

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

In the Matter of	}	FILE No. 607-07
ANNEXATION TO THE	}	RESOLUTION AND
CITY OF SPOKANE (North Division)	}	HEARING DECISION

HEARING DECISION

BRB 607-07: Proposed Annexation to the City of Spokane (North Division) 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

The legal description of the annexation area as approved and modified is as follows:

That portion of the east half of Section 30, Township 26 North, Range 43 East, W.M., and that portion of the southeast quarter of the southeast quarter of Section 19, Township 26 North, Range 43 East, W.M., generally situated westerly of Division Street and northerly of Francis Avenue, and adjoining the west limit of the City of Spokane; MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING at the southeast corner of Section 30, Township 26 North, Range 43 East, W.M.; THENCE westerly 366.58 feet more or less (MOL) along the south line of said Section 30 to the extension of the west line of Atlantic Street right-of-way; THENCE northerly 40 feet more or less (MOL) along the extension of the west line of Atlantic Street right-of-way to the southeast corner of Lot 20, Block 31, Spokane Terrace Addition (coincident with the north limit of the City of Spokane), the TRUE POINT OF BEGINNING; THENCE northerly 2,560.96 feet more or less (MOL) along the west line and extensions of the west line of Atlantic Street right-of-way to the north line of Weile Avenue (Rhoades Avenue) right-of-way; THENCE westerly 2,265.52 feet more or less (MOL) along the north line of Weile Avenue (Rhoades Avenue) right-of-way to the east line of Wall Street right-of-way; THENCE northerly along the east line of Wall Street right-of-way 1,303.44 feet more or less (MOL) to the southwest corner of Lot 33, Block 1, Bern-Thera Terrace Addition; THENCE easterly 1,292.18 feet more or less (MOL) along the south line of Block 1, Bern-Thera Terrace Addition to the southwest corner of Lot 24, Block 1, The Park on Calispel PUD; THENCE easterly along the south line of said PUD to the southeast corner of Lot 30, Block 1, The Park on Calispel PUD; THENCE northerly along the eastern border of The Park on Calispel PUD to the southern boundary line of Weipert Addition; THENCE easterly 180 feet more or less (MOL) along the south line of Weipert Addition to the southeast corner of Lot

2, Block 6, Weipert Addition; THENCE northerly 192.27 feet more or less (MOL) along the east line of Weipert Addition to the southwest corner of Parcel A of Record of Survey filed in Book 29 of Surveys Page 29 on file in the Office of Spokane County Auditor; THENCE easterly 135 feet more or less (MOL) along the south line of said Parcel A to the southeast corner of said Parcel A; THENCE northerly along the east line of said Parcel A to the south right-of-way line of Cascade Way; THENCE northwesterly to the northeast corner of Cascade Way and Normandie Street; THENCE southeasterly and southerly along the north right-of-way line of Cascade Way to a point on the west line of the Division Street right-of-way (coincident with the west limit of the City of Spokane); THENCE southerly along the west line of Division Street right-of-way (coincident with the west limit of the City of Spokane) to the south line of Lot 19, Block 32, Spokane Terrace Addition; THENCE southerly and westerly along the west line of Division Street right-of-way (coincident with the west limit of the City of Spokane) to the south line of Lot 20, Block 32, Spokane Terrace Addition (coincident with the north line of Francis Avenue right-of-way); THENCE westerly 214 feet more or less (MOL) along the north line of Francis Avenue right-of-way (coincident with the north limit of the City of Spokane) to the east line of Atlantic Street right-of-way; THENCE westerly 60 feet more or less (MOL) (coincident with the north limit of the City of Spokane) to the southeast corner of Lot 20, Block 31, Spokane Terrace Addition, the TRUE POINT OF BEGINNING.

All properties situate in Spokane County, Washington.

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 Spokane City Council considered the ten percent petition at its May 8, 2006 meeting and adopted Resolution 06-52 accepting the proposal for annexation;

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 May 24, 2006;

WHEREAS, the City of Spokane issued an environmental checklist and DNS (Determination of Nonsignificance) on June 12, 2006 for the proposal;

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

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 on October 20, 2006;

WHEREAS, the Spokane City Council conducted a public hearing on the proposed annexation on January 2, 2007 and adopted Resolution 06-141 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 January 4, 2007 by the City of Spokane proposing the annexation of 135.5 acres comprised of commercial properties, a cemetery, and thirty-nine residences;

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

WHEREAS, the Notice of Intention was circulated to affected agencies and interested parties on January 9, 2007 for review and comments;

WHEREAS, the Boundary Review Board at a special meeting on January 24, 2007 set a public hearing on the proposed annexation for February 28, 2007, at 6:00 pm in the lower level hearing room of the Spokane County Public Works Building, 1026 West Broadway Avenue in Spokane 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 February 14, 2007 in at least ten places;

WHEREAS, the Board mailed notices of the public hearing to owners of property lying within the proposed annexation area on January 25, 2007;

WHEREAS, the public notice required by RCW 36.93.160 was made as follows: notice to affected jurisdictions thirty days prior to the public hearing (January 25, 2007), publication of legal notices in the Spokesman Review (January 28, 2007, February 4, 2007, and February 18, 2007);

WHEREAS, the Board held a special meeting on February 12, 2007 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 No. 1

Letter submitted by the City of Spokane dated January 3, 2007 invoking jurisdiction.

Exhibit No. 2

Email received January 4, 2007 from Clifford L. Cook, Spokane Valley, opposing annexations by the City of Spokane.

Exhibit No. 3

Email received January 8, 2007 from Ted Duncan, Linwood resident, objecting to the annexation.

Exhibit No. 4

Letter received January 11, 2007 from Sanford Munro, President of the Park on Calispel, requesting a public hearing on the annexation and a copy of their presentation to the Spokane City Council.

Exhibit No. 5

Email received January 11, 2007 from Ted Duncan, Linwood resident, opposing the annexation.

Exhibit No. 6

Letter submitted January 22, 2007 from the City of Spokane supporting the validity of the annexation petition with attachments:

- A. Final Decision and Order, Growth Management Hearings Board for Eastern Washington, Case No. 02-1-0001;
- B. Final Decision and Order, Growth Management Hearings Board for Eastern Washington, Case No. 06-1-0002;
- C. Annexation Goals, Policies, and Procedures: A Part of the Goals and Policies in the Land Use Plan Update, City Plan Commission, September 25, 1978;
- D. Land Use Plan, City of Spokane, Washington, dated June 22, 1983;
- E. Growth Management Plan, Spokane, Washington, dated May 1984, Policy 8: Annexation Policy and Program;
- F. City of Spokane's Comprehensive Plan, dated July 2005, Land Use Policies 8: Urban Growth Area; 9: Annexation Areas; and 10 Joint Planning;
- G. Spokane Municipal Code sections on utilities;
- H. Spokane County Coordinated Water System Plan, October 1989, Section III B: Conditions of Service by Designated Utility;
- I. Spokane County Coordinated Water System Plan, June 1999, Section 3.1.4: Conditions of Service by Designated Purveyor;
- J. Comprehensive Water Plan, City of Spokane, June 1991, Chapter 2: System Planning Considerations;
- K. City – County Wastewater Management Agreement and Documentation, 1979-1980.

