

City of Port Orchard  
Clerk's Office  
216 Prospect Street  
Port Orchard, WA 98366

Introduced by: Development Director  
Requested by: Development Director  
Drafted by: Development Director  
First Public Hearing: January 13, 2009  
Second Public Hearing: February 10, 2009  
Adopted: February 10, 2009

## **ORDINANCE NO. 004-09**

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ANNEXING CERTAIN REAL PROPERTY TO THE CITY CONSISTING OF APPROXIMATELY 64 ACRES IN THE VICINITY OF SEDGWICK ROAD AND BETHEL ROAD, REQUIRING THE ANNEXED PROPERTY TO BE ASSESSED AND TAXED AT THE SAME RATE AND BASIS AS OTHER PROPERTY WITHIN THE CITY, ESTABLISHING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS FOR THE PROPERTY, AND ESTABLISHING AN EFFECTIVE DATE OF THE ANNEXATION**

PROPERTY LOCATION: Those portions of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 1, the SE  $\frac{1}{4}$  of Section 2, the NE  $\frac{1}{4}$  of Section 11, and the NW  $\frac{1}{4}$  of Section 12, Township 23 North, Range 1 East, W.M., Kitsap County, Washington

ASSESSOR'S ACCOUNT NUMBERS: 012301-3-129-2007, 012301-3-128-2008, 022301-4-006-2002, 022301-4-035-2007, 022301-4-037-2005, 022301-4-039-2003, 022301-4-040-2000, 022301-4-040-2109, 022301-4-041-2009, 022301-4-042-2008, 022301-4-048-2002, 022301-4-055-2002, 022301-4-071-2002, 022301-4-074-2009, 022301-4-087-2004, 022301-4-088-2003, 022301-4-089-2002, 022301-4-094-2005, 022301-4-108-2009, 022301-4-109-2008, 022301-4-110-2005, 022301-4-111-2004, 022301-4-112-2003, 112301-1-018-2003, 112301-1-019-2002, 122301-2-053-2006, 122301-2-063-2004, 122301-2-064-2003, 122301-2-087-2006, 122301-2-088-2005, 122301-2-089-2004, 122301-2-090-2001, 122301-2-091-2000, 122301-2-092-2009, 112301-1-017-2004, 112301-1-016-2005, 112301-1-015-2006, 112301-1-014-2007, 112301-1-013-2008, and 122301-2-093-2008

**WHEREAS**, on September 5, 2008 the City Council received a notice of intent to petition for annexation for 40 parcels consisting of approximately 64 acres located in the vicinity of Sedgwick Road and Bethel Road, as legally described in Exhibit "A" attached hereto and incorporated by this reference; and

**WHEREAS**, the initiating parties are the owners of real property with a value in excess of ten percent (10%) of the value of the property for which annexation is petitioned; and

**WHEREAS**, a meeting was held on October 14, 2008, between the initiating parties of this annexation and the Council of the City of Port Orchard, at which time the Council accepted the notice of intention to commence annexation proceedings and authorized the circulation of an annexation petition for annexation of the real property legally described and geographically depicted in Exhibit "A" attached hereto. At the meeting the Council also determined that it would require the simultaneous adoption of Comprehensive Plan and zoning regulations, and the assumption of city indebtedness by the area to be annexed upon annexation; and

**WHEREAS**, a petition to annex to the City of Port Orchard was circulated and on January 9, 2009 was filed with the City, and was certified by the Kitsap County Assessor as containing the signatures from owners of not less than seventy-five percent (75%) in value, according to the assessed valuation, of the property for which annexation is petitioned; and

**WHEREAS**, in December 2006 Kitsap County added the property legally described and geographically depicted in Exhibit "A" to the City of Port Orchard UGA and designated the parcels on the County Comprehensive Plan as Urban High-Intensity Commercial/Mixed Use and zoning of Highway Tourist/Commercial, with the exception of parcel 022301-4-071-2002 which has a Comprehensive Plan and zoning designation of Urban Low Residential; and

