

1 BEFORE THE STATE OF WASHINGTON BOUNDARY REVIEW

2 BOARD FOR SNOHOMISH COUNTY

In re:

CITY OF SULTAN ANNEXATION  
PROPOSAL KNOWN AS THE  
TORTORICE AREA ANNEXATION

BRB No. 01-2021

FINDINGS AND DECISION

3 **DECISION SUMMARY**

4 The City of Sultan proposed annexation proposal known as the Tortorice  
5 Area Annexation (BRB No. 01-2021) is hereby **APPROVED**.

6 **PROCEDURAL HISTORY**

7 On January 7, 2021, the City of Sultan (“City”) submitted a notice of intention  
8 (“NOI”) with the Washington State Boundary Review Board for Snohomish County  
9 (“the Board”) proposing a petition method annexation of approximately 39 acres of  
10 real property (“the Property”) along Sultan Basin Road and 132<sup>nd</sup> St. SE. The area  
11 includes six residences, has an assessed value of approximately \$1,592,700, and  
12 has a comprehensive plan future land use designation of Urban Low Density  
13 Residential and is zoned R-7,200. The city, based on Resolution 20-24, proposes  
14 a future land use designation of Moderate Density with Moderate Density Residential  
15 zoning. The Property is located in the City of Sultan Urban Growth Area (“UGA”).

16 The City initiated the annexation by 60% petition method under RCW  
17 35A.14.120. The Clerk of the Board deemed the NOI legally-sufficient on January  
18 14, 2021. On February 24, 2021, the Board's jurisdiction was invoked by the  
19 Snohomish County Council, per RCW 36.93.100.

### 20 HEARING

21 On May 6, 2021, at 6:00 PM, a quorum of the Board held a public hearing  
22 remotely, via Zoom platform. Board members in attendance at the hearing are Chad  
23 Bates (Chair), Dave Hambelton (Vice-Chair), Henry Veldman, Alison Sing, and Dave  
24 Gardner.

25 Public notice of the hearing was duly provided, pursuant to RCW 36.93.160.  
26 Specifically, notice was given by publication in the Everett Herald three times on  
27 April 11<sup>th</sup>, April 18<sup>th</sup>, and April 25<sup>th</sup>, 2021 the last of which was not less than five days  
28 prior to the date set for the public hearing. Public notice signs were also posted in  
29 10 public places within the boundaries of the Property for 6 days prior to the date of  
30 the public hearing.

31 The Board heard testimony from Andy Galuska, Planning Director for the City  
32 of Sultan, Mrs. Tortorice, property owner, Reid Schockey, with Shockey Planning  
33 Group, on behalf of Mrs. Tortorice, and Eileen Canola, representing Snohomish  
34 County Planning and Development Services. No opposition to the annexation  
35 proposal was made.

36           The Board considered all written materials (Exhibits) submitted to the Board  
37 and entered into the record. A copy of the exhibit list is included at the end of the  
38 decision in the Appendix 1.

39           During the hearing, the Board invited supporting documentation related to the  
40 testimony provided, and directed the documentation, if any, to be emailed to the  
41 Clerk of the Board no later than close of public comment on May 6, 2021. Public  
42 Comment ended at 7:07 PM and no comments received by the Clerk. Following  
43 testimony from all parties of record and after affording time for public comment, the  
44 May 6, 2021, the public hearing was adjourned at 7:09 PM.

45           Immediately following a short recess, on May 6 ,2021, the Board members,  
46 listed above, again met for public deliberation on the proposed annexation at the  
47 hearing location, remotely via Zoom platform. Public notice for the deliberation  
48 phase was also provided per above.

49           During its deliberations, the Board discussed the annexation proposal,  
50 pertinent testimony, and other evidence in the record. The Board considered the  
51 factors identified in RCW 36.93.170, the objectives stated in RCW 36.93.180, the  
52 proposed action's consistency with the Growth Management Act as stated in RCW  
53 36.93.157, and the Board's authority under chapter 36.93 RCW.

54           After deliberating, a Board member made a motion to **approve** the City of  
55 Sultan's Tortorice Area proposed annexation (01-2021), which was seconded, and  
56 passed by a vote of 5:0 The meeting adjourned at 7:42 PM.

57 On May 13, 2021, at 7:00 PM, the Board met again in remotely, via Zoom  
58 Platform, enter and file its written decision as set forth herein.