Exhibit No. 7

Email received February 20, 2007 from Patricia Buckmaster, Park on Calispel homeowner, requesting the Boundary Review Board to remove Park on Calispel from the proposed annexation.

Exhibit No. 8

Letter received February 20, 2007 from Michael Wirt, Director, Spokane County Library District with attachments:

- A. Library Services Agreement for Joint Planning Within Urban Growth Areas (June 18, 2002);

- B. Interlocal Agreement...Concerning Mitigation of the Impact of Annexation in Moran Prairie and Glenrose Prairie (December 13, 2004);
- C. Interlocal Agreement ...Concerning Mitigation of the Impact of the Park Place Annexation (July 17, 2006);
- D. Interlocal Agreement...Concerning Mitigation of the Impact of the North Division Annexation (City of Spokane proposal, December 14, 2006);
- E. Interlocal Agreement...Concerning Mitigation of the Impact of Annexation of the North Metro Urban Growth Area (SCLD proposal, January 22, 2007).

Exhibit No. 9

Letter received February 21, 2007 addressed to each Board member from Robert E and Carmen K. Farley, Linwood residents, opposing the proposed annexation.

Exhibit No. 10

Letter received February 21, 2007 from Ron and Billie Carter, Linwood residents, requesting that the Park on Calispel area be excluded from the proposed annexation.

Exhibit No. 11

City of Spokane's memorandum submitted on February 21, 2007, in support of the North Division annexation with attached affidavits from:

1) James A. Richman with attachments:

- A. Economic Implications of Fringe Development Adjacent to Major Cities, July 1973;
- B. Annexation and the Fiscal Fate of Cities, Brookings Institute, July 2006;
- C. City of Spokane v. Spokane County and City of Airway Heights, EWGMHB, 02-01-0001, Final Decision and Order (July 31, 2002);
- D. City of Spokane v. Spokane County, EWGMHB, 06-01-0002, Final Decision and Order (November 27, 2006);
- E. "County draws line in turf fight; Commissioners say Spokane can't annex North Side lots", Spokesman Review, August 17, 2005;
- F. Correspondence from Spokane County Commissioners affirming newspaper article;
- G. Correspondence between the City of Spokane and Spokane County relative to revenue sharing proposals in this annexation;
- H. E-mails, one dated September 2, 2006, where County officials recognize that the petition method of annexation is the most popular method of annexation and that revenue sharing is not required;
- I. Complaint filed by Spokane County in Spokane County Superior Court on January 23, 2007;
- J. Materials filed by City of Spokane in Superior Court asking the court to dismiss the County's lawsuit regarding this annexation proposal;
- K. Spokane County Capital Facilities Plan section on Law Enforcement;
- L. City of Spokane's Capital Facilities Plan sections on Police and Fire Protection.

2) William R. Peacock with attachment:

- A. Agenda Datum sheet for Council meetings regarding the final acceptance for the sewer line extensions, and or installations that provide service to the North Division annexation area since the mid-1990's.

- 3) Dave Mandyke;
- 4) Bobby Williams with attachments:
 - A. Spokane County Capital Facilities Plan description of Fire District 9 with a rating of class 4 according to the Washington Surveying and Rating Bureau;
 - B. Fire District 9 records relative to average response time to annexation area of 5 minutes and 43 seconds;
 - C. City of Spokane records relative to average response time to annexation area of 3 minutes and 40 seconds for non-emergency and 2 minutes and 47 seconds for emergency calls.
- 5) John Mercer;
- 6) Jim Nicks with attachments:
 - A. Spokesman Review article dated November 1, 2006 about Sheriff's limited staff is creating long delays in responding to calls for service in unincorporated areas;
 - B. Portions of Matrix Efficiency Study describing 1.72 city police officers per citizen-dispatched call for service; city police responded to 26 percent of citizen calls in annexation area; city response time is two minutes faster than County in annexation area.
- 7) Raymond J. Wright;
- 8) Kenneth E. Pelton with attachments:
 - A. City of Spokane Capital Facilities Plan inventory of service providers.
- 9) Scott D. Egger with attachments:
 - A. RCW Chapter 47.24 City streets as part of state highways;
 - B. Costs of maintaining portions of Francis and Division Streets.
- 10) Gerald L. Hagood with attachment:
 - A. Water Service Covenant between the City of Spokane, Holy Cross Cemetery and Northwood Investment Company.

Exhibit No. 12

Supplemental documentation submitted by the City of Spokane on February 21, 2007, in support of the annexation and containing the following documents:

1. Notice of Intention;
2. County Assessor's certificate regarding annexation petition;
3. Annexation petition and supporting documentation;
4. Miscellaneous annexation covenants for annexation area;
5. 1978 Annexation Policy, including requirement of annexation as condition of extension of city utility service;
6. City Council Resolution 2006-0052 accepting Costco's annexation proposal and geographically modifying the proposal;
7. Costco's Notice of Intention to commence annexation proceedings;
8. County Assessor's request for additional information regarding annexation petition;
9. Revenue sharing correspondence;
10. Miscellaneous correspondence regarding annexation issues;
11. Miscellaneous email correspondence regarding annexation issues;
12. Spokane Fire District No. 9 Annexation Mitigation Agreement;

13. Miscellaneous documents provided by Spokane County in response to public records request;
14. Growth Management Hearings Board Decisions regarding North Metro Urban Growth Areas;
15. Spokesman Review newspaper article 8/17/05;
16. Certified copy of City of Spokane Resolution 06-141 relating to proposed North Division annexation;
17. Annexation area maps.

Exhibit 13

Memorandum submitted by Spokane County on February 22, 2007 requesting denial of the annexation and containing the following exhibits:

1. Map of Proposed North Division Annexation Area;
2. North Division Annexation Feasibility Study;
3. Notice of Intention;
4. Map of Sewer Service Areas;
5. Printout from Spokane County Library District Website and SCLD Materials, January 16, 2007;
6. Newspaper Articles Regarding City Budget Crisis;
7. Excerpts from City of Spokane 2005 Budget Summary;
8. Excerpts from City of Spokane 2006 Budget Summary;
9. Excerpts from City of Spokane 2007 Budget Summary;
10. Spokane County Unincorporated Services Chart;
11. Spokane County Regional Services Chart;
12. Summary Chart;
13. Newspaper Article Regarding Kendall Yards Project;
14. Chart of Taxes - Park on Calispel Residence;
15. Letter from Mayor and City's Proposed Revenue Sharing Agreement;
16. 1987 Linwood Annexation Materials;
17. Petitions Against Annexation;
18. 2006 Taxable Value Map;
19. Map of Proposed North Division Annexation Area North of Holy Cross Cemetery;
20. Annexations Under the Growth Management Act: Barriers and Potential Solutions, State of Washington Dept. of Community, Trade and Economic Development, December 2004;
21. Spokane County Countywide Planning Policies, December 2004 Printing;
22. Excerpt from City of Spokane Comprehensive Plan;
23. Aerial Photo of Proposed Annexation Area and Surrounding Area;
24. Spokane County Comprehensive Plan Map;
25. 1983 BRB Materials;
26. Spokane Municipal Code 13.03.0804;
27. Ordinance C-26649;
28. Sewer Connection Agreement;
29. Spokane Municipal Code 13.04.2002, .2004, .2012, .2016;
30. Spokane Municipal Code 13.03.1008, .1010;
31. County's Public Records Request to City dated January 30, 2007;

32. Economic Implications (An Annexation Planning Procedure), July 1973, and transmittal letter from James Richman;
33. Annexation and the Fiscal Fate of Cities, August, 2006, and transmittal letter from James Richman;
34. Certification by County Assessor;
35. Petition Materials Submitted to County Assessor;
36. County's Public Records Request and City's Response;
37. Chart of Alternative Petition Computations;
38. Pleadings from Spokane County Superior Court No. 98204148-4;
39. History of amendments of RCW 36.93.090;
40. Chart and Map - Water and Sewer Service along Division Street North of Rhodes.

