

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

In the Matter of
ANNEXATION OF 77.28 ACRES
TO THE CITY OF SPOKANE
(SHOPKO)

} FILE No. 583-04
}
} RESOLUTION AND
} HEARING DECISION

HEARING DECISION

BRB 583-04: Proposed Annexation of 77.28 Acres to the City of Spokane (Shopko) is hereby **APPROVED AND MODIFIED** 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:

- A. That portion of Section 3, Township 24 North, Range 43 East, W.M. described as follows:
1. That portion of Government Lot 3 lying westerly of the west line of Freya Street.
 2. All of Government Lot 4, and that portion of Government Lot 5 lying north of the south 20 rods of said Government Lot 5 and northeasterly of the centerline of vacated Palouse Highway.
 3. That portion of the south 20 rods of said Government Lot 5 lying northeasterly of the Palouse Highway, including Palouse Highway southwesterly of and adjoining.
 4. That portion of Government Lots 6 and 11 lying westerly of the west line of Freya Street; including all of Freya Street adjoining the west lines of Ashton Heights 2nd and 3rd Additions north of the Palouse Highway; including all of Freya Street adjoining the east line of Russell's Subdivision south of the Palouse Highway.

5. All of Government Lot 12, including that portion of 53rd Avenue south of and adjoining; including Regal Street west of and adjoining.

And:

B. That portion of Section 4, Township 24 North, Range 43 East, W.M. described as follows:

1. All of Government Lots 9 and 10, EXCEPT that portion contained within Crestline Court subdivision; including Crestline Street west of and adjoining said property; including 53rd Avenue south of and adjoining said property; including Regal Street east of and adjoining.
2. That portion of Government Lot 1 lying within fractional northeast $\frac{1}{4}$ and lying easterly of Regal Road and Palouse Highway.

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 Spokane City Council of their intention to commence annexation proceedings.

WHEREAS, the City of Spokane issued an environmental checklist and DNS (Determination of Nonsignificance) on February 17, 2004 for the proposal;

WHEREAS, the City Council forwarded the ten percent petition to the City Plan Commission and the Plan Commission conducted a public hearing on the annexation proposal on February 25, 2004 and continued the hearing to March 10, 2004;

WHEREAS, the City Plan Commission recommended that the annexation proceed and recommended designated zoning;

WHEREAS, the Spokane City Council considered the ten percent petition at its March 29, 2004 meeting and adopted Resolution 04-2008 accepting the proposal for annexation;

WHEREAS, owners of seventy-five percent of the assessed value in the proposed annexation area signed a petition to annex to the City of Spokane;

WHEREAS, the seventy-five percent petition was certified by the Spokane County Assessor;

WHEREAS, the Spokane City Council conducted a public hearing on the proposed annexation on August 23, 2004 and adopted Resolution 04-082 indicating the City's

intent to annex the area and directed its staff to file a notice with the Boundary Review Board;

WHEREAS, a Notice of Intention was filed with the Boundary Review Board on September 1, 2004 by the City of Spokane proposing the annexation of 77.28 acres containing a Shopko store, six residences, and undeveloped land;

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

WHEREAS, the City of Spokane notified the Boundary Review Board that property owners adjacent to the proposed annexation had also indicated interest in being included in the proposed annexation;

WHEREAS, the Notice of Intention was then circulated to affected agencies and interested parties on September 9, 2004 for review and comments.

WHEREAS, the Boundary Review Board at its September 13, 2004 meeting set a public hearing on the proposed annexation for October 25, 2004, at 7:00 pm in the Conference Center of the ESD 101 Administration Building, 4202 South Regal Street in Spokane and directed its staff to advertise the largest possible area for the hearing;

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

WHEREAS, property owners in the annexation area and the proposed modification area were mailed a notice of the public hearing on September 23, 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 23, 2004), publication of legal notices in the Spokesman Review (September 26, 2004, October 3, 2004, and October 10, 2004);

WHEREAS, the Board held a special meeting on October 20, 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 Dave Mandyke, Deputy Director of Public Works, City of Spokane requesting jurisdiction be invoked.

Exhibit 2: Letter submitted by James Wynhausen asking the Board to modify the proposal to include Regal Village Apartments.

Exhibit 3: Ten percent petition for annexation submitted by Dave Mandyke, Deputy Director of Public Works, City of Spokane.

