

PROCEEDINGS OF THE  
WASHINGTON STATE BOUNDARY REVIEW BOARD  
FOR KING COUNTY  
RESOLUTION AND HEARING DECISION

| IN RE:           CITY OF BURIEN  
                  North Highline Area "X"  
                  Proposed Annexation  
                  King County, Washington

FILE NO. 2290 |

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I. PUBLIC HEARING OVERVIEW

In February of 2009, the City of Burien, the proponent, filed a Notice of Intention with the Boundary Review Board to annex North Highline Area "X" (File No. 2290).

North Highline Area "X" (1680 acres) is located immediately adjacent to the northern boundary of the City of Burien. The northernmost boundary of the site is variously formed by South 107<sup>th</sup> Street, South 108<sup>th</sup> Street, South 116<sup>th</sup> Street, SW 112<sup>th</sup> Street and SW 116<sup>th</sup> Street. The site's western boundary is variously formed by the City of Seattle corporate boundary (at approximately 29<sup>th</sup> Avenue SW) and by Ambaum Boulevard SW. The eastern boundary is generally formed by SR 99 adjacent to the City of Tukwila. The southern boundary is formed by South 128<sup>th</sup> Street and SW 128<sup>th</sup> Street.

The City of Burien invoked the jurisdiction of the Boundary Review Board for the purpose of providing citizens a public hearing before an independent forum in order to obtain information and comment upon the proposed North Highline Area "X" Annexation.

The City of Burien also reported to the Boundary Review Board that the Resolution for North Highline Area "X" calls for an election to permit the citizens within the North Highline Area "X" to ultimately decide whether or not to join the City of Burien.

The Board held a Special Meeting/Public Hearing on March 30, 2009 to consider the proposal by the City of Burien to annex North Highline Area "X" (1680 acres).

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The Board reviewed File No. 2290 in accord with RCW 36.93. (Local Governments – Boundaries – Review Boards). The Board directed particular attention to RCW 36.93.170 (Factors) and RCW 36.93.180 (Objectives). The Board also considered RCW 36.93.150, the authority for modification of annexation proposals. In accord with the law, the Board also considered RCW 36.70.A, the Growth Management Act, the King County Comprehensive Plan, the City of Renton Comprehensive Plan, together with other applicable state, regional, and local regulations and guidelines.

The Board is required by Washington law, to: (1) examine the record (e.g., application materials; technical studies; fiscal studies; regulatory analyses; other documents, exhibits, statements and testimony); (2) determine the specific policies and guidelines applicable to the proposed action; (3) review and weigh these elements; and (4) take the action that best advances those elements.

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On March 30, 2009, the Board completed the public hearing and closed the record for the City of Burien North Highline Area "X" Annexation (File No. 2290.) The Board then deliberated the matter and came to a preliminary decision in the matter of File No. 2290. The Board finds as follows:

- The record for File No. 2290 contains sufficient documentation (e.g., technical data, fiscal data), evidence of community information programs, and certification of petitions and/or legislative action to complete its review of the North Highline Area "X" Annexation.
- On the basis of the testimony, evidence, and exhibits presented at said hearing, and the matters on record in said **File No. 2290**, it is the decision of the Board to **approve** the action proposed in said **Notice of Intention**. The legal description of the North Highline Area "X" is attached hereto and marked as "Exhibit I", together with a map showing the boundaries of the area herein marked as "Exhibit II."

## II. FINDINGS

### RCW 36.93.170 FACTORS AFFECTING THIS PROPOSAL

The Boundary Review Board finds the following Factors (RCW 36.93.170) to be applicable to the proposal for annexation of North Highline Area "X" (1680 acres) into the City of Burien. The key issues related to each applicable element are as follows:

#### **RCW 36.93.170 (1) POPULATION AND TERRITORY**

The Board considered the following factors to be applicable: Population Density; Proximity to Other Populated Areas; Land Area/Land Uses; Comprehensive Land Use Plans; Topography, Natural Boundaries and Drainage Basins; Likelihood of Significant Growth in the Area During the Next Ten Years; and Population Density/Proximity to Other Populated Areas.

North Highline Area "X" is generally unified with respect to its land area and its built community. The area is essentially fully developed with residential, commercial, and public uses. North Highline Area "X" also includes natural features such as water bodies, vegetated open space, and sensitive sloped terrain. North Highline Area "X" and the surrounding communities are linked, in part, by several elements of the natural environment (e.g., topography, vegetation).