Exhibit 14

Letter from Spokane County Fire District 9 submitted on February 23, 2007 detailing the district's opposition to the proposed annexation.

Exhibit 15

Email exchange between James Richman, City of Spokane and Bob Anderson, Fire District 9 with attachments regarding calls and response time, submitted by James Richman on February 26, 2007.

Exhibit 16

Letter from Park on Calispel residents received on February 26, 2007 requesting the Boundary Review Board modify the boundaries of the proposed annexation by excluding the Park on Calispel PUD.

Exhibit 17

Letter submitted February 27, 2007 from Jack Duncan, business owner, Aces Sports Bar and Casino, explaining the consequences the proposed annexation would have on his business.

Exhibit 18

Letter submitted February 27, 2007 from Dawn Roskam, Controller, Aces Sports Bar and Casino, explaining the impact the proposed annexation would have on the employees of Aces Sports Bar and Casino with attachments signed by employees.

Exhibit 19

Affidavit submitted on February 27, 2007 by James Richman attaching an excerpt from the Spokane Municipal Code.

Exhibit 20

Affidavit with attachments submitted on February 27, 2007 by James Richman in response to Spokane County's suggestion that the city should annex the entire Linwood area.

Exhibit 21

Affidavit submitted on February 28, 2007 by James Richman with attached letter from Spokane County Commissioner Todd Mielke, asking property owners to write letters in opposition of the proposed annexation.

Exhibit 22

Affidavit submitted on February 28, 2007 by Robert Beaumier, City of Spokane, describing the ownership of the wastewater treatment plant.

Exhibit 23

Letter submitted on February 28, 2007 by Norma Jean Baker, commercial property owner, in opposition to the proposed annexation.

Exhibit 24

Letter submitted on February 28, 2007 by Helen Weston, commercial property owner, in opposition to the proposed annexation.

Exhibit 25

Response brief submitted on February 28, 2007 by James Emacio, Spokane County, with attached declarations of Marshall Farnell, Jeff Tower, Bob Brueggeman, Kevin Cooke, John Pederson, Michael Wentz, and Jeff Weber with attachments: A. Documents recorded from a title company in Spokane County; B. Document showing Holy Cross Cemetery; C. Spokane County Short Plat No. SP-83-242; D. Assessor's map of Holy Cross Cemetery; and E. Spokane Municipal Code sections 13.03.0704 and 13.03.0712; and second declaration of Jeff Weber with maps of annexation options attached.

WHEREAS, a public hearing was held on February 28, 2007, at 6:00 pm in the lower level hearing room of the Spokane County Public Works Building, 1026 West Broadway Avenue 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. Dennis Hession, Mayor, City of Spokane
2. Monica Bramble, City of Spokane
3. Bobby Williams, Fire Chief, City of Spokane
4. Jeff Weber, Legal Counsel, Buck and Gordon, representing Spokane County
5. Marshall Farnell, Chief Executive Officer, Spokane County
6. Jeff Tower, Under Sheriff, Spokane County
7. Todd Mielke, Commissioner, Spokane County
8. Bob Anderson, Fire Chief, Fire District No. 9
9. Ann Apperson, Board of Trustees, Spokane County Library District
10. Sanford Munro, President, Park on Calispel PUD
11. Geraldine Eickmeyer, 6428 N. Smith, Spokane
12. Tim Lively, 7031 S. Crest View Street, Spokane
13. Pat Murphy, Commercial Property Owner, 6909 N. Division, Spokane

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

Exhibit 26

Emergency response information for Moran Prairie area of the City of Spokane submitted February 28, 2007 by Tim Lively, 7031 South Crest View Street, Spokane.

Exhibit 27

Letter submitted February 28, 2007 from Geraldine Eickmeyer, property owner (6623 North Division), in opposition to the proposed annexation.

Exhibit 28

Powerpoint presentation for the City of Spokane submitted February 28, 2007 by Monica Bramble, City of Spokane.

Exhibit 29

Presentation for Spokane County submitted February 28, 2007 by Todd Mielke, Spokane County Commissioner.

Exhibit 30

Powerpoint presentation for Fire District 9 submitted February 28, 2007 by Bob Anderson, Fire District 9.

Exhibit 31

Spokane County Comprehensive Plan map indicating the location of the city and district libraries submitted February 28, 2007 by Ann Apperson, Spokane County Library.

WHEREAS, the Boundary Review Board continued the public hearing to Monday, March 19, 2007 at 3:00 pm in the Spokane County Public Works Building Hearing Room, 1026 West Broadway, Spokane to allow time for the City of Spokane to provide rebuttal;

WHEREAS, the Boundary Review Board adopted a motion to accept additional written exhibits for the record of the public hearing until noon on Monday, March 12, 2007;

WHEREAS, the following exhibits were received prior to noon on March 12, 2007:

Exhibit 32

Email submitted March 5, 2007 by Patricia Buckmaster asking the Boundary Review Board to modify the boundaries by removing the Park on Calispel neighborhood.

Exhibit 33

Letter submitted March 5, 2007 by Sanford Munro, President of Park on Calispel Homeowners Association, with attached article from the Spokesman Review.

Exhibit 34

Letter received March 6, 2007 from Shirley Spurgeon asking the Board to modify the boundaries to exclude Park on Calispel.

Exhibit 35

Letter received March 6, 2007 from Patricia Thomas concerned about the proposed boundaries.

Exhibit 36

Email received March 7, 2007 from Bob Anderson, Chief, Fire District 9, with attachment pertaining to levy rate and bond rate.

Exhibit 37

Memo received March 12, 2007 from Bob Anderson, Chief, Fire District 9, detailing additional information regarding staffing and response time for Fire District 9 and City of Spokane Fire Department.

Exhibit 38

Letter received March 12, 2007 from Frank and Marianna Evans, Linwood residents, in opposition to the proposed annexation.