Exhibit 4: Seventy-five percent petition with certification for annexation submitted by Dave Mandyke, Deputy Director of Public Works, City of Spokane.

Exhibit 5: Letter sent by electronic mail on October 22, 2004 from Elizabeth J. Winter requesting that the Red Hawk PUD be included within the annexation area.

Exhibit 6: Memo dated October 22, 2004 from Brenda Sims, Spokane County Stormwater Utility Manager, requesting that the additional stormwater runoff generated by new development be handled carefully and that the stormwater flows from the unincorporated areas of the County will be flowing through the annexation area and should be integrated into the development plans.

Exhibit 7: Memo sent by electronic mail on October 22, 2004 from Thomas and Beverlee Miller supporting that the Redhawk PUD to be annexed to the city.

Exhibit 8: Memo sent by electronic mail on October 23, 2004 from Michelle Klein supporting the Redhawk PUD Annexation.

Exhibit 9: Letter sent by electronic mail on October 25, 2004 from Michael Wirt, Director, Spokane County Library District describing the agreements in process between the City of Spokane and the Library District.

Exhibit 10: Letter submitted October 25, 2004 by Hal Allert, 3407 East 47th Avenue in the Ashburn Village subdivision, requesting to be included in the proposed annexation area.

Exhibit 11: Letter submitted by electronic mail on October 25, 2004 from Stacia A. Routh, Agent for the Little Maverick Partnership requesting to be included within the annexation area.

WHEREAS, a public hearing was held on October 25, 2004 at 7:00 pm in the Conference Center of the ESD 101 Administration Building, 4202 South Regal Street in Spokane and all proceedings were recorded 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) Monica Bramble, City of Spokane
- 2) Bobby Williams, Fire Chief, City of Spokane
- 3) William Walkup, Fire Chief, Fire District No. 8
- 4) Terry Sullivan, Spokane
- 5) Ken Seiler, 2221 East 53rd Avenue, Spokane
- 6) Bev Miller, 5222 South Stone Lane, Spokane

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

Exhibit 12: Packet submitted by Monica Bramble, City of Spokane containing:

- 1) Fire and Emergency Protection Service Area Agreement between City of Spokane and Fire Protection District No. 8;
- 2) Letter dated February 5, 2002, addressed to Spokane County Fire Protection District No. 8, providing notice of the City's plans to annex the subject area;
- 3) Letter, dated April 19, 2004, addressed to Spokane County Fire Protection District No. 8, providing information on the proposed Shopko and Muirfield annexations;
- 4) Letter, dated, August 4, 2004, addressed to Spokane Fire Protection District No. 8, setting for a proposed tax revenue sharing arrangement for the proposed Shopko annexation;
- 5) Letter, dated August 21, 2004, responding to City proposal;
- 6) Affidavit of posting notice;
- 7) Shopko Annexation BRB Modification Report by John Ostrowski;

Exhibit 13: Copy of the City of Spokane's Powerpoint presentation describing the annexation proposal;

Exhibit 14: Maps showing the City of Spokane and Spokane County zoning for the proposed annexation area and modification area;

Exhibit 15: Maps showing the City of Spokane and Spokane County comprehensive plan designations for the proposed annexation area and modification area;

Exhibit 16: Large poster map showing the proposed annexation area and the proposed modification area with aerial photography;

WHEREAS, the Boundary Review Board considered all testimony and exhibits, adopted plans and policies of the Growth Management Act, considered each factor (RCW 36.93.170), and determined which objectives were met or not met by the proposal (RCW 36.93.180) and with a vote of three (3) in favor and two (2) against, directed its staff to prepare a written decision to approve and modify the proposal.

WHEREAS, the Boundary Review Board is entering 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 583-04: Proposed Annexation of 77.28 Acres to the City of Spokane (Shopko) was APPROVED AND MODIFIED 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".

FACTORS (RCW 36.93.170)

The Boundary Review Board considered all of the factors identified in RCW 36.93.170 which include, but were not limited to the following:

POPULATION AND TERRITORY

Population density

The proposed annexation area is predominantly commercial and vacant land zoned for residential and commercial uses with six homes and 5 to 10 residents. The 20-year projected population for the annexation area is 1,517. The area being considered for possible modification contains single family homes, apartments, a retirement home, and smaller commercial uses. The estimated population of the modification area is 1,637 and encompasses 129.68 acres.

