



Snohomish County

**Planning and Development
Services**

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MEMORANDUM

TO:

Councilmember Jared Mead, District 4, Council Chair
Councilmember Nate Nehring, District 1, Vice-Chair
Councilmember Megan Dunn, District 2
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 – Gamble Annexation, BRB # 2024-02

DATE: September 10, 2024

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 Gamble Annexation of approximately six acres that is contiguous to the existing District’s service boundaries as well as within the District’s planning area and within the City of Lake Stevens (City) corporate boundaries. The general location of the proposed annexation is southeast of Machias Cutoff Rd and 123rd Ave SE, and north of 20th St SE. There are no other sewer providers in the City or the Lake Stevens Urban Growth Area (UGA), the City is not a sewer service provider, therefore, the District is the logical sewer service provider for this area.

This area proposed for annexation by the Lake Stevens Sewer District was recently annexed into the City of Lake Stevens with the Southeast Interlocal Annexation, effective August 9, 2021. However, as mentioned the City is not a sewer service provider. As part of an agreement for the Southeast Interlocal Annexation titled, “Interlocal Agreement between the City of Lake Stevens, Snohomish County, and the Lake Stevens Sewer District Concerning the Southeast Interlocal Annexation and the Orderly Transition of Services Pursuant to RCW 35A.14.296” the City agreed to maintain a residential minimum net density of 4 dwelling units per acre and the District proposed future areas for annexation into its service district boundaries that include the area proposed in this Gamble Annexation.

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County staff reviewed this sewer district annexation according to section 2.77.040 of the Snohomish County Code (SCC) and 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 for sewer district actions, including annexations. This report is provided pursuant to Chapter 2.77 SCC, Revised Code of Washington (RCW) 57.02.040 and .045, 57.24.060 through .100, 36.93.100, .157, .170 and .180, and 36.70A.020, .110 and .210.

BACKGROUND

This is a petition method annexation for which a petition for annexation was submitted to the District by the property owners/property owner's representative representing 100% of the area proposed for annexation. As a proposal for annexation into a sewer district, there is an abbreviated review schedule per [RCW 57.02.040\(2\)](#). The District submitted a third revised Notice of Intention (NOI) to the BRB for the Gamble Annexation that was filed on August 27, 2024 (File No. 2024-02). The BRB 45-day review period will end on October 11, 2024, at 4:00 p.m. However, per RCW 57.02.040(2), the 30-day review period for County Council to act on the proposed sewer annexation expires September 26, 2024. The BRB, consistent with its annexation review procedures outlined in Chapter 2.77 SCC, distributed the NOI to County departments including Planning and Development Services (PDS). The third revision of the NOI corrected which jurisdiction is currently responsible for providing police, road maintenance, and fire service.

The County Council's authority for reviewing sewer service annexations is set forth in RCW 57.02.040 and 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, and not invoke the jurisdiction of the BRB, or
- not approve the annexation, and to invoke the jurisdiction of the BRB jurisdiction.

If the County Council approves the annexation, BRB jurisdiction could be invoked by another party to invoke jurisdiction during the 45-day BRB review period, which ends October 4, 2024. The County Council findings and decision to approve or not approve the annexation will be transmitted to the BRB.

REVIEW

The following review of the proposed Gamble Annexation by the Lake Stevens Sewer District 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

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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; and

The statutory criteria (b) does not apply in this case because there is no applicable basin-wide sewage plan; however, the annexation proposal is consistent with the comprehensive plan of both the City of Lake Stevens and the County as the area proposed for annexation is within the City's corporate boundaries 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. The annexation proposal is consistent with Utilities Goal 3 of the County's General Policy Plan, "Work with cities and special districts to produce 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 (the Growth Management Act (GMA) -- who must plan) must be consistent with RCW 36.70A.020 (Goals of GMA), 36.70A.110 (Comprehensive Plans -- Urban Growth Areas) and 36.70A.210 (Countywide Planning Policies)."

- I. Location, acreage, number of residences: The area proposed for annexation is approximately 6.08 acres and located within the City limits, directly south of Machias Cutoff Rd, north of 20th St SE, west of 123rd Ave SE. The area is largely undeveloped with 1 residence.
- II. Comments received: As mentioned earlier in this report, responses on this proposed sewer annexation were received from the DPW - TES Division, DCNR --SWM Division, and the Department of Facilities. All comments received indicated no concerns, issues, or comments on the proposed Gamble Annexation.
- III. Total assessed value of the subject area(s): As a sewer annexation, the total assessed valuation is not applicable.
- IV. Consistency of the proposal with GMA planning goals, urban growth area designations, countywide planning policies, 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's limits and therefore is designated for urban-levels of development. Providing sewer service to an urban area is consistent with the two following GMA planning goals:
 - (1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

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(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 6.08 acres located within the City limits and designated for urban levels of development in the City's comprehensive plan. Providing sewer service to an area designated for urban growth is consistent with state law RCW 36.70A.110 "Comprehensive Plans – Urban Growth Areas" and in particular subsection (9). The proposed annexation area is currently served by an on-site sewage septic system. Sewer service would allow the development potential, at an urban level consistent with the City's comprehensive plan.