Exhibit 39

Letter from the City of Spokane in response to Spokane County's February 28, 2007 submission submitted by James Richman on March 12, 2007 containing the following documents:

- A. Minutes of the Growth Management Steering Committee of Elected Officials, dated December 20, 2006, together with a copy of the Draft Interlocal Agreement approved by the committee;
- B. Copy of correspondence from legal counsel for Holy Cross Cemetery Association, recognizing the benefit the Holy Cross property has enjoyed as a result of obtaining City of Spokane utility services and indicating the County does not have standing to challenge the enforceability of an agreement to which it is not a party;
- C. Copy of this Board's decision approving and modifying the Shopko Annexation. As modified, the annexation included approximately 230 acres of land. Although the annexation included a Shopko store, over 90 percent of the remaining land was residential and/or undeveloped land. The annexation included over 1,600 new City residents;
- D. Copy of this Board's decision approving the Muirfield Annexation of 25.29 acres of residential land containing 98 new City residents;
- E. Copy of this Board's decision approving and modifying the Park Place Annexation. As modified, the annexation included nearly 500 acres of land, none of which is commercial. The annexation area included portions of Riverside State Park and developed and undeveloped residential land, with a projected population of approximately 400 new City residents;
- F. Breakdown of taxes and other fees paid by City taxpayers to the County;
- G. Copy of Richman affidavit filed in Spokane County's Superior Court lawsuit challenging the validity of the City's annexation petition with exhibits (1-26);
- H. Attached hereto as Exhibit "H" is a copy of the Shopko Analysis-Developed vs. Undeveloped 2005;
- I. Attached hereto as Exhibit "I" is a true and correct copy of the Second Affidavit of Jim Nicks, Assistant Chief, City of Spokane Police Department in Support of North Division Annexation.

Exhibit 40

Letter received March 12, 2007 from James Emacio, Spokane County, with two declarations attached:

1. Declaration of County Commissioner Todd Mielke in response to the Third Party Affidavit of James A. Richman;
2. Chapter 18 of the MATRIX study entitled "Public Works and Utilities Division street Department", substantiating the City of Spokane's need for additional financial resources to address the deferred rehabilitation of its streets in light of the 2004 Street Bond.

WHEREAS, a continued public hearing was held on March 19, 2007 at 3:00 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, public hearing rebuttal was provided by James Richman, City of Spokane;

WHEREAS, the Boundary Review Board considered all testimony and exhibits, City of Spokane and Spokane County adopted plans and policies; the relevant portions of the Growth Management Act, considered each relevant factor contained in RCW 36.93.170, and determined which relevant objectives contained in RCW 36.93.180 were met or not met by the proposal and by a vote of five (5) in favor and none (0) opposed, directed its staff to prepare a written decision approving and modifying the proposal;

WHEREAS, the Boundary Review Board hereby enters its written decision concerning this matter, pursuant to RCW 36.93.160 (4), adopts and files its decision with the Board of County Commissioners and the Clerk of each governmental unit directly affected on or before April 27, 2007.

FINDINGS

BRB 607-07: Proposed Annexation to the City of Spokane (North Division) 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 area originally proposed for annexation is predominantly commercial with a planned unit development of 39 single family homes. The estimated population for the original annexation area was 60. The 20-year projected population for the annexation area is 60. With the modification of the proposal to remove the Park on Calispel PUD, all residential property is removed leaving the area with no population.

The population of the City of Spokane is 201,600 and the existing population density is 3,371 people per square mile. The land area as modified for annexation is 120 acres and the total land area of Spokane is 59.8 square miles. The population density of the City of Spokane with the annexation area would not measurably change.

Land Area and Uses

The annexation area as originally proposed was 135.5 acres and the area as modified is 120 acres. The current land use of the annexation area as originally proposed is commercial along Division Street with approximately 42 businesses; residential in the Park on Calispel PUD with 39 single family homes; and the Holy Cross Cemetery. There is also undeveloped land along Division Street. The commercial properties provide regional goods and services and include: Cascade Professional Building, Ace's Casino, Moon's Mongolian Grill, Royal Scot Motel, Quick Cash Loans, Spokane Powersports, Becker Buick GMC, Car Toys, Spokane Discount, Liberty Motel, Trade A Game, Home Environments, Sears Auto, Donuts to Go, DeWalt Industrial Tools, Old European, Comfort Inn, Qdoba Mexican Grill, Skipper's, Golden Corral, US Bank Bldg, Big 5, 50% off Card Shop, Costco, Circuit City, Alton's, Washington Trust Bank, Walgreen's, Quality Inn, and Midas Muffler.

With the modification, the Park on Calispel PUD, Walgreen's, Quality Inn, and Midas Muffler are removed.

Comprehensive Plans and Zoning

The land is currently under the jurisdiction of Spokane County. Under Spokane County, it is designated Low Density Residential and Regional Commercial by its comprehensive plan and lies within the Urban Growth Area. Spokane County has the area zoned Regional Commercial (RC) and Low Density Residential (LDR) in its zoning ordinance. The adjacent properties within the City of Spokane are designated General Commercial and zoned General Commercial (GC-70).

Upon annexation, the City of Spokane will designate the property with a similar zoning and comprehensive plan category with the exception of the Holy Cross Cemetery which is presently designated Low Density Residential by Spokane County and would be designated Open Space by the City of Spokane.

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 will establish which jurisdictions should provide various local government services and facilities within specified geographic areas and how those services and facilities will be financed." The intent of the legislature was "to permit the creation of a flexible process to establish service agreements and to recognize that local governments possess broad authority to shape a variety of government service agreements to meet their local needs and circumstances. However, it is noted that in general, cities are the unit of local government most appropriate to provide urban governmental services and counties are the unit of local government most appropriate to provide regional governmental services."

The law specifies that "a service agreement may include, but is not limited to, any or all of the following matters:

- (1) A dispute resolution arrangement;
- (2) How joint land-use planning and development regulations by the county and a city or cities, or by two or more cities, may be established, made binding, and enforced;
- (3) How common development standards between the county and a city or cities, or between two or more cities, may be established, made binding, and enforced;
- (4) How capital improvement plans of the county, cities, and special districts shall be coordinated;
- (5) How plans and policies adopted under chapter 36.70A RCW will be implemented by the service agreement;
- (6) A transfer of revenues between local governments in relationship to their obligations for providing governmental services;
- (7) The designation of additional area-wide governmental services to be provided by the county."

Although there are no service agreements adopted under the provisions of this statute, the Board heard testimony and received exhibits describing the City of Spokane's agreement with Fire District 9 for payment in lieu of taxes (Exhibit 12-12); its negotiation of an agreement with Spokane County Library District (Exhibit 8); its agreement to reserve 10 mgd of capacity in its wastewater management plant for Spokane County (Exhibit 6-K); and a proposed revenue sharing agreement for the North Division annexation with Spokane County (Exhibit 11).

Interlocal agreements between a county and its cities

The Board heard testimony and received exhibits stating that Spokane County has not entered into interlocal agreements with its cities for coordinated planning within urban growth areas.

Per capita assessed valuation

The Spokane County Assessor determined that the assessed valuation of the original annexation area is \$47,903,349. The area as modified has an assessed valuation of approximately \$14,000,000 less for a total assessed valuation of the modified annexation area of \$33,884,488.

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

The topography of the proposed annexation area is relatively flat with a modest rise in elevation of approximately 15 feet from the north end to the south end. Most of the land inside the proposed annexation area is already developed.

The annexation area abuts the City of Spokane on the east and south boundaries and is within a peninsula of unincorporated land generally surrounded on three sides by the City of Spokane. It is approximately four miles from downtown Spokane.

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

The area is not used for agriculture.

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

The annexation area is essentially fully developed as commercial along Division Street with three or four small undeveloped parcels near Francis Avenue. The residential area of the Park on Calispel PUD is fully developed with 39 single family homes. Adjacent areas both within the City of Spokane and the unincorporated area of Spokane County are similarly developed.