59 **DISCUSSION**

60 **I. GROWTH MANAGEMENT ACT**

61 RCW 36.93.157 states that decisions of a Boundary Review Board located in  
62 a county that is required or chooses to plan under RCW 36.70A.040 must be  
63 consistent with RCW 36.70A.020, 36.70A.110 and 36.70A.210.

64 **A. RCW 36.70A.020 establishes thirteen (13) planning goals that cover:**

- 65 1) Urban growth
- 66 2) Reduce sprawl
- 67 3) Transportation
- 68 4) Housing
- 69 5) Economic development
- 70 6) Property rights
- 71 7) Permits
- 72 8) Natural resource industries
- 73 9) Open space and recreation
- 74 10)Environment
- 75 11)Citizen participation and coordination
- 76 12)Public facilities and services
- 77 13)Historic preservation

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79 1) The Board addressed the planning goals 1 – 13, above, as follows:

80 a) Mr. Veldman stated that this proposal was consistent with planning goals  
81 1, 4, 5, 6, 7, and 12.

82 b) Mr. Hambelton agreed with Mr. Veldman and added that this proposal also  
83 was consistent with planning goal 11.

84 c) Mr. Gardner agreed with Mr. Veldman and Mr. Hambelton and added that  
85 this proposal also was consistent with planning goals 8 and 10.

86 d) Mr. Sing agreed with Mr. Veldman, Mr. Hambelton, and Mr. Gardner and  
87 added that this proposal also was consistent with planning goal 2.

88 e) Mr. Bates agreed with all members and noted that the interlocal  
89 agreement was impactful on the proposal's consistency with the planning  
90 goals.

91 **B. RCW 36.70A.110 Urban Growth Areas.**

92 The Board unanimously determines the proposal satisfies the Urban Growth  
93 requirement under RCW 36.70A.110.

94 **C. RCW 36.70A.210 Countywide Planning Policies.**

95 The Board unanimously determines the Proper Countywide Planning  
96 Policies are in place under RCW 36.70A.210.

97 **II. RCW 36.93.180 OBJECTIVES**

98 The Board considered each of the nine (9) objectives set forth in RCW  
99 36.93.180 and whether each objective is applicable to this proposed annexation,  
100 and if so, whether the objective would be hindered, furthered, or does not apply.

101 1) Preservation of Natural Neighborhoods and Communities.

102 The Board members unanimously agreed that this objective would be  
103 **furthered** by approval of the proposed annexation.

104 2) Use of Physical Boundaries, Including But Not Limited to Bodies of Water,  
105 Highways, and Land Contours.

106 The Board members unanimously agreed that this objective would be  
107 **furthered** by approval of the proposed annexation.

108 3) Creation and Preservation of Logical Service Areas.

109 The Board members unanimously agreed that this objective would be  
110 **furthered** by approval of the proposed annexation.

111 4) Prevention of Abnormally Irregular Boundaries.

112 The Board members unanimously agreed that this objective would be  
113 **furthered** by approval of the proposed annexation.

114 5) Discouragement of Multiple Incorporations of Small Cities and  
115 Encouragement of Incorporation of Cities in Excess of Ten Thousand  
116 Populations in Heavily Populated Urban Areas.

117 The Board members unanimously agreed that this objective **does not apply**.  
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119 6) Dissolution of Inactive Special Purpose Districts.

120 The Board members unanimously agreed that this objective **does not apply**.  
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121 7) Adjustment of Impractical Boundaries.

122 The Board members unanimously agreed that this objective would be  
123 **furthered** by approval of the proposed annexation.

124 8) Incorporation of Cities or Towns or Annexation to Cities or Towns of  
125 Unincorporated Areas Which Are Urban in Character.

126 The Board members unanimously agreed that this objective would be  
127 **furthered** by approval of the proposed annexation.

128 9) Protection of Agricultural and Rural Lands.

129 The Board members unanimously agreed that this objective **does not apply**.

130 **RCW 36.93.170 FACTORS**

131 The City of Sultan adequately addressed the factors identified in RCW  
132 36.93.170 in support of the proposed annexation.

133 1) Population and Territory.

134 2) Municipal Services.

135 3) The Effect of the Proposal or Alternative on Adjacent Areas, Mutual Economic  
136 and Social Interests and the Local Governmental Structure of the County.

137  
138 Board Member Mr. Veldman stated that all have been met in general and  
139 qualified by all the agencies that have been impacted have been involved in the  
140 discussion have supported the annexation.