North Highline Area "X" is an urban community that is substantially developed with single-family homes and multi-family residences. There is sizeable commercial property within North Highline Area "X" boundaries. Public facilities and open spaces are present in the North Highline Area. The Area will likely experience continued growth over the next ten years as there is remaining land that is suitable and permitted for redevelopment/new development with various land uses.

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The North Highline Area "X" Annexation is based upon a Memorandum of Understanding ratified by the City of Burien, King County, Fire District No. 2, and Fire District No. 11 and signed (but not yet ratified) by the City of Seattle. This Memorandum of Understanding includes, but is not limited to, the identification of annexation area boundaries, agreements for provision of services; and allocation of fees in order to ensure adequate governance and service to the North Highline Area "X" community.

All of the proposed North Highline Area "X" Annexation (1680 acres) lies within the Urban Growth Area defined by King County. The proposed annexation is consistent with the King County Comprehensive Plan and Countywide Planning Policies for annexation of and service to urban territories.

The Burien Comprehensive Plan identifies North Highline Area "X" as being within the City's Potential Annexation Area. The North Highline Area "X" Annexation is consistent with City's Comprehensive Plan policies supporting inclusion of urban areas within the City for local governance. The City of Burien Comprehensive Plan provides for the commitment and the resources to govern the North Highline Area. The Plan provides for growth at urban levels of density generally consistent with the existing built environment and the natural environment.

For example, the City will develop specific land use/zoning designations and zoning for this community to permit future residential development that will be generally similar to and essentially compatible with existing density/design standards for residential uses, commercial uses, and public facilities/open spaces permitted in North Highline. With annexation of the North Highline Area "X", there would be an opportunity to immediately implement consistent and coordinated development standards throughout the community.

Further, the North Highline Area "X" contains environmentally sensitive features (e.g., variable topography, drainage basins, natural habitat). The Burien Comprehensive Plan provides support for the natural environment within the North Highline Area "X" through guidelines and regulatory controls (e.g., critical areas ordinances; open space preservation; storm water/flood control programs) designed to protect sensitive areas.

Under the City's Comprehensive Plan, citizens of the North Highline Area "X" will be provided with a full array of uniform public services, facilities and infrastructure. For example:

- Policy AN 1.1: Designates North Highline as being within the City's Potential Annexation Area
- Policy AN 1.2: Establishes provisions for land use and zoning designations of the North Highline Area
- Policy AN 1.3: Establishes requirements for plans and programs to provide services to areas annexed to the City of Burien.

The State Growth Management Act (RCW 36.70A) also supports the North Highline Area "X" Annexation. The proposed action would be consistent with RCW 36.70.20 which calls for community planning goals, for urban growth, services and infrastructure, and environmental preservation.

#### **RCW 36.93.170 (2) MUNICIPAL SERVICES**

The Board finds the following factors to be applicable: need for municipal services; effects of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; probable future need for such services; costs; effect on the finance, debt structure and contractual obligations; and prospects of government services from other sources, and rights of other affected governmental units. Following is a brief review of key issues related to these factors:

The evidence shows that North Highline Area "X" is an urban community requiring municipal services and facilities. Service goals and policies for urban areas are established by the State Growth Management Act and King County Comprehensive Plan. For example, King County FW-13 states that cities are the appropriate provider of local urban services to Urban Areas. Policies LU-27, LU-31, LU-32, CA-9, CA-10, U-205, and U-208 call for jurisdictions to plan for and coordinate land designations, land uses, and services. Further, annexation is appropriate under Countywide Policy CO-1, when a jurisdiction has "identified and planned for (a) full range of urban services."

Consistent with the State Growth Management Act and King County Plan, the City of Burien has developed policies – through the Comprehensive Land Use Plan, Comprehensive Service Plans, and other regulatory authorities – to govern and serve all properties within its corporate boundaries. Upon annexation, the City of Burien will govern North Highline Area "X" properties under unified regulatory authorities administered by a single local government unit.