Location and most desirable future location of community facilities

The Board heard testimony and received exhibits describing the current location of libraries and fire stations. Exhibit 31 is a map showing the Spokane Library District's North Spokane branch on Hawthorne Road and the City of Spokane's Indian Trail and Shadle branches. Exhibit 28 includes a map and table of fire stations with locations and distances from the annexation area:

Jurisdiction	Station	Distance from Annexation Area
City of Spokane	18	0.33 miles
City of Spokane	13	2.91 miles
City of Spokane	15	3.66 miles
Fire District 9	91	3.69 miles
Fire District 9	92	4.72 miles

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."

Current service providers and changes to service provision are listed on the table below:

Service	Current Service Provider	Upon Annexation
Water	City of Spokane, Spokane County Water District No. 3 and irrigation well	No Change
Sewer Collection	City of Spokane and Spokane County	No Change
Wastewater Treatment	City of Spokane	No Change
School	Mead School District No. 354 and Spokane School District No. 81	No Change
Public Transit	Spokane Transit Authority	No Change
Fire Protection and EMS	Spokane Fire District No. 9	City of Spokane
Law Enforcement	Spokane County Sheriff's Office	City of Spokane
Library	Spokane County Library District	City of Spokane
Solid Waste	Waste Management Services	After 7 years, City of Spokane
Streets	Spokane County	City of Spokane
Stormwater	Spokane County	City of Spokane

Upon annexation, the City of Spokane will continue to provide water and sewer service to the properties that currently receive water and sewer, but the charge for water and sewer will decrease. Spokane County will continue to provide sewer service to the areas that are currently served by the county. Upon annexation, properties that now receive water from Spokane County Water District No. 3 will continue to receive water from the district.

The Board received testimony and exhibits describing the response times for law enforcement and fire protection to the annexation area:

Fire Protection	City of Spokane	Fire District 9
Average Response Time	2 min 47 sec	5 min 43 sec
Fire Bureau Rating	3	4
Law Enforcement	City of Spokane	Spokane County Sheriff
Average Response Time	7 min 30 sec	9 min 20 sec
Officers per 1,000 Residents	1.41	1.10

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

The effect on existing services to properties in the annexation area include, but are not limited to: a decrease in water and sewer charges to existing City of Spokane customers; a utility tax for some services; a continuation of the Fire District 9 levy until 2011; and an increase in the gambling tax. City of Spokane development regulations for the area will be followed and are similar to those of Spokane County.

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

The Board heard testimony and received exhibits that described the area as receiving adequate services from current service providers but that the level of service would improve with annexation to the City of Spokane.

Prospects of governmental services from other sources

The area is within the water service areas of the City of Spokane and Spokane Water District No. 3 in the Coordinated Water System Plan; within the sewer service areas of the City of Spokane and Spokane County according to the Wastewater Management Plan; and within the urban growth area according to the Growth Management Plans for the City of Spokane and Spokane County. Aside from 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 annexation of area as originally proposed, the City of Spokane estimated the need for one additional police officer and additional street maintenance service. With the removal of the residential area, these future service needs may decrease.

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

The Board received testimony and exhibits describing an increase in the level of services to the area upon annexation.

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

Spokane County presented testimony that loss of areas like the annexation area that have high sales tax revenues and low service costs cause serious financial problems for the County. The County is required to provide regional services such as assessor, auditor, courts and jail. The City of Spokane proposed a revenue sharing agreement to reduce financial impacts to Spokane County (Exhibit 13).

The City of Spokane will mitigate the impact of this annexation on Spokane County Fire District 9 under an existing interlocal agreement. Similarly, the City is negotiating with the Spokane County Library District for a mitigation agreement similar to those entered into in previous annexations.

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

The annexation area is located in an unincorporated peninsula of approximately two square miles which is surrounded on three sides by the City of Spokane. Annexation of the area as modified will have little effect on the adjacent areas. The area is already substantially developed with no new development proposed.

Many of the services and facilities provided by the City of Spokane are currently used by the businesses and residents of the annexation area. These include City streets, parks, libraries (by reciprocal agreement with Spokane County Library District), sewer, water, fire protection (by mutual aid agreement with Fire District 9 and close proximity to City fire stations) and police protection (by mutual aid agreement with the Spokane County Sheriff). The effect on mutual economic and social interests will be that the businesses will receive a higher level of fire and police service than they currently receive. In return, the City of Spokane will receive revenue from this area which will enhance its ability to provide the necessary services expected.

Annexation would bring this area under the jurisdiction of the City of Spokane. Spokane County presented testimony that described that sales tax revenue generated from this area outweighs the cost of providing County services to the area and helps in funding the regional services that the County is required to provide (Exhibit 25).

OBJECTIVES (RCW 36.93.180)

Preservation of natural neighborhoods and communities

The area originally proposed for annexation included a portion of residential property in the Linwood neighborhood. The entire Linwood neighborhood is within the urban growth area and future annexation area of the City of Spokane. The Board heard testimony and received exhibits describing the connection residents of the Park on Calispel PUD share with the remainder of the Linwood community and viewed their residential area as a part of the larger Linwood area (Exhibits 7, 10, 16, 25, 28, 32, 34). Testimony also described that the Park on Calispel PUD would be isolated from the rest of the Linwood area in voting precincts and community issues.

The annexation area also includes commercial businesses and offices which provide regional goods and services beyond the level of services used by the Linwood area. Testimony also described that the businesses in the annexation area were a part of the entire North Division Commercial District which includes both the east side of Division Street in the City of Spokane and the west side of Division Street in the unincorporated part of Spokane County (Exhibits 11-8, 28).

The Board finds that the commercial areas were connected to a larger commercial district and distinct from the residential areas and not a part of the Linwood community and that therefore, this objective is advanced by approving the annexation and modifying the proposal to exclude the residential area.

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

The 120-acre annexation area as modified uses the physical boundaries of Division Street on the east to Francis Avenue; Atlantic Street on the west to the Holy Cross Cemetery; the tree-lined and fenced boundary of Holy Cross Cemetery to Wall Street on the west; the tree-lined and fenced boundary of Holy Cross Cemetery on the north to fenced boundary of the Costco property; the fenced boundary of an office complex to Cascade Way on the north. As originally proposed the annexation area used property lines on the north and residential fences on the east.

The Board determined this objective is better advanced by modification of the annexation area to exclude the parcels north of Cascade Way and using the north right-of-way line of Cascade Way as the northern boundary; and to use the commercial fencing and alleyway on the west of the Costco property instead of the residential fencing on the west side of the Park on Calispel PUD.

The Board finds that this objective is advanced by modification to use Cascade Way as the northern boundary and excluding Park on Calispel PUD.

Creation and preservation of logical service areas

Service areas for water and sewer are set forth in the Coordinated Water System Plan and Wastewater Management Plan adopted by Spokane County and will not change as a result of annexation of the area to the City of Spokane. School district boundaries are not be affected by annexation. A franchise agreement contains terms for the transfer of solid waste responsibilities to the City of Spokane after annexation. The provision of urban services is also identified in the Growth Management Act and several Eastern Washington Growth Management Hearing Board decisions as being most appropriately the responsibility of cities.