The population of the City of Spokane is 197,400 and the existing population density is 3,346 people per square mile. There are 6 residences and approximately 6 persons currently within the proposed annexation area. The land area proposed for annexation is 77.28 acres and the total land area of Spokane is 59 square miles. The population density of the City of Spokane with the annexation area would not measurably change. If the area is modified to include the additional 129.68 acres and additional population of 1,637, the population density would increase to 3,374 people 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 (2004)

Name of City	Population	Land Area (Sq Miles)	Population Density
Spokane	197,400	59	3,346/sq mi
Spokane with annexation	197,406	59	3,346/sq mi
Spokane with modified annexation	199,043	59	3,374/sq mi
Spokane Valley	83,950	38	2,209/sq mi
Cheney	9,855	4	1,714/sq mi
Millwood	1,645	1	1,645/sq mi
Medical Lake	4,120	4	1,026/sq mi
Liberty Lake	4,950	5	930/sq mi
Airway Heights	4,590	5	918/sq mi
Deer Park	3,045	6	508/sq mi

Land Area and Uses

The current land use of the proposed annexation area is a Shopko store and undeveloped land. Forty single family homes are proposed for the parcels at the corner of 53rd Avenue and Crestline Street. In the area proposed for modification, there are apartment complexes, a PUD, single family homes, a retirement home, and small commercial 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 two comprehensive planning designations within the area: low density residential (4 to 10 dwelling units per acre) and general commercial. In the area proposed for modification, the areas are low density residential, high density residential (15 to 30 dwelling units per acre), an a small urban activity center. Urban activity centers are planned residential and commercial areas consisting of offices, recreation and cultural facilities, and shopping services. The City of Spokane adopted its comprehensive plan on May 21, 2001.

Spokane County zoning for the annexation area is low density residential (UR 3.5) and regional commercial (B-3). In the modification area, the zoning is low density residential (UR 3.5), medium residential (UR-7), high density residential (UR-22) and neighborhood commercial (B-1).

Service agreements entered into under RCW 36.115 or 39.34

The City of Spokane is negotiating agreements with Fire District 8 and the Spokane County Library District to facilitate the smooth transition of services and the revenue impacts on the districts. Exhibit 9 is a letter from the Spokane

County Library District Director describing the agreement to be in place between the District, the City of Spokane, and the Spokane Public Library. The City of Spokane provided documents in Exhibit 12 describing the agreement in place with Fire Protection District No. 8 and the requirements for negotiation on impacts with the District.

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 78-acre area is \$8,587,876. Property owners are listed in Exhibit D of the Notice of Intention. The assessed valuation of the modification area is \$47,195,307.

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

The topography of the proposed annexation area is relatively flat. The area is a part of the Browne's Mountain/Moran Prairie drainage basin. There are stormwater facilities on the commercial parcels. The remaining parcels are relatively undeveloped and would be addressed in any future development plans. Exhibit 6 is a letter from the Stormwater Utilities Manager describing the need for coordinated development in the annexation area.

The annexation area is directly south and east of the City of Spokane, approximately four miles from downtown Spokane.

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

The area was agricultural with grazing still a use, but most of the property in the annexation area is unused at this time.

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

The area proposed for annexation is surrounded by urban areas, even though the land use of the area itself is undeveloped for the most part. In the area proposed for modification, the land has been developed as urban with apartments, higher density single family neighborhoods, and commercial uses. The area is within the urban growth area and is projected to continue to develop at urban densities during the next ten years.

Location and most desirable future location of community facilities

There are no community facilities planned for the annexation area or the proposed modification area. A library branch is located on 57th Avenue and a fire station was recently constructed on the Palouse Highway south of 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, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

At present, the City of Spokane provides water and sewer service to both the annexation area and the proposed modification area. Fire District 8 provides fire protection and the Spokane County Sheriff provides police services. The area is within the Spokane School District and the Spokane County Library District.

The level of services provided to the area varies with levels of service. The City of Spokane provides water and sewer service and this level of service will not change with annexation, but the charge for water and sewer would decrease with annexation. Testimony at the hearing indicated that the level of service for police protection would increase from 1.06 officers per thousand to 1.2 officers per thousand with annexation. Street lights will be installed with annexation. Fire protection and emergency medical response times would either remain the same or be at a higher level with annexation; the fire rating of the City of Spokane is a 3 and Fire Protection District No. 8 is a 5 which may reduce fire insurance rates for property owners.