The City of Burien will assume responsibility for land use management through the City's Comprehensive Plan and land use regulations. The City of Burien will assume responsibility for protection of environmentally sensitive areas (e.g., variable terrain, open spaces) through the Comprehensive Plan, Critical Areas Ordinance, Stormwater Management Plan, and other local, regional, and state guidelines. The City will assume responsibility for providing services (either directly or by contract) to the North Highline "X" Area. Services would be equal to – or improved from – the services currently provided by King County. More specifically, the City will assume responsibility for:

- Provision and management of capital facilities (e.g., roadways, parks/recreation areas). Acquisitions and improvements will be identified by means of a priority listing which reflects both necessity (i.e., public health, welfare and safety) and the interests of the citizens.
- Provision of police services through a contract with the King County Sheriff Department.
- Provision of fire/emergency services to the North Highline properties through a contract based upon the adopted Memorandum of Understanding with Fire Protection Districts No. 2 and No. 11.
- Valley View District and Southwest Suburban Sewer District will continue to provide wastewater treatment services to the North Highline Area "X".
- King County Water District No. 20 and Seattle Public Utilities will continue to provide water services to the community.
- Students would continue to be served by Highline School District and Tukwila School District.
- Public facilities, including libraries, parks, and recreation facilities will be available to citizens.
- Law and justice services and human services will be available to citizens.

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The City has demonstrated the existence of resources to serve North Highline Area "X" through a Fiscal Feasibility Study which examined revenues/expenditures relating to governance and service of the North Highline Area. More specifically, the Fiscal Feasibility Study finds that the City would receive an increase in annual revenue in the amount of \$4.6 million for North Highline Area "X." Annual expenditures are anticipated at \$4.6 million including the addition of services and support staff to North Highline Area "X". North Highline Area "X" residents would be provided with services, infrastructure, and facilities at a basic level immediately upon incorporation. There is an anticipated need for capital projects in the amount of \$60 million to serve North Highline Area "X."

At annexation, the citizens of North Highline Area "X" will contribute to the funding of services in their community, in part, through property taxes (which are anticipated to be slightly reduced from taxes currently paid by residents), standard service fees, and other revenues based on population. For example, upon annexation, property owners will assume their share of the regular and special levy rate of the City for capital facilities and public services.

The City would also have access to other resources to address these costs. More specifically, SSB 6686 would provide the City access to sales tax funds that would permit the off-setting of the cost-to-revenue imbalances occurring in conjunction with the North Highline Area "X" Annexation. Newly adopted sales tax streaming regulations (SSB 5089) would likely benefit the community as well.

Burien and King County have agreed that, upon annexation, the City must govern built lands, open spaces, and basic services (e.g., surface water management facilities, ground water facilities, and other facilities.) The framework also establishes a commitment by the County to provide the City of Burien assistance with transition of service responsibilities from King County to the City of Burien (e.g., vested property improvements; infrastructure.) Further, administration of revenues/expenditures is addressed by the Memorandum of Understanding.

The Memorandum of Understanding (ratified by the City of Burien, King County, Fire District No.2 and Fire District No. 11) provides service plans and funding plans for fire protection and emergency medical services to the North Highline Area "X".

The City is committed to taking necessary steps to efficiently coordinate governance and service to North Highline Area "X" under unified regulatory authorities administered by a single local government.

King County supports annexation of the North Highline Area "X". This action creates a logical municipal service area. The City can provide more cohesive policies, standards, programs, cohesive operations, and efficient, economic control of services. Thus, services will be more effective, more efficient, and less costly to both government and citizens of North Highline Area "X."

### **RCW 36.93.170 (3) Effects of Proposal**

The Board considers mutual economic and social interests, and local government structure effects to be applicable to the City of Burien North Highline Area "X" Annexation. Following is a brief review of key issues related to these factors.

The evidence shows that the City of Burien shares mutual social and economic links with the adjacent North Highline Area "X." Citizens of North Highline Area "X" utilize facilities in the City of Burien – including libraries, schools, parks and recreation programs. Citizens shop in Burien and use professional services (e.g., medical care, personal care) in the City. Citizens travel local and arterial roads through the City. Utility services are coordinated under the aegis of regional service providers.

With annexation, citizens would benefit from a governance system linking North Highline Area "X" to the City of Burien, for land use planning, service planning, fiscal planning and planning for public amenities to serve the community. The City of Burien Comprehensive Plan encourages local governance of communities. The City will provide for parks, surface water management facilities, ground water facilities, and other similar facilities. Additional enhancements to levels of service would occur over time to address community interests and as permitted by available resources.

City representatives provided a basic Fiscal Study related to the proposed North Highline Area "X" Annexation. The Study includes fiscal analyses of benefits and costs incurred for providing immediate governance and service to North Highline Area "X." Findings from the Fiscal Study provide reasonable assurance that available municipal funds, together with regional funds, and state funds (e.g., sales taxes available pursuant to SSB 6686), will provide sufficient resources to ensure governance of the North Highline Area "X" and maintain services to the greater City of Burien. The City is committed to taking the necessary steps to govern and serve the North Highline Area "X."