The Board heard testimony and received exhibits describing the service area impacts of annexation on fire protection, emergency medical response, law enforcement, streets, and libraries. In addition, the testimony and exhibits supported the inclusion of both sides of Division Street in the City of Spokane to provide a more logical service area for law enforcement, fire, emergency medical response. Exhibits also indicated that traffic planning, street maintenance and construction would also be better served with intersections entirely within the City of Spokane.

The Board finds that the annexation as modified advances this objective in that service areas would be consistent with adopted plans and policies; provide more efficient response times; and allow for more orderly planning.

Prevention of abnormally irregular boundaries

The area proposed for annexation is located within a two square mile peninsula of unincorporated area surrounded on three sides by the City of Spokane and is contiguous to the City of Spokane's boundary on the eastern and southern boundaries. The annexation area lies in a linear configuration along the eastern boundary of this peninsula with a protrusion to include all of the Holy Cross Cemetery property. The Board heard testimony and received exhibits that the boundary as modified herein is not abnormally irregular.

The Board finds that the objective was neither advanced or set back by this proposal.

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 area proposed for annexation is a part of a larger urban growth area designated in the Spokane County Comprehensive Plan. One requirement for new city incorporations is inclusion in an urban growth area. The Linwood area, containing population of less than 10,000, would be typical of the small city intended to be discouraged.

The Board finds that the proposal as modified advances this objective.

Dissolution of inactive special purpose districts

The Board determined that this objective did not apply.

Adjustment of impractical boundaries

The proposed annexation area is a regional commercial area lying in part within in the City of Spokane and in part within the unincorporated area of Spokane County. Testimony establishes that inclusion of the entire North Division Commercial District within the same jurisdiction will provide more practical boundaries for emergency response, street planning, maintenance and construction, and comprehensive planning.

The Board finds that the proposal as modified advanced this objective.

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

The annexation area is fully developed, urban in character, and lies within a much larger peninsula of land with urban character surrounded on three sides by the City of Spokane. It is within the Urban Growth Area in the Spokane County Comprehensive Plan with urban land uses and urban zoning categories designated. The Board heard testimony and received exhibits that the area is a part of the North Metro Urban Growth Area which the Eastern Washington Growth Management Hearings Board has determined should be a joint planning and future annexation area for the City of Spokane.

The Board finds that the proposal as modified advanced this objective.

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

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 an Urban Growth Area containing the annexation area. The Board determined that its decision to approve and modify the annexation 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.

DECISION SUMMARY

The Boundary Review Board finds that the proposal as modified advances the following objectives:


- Preservation of natural neighborhoods and communities;
- Use of physical boundaries, including but not limited to bodies of water, highways and land contours;
- Creation and preservation of logical service areas;
- Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;
- Adjustment of impractical boundaries;
- Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character.

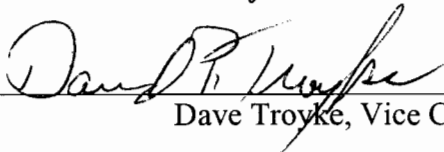
The Board finds that the proposal is consistent with the required provisions of the Growth Management Act.

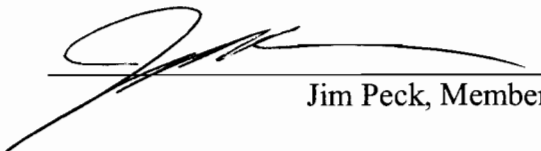
THEREFORE, BE IT RESOLVED BY THE WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE COUNTY that based upon the record, testimony and exhibits in File No. BRB 607-07: Proposed Annexation to the City of Spokane (North Division) is hereby APPROVED AND MODIFIED.

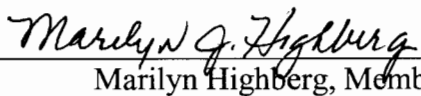
ADOPTED BY THE WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE COUNTY by a vote of 5 in favor and 0 against on this 16th day of April, 2007, and signed in authentication of its adoption on said date.

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE COUNTY


Phyllis Meyer, Chair


Dave Troyke, Vice Chair


Jim Peck, Member


Marilyn Highberg, Member


Tim Lawhead, Member

ATTESTED TO and filed by me on this 16th day of April, 2007.

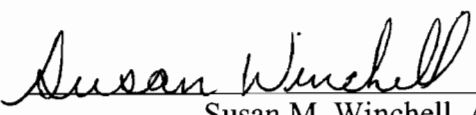

Susan M. Winchell, AICP
Director

EXHIBIT A
Property Description
April 16, 2007

PROPOSED NORTH DIVISION ANNEXATION AREA

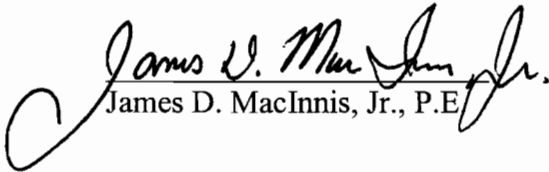
That portion of the east ½ of Section 30, Township 26 North, Range 43 East, W.M., and that portion of the southeast ¼ of the southeast ¼ of Section 19, Township 26 North, Range 43 East, W.M. generally situated westerly of Division Street and northerly of Francis Avenue, and adjoining the west limit of the City of Spokane; MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING at the southeast corner of Section 30, Township 26 North, Range 43 East, W.M.; THENCE westerly 366.58 feet more or less (MOL) along the south line of said Section 30 to the extension of the west line of Atlantic Street right-of-way; THENCE northerly 40 feet more or less (MOL) along the extension of the west line of Atlantic Street right-of-way to the southeast corner of Lot 20, Block 31, Spokane Terrace Addition (coincident with the north limit of the City of Spokane), the TRUE POINT OF BEGINNING; THENCE northerly 2,560.96 feet more or less (MOL) along the west line and extensions of the west line of Atlantic Street right-of-way to the north line of Weile Avenue (Rhoades Avenue) right-of-way; THENCE westerly 2,265.52 feet more or less (MOL) along the north line of Weile Avenue (Rhoades Avenue) right-of-way to the east line of Wall Street right-of-way; THENCE northerly along the east line of Wall Street right-of-way 1,303.44 feet more or less (MOL) to the southwest corner of Lot 33, Block 1, Bern-Thera Terrace Addition; THENCE easterly 1,292.18 feet more or less (MOL) along the south line of Block 1, Bern-Thera Terrace Addition to the southwest corner of Lot 24, Block 1, The Park on Calispel PUD; THENCE easterly along the south line of said PUD to the southeast corner of Lot 30, Block 1, The Park on Calispel PUD; THENCE northerly along the eastern border of The Park on Calispel PUD to the southern boundary line of Weipert Addition; THENCE easterly 180 feet more or less (MOL) along the south line of Weipert Addition to the southeast corner of Lot 2, Block 6, Weipert Addition; THENCE northerly 192.27 feet more or less (MOL) along the east line of Weipert Addition to the southwest corner of Parcel A of Record of Survey filed in Book 29 of Surveys page 29 on file in the Office of Spokane County Auditor ; THENCE easterly 135 feet more or less (MOL) along the south line of said Parcel A to the southeast corner of said Parcel A; THENCE northerly along the east line of said Parcel A to the south right-of-way line of Cascade Way; THENCE northwesterly to the northeast corner of Cascade Way and Normandie Street; THENCE southeasterly and southerly along the north right-of-way line of Cascade Way to a point on the west line of the Division Street right-of-way (coincident with the west limit of the City of Spokane); THENCE southerly along the west line of Division Street right-of-way (coincident with the west limit of the City of Spokane) to the south line of Lot 19, Block 32, Spokane Terrace Addition; THENCE southerly and westerly along the west line of Division Street right-of-

way (coincident with the west limit of the City of Spokane) to the south line of Lot 20, Block 32, Spokane Terrace Addition (coincident with the north line of Francis Avenue right-of-way); THENCE westerly 214 feet more or less (MOL) along the north line of Francis Avenue right-of-way (coincident with the north limit of the City of Spokane) to the east line of Atlantic Street right-of-way; THENCE westerly 60 feet more or less (MOL) (coincident with the north limit of the City of Spokane) to the southeast corner of Lot 20, Block 31, Spokane Terrace Addition, the TRUE POINT OF BEGINNING.

