



Snohomish County

**Planning and Development
Services**

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MEMORANDUM

TO: Councilmember Megan Dunn, Council Chair, District 2
Councilmember Jared Mead, Council Vice-Chair, District 4
Councilmember Nate Nehring, District 1
Councilmember Strom Peterson, District 3
Councilmember Sam Low, District 5

Dave Somers
County Executive

FROM: Michael McCrary, Director
Planning and Development Services

VIA: Eileen Canola, Senior Planner
Planning and Development Services

SUBJECT: Lake Stevens Sewer District Nesse Annexation, BRB File No. 07-2022

DATE: December 1, 2022

The purpose of this staff report is to provide the County Council with a review and recommendation for the Lake Stevens Sewer District's (District) proposed Nesse Annexation of parcel 29062000304000 which is approximately 5.02 acres. The subject site is contiguous to the District's service area within the District's planning boundaries and within the City of Lake Stevens (City). The general location of the proposed annexation area is south of Machias Cutoff Rd, north of 18th St SE, and east of 117th Dr SE. There are no other sewer providers in the City. The City is not a sewer service provider; therefore, the District is the logical sewer service provider for this area.

County staff reviewed the District's annexation proposal according to section 2.77.040 of the Snohomish County Code (SCC) and Revised Code of Washington (RCW) 57.02.040. The review criteria in SCC 2.77.040 includes the factors and objectives considered by the Boundary Review Board (BRB), consistency with the Growth Management Act (GMA), Countywide Planning Policies (CPPs), the County's comprehensive plan, as well as impacts to County's services and facilities. RCW 57.02.040(3) lists review requirements of the County legislative body for sewer district actions, including annexations. This report is provided pursuant to Chapter 2.77 SCC, RCW 57.02.040 and .045, RCW 57.24.060 through .100, RCW 36.93.100, .157, .170, and .180, and SCC 36.70A.020, .110, and .210.

BACKGROUND

This is a petition method annexation by a sewer district that has an abbreviated review schedule for County Council action of 30-days per RCW 57.02.040(2). The 30-day review period for County Council to act on the proposed District's annexation expires on December 14, 2022.

The BRB deemed the Notice of Intention (NOI) legally sufficient on November 14, 2022, with file no. 07-2022. The BRB, consistent with its annexation review procedures outlined in Chapter 2.77 SCC, distributed the NOI to Planning and Development Services (PDS) and PDS distributed it to County departments for comments, which have been incorporated into this staff report.

The County Council's authority for reviewing sewer district annexations is set forth in RCW 57.02.040, RCW 36.93.100, and SCC 2.77.040. Pursuant to SCC 2.77.040, the County Executive is required to review the annexation and make a recommendation to the County Council. The options for the County Council are to either:

- Approve the District's annexation, and not invoke the jurisdiction of the BRB, or
- Not approve the annexation and invoke the jurisdiction of the BRB.

If the County Council approves the annexation, BRB jurisdiction could be invoked by another party during the 45-day BRB review period, which ends June 21, 2022. The County Council's findings and decision to approve or not approve the annexation will be transmitted to the BRB.

REVIEW

The following review of the District's Nese Annexation, as proposed in the NOI, considers the criteria of RCW 57.02.040(3) and SCC 2.77.040.

RCW 57.02.040(3) requires the County to review a proposed annexation action and either approve it or not approve it after considering three criteria: (a) whether the proposed action in the area under consideration is in compliance with the development program that is outlined in the county comprehensive plan and its supporting documents; (b) whether the proposed action in the area under consideration is in compliance with the basin-wide water and/or sewage plan as approved by the state Department of Ecology and the state Department of Social and Health Services; and (c) whether the proposed action is in compliance with the policies expressed in the County plan for water and/or sewage facilities.

The District's annexation proposal complies with criterion (a) because it is consistent with both the City and County's comprehensive plan as the area proposed for annexation is within the City limits, and therefore is to be developed with urban-level of services, including sewer. The annexation area is not currently served by sewer and is within the District's planning area and adjacent to the District's existing service boundaries. The City is not a sewer service provider.

Criterion (b) RCW 57.02.040(3) does not apply in this case because there is no applicable basin-wide sewage plan. In regard to criterion (c), the annexation proposal is consistent with Utilities Goal 3 of the County's General Policy Plan (GPP) as the annexation proposal is within the District planning area and within the City limits. Goal 3 states, "Work with cities and special districts to produce

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coordinated wastewater system plans for both incorporated and unincorporated areas within UGAs that are consistent with the land use element and city plans.”

SCC 2.77.040 contains impacts relevant to the BRB considerations as established by state law and County impacts considerations: The following comments relate to RCW 36.93.157: “The decisions of a boundary review board located in a county that is required or chooses to plan under RCW 36.70A.040 must be consistent with RCW 36.70A.020, 36.70A.110, and 36.70A.210.”

