

1 Adopted: June 10, 2015

2 Effective: July 2, 2015

3
4
5 SNOHOMISH COUNTY COUNCIL
6 SNOHOMISH COUNTY, WASHINGTON

7
8 ORDINANCE NO. 14-131
9

10 RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING FUTURE LAND USE
11 MAP AMENDMENTS TO THE SNOHOMISH COUNTY GROWTH MANAGEMENT
12 ACT COMPREHENSIVE PLAN, AMENDING THE ZONING MAP TO IMPLEMENT
13 CHANGES TO THE FUTURE LAND USE MAP, AND REVISING THE SOUTHWEST
14 URBAN GROWTH AREA (EVR1 - CITY OF EVERETT)
15

16 WHEREAS, RCW 36.70A.130 and .470 direct counties planning under the
17 Growth Management Act (GMA) to adopt procedures for interested persons to propose
18 amendments and revisions to the Growth Management Act Comprehensive Plan
19 (GMACP) or development regulations; and
20

21 WHEREAS, the Snohomish County Council (county council) adopted chapter
22 30.74 of the Snohomish County Code (SCC), "Growth Management Act Public
23 Participation Program Docketing," to comply with the requirements of RCW 36.70A.130
24 and .470; and
25

26 WHEREAS, the Department of Planning and Development Services (PDS)
27 compiled a list of non-county initiated amendments and revisions received by the
28 October 31, 2012, deadline for Docket XVII proposals and evaluated these proposed
29 amendments, including the EVR1 – City of Everett docket proposal, for consistency with
30 the initial docket review criteria in SCC 30.74.030(1) and 30.74.040; and
31

32 WHEREAS, PDS briefed the Snohomish County Agricultural Advisory Board on
33 the EVR1 – City of Everett docket proposal on April 9, 2013; and
34

35 WHEREAS, on May 29, 2013, and June 26, 2013, the county council held public
36 hearings to receive public testimony on proposed non-county initiated amendments to
37 the GMACP for consideration on Final Docket XVII, including the EVR1 – City of Everett
38 proposal; and
39

40 WHEREAS, on July 17, 2013, the county council approved, by Amended Motion
41 No. 13-138, a list of proposed non-county initiated comprehensive plan amendments for
42 consideration and final action on Final Docket XVII, including the EVR1 – City of Everett

1 proposal, and authorized the county executive, through PDS, to process Final Docket
2 XVII consistent with chapters 30.73 and 30.74 SCC; and

3
4 WHEREAS, the Snohomish County Planning Commission (“planning
5 commission”) was provided information on Final Docket XVII, including the EVR1 – City
6 of Everett proposal, in study sessions and briefings held on May 13, 2014, and
7 September 9, 2014; and

8
9 WHEREAS, pursuant to chapter 30.74 SCC, PDS completed final review and
10 evaluation of Final Docket XVII, including the EVR1 – City of Everett proposal, and
11 forwarded recommendations to the planning commission; and

12
13 WHEREAS, the planning commission held a public hearing and received public
14 testimony on Final Docket XVII, including the EVR1 – City of Everett proposal, on
15 October 7, 2014; and

16
17 WHEREAS, on October 14, 2014, the planning commission completed
18 deliberations on Final Docket XVII, including the EVR1- City of Everett proposal, and
19 recommended adoption of the EVR1 – City of Everett proposal as enumerated in its
20 recommendation letter of December 4, 2014; and

21
22 WHEREAS, on May 13, 2015 and continued to June 10, 2015, the Snohomish
23 County Council held a public hearing, after proper notice, to hear public testimony on
24 this ordinance and consider the entire record, including the planning commission’s
25 recommendation, on Final Docket XVII and the EVR1 – City of Everett proposal.