141 Board Member Mr. Hambelton agreed with Mr. Veldman and added regarding  
142 number 3, above, that this proposal fits right into the social economic interests in  
143 the community. The jurisdictions worked well together and resolved the issues.

144 Mr. Sing believes the factors have been met and pointed out that the  
145 Agricultural soils may not apply however not all factors must be met to approve.

146 Mr. Bates concurred that the 3 factors have been met related to the proposal..

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**DECISION**

**NOW THEREFORE**, the Board finds:

1. The jurisdiction of the Board was properly invoked, and the Board has jurisdiction over this matter;
2. A decision to approve the proposed annexation is consistent with and supported by RCW 36.70A.020, RCW 36.70A.110, and RCW 36.70.210;
3. Overall, the objectives of RCW 36.93.180 would be furthered by the proposed annexation;

Based upon the above findings, the Board **approves** the City of Sultan proposed annexation (01-2021) within Snohomish County, under Snohomish County Boundary Review Board File No. 01-2021.

Adopted by the Washington State Boundary Review Board for Snohomish County **by a vote of 5 to 0** this 13<sup>th</sup> day of May, 2021.

WASHINGTON STATE BOUNDARY REVIEW BOARD  
FOR SNOHOMISH COUNTY

*Chad R Bates*

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Chad Bates, Chair

FILED THIS 13<sup>th</sup> day of May, 2021.

*Pamela Yount*

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Pamela Yount, Clerk of the Board



173 NOTICE

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175 Pursuant to RCW 36.93.160(5), this decision shall be final and conclusive  
176 unless within thirty (30) days from the date of this decision a governmental unit  
177 affected by the decision or any person owning real property or residing in the area  
178 affected by the decision files a notice of appeal in the Superior Court.

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180 **APPENDIX 1**

181 Exhibits

182 A. Intake (NOI) & Jurisdiction Invocation

183 1\_01-2021\_City of Sultan Tortorice Check NOI Filing Fee 12 1 2020

184 2\_01-2021\_Email transmitting NOI resubmittal on 12 7 2021

185 3\_01-2021\_NOI Tortorice Portfolio - Revised 1.22.2021

186 4\_01-2021\_Approval of Legal and Maps by Assessor 1-8-2021

187 5\_01-

188 2021\_Sultan\_Tortorice\_Acknowledgement\_Letter\_Filed\_Eff\_14Jan2021

189 6\_01-2021\_Email transmitting Acknowledgement Letter 1 15 2021

190 7-01-2021\_01-2021 City of Sultan Clarification re Questions from PDS DPW  
191 2 8 2021

192 8\_01-2021\_20071147 Staff Report to County Council 2 12 2021

193 9\_01-2021\_Mot 21-059 Invoked not Opposed recd 2 25 2021

194 B. Notice and Routing (Affidavits of Mailing, Publication, Posting  
195 Verification)

196 10\_01-2021\_Hearing\_Notice\_BRB\_Invoked\_4-2-2021

197 11\_01-2021\_AMENDED\_Hearing\_Notice\_BRB\_Invoked\_4-8-2021

198 12\_01-2021\_Notice of Public Hearing 01-2021

199 12.a.\_01-2021\_Sign Posting around Area of Annexation

200 C. Hearing

201 13\_01-2021\_Agenda\_6may2021  
202 14\_01-2021\_Agenda\_13may2021  
203 15\_01-2021\_Adoption\_Meeting\_Agenda\_13may2021  
204 16\_01-2021\_Notice for Sign Post  
205 17\_01-2021\_Affidavit of Publication in Herald  
206 18\_Sing\_Public Disclosure Statement 5-6-2021  
207 19\_Gardner\_Tortorice Annexation disclosure  
208 20\_Affidavit of Public Meeting Notice via Herald  
209 D. City/Agency Comment  
210 D.1.\_BRB File-06-2017-Sultan Tortorice NOI  
211 D.1.a\_SnoCo\_Motion\_17-349-County-Invokes-BRB-Juris-BRB file-06-2017  
212 D.1.b\_SnoCo\_Motion\_18-002-City-withdraws-NOI-06-2017  
213 D.2.\_1\_12-2020\_Sultan\_Tortorice\_NOI\_packet  
214 D.2.a\_BRB File 12-  
215 2020\_Sultan\_Tortorice\_NOI\_Acknowledgement\_of\_Withdrawal\_23sep2020  
216 D.3.\_01-2021 NOI Tortorice Portfolio-From-BRB-1-15-21  
217 D.3.a\_Email-BRB-City of Sultan Tortorice Annexation Proposal BRB File  
218 01-2021-1-15-21  
219 D.4\_01-2021 NOI Tortorice-Revised-deleted-page 25-1-22-21  
220 D.5\_Email-PDS-County Depts-RE\_ Resubmitted Sultan Tortorice  
221 Annexation-BRB File 01-2021 -1-19-21  
222 D.6\_Email-SWM staff-Assessor-issues-with legal-description-NOI-1-25-21  
223 D.7.\_Email-PDS-County Assessor-Confusion-NOI 01-2021-emailed on 1-15-  
224 21  
225 D.7.a\_Email-CountyAssessor-legal description-review-1-22-21