- I. Location, acreage, number of residences: The area proposed for annexation is approximately 5.02 acres and located within the City limits, south of Machias Cutoff Rd, north of 18th St SE and, east of 117th Dr SE. The subject site is comprised of one parcel of approximately 5.02 acres, that is undeveloped.

Comments received: The County’s Department of Public Works Department (DPW) and Surface Water Management (SWM) division of the Department of Conservation and Natural Resources (DCNR) stated that they had no comments or concerns with the District’s proposed Nesse Annexation. No impacts are anticipated to SWM utility district service boundaries, revenues or programs, from the proposed District annexation.

- II. Total assessed value of the subject area(s): As a sewer annexation, the total assessed valuation is not applicable.
- III. Consistency of the proposal with GMA planning goals, UGA designations, Countywide Planning Policies (CPPs), and the County’s comprehensive plan:
 - a. GMA planning goals in RCW 36.70A.020: The proposed sewer annexation is consistent with GMA planning goals (1) Urban growth and (12) Public facilities and services as the annexation area is within the City limits and therefore is designated for urban-levels of development. Providing sewer service to an urban area is consistent with GMA planning goals (1) and (12):
 - (1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
 - (12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.
 - b. Urban growth area (UGA) designations: The proposed sewer district annexation would provide sewer service to approximately 5.02 acres located within the City limits. Sewer service would allow development potential at an urban level consistent with the City’s comprehensive plan. Providing sewer service to an area designated for urban growth is consistent with state law RCW 36.70A.110(9):

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(9): “If a county, city, or utility has adopted a capital facility plan or utilities element to provide sewer service within the urban growth areas during the twenty-year planning period, nothing in this chapter obligates counties, cities, or utilities to install sanitary sewer systems to properties within urban growth areas designated under subsection (2) of this section by the end of the twenty-year planning period when those properties:

- (a)(i) Have existing, functioning, nonpolluting on-site sewage systems;
- (ii) Have a periodic inspection program by a public agency to verify the on-site sewage systems function properly and do not pollute surface or groundwater; and
- (iii) Have no redevelopment capacity; or
- (b) Do not require sewer service because development densities are limited due to wetlands, flood plains, fish and wildlife habitats, or geological hazards.”

- c. Snohomish County Countywide Planning Policies (CPPs): The area proposed for annexation by the District is within the Lake Stevens City limits. Annexation into the District’s service boundary would allow development consistent with the County’s comprehensive plan. The proposed Nesse Annexation is consistent with CPP policies Public Services (PS)-11 and (PS)-22:

PS-11: The County and cities shall permit new development in urban areas only when sanitary sewers are available with the exception of where sewer service is not likely to be feasible for the duration of the jurisdiction’s adopted plan.²⁹

²⁹ Currently identified exceptions include unsewerable enclaves, as well as the Darrington, Gold Bar, and Index Urban Growth Areas.

PS-22: Sanitary sewer mains shall not be extended beyond Urban Growth Areas (UGAs) into rural areas except when necessary to protect basic public health and safety and the environment, and when such sewers are financially supportable at rural densities and do not result in the inducement of future urban development outside of UGAs. Sewer transmission lines may be developed through rural and resource areas to meet the needs of UGAs as long as any extension through resource areas does not adversely impact the resource lands. Sanitary sewer connections in rural areas are not allowed except in instances where necessary to protect public health and safety and the environment and as allowed in RCW 36.70A.213. Sanitary sewer mains are prohibited in resource areas.

- d. Snohomish County GMA Comprehensive Plan (GMACP): The District’s proposed Nesse Annexation is consistent with the Capital Facilities Plan and the GPP of the GMACP.
- Capital Facilities Plan (CFP): This District proposal to annex approximately 5.02 acres of undeveloped land that is located within the City’s corporate

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boundaries is consistent with the County's CFP, which classifies sewer service as a service necessary to support urban-levels of development.

- General Policy Plan (GPP) of the County's GMACP: This District annexation is consistent with the County's GPP as it demonstrates coordination between the County and the District to provide an urban level of service to an urban area that has potential for future development. The proposed Nesse Annexation would include 5.02 acres of undeveloped land in the Lake Stevens Sewer District service area. This proposal is consistent with the Capital Facilities (CF) goal 9 and Interjurisdictional Coordination (IC) policy 1.A.2:

Goal CF- 9. Coordinate with non-county facility providers such as cities and special purpose districts to support the future land use pattern indicated by this plan.

Policy IC-1.A.2. The county shall work with cities, transit agencies, utility providers and other stakeholders, including private citizens to develop more detailed plans where local conditions and interests demand it – particularly within designated centers and transit emphasis corridors.

IV. Impact relevant to Boundary Review Board (BRB) consideration as established by state law. The following comments relate to RCW 36.93.170 – Factors to be considered by the BRB.