26
27 NOW, THEREFORE, BE IT ORDAINED:

28
29 Section 1. The county council makes the following findings:

- 30
31 A. The county council adopts and incorporates the foregoing recitals as findings as if
32 set forth fully herein.
33
34 B. The EVR1 – City of Everett proposal would revise the Southwest Urban Growth Area
35 (UGA) to add 21 acres of land that will remain designated on the Future Land Use
36 Map (FLUM) of the General Policy Plan (GPP) as Riverway Commercial Farmland
37 (RCF) and will remain zoned Agriculture-10 Acre (A-10). The proposal would not
38 result in a net increase in residential or employment land capacity.
39
40 C. The EVR1 – City of Everett proposal site is vacant and located on Smith Island, west
41 of Union Slough and east of Everett’s sewage treatment facility. The proposal site is
42 owned by the City of Everett, and is being used for wetland enhancement and
43 restoration to mitigate impacts from future expansion of Everett’s sewage treatment

1 facility. The dike along the eastern boundary of the site, adjacent to Union Slough,
2 previously was breached by the city to allow intertidal wetland restoration on the
3 south portion of the site. Including this municipal property in the UGA would allow
4 Everett to have all of its municipally-owned land in this area within the City of
5 Everett's boundaries, following annexation. Bringing the proposal site into the UGA
6 for eventual annexation also would streamline permitting associated with future
7 habitat restoration projects and enable Everett to efficiently provide public services
8 to its property.
9

10 D. The EVR1 – City of Everett proposal is consistent with the GMA, including
11 RCW 36.70A.060(4), which provides: “Forest land and agricultural land located
12 within urban growth areas shall not be designated by a county or city as forest land
13 or agricultural land of long-term commercial significance under RCW 36.70A.170
14 unless the city or county has enacted a program authorizing transfer or purchase of
15 development rights.” Both the City of Everett and Snohomish County have enacted
16 transfer of development rights (TDR) programs. The county's TDR regulations are
17 contained in chapter 30.35A SCC.
18

19 E. The EVR1 – City of Everett proposal is subject to GMA requirements for UGAs
20 under RCW 36.70A.110(8) as the proposal site is located within the 100-year
21 floodplain of the Snohomish River, which has a mean annual flow that is greater
22 than 1,000 cubic feet per second. However, the proposal is exempt from the
23 prohibition of UGA expansions into a 100-year floodplain under
24 RCW 36.70A.110(8)(b)(iii)(C) because: 1) the proposal site is owned by the City of
25 Everett; 2) the city plans under the GMA; 3) the use of the proposal site will be
26 limited to wetland enhancement and restoration; and 4) the use of the proposal site
27 will not decrease flood storage, increase stormwater runoff, discharge pollutants to
28 fresh or salt waters during normal operations or floods, or increase hazards to
29 people and property.
30

31 F. The EVR1 – City of Everett proposal is consistent with and advances the Puget
32 Sound Regional Council (PSRC) Multicounty Planning Policies (MPP), in particular
33 DP- 29, which provides that the County protect and enhance significant open
34 spaces, natural resources, and critical areas. The proposal provides for continued
35 protection and future enhancement of the open space, floodplain, and critical areas
36 through the public ownership and continued RCF designation and A-10 zoning of the
37 site.
38

39 G. The EVR1 – City of Everett proposal is consistent with and advances the
40 Countywide Planning Policies (CPP), in particular DP-1(f), which provides that the
41 County shall maintain UGAs that do not include designated agricultural or forest land
42 unless the city or county has enacted a program authorizing transfer or purchase of
43 development rights. Both the city and county have adopted TDR programs.

1
2 H. The EVR1 – City of Everett proposal is consistent with and advances the GPP, in
3 particular LU Policy 1.A.7, which provides that designated forest and agricultural
4 lands shall not be included within a UGA unless the designated lands are maintained
5 as natural resource lands and a TDR/PDR program has been enacted by the city or
6 the county. The proposal site will continue to be designated RCF, a natural resource
7 plan designation, and both the city and the county have adopted TDR programs.
8