With annexation, the City of Spokane will provide municipal services; these services would include police protection, road maintenance and construction, planning and zoning, water and sewers. The City is in the process of finalizing an agreement with the Library District to allow it to continue to provide library services to the Moran Prairie area with annexation.

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

The City of Spokane proposes to annex the area using the petition method.

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

The area as presently developed is receiving adequate services from Spokane County and Fire Protection District No. 8. With annexation, an urban level of service would be provided by the City of Spokane. 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 currently receives water and sewer service from the City of Spokane. Aside the City of Spokane and current service providers, there are no other service options for the area.

Probable future needs for such services and controls

With full development of the annexation area, the City will need to increase services to the area. With the inclusion of the modification area, the City will need to increase the services it provides immediately upon annexation.

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 as it is being used at this time. With development, additional services and controls would be needed.

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 assessed value or the sales tax generated. In the annexation report prepared for the City of Spokane, an estimate of the effect of the annexation on city finances and services is presented. Fire District 8 would receive less tax revenues as a result of the annexation; however, the City is working on an agreement to allow the fire district revenues to gradually decrease.

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 would have minimal impacts on the adjacent areas, on mutual economic and social interests, or on the local government structure of the county.

OBJECTIVES (RCW 36.93.180)

Preservation of natural neighborhoods and communities

The proposed annexation area is a part of the Moran Prairie neighborhood which includes residents both in the city and in unincorporated Spokane County. The entire neighborhood is within the urban growth area and future annexation area of the City of Spokane. With the modification, more of the neighborhood would be included in the city.

The Board determined that this objective was met by modifying the proposal to include the area from the city limits to 53rd Avenue in that more of the Moran Prairie neighborhood would be included in the same jurisdiction.

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

The 78-acre annexation area uses the city limits on the north and west and parcel lines on the south and east. The area proposed for modification would use 53rd Avenue on the south and the city limits on the north, east, and west.

The Board determined this objective was met in that modification of the annexation area to include 53rd Avenue as the southern boundary used a physical boundary and not parcel lines.

Creation and preservation of logical service areas

The proposed annexation area and modification area both receive water and sewer service from the City of Spokane and are both within the future annexation area of the City of Spokane as described in the city's comprehensive plan and capital facilities plan.

The Board determined that the modified proposal met this objective in that the City had demonstrated the provision and financing of urban services to the area.

Prevention of abnormally irregular boundaries

The boundaries as originally proposed leave a peninsula of unincorporated land. The annexation area would lessen the irregular boundaries and the modification would eliminate them.

The Board determined the original proposal set back this objective and that the modification of the annexation area to include a regular boundary of 53rd Avenue would meet this objective.

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 determined that this objective did not apply.

Dissolution of inactive special purpose districts

The Board determined that this objective did not apply.

Adjustment of impractical boundaries

The Board determined that this objective did not apply.

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

The City of Spokane is an incorporated area proposing to annex an adjacent area, which is commercial and proposed for urban residential development. The modification area is presently developed at urban densities or proposed for urban densities.

The Board determined that the area as modified increased the population density, increased the amount of urban land, and included more intense uses and therefore, better met this objective by annexing an area that is essentially urban in character.

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.

The Board determined that this objective did not apply.

CONSISTENCY WITH THE GROWTH MANAGEMENT ACT (RCW 36.70A)

Decisions of the Boundary Review Board are required to be consistent with the planning goals, Countywide Planning Policies, and Urban Growth Area developed under the Growth Management Act. In December 1994, the County adopted the Countywide Planning Policies to be used as a framework for each city's, town's, and the county's comprehensive plan. The City of Spokane adopted its comprehensive plan on May 21, 2001 which included this area in its future annexation area and planned for it in its capital facilities plan. On November 5, 2001, Spokane County adopted its Growth Management Plan and its Urban Growth Area. The Board determined that its decision to modify the annexation by including more urban land within the urban growth area was consistent with the county-wide planning policies, both the City of Spokane and Spokane County comprehensive plans and the goals of the Growth Management Act.

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 583-04: Proposed Annexation of 77.28 Acres to the City of Spokane (Shopko) is hereby APPROVED AND MODIFIED.

ADOPTED BY THE WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE COUNTY by a vote of ____ in favor and ____ against on this 8th day of November, 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 ninth day of November, 2004.

Susan M. Winchell, AICP
Director