium textured, somewhat excessively drained soils formed in gravelly glacial outwash material from a variety of acid, igneous parent rock; on nearly level to moderately sloping terraces; depth mixture of sand, gravel, and cobblestone ranges from 2.5 to 5 feet. This soil type is a prime agricultural soil.

Garrison gravelly loam, 5 to 20 percent slopes, (GgB) is found in the northwestern portion of the annexation area. This soil type is medium textured, somewhat excessively drained soils formed in gravelly glacial outwash material from a variety of acid, igneous parent rock; on nearly level to moderately sloping terraces; depth mixture of sand, gravel, and cobblestone ranges from 2.5 to 5 feet.

The annexation area is approximately three miles from the populated areas of Liberty Lake, and is separated from the City of Liberty Lake by Interstate 90. The annexation area is approximately ten miles from downtown Spokane, and is contiguous to the City of Spokane Valley.

The existence and preservation of prime agricultural soils and productive agricultural uses

The area is predominately agriculture and has been used for agriculture for many years. Crops grown include alpha, wheat, and barley.

The likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years

Urban growth is defined by the state law as "growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to

be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources."

In the process of planning under the Growth Management Act, population forecasts were prepared by the Office of Financial Management for each county. In Spokane County, the total growth projection was allocated to cities, towns, and unincorporated Spokane County. The City of Liberty Lake requested a population allocation of 10,800 to include its entire urban growth area as identified in its comprehensive plan. The Growth Management Steering Committee, in its recommendation to the Board of County Commissioners, limited the population allocation to 5,511 and further limited it to the existing city limits. A public hearing before the Board of County Commissioners was scheduled and the allocation will be officially established at that time.

Location and most desirable future location of community facilities

Testimony indicated that parks and a school site were a part of development plans for the area.

MUNICIPAL SERVICES

Need for municipal services

Urban governmental services, as defined by the state law, include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, ambulance and emergency medical, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

At present, Consolidated Irrigation District and private wells serve the site with water and septic systems. The River Crossing development is served with sewers by Spokane County. Fire District 1 provides fire protection and the Spokane County Sheriff provides police services. The State Department of Transportation provides maintenance of Interstate 90. The area is within Central Valley School District and the Spokane County Library District.

The level of services provided to the developed area is at an urban level at present. Following the proposed annexation, the City of Liberty Lake would be responsible for the provision of municipal services including police protection, road maintenance and construction, library, planning and zoning. The current service providers will continue to provide water, fire, schools and sewer services.

Road maintenance, planning and zoning, and other municipal services would shift to the City of Liberty Lake upon annexation. The City currently contracts with Spokane County for signalization and road striping, and all other services are provided by the City.

The City of Liberty Lake does not have an adopted Capital Facilities Plan projecting the level of service to be provided, facilities required, and how the services and facilities are to be financed [Exhibit 10].

RCW 36.70A.070 lists the mandatory elements of the comprehensive plan of a county or city required to plan under the Growth Management Act. Subsection 3 of that statute finds a “Capital Facilities Plan as follows:

A capital facilities plan element consisting of: (a) an inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreational facilities shall be included in the capital facilities plan element.

Effect of ordinances, governmental codes, regulations and resolutions on existing services

Evidence on this factor was not presented.

Present cost and adequacy of governmental services and controls in the area

The area as presently developed is receiving adequate services. Future development in the proposed annexation area would be required to meet city standards and codes.

Prospects of governmental services from other sources

The area is within Spokane County’s Urban Growth Area and could receive urban services from Spokane County or the City of Spokane Valley if contractual agreements were established.

Probable future needs for such services and controls

Given that an approved Capital Facilities Plan had not been provided, the future needs for services and controls is undetermined.

Probable effect of proposal on cost and adequacy of services and controls in area and adjacent area

The level of services in the area is adequate for the land in its current use. The effect of the proposal on adjacent land uses is undetermined.

The effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units

Spokane County would not receive tax revenues based upon the \$15,177,790 assessed value. The City has annexed to Fire District 1 and the annexation would have no impact on revenues to Fire District 1.

The effect of the proposal on adjacent areas, on mutual economic and social interests, and on the local government structure of the county

The proposed annexation may create future pressure in areas adjacent to the annexation area for commercial and residential development, which could impact the provision of urban services by service providers. The area is in the urban growth area and will develop at an urban density regardless of the annexation.