All properties situate in Spokane County, Washington.

I hereby acknowledge that the above property description is based on the full and true legal description for the North Division annexation area as of April 9, 2007, and I do certify that such description generally characterizes the boundary of said area.


James D. MacInnis, Jr., P.E.

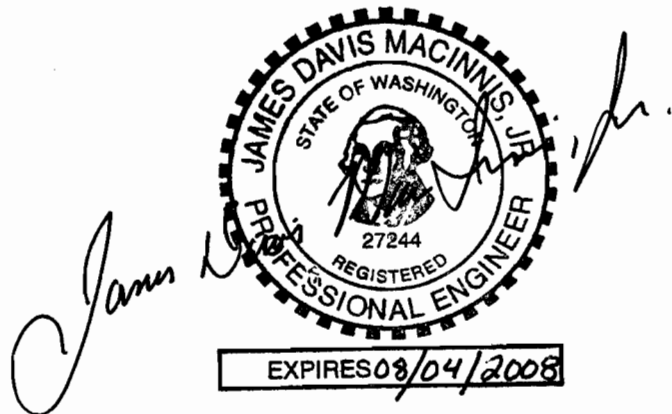
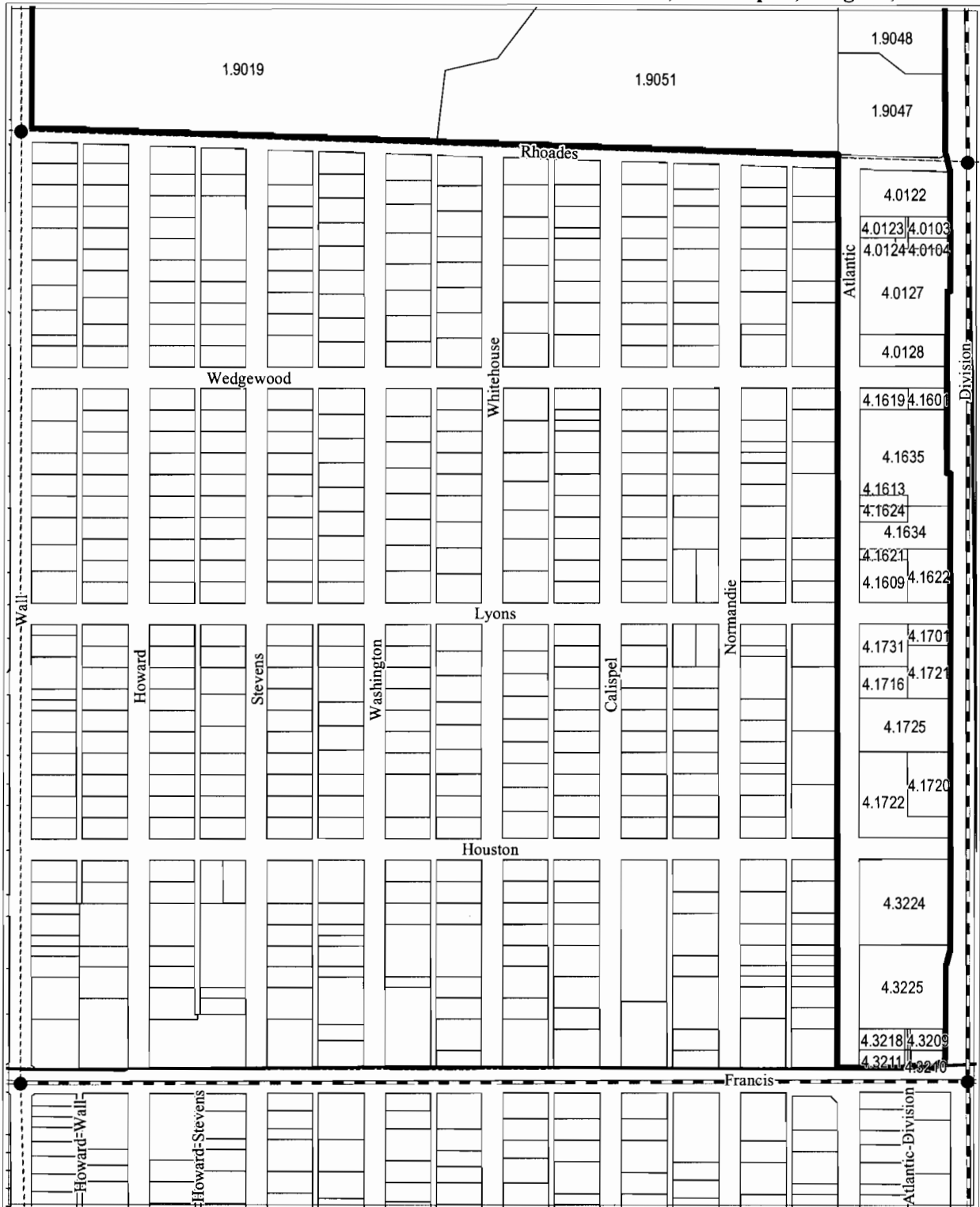
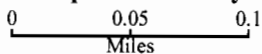


Exhibit B (Original On File in BRB Office)