- a. **Factor 1.** "Population and territory; population density; land area and land uses; comprehensive plans and zoning, as adopted under chapter 35.63, 35A.63, or 36.70 RCW; comprehensive plans and development regulations adopted under chapter 36.70A RCW; applicable service agreements entered into under chapter 36.115 or 39.34 RCW; applicable interlocal annexation agreements between a county and its cities; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence and preservation of prime agricultural soils and productive agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities;"

The District's proposed annexation is consistent with Factor 1 in the following ways:

- The area proposed for annexation is a single 5-acre parcel of undeveloped land located within the City of Lake Stevens and adjacent to the District's existing service area boundaries.
- The proposal is consistent with the policies in the County's comprehensive plan, as the proposed area is designated for urban level services, including sewer as it is located within the City of Lake Stevens.

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- Responses on this proposed sewer annexation were received from the County's SWM division of the DCNR, which stated that the proposed annexation would have no impacts on SWM utility district service boundaries, revenues, or programs.
 - The DPW responded that it had no comments or issues with the District's proposed Nesse Annexation.
 - In terms of the "...likelihood of significant growth in the area...", the area proposed for annexation is within the City's boundaries and can be developed consistent with the City's zoning. A minimum net density of 4 dwelling units per acre applies to the subject site for a period of 5 years post annexation. The subject site was part of the Lake Steven SE ILA Annexation effective August 9, 2021.
- b. **Factor 2.** "Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units."
- There is no impact on budgets or services that are provided by the County.
 - The proposal would allow the extension of sewer service to an undeveloped, five-acre parcel that is located within the City of Lake Stevens.
- c. **Factor 3.** "The effect of the proposal or alternative on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county."
- There were no comments applicable to factor 3.
- V. Impacts relevant to BRB considerations as established by state law. The proposal meets the Objectives of the BRB as listed in RCW 36.93.180 in the following manner:
- a. Objective 1. "Preservation of natural neighborhoods and communities": As a sewer district annexation, this proposal would not affect the preservation of natural neighborhoods and communities as could occur with annexation by a city or town. The area to the north is the Beverly Manor/South Lake Vista subdivision and to the west is the Harmony Woods development.
 - b. Objective 2. "Use of physical boundaries, including but not limited to bodies of water, highways, and land contours": As a sewer district annexation, this objective is not applicable.

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- c. Objective 3. "Creation and preservation of logical service areas": As a sewer district annexation, this proposal would create a more logical service area. The subject site along with other parcels is part of a gap area for the District's sewer service boundary. Annexing this parcel into the District's sewer service boundary helps close the gap.
- d. Objective 4. "Prevention of abnormally irregular boundaries": As a sewer district annexation, prevention of abnormally irregular boundaries is not as important a factor as it is for annexations by cities or towns, per RCW 36.93.185.
- e. Objective 5. "Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas": As a sewer district annexation, this objective is not applicable per RCW 36.93.185.
- f. Objective 6. "Dissolution of inactive special purpose districts": Not applicable, this is a sewer district annexation, not a dissolution.
- g. Objective 7. "Adjustment of impractical boundaries": As a sewer district annexation, this objective regarding the adjustment of abnormally irregular boundaries is not as great a factor as it is for annexations by cities or towns, per RCW 36.93.185.
- h. Objective 8. "Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character": Not applicable, this is a sewer district annexation, not an annexation proposed by a city or town.
- i. Objective 9. "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": Not applicable, this is a sewer district annexation which will not affect agricultural lands or rural lands.

- VI. **All County fiscal, departmental, and other impacts:** No fiscal County impacts or other departmental impacts anticipated. The County's SWM division of the DCNR stated that the proposed annexation would have no impacts on SWM utility district service boundaries, revenues, or programs.
- VII. **Impacts to County facilities and other county-owned property:** No impacts to County facilities or county-owned property.
- VIII. **Impacts to the provision of public facilities and services:** No impacts to the provision of public facilities and services are anticipated. As per SWM input, no impacts are anticipated to SWM utility district service revenues or programs. The County is not a sewer service provider.

CONCLUSIONS:

Based on County review, PDS concludes that the Nesse Annexation proposal by the Lake Stevens Sewer District is consistent with the applicable statutory provisions governing special district annexations. This conclusion has been reached by comprehensively reviewing the proposed annexation against the requirements of RCW 57.02.040 for water and sewer annexations, the applicable BRB factors and objectives, County codes, and other applicable statutes per SCC 2.77.040.

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The recommendation to the County Council from PDS is to **not invoke** the jurisdiction of the BRB and **approve** the Nesse Annexation by the Lake Stevens Sewer District.

cc: Ken Klein, Executive Director
Mike McCrary, Director, PDS
David Killingstad, Manager, PDS
Ryan Countryman, Senior Council Legislative Analyst