King County Comprehensive Plan/Countywide Planning Policies encourage local governance of communities. Annexation of the North Highline Area "X" is also consistent with the King County policies which call for transfer of urban lands to local jurisdictions at the earliest feasible date.

Coordinated integration of citizens of the North Highline Area "X" into Burien would preserve social organization, support economic health, and protect public safety and welfare.

### **CONSISTENCY WITH THE GROWTH MANAGEMENT ACT**

RCW 36.93.157 mandates that Boundary Review Board decisions must be consistent with three sections of the Growth Management Act:

- RCW 36.70A.020 Planning Goals
- RCW 36.70A.110 Urban Growth Areas
- RCW 36.70A.210 Countywide Planning Policies

Key Growth Management Act policies that guide the provision of public services and that are relevant to the proposed North Highline Area "X" include:

- RCW 36.70A.020 (1) Urban Growth: Encourages development in urban areas where adequate public facilities and services exist or can be provided efficiently.
- RCW 36.70A.020 (2) Reduce Sprawl: Reduce inappropriate conversion of undeveloped land into sprawling low-density development.
- RCW 36.70A.020 (10) Environment: Protect and enhance the environment and quality of life.
- RCW 36.70A.020 (11) Citizen Participation and coordination in the planning process and ensure coordination between communities/jurisdictions to reconcile conflicts.
- RCW 36.70A.020 (12) Public Facilities and services: Ensures that adequate public services and facilities are available to serve land developments.
- RCW 36.70A.110 (1/6) calls for each county to designate an urban growth area.
- RCW 36.70A.110 (3) directs urban growth to areas with existing or available public services and facilities
- RCW 36.70A.110 (4) states that "(in) general, cities are the units of local government most appropriate to provide urban ...services."
- RCW 36.70A.210 (1) calls for cities to be primary providers of governmental services in urban growth areas.

Annexation of North Highline Area "X" into the City of Burien meets Growth Management Act criteria for governance of urban areas. This action is supported by RCW 36.70.A which requires community planning goals for urban growth, services and infrastructure, and environmental preservation. For example, the proposed North Highline Area "X" Annexation is consistent with RCW 36.70A.020 (1), encouraging development in urban areas where there are adequate public services.

The North Highline Area "X" Annexation is consistent with RCW 36.70A.020 (12), which calls for public services to support permitted development. Annexation would also permit urban growth – and protection of environmentally sensitive areas – as envisioned in the Growth Management Act.

### **RCW 36.93.180 OBJECTIVES**

The Boundary Review Board has considered RCW 36.93.180 (Objectives), with respect to the North Highline Area "X" Annexation as follows:

#### **RCW 36.93.180 (1) PRESERVATION OF NATURAL NEIGHBORHOODS AND COMMUNITIES**

The Board finds that the North Highline Area "X" is a "neighborhood" as that term is defined by case law, as "either geographically distinct areas or socially... distinct groups of residents". North Highline Area "X" exhibits many features that support its link with the City. The communities are characterized by similar and linked built environments and natural environments (e.g., parklands, open spaces; topography, drainage basin.)

The citizens of both communities share similar demographic, social, and economic profiles. Residents of the City and the North Highline Area "X" use common community facilities – e.g., schools, roadways, community centers, shopping centers, parks, and recreation facilities.

The City of Burien Comprehensive Plan anticipates annexation of the North Highline Area "X." The City includes the North Highline Area "X" in its Potential Annexation Area. The inclusion of the North Highline Area "X", a sizeable area and population, serves to create a coordinated community and encourages a more effective connection to the City of Burien.

Annexation will allow the City of Burien to guide synchronized community development in a manner which considers both built lands and the critical natural areas. Burien officials are committed to providing North Highline Area "X" citizens with a voice and a vote in planning for the future development of the built community and preservation of environmentally sensitive areas.

More specifically: the North Highline Area "X" is included in community planning programs to enable the City to guide growth and to provide coordinated services. With annexation of North Highline Area "X", the City of Burien can establish and administer land use designations and zoning standards for North Highline. Under City of Burien regulations, the North Highline Area "X" would be proposed to continue as a predominantly residential community with designations and zoning similar to that existing under King County. Additionally, the City of Burien would continue to support various commercial uses and public uses in the North Highline Area.