OBJECTIVES (RCW 36.93.180)

Preservation of natural neighborhoods and communities

Natural neighborhoods are “either distinct geographical areas or socially and locationally distinct groups of residents.” Testimony referred to future neighborhood development although the majority of the area is presently undeveloped. Testimony from residents indicated that the existing neighborhood did not have ties to the City of Liberty Lake [Exhibits 5 and 9].

The Board finds that it is not possible to classify the developing and future residential development as a socially and locationally distinct group of residents. Accordingly, this objective is not advanced by the proposal.

Use of physical boundaries, including but not limited to bodies of water, highways and land contours

The 644-acre area uses the Washington State Park property line just south of the Spokane River as its northern boundary. Parcel lines and the corporate limits of the City of Spokane Valley serve as the western boundary. The eastern and southeastern boundary is the City of Liberty Lake corporate limits and Interstate 90 bisects the southwestern boundary. A former irrigation canal serves as the southern boundary.

The Board finds this is not a critical factor in its decision.

Creation and preservation of logical service areas

The proposed annexation area receives certain urban services from Spokane County at this time. It is within Consolidated Irrigation District, the Spokane County Library District, and Fire District 1, and none of these district boundaries would change with annexation.

The EWGMHB decision specifically finds “important information is missing as to whether governmental services and public facilities are available to serve the projected numbers.”

Prevention of abnormally irregular boundaries

The Board finds this objective does not apply.

Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas

The Board finds this objective does not apply.

Dissolution of inactive special purpose districts

The Board finds this objective does not apply.

Adjustment of impractical boundaries

The Board finds this objective does not apply.

Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character

The City of Liberty Lake is an incorporated area proposing to annex an adjacent area, which is mostly agricultural in character and proposed for development as medium density residential with commercial and light industrial uses. The area is within the Spokane County Urban Growth Area.

Protection of agricultural and rural lands which are designated for long term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority.

This area is not designated by the County for long term productive agriculture in its adopted comprehensive plan. This objective does not apply.

CONSISTENCY WITH THE GROWTH MANAGEMENT ACT (RCW 36.70A)

Decisions of the Boundary Review Board must be consistent with the planning goals, Countywide Planning Policies, and Urban Growth Area designations adopted under the Growth Management Act. In December 1994, Spokane County adopted its Countywide Planning Policies to be used as a framework for each city, town, and county comprehensive plan. In April of 1997, the County adopted Interim Development Regulations designating Interim Urban Growth Areas (IUGA). On November 5, 2001, Spokane County adopted its Comprehensive Plan and its Urban Growth Areas.

The City of Liberty Lake incorporated in August of 2001 and was required to adopt its comprehensive plan within three years. The City Council adopted its comprehensive

plan in September of 2003. The plan was appealed to the Eastern Washington Growth Management Hearings Board (EWGMHB). The EWGMHB issued its final order on May 24, 2004 finding that the City of Liberty Lake's comprehensive plan was non-compliant in that it failed to meet the requirements for the Countywide Planning Policies and the Capital Facilities Plan and ordering compliance within a specified time frame.

The Boundary Review Board finds that denial of the proposed annexation is consistent with the Growth Management Act, and the Eastern Washington Growth Management Hearings Board decision that the City of Liberty Lake failed to meet the requirements of the Spokane County Countywide Planning Policies. The Board further finds that a lack of consistent documentation showing the City's ability to follow the Countywide Planning Policies and develop a Capital Facilities Plan that would demonstrate ability to plan for and serve the proposed area of annexation.

It is not the role of the BRB to determine if the City's Comprehensive Plan is desirable ; rather, it is the function of the Board to make certain that the proposal satisfies the requirements of the GMA. The Board finds that the annexation is premature when the very heart of the BRB decision revolves around the specific area of the plan that is not in compliance from the EWGMHB findings. Of equal importance, there is no basis upon which the Board might make a decision regarding the provision of services and logical service areas because there is no evidence in the record regarding the same.

THEREFORE, BE IT RESOLVED BY THE WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE COUNTY that based upon the record, testimony and exhibits in File No. BRB 582-04: Proposed Annexation of 644 Acres to the City of Liberty Lake (Inland Empire Paper) is hereby DENIED.

ADOPTED BY THE WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE COUNTY by a vote of ____ in favor and ____ against on this 1st day of December, 2004, and signed in authentication of its adoption on said date.

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE COUNTY

Doug Beu, Chair

ATTESTED TO and filed by me on this second day of December, 2004.

Susan M. Winchell, AICP
Director