**WHEREAS**, RCW 35.13.177 allows the City to prepare Comprehensive Plan and zoning designations to become effective upon the annexation of any area which might reasonably be expected to be annexed by the City at any future time; and

**WHEREAS**, pursuant to RCW 35.13.177 and .178, the City Council adopted Ordinance No. 042-08 designating the proposed annexation area Commercial on the City's Comprehensive Plan and Commercial – Retail/Office on the City's zoning map, with the

exception of parcel 022301-4-071-2002 which has a Comprehensive Plan designation of Residential Low Density and a zoning designation of Residential 4.5 (R4.5), to become effective upon annexation; and

**WHEREAS**, pursuant to RCW 35.63.200, the City Council finds it is necessary to adopt interim zoning controls for parcel 022301-4-071-2002 until such time as the Comprehensive Plan amendment process for 2009 is completed and that such interim zoning for this parcel is justified because: the parcel will be served by adequate public sewer, water supply, roads, and other needed public facilities; the parcel is adjacent to areas of Urban High-Intensity Commercial/Mixed Use designations within the County; and the interim zoning designation of Commercial – Retail/Office is consistent with the uses in the surrounding area.

**WHEREAS**, the Port Orchard Planning Commission held a public meeting on January 26, 2009 and adopted Resolution 001-09 recommending the proposed annexation area be designated Commercial on the City's Comprehensive Plan and Commercial – Retail/Office on the City's zoning map to become effective upon annexation; and

**WHEREAS**, pursuant to RCW 35.13.140, the City Council held public hearings on January 13, 2009 and February 10, 2009, which hearings were duly noticed through publication in a newspaper of general circulation in the City and the proposed annexation area, and through posting of a hearing notice in three public places within the territory proposed for annexation, specifying the time and place of the hearing and inviting interested persons to appear and voice approval or disapproval of the annexation; and

**WHEREAS**, the City Council has been fully advised and finds that all statutory requirements have been satisfied in order to accomplish the proposed annexation and that it is in the best interest of the City to approve the proposed annexation as presented and require the assumption of all or any portion of City indebtedness by the area to be annexed; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON,  
DO ORDAIN AS FOLLOWS:**

**SECTION 1.** The unincorporated real property located in Kitsap County, Washington, contiguous to the City of Port Orchard and legally described and geographically depicted in Exhibit "A" attached hereto and incorporated herein by this reference, is hereby annexed to and made part of the City of Port Orchard, Kitsap County, Washington.

**SECTION 2.** As provided in the annexation petition, all property within the territory annexed shall be assessed and taxed at the same rate and on the same basis as other property within the City of Port Orchard, including assessments or taxes in payment of all or any portion of the outstanding indebtedness of the City contracted for, incurred prior to, or existing on, the effective date of this annexation.

**SECTION 3.** As provided in Ordinance No. 042-08, all property within the territory to be annexed, except parcel 022301-4-071-2002, is hereby designated Commercial on the Comprehensive Plan Map and Commercial – Retail/Office on the City of Port Orchard Zoning Map.

**SECTION 4.** The Comprehensive Plan and Zoning designations for parcel 022301-4-071-2002 shall be included in the City's annual Comprehensive Plan amendment process for 2009 for review and designation as appropriate.

**SECTION 5.** Based on the findings of fact set forth in the above recitals, the City Council hereby determines that an emergency exists justifying the adoption of interim zoning controls for parcel 022301-4-071-2002, as depicted on Exhibit "B" attached hereto and incorporated by this reference. Pursuant to RCW 35.63.200, there is hereby adopted an interim Comprehensive Plan designation of Commercial and an interim Zoning designation of Commercial – Retail/Office. As long as the interim zoning controls are in effect, all land use and development within parcel 022301-4-071-2002 shall be subject to the City's land use and development regulations in effect for Commercial – Retail/Office zoning.

**SECTION 6.** The interim zoning controls shall take effect upon annexation to the City unless the City has, prior to annexation, completed its annual Comprehensive Plan amendment process for 2009 and established Comprehensive Plan and Zoning Designations for parcel 022301-4-071-2002. The interim zoning controls shall expire six months from the date of annexation as defined in Section 7 below, unless the interim zoning controls are shortened or extended by action of the City Council or until the effective date of any ordinance establishing new comprehensive land use designations for parcel 022301-4-071-2002, whichever is sooner.