9 I. Procedural requirements.

- 10
11 1. This proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
12
13 2. State Environmental Policy Act (SEPA) requirements with respect to this non-
14 project action have been satisfied through the completion of a Draft EIS
15 issued on September 8, 2014, and a Final EIS issued on June 3, 2015.
16
17 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance
18 was transmitted to the Washington State Department of Commerce for
19 distribution to state agencies on December 17, 2014.
20
21 4. The public participation process used in the adoption of this ordinance has
22 complied with all applicable requirements of the GMA and the SCC.
23
24 5. The Washington State Attorney General last issued an advisory
25 memorandum, as required by RCW 36.70A.370, in December of 2006 entitled
26 “Advisory Memorandum: Avoiding Unconstitutional Takings of Private
27 Property” to help local governments avoid the unconstitutional taking of
28 private property. The process outlined in the State Attorney General’s 2006
29 advisory memorandum was used by Snohomish County in objectively
30 evaluating the amendments proposed by this ordinance.
31

32 J. The ordinance is consistent with the record.

- 33
34 1. No inconsistencies between the proposed amendments and the GMACP
35 elements or development regulations have been identified.
36
37 2. The proposal complies with all requirements of the GMA, including: the
38 requirement in RCW 36.70A.070 that a plan be an internally consistent
39 document; the requirements in RCW 36.70A.130(1)(d) that any amendment
40 to a comprehensive plan shall conform to the GMA and that any amendment
41 to development regulations shall implement the comprehensive plan; the
42 requirement in RCW 36.70A.130(2) that a county consider comprehensive
43 plan amendments no more frequently than once per year; and the

1 requirements in RCW 36.70A.130(1)(d) and .210(1) and (7) that the
2 comprehensive plan be consistent with the CPP and MPP.

3
4 Section 2. The county council makes the following conclusions:

5
6 A. The proposed amendments are consistent with the MPP and the CPP.

7
8 B. The proposal EVR1 – City of Everett meets the final docket criteria in
9 SCC 30.74.060.

10
11 C. The proposed amendments are consistent with the goals, objectives and policies of
12 the GPP.

13
14 D. The amendments are consistent with and comply with the procedural and
15 substantive requirements of the GMA.

16
17 E. The county has complied with all SEPA requirements with respect to this non-project
18 action.

19
20 F. The amendments do not result in an unconstitutional taking of private property for a
21 public purpose and they do not violate substantive due process guarantees.

22
23 G. The county complied with state and local public participation requirements under the
24 GMA and chapter 30.73 SCC.

25
26 Section 3. The county council bases its findings and conclusions on the entire record of
27 the county council, including all testimony and exhibits. Any finding which should be
28 deemed a conclusion, and any conclusion which should be deemed a finding, is hereby
29 adopted as such.

30
31 Section 4. The Future Land Use Map of the GPP, last amended by Amended
32 Ordinance No. 14-069 on October 8, 2014, is amended as indicated in Exhibit A to this
33 ordinance, which is attached hereto and incorporated by reference into this ordinance.

34
35 Section 5. The area-wide zoning map, last amended by Amended Ordinance No. 14-
36 068 on October 8, 2014, is amended as indicated in Exhibit B to this ordinance, which is
37 attached hereto and incorporated by reference into this ordinance.

38
39 Section 6. The county council directs the Code Reviser to update SCC 30.10.060
40 pursuant to SCC 1.02.020(3).

41
42 Section 7. Severability and Savings. If any section, sentence, clause or phrase of this
43 ordinance shall be held to be invalid by the Growth Management Hearings Board

1 ("Board"), or unconstitutional by a court of competent jurisdiction, such invalidity or
2 unconstitutionality shall not affect the validity or constitutionality of any other section,
3 sentence, clause or phrase of this ordinance. Provided, however, that if any section,
4 sentence, clause or phrase of this ordinance is held to be invalid by the Board, then the
5 section, sentence, clause or phrase in effect prior to the effective date of this ordinance
6 shall be in full force and effect for that individual section, sentence, clause or phrase as
7 if this ordinance had never been adopted.

8
9 PASSED this 10th day of June, 2015.

10
11 SNOHOMISH COUNTY COUNCIL
12 Snohomish County, Washington


13
14 
15 Council Chair

16 ATTEST:

17 
18 _____
19

20
21 APPROVED
22 EMERGENCY
23 VETOED


24 DATE: 6/30, 2015

25
26 
27 _____
28 County Executive

29 ATTEST:

30 
31 _____
32

33 Approved as to form only:

34 
35 _____ 12/3/14
36 Deputy Prosecuting Attorney