SE 1/4 Sec. 30, Township 26, Range 42, E.W.M



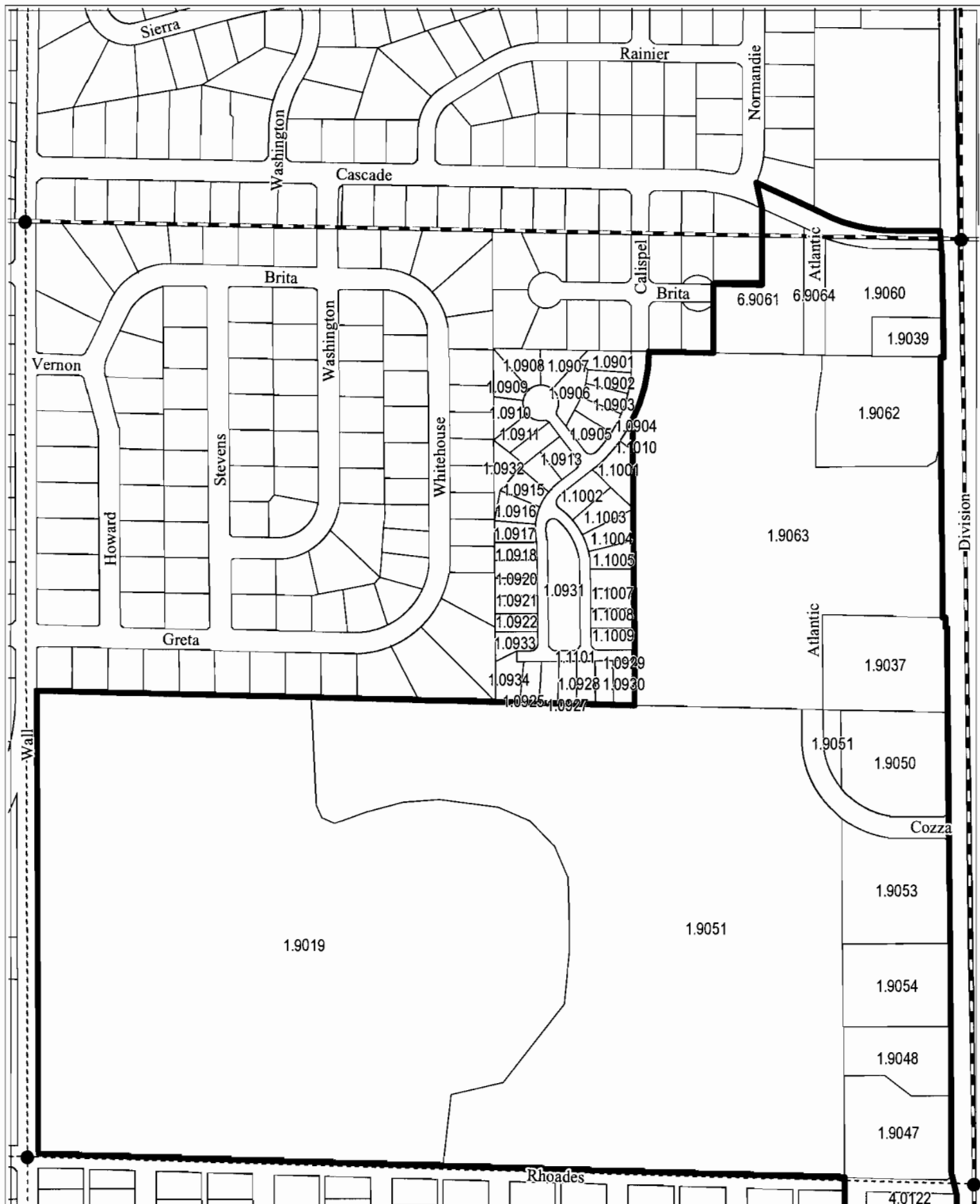
BRB 607-07
Washington State Boundary Review Board
For Spokane County



Parcel Map 1
Annexation of 120 acres to
the City of Spokane (North Division)

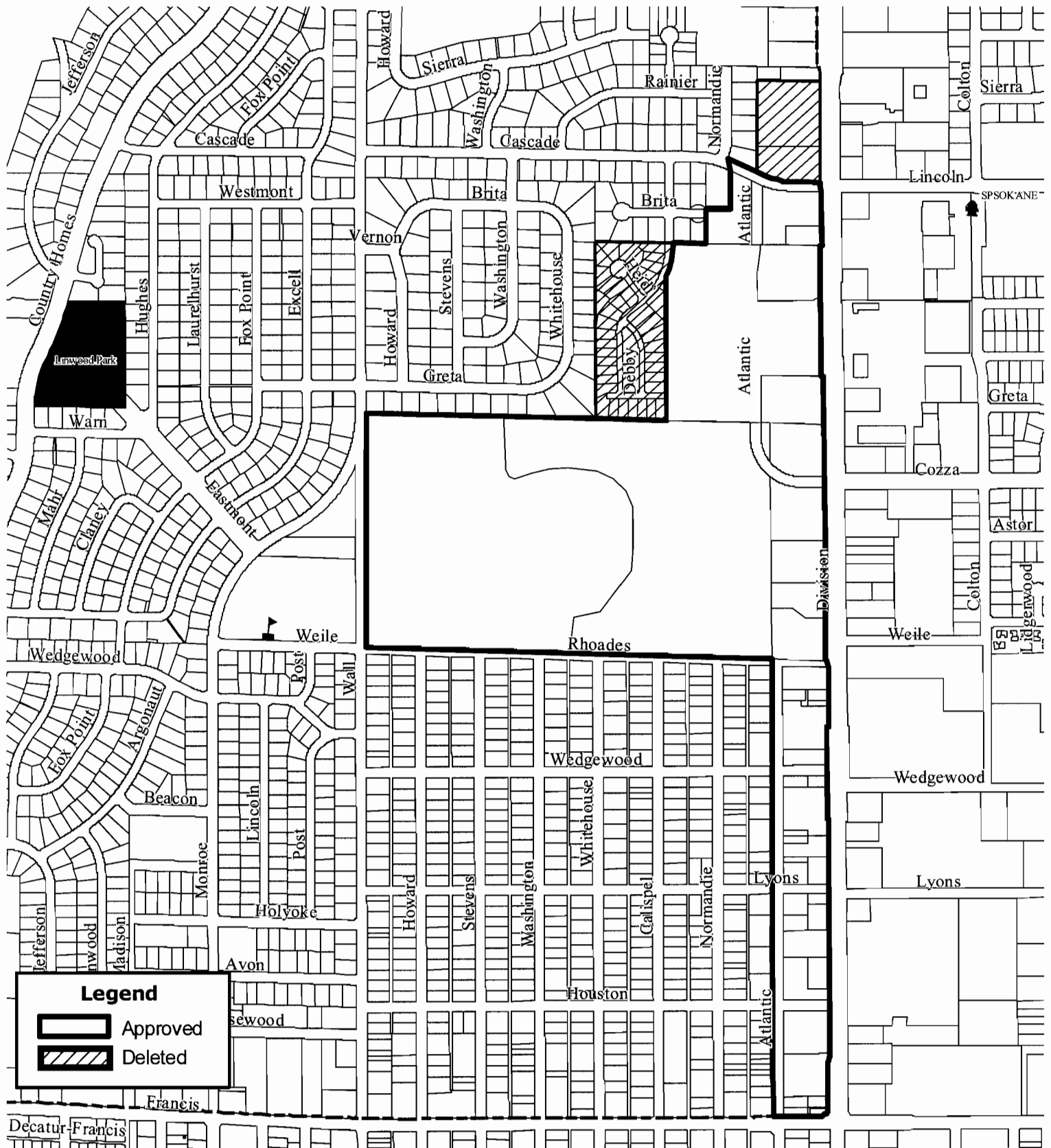
Assr. Parcel No. = 3630 (+ No. given on map)

Exhibit B (Original On File in BRB Office)
 NE 1/4 Sec. 30, Township 26, Range 42, E.W.M



<p>BRB 607-07 Washington State Boundary Review Board For Spokane County</p> <p>0 0.05 0.1 Miles</p>		<p>Parcel Map 2 Annexation of 120 acres to the City of Spokane (North Division) Assr. Parcel No. = 3630 (+ No. given on map)</p>
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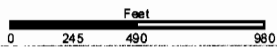
Exhibit C



BRB 607-07
Washington State Boundary Review Board
For Spokane County



Vicinity Map
Annexation of 120 Acres to the
City of Spokane (North Division)



Location: Section 19, 30:Township 26: Range 43