RCW 36.70A.110 (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 proposed Gamble Annexation is consistent with CPP policies Public Services (PS)-11 and 22 as the area proposed for annexation is within the Lake Stevens city limits, as designated by both the County and City's comprehensive plans. Once the subject site is annexed into the District's service boundary and is served by sewer, then development can proceed consistent with the City's zoning.

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

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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 Gamble Annexation proposal is consistent with the Capital Facilities Plan and the General Policy Plan of the County's comprehensive plan.
- (1) Capital Facilities Plan (CFP): This District proposal to annex approximately 6.08 acres located within the Lake Stevens city limits is consistent with the County's CFP, which classifies sewer service as a service necessary to support urban-levels of development.
 - (2) General Policy Plan (GPP) of the County's comprehensive plan: This District annexation is consistent with the County's GPP as it demonstrates the level of coordination between the County, City, and District to provide an urban level of service to an urban area that has potential for future development and redevelopment and is therefore implementing both the County's and City's comprehensive plans.

Goal Capital Facilities (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.

GPP Policy Interjurisdictional Coordination (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.

- V. 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.

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- (1) The area proposed for annexation is approximately 6.08 acres and located within the City limits, directly south of Machias Cutoff Rd, north of 20th St SE, west of 123rd Ave SE. The area is largely undeveloped with 1 residence.
 - (2) The proposal is consistent with the development program in the County comprehensive plan, as the proposed area is within the City's boundaries and designated for urban level of services, including sewer. As part of an agreement for the Southeast Interlocal Annexation titled, "Interlocal Agreement between the City of Lake Stevens, Snohomish County, and the Lake Stevens Sewer District Concerning the Southeast Interlocal Annexation and the Orderly Transition of Services Pursuant to RCW 35A.14.296" the City agreed to maintain a residential minimum net density of 4 dwelling units per acre and the District proposed future areas for annexation into its service district boundaries that include the area proposed in the Gamble Annexation.
 - (3) Responses on this proposed sewer annexation were received from the DPW - TES Division, DCNR –SWM Division, and the Department of Facilities. All comments received indicated no concerns, issues, or comments on the proposed Gamble Annexation.
 - (4) In terms of the "...likelihood of significant growth in the area...", the City per the annexation agreement titled, "Interlocal Agreement between the City of Lake Stevens, Snohomish County, and the Lake Stevens Sewer District Concerning the Southeast Interlocal Annexation and the Orderly Transition of Services Pursuant to RCW 35A.14.296" has agreed to maintain a residential minimum net density of 4 dwelling units per acre for the area proposed for annexation in the Gamble Annexation proposal.
- 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.
- (1) There is no impact on services provided by the County.
 - (2) The proposal would allow extension of sewer service to properties within the Lake Stevens city limits.
- 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.

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(1) There were no comments applicable to factor 3.

- VI. 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. **Preservation of natural neighborhoods and communities:** As a sewer district annexation, this proposal would not affect the preservation of natural neighborhoods and communities as would an annexation by a city or town. The areas north and west of the proposed annexation area have been subdivided.
 - b. **Use of physical boundaries, including but not limited to bodies of water, highways, and land contours:** As a sewer district annexation, use of physical boundaries is not as great a factor as it is for annexations by a city or town, per RCW 36.93.185.
 - c. **Creation and preservation of logical service areas:** As a sewer district annexation, creation and preservation of logical service areas is not as great a factor as it is for annexations by a city or town, per RCW 36.93.185.
 - d. **Prevention of abnormally irregular boundaries:** As a sewer district annexation, prevention of abnormally irregular boundaries is not as great a factor as it is for annexations by a city or town, per RCW 36.93.185.
 - e. **Discouragement of multiple incorporations of small cities and encouragement of incorporation(incorporation of cities in excess of ten thousand population in heavily populated urban areas:** As a sewer district annexation, this objective is not applicable.
 - f. **Dissolution of inactive special purpose districts:** Not applicable, this is a sewer district annexation, not a dissolution.
 - g. **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 a city or town, per RCW 36.93.185.
 - h. **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. **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.
- VII. **All County fiscal, departmental, and other impacts:** No fiscal impacts or other departmental impacts anticipated. Responses on this proposed sewer annexation were received from DPW - TES Division, DCNR –SWM Division, and the Department of Facilities. All comments received indicated no concerns, issues, or comments on the proposed Gamble Annexation.
- VIII. **Impacts to County facilities and other county-owned property:** No impacts to County facilities or county-owned property.

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- IX. **Impacts to the provision of public facilities and services:** No impacts to the provision of public facilities and services anticipated.

CONCLUSIONS:

Based on County review, PDS concludes that the Gamble 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.

The recommendation to the County Council from PDS is to **not invoke** the jurisdiction of the BRB and **approve** the Gamble 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