The City of Burien is prepared to provide development review and environmental review (e.g., protection of slopes, sensitive areas, and stormwater management) to the North Highline Area "X" based upon local, regional and state regulations to support preservation of this community.

King County officials support annexation of North Highline Area "X" citing that this action is consistent with state, regional and local guidelines. The County has indicated a preference for immediate annexation of urban areas to advance uniform governance for citizens of the North Highline Area "X."

#### **RCW 36.93.180 (2) USE OF PHYSICAL BOUNDARIES, INCLUDING BUT NOT LIMITED TO BODIES OF WATER, HIGHWAYS, AND LAND CONTOURS**

The proposed North Highline Area "X" is contiguous to the northern border of the City of Burien. Other North Highline Area "X" boundaries are formed by Unincorporated King County, the City of Seattle, the City of Tukwila, and the City of SeaTac. North Highline Area "X" is specifically established for annexation by Burien under the City's Comprehensive Plan (approved by the State of Washington.) Annexation of North Highline Area "X" to the City of Burien advances the transition of the entire North Highline Area to local jurisdictions.

"Social neighborhoods" may also be the basis for boundaries. The evidence shows that the North Highline Area "X" shares a social affiliation with the City of Burien. As such annexation of the North Highline Area "X" would further the establishment of a cohesive community.

The North Highline Area "X" annexation is consistent with the King County Comprehensive Plan because this action achieves progress toward incorporation of the greater unincorporated area in King County.

Annexation of the North Highline Area "X" advances the planning goals established by the State Growth Management Act for providing local governance to unincorporated urban territories.

Therefore, the Board finds that annexation of the lands within the North Highline Area "X" would be based upon – and enhance – clearly delineated geographic boundaries.

### **RCW 36.93.180 (3) CREATION AND PRESERVATION OF LOGICAL SERVICE AREAS**

The North Highline Area "X" annexation would create and preserve logical service areas throughout this community and the City of Burien. Annexation of North Highline Area "X" will enable planning, design, and implementation of efficient, consistent, consolidated service programs throughout the greater community.

The City of Burien Comprehensive Plan identifies the City as the provider of services for North Highline Area "X". More specifically, the City of Burien will assume responsibility for land use management through the City's Comprehensive Plan and land use regulations. The City of Burien will assume responsibility for protection of environmentally sensitive areas (e.g., variable terrain, open spaces) through the Comprehensive Plan, Critical Areas Ordinance, Stormwater Management Plan, and other local, regional, and state guidelines. For example:

- The City will assume responsibility for provision and management of capital facilities (e.g., roadways, parks/recreation areas). Acquisitions and improvements will be identified by means of a priority listing which reflects both necessity (i.e., public health, welfare and safety) and the interests of the citizens.
- The City will assume responsibility for providing police services through a contract with the King County Sheriff Department.
- The City will assume responsibility for providing fire/emergency services to the North Highline properties through a contract based upon the adopted Memorandum of Understanding with Fire Protection District No. 2 and with Fire Protection District No. 11.
- Roadways (including streets, storm water drains, and other right of way features) are generally fully operational. Funding is planned from various existing taxes and fees as well as anticipated sources (e.g., grants, development impact fees) for routine upgrades and maintenance and for future upgrades to facilities.
- Valley View District and Southwest Suburban Sewer District will continue to provide wastewater treatment services to the North Highline Area "X."
- King County Water District No. 20 and Seattle Public Utilities will continue to provide water services to the North Highline Area.
- Human services and law and justice services would be available to the citizens of the North Highline Area "X."
- City parks, recreation facilities, libraries and other community services would be available to the citizens of the North Highline Area "X."
- Children would continue to attend schools in the Highline School District or the Tukwila School District.

City officials have demonstrated that public services to the North Highline Area "X" would be improved by placing the entire area under a single municipal jurisdiction. Synchronized services and facilities (e.g., emergency services, water service, storm water and surface water management systems, wastewater treatment) will promote protection of the built environment and the natural environments.

King County strongly supports annexation of unincorporated urban areas like the North Highline Area "X" to provide citizens with more effective, efficient governance. Countywide Planning policies encourage cities to annex (and provide services to) territory within their designated potential annexation area. Other policies establish cities as the appropriate units to govern, develop, and serve Urban Areas. The County lacks sufficient resources to manage land uses or serve properties in these urban areas.