226 D.8.\_Email-CountyStaff-wrong legal description pg 25-confusing maps-  
227 mislabeled exhibits-1-22-21  
228 D.8.a\_Email-County Assessor-Wrong-legal description part of City  
229 Resolution-1-25-21  
230 D.8.b\_Email-County Staff-summarizing-issues-with-NOI that was issued on  
231 1-15-21  
232 D.9\_Email-Initial Response from BRB-on-Issues Raised with NOI-by County  
233 Departments-1-22-21  
234 D.10\_Email-from BRB-issuing-Revised-NOI-deleting-page-25-wrong-legal-  
235 description-1-22-21  
236 D.11\_Email-PDS-to-BRB-Notifying of Issues with NOI-01-2021-1-22-21  
237 D.12\_Email-PDS to County-Depts-Revised-NOI 01-2021-deleting page 25-  
238 D.13\_PW MEMO TO PDS-Issues-with-NOI-2-2-21  
239 D.14.\_Email-PDS toBRB-forwarding-DPW Memo-Issues with NOI  
240 D.14.a\_Email-PDS to BRB-status of BRBs inquiry to City on inconsistencies  
241 with NOI-2-8-21  
242 D.14.b\_Email-BRB-to-PDS-to send-City of Sultan-DPW-issues  
243 D.14.c\_Email-BRB-to-County Staff-to seek clarification-with-City-1-22-21  
244 D.15\_Email-PDS to City Sultan-requesting-missing-60 percent-petition-  
245 density requirement-4duperacre-2-3-21  
246 D.16\_Email-City Sultan to PDS-submitting-60 percent petition-that was not  
247 in NOI-2-4-21  
248 D.17.\_SWM-comments- Resubmitted Sultan Tortorice Annexation-BRB File  
249 01-2021  
250 D.17.a\_Financial Impacts for Annexation-SWM  
251 D.18.\_DPW-Fiscal Impacts-2-8-21

252 D.18.a\_Financial Impacts -Tortorice-DPW-TES  
253 D.19.\_01-2021 City of Sultan Clarification re Questions from PDS DPW 2 8  
254 2021  
255 D.19.a\_Email-BRB to PDS-forwarding-Citys repsonse to DPW issues-2-8-21  
256 D.20\_Sheriff-impact-Tortorice Annexation-2-9-21  
257 D.21\_PDS-Staff Report-Tortorice Annex-2-5-21  
258 D.22\_PowerPoint\_Presentation-Council Briefing-2-16-21  
259 D.23\_Council - Proposed\_Motion\_21-059\_Packet  
260 D.24\_Email-PDS to Council staff-list of issues with NOI-2-12-21  
261 D.25\_Council Staff\_Report-2-16-21  
262 D.26\_list of concerns-with-NOI-01-2021-Tortorice Annex  
263 D.27.\_Email PDS to Council staff-Error in Linked Resolution 20-24-2-12-21  
264 D.27.a\_Email-Council Staff-to-PDS-\_ Error in Linked Resolution 20-24-  
265 from-City-website-2-12-21  
266 D.28\_Email-Reid Shockey-PDS-Tortorice Annexation - Snohomish County  
267 Council GLS - 2\_  
268 D.29\_Council Mot 21-059-Invoking BRB Jurisdiction-Not Opposing  
269 Annexation-Tortorice-File 01-2021  
270 D.30.\_Council staff- to -Council\_Potential Boundary Review Board process  
271 for Sultan Tortorice annexation-2-22-21  
272 D.30.a\_Memo - potential BRB process  
273 D.31\_PDS\_Presentation\_for\_Hearing\_PPT-BRB-Sultan-Tortorice-Annex-  
274 01-2021  
275