**SECTION 7.** This annexation will become effective April 1, 2009 if the Kitsap County Boundary Review Board's jurisdiction is not invoked. If Boundary Review Board jurisdiction is invoked pursuant to RCW 36.93.100, then this annexation will become

effective on the first day of the month immediately following the Boundary Review Board's approval of the proposed annexation.

**SECTION 8.** Pursuant to RCW 35.13.270, following adoption of this ordinance, the Planning Department shall provide notification, by certified mail, that includes a list of annexed parcel numbers, to the Kitsap County Treasurer and Kitsap County Assessor at least thirty (30) days before the effective of the annexation. The Planning Department shall also give such notice to the Fire District and Library District, as appropriate, simultaneously when notice of the proposed annexation is provided to the Kitsap County Boundary Review Board.

**SECTION 9.** Following adoption of this ordinance, the City Clerk is hereby directed to file a certified copy of this Ordinance with the Kitsap County Board of Commissioners. The Clerk is further directed to file a certificate of annexation with the State Office of Financial Management as directed by RCW 35.13.260.

**SECTION 10.** Following adoption of this annexation ordinance, the City shall file a Notice of Intent to Annex with the Kitsap County Boundary Review Board pursuant to RCW 36.93.090.

**SECTION 11.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

**SECTION 12.** This ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 10th day of February 2009.

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Lary Coppola, Mayor

ATTEST:

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Patricia Kirkpatrick, City Clerk

APPROVED AS TO FORM:

Sponsored by:

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Gregory A. Jacoby, City Attorney

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Rob Putaansuu, Councilmember

# Washington State Boundary Review Board For Kitsap County

614 Division Street, MS-36, Port Orchard, Washington 98366

Phone (360) 337-5694 • Fax (360) 337-4415

[www.kitsapgov.com/boards/brb.htm](http://www.kitsapgov.com/boards/brb.htm)

**RECEIVED**

February 10, 2009

APR - 7 2009

CITY OF PORT ORCHARD  
ATTN: PATTI KIRKPATRICK  
216 PROSPECT ST  
PORT ORCHARD WA 98366

CITY OF PORT ORCHARD  
CITY CLERKS OFFICE

RE: Annexation of Sedgwick & Bethel  
BRB File No. 09-08-0141

Dear Ms. Kirkpatrick:

This is to advise you that the forty-five (45) day time period from filing of your application has expired. No request to invoke jurisdiction of the Boundary Review Board was received and, therefore, by operation of RCW 36.93.100(4), your petition has been approved by the Boundary Review Board.

You are requested to provide the following with a copy of your resolution of final approval, which should include a legal description and map:

Kitsap County Auditor  
Attn: Dolores Gilmore  
614 Division Street, MS-31  
Port Orchard, WA 98366

Kitsap County GIS  
Attn: Diane Mark  
614 Division Street, MS-21  
Port Orchard, WA 98366

Kitsap County Assessor  
Attn: Maxine Schoales  
614 Division Street, MS-22  
Port Orchard, WA 98366

Washington Surveying and Rating  
Bureau  
2003 Western Avenue, Suite 300  
Seattle, WA 98121  
(Cities and fire districts only.)

Kitsap County Boundary Review  
Board  
Attn: Carolyn Gourley  
614 Division Street, MS-36  
Port Orchard, WA 98366

Kitsap County Board of  
Commissioners  
Attn: Angie Silva  
614 Division Street, MS-4  
Port Orchard, WA 98366

April 6, 2009

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Kitsap County Public Works  
Attn: John James  
614 Division Street, MS-26  
Port Orchard, WA 98366

Sincerely,



Carolyn S. Gourley  
Clerk of the Board

cc: Dolores Gilmore, Auditor's Office  
Maxine Schoales, Assessor's Office  
Diane Mark, GIS  
Angie Silva, Commissioners' Office  
John James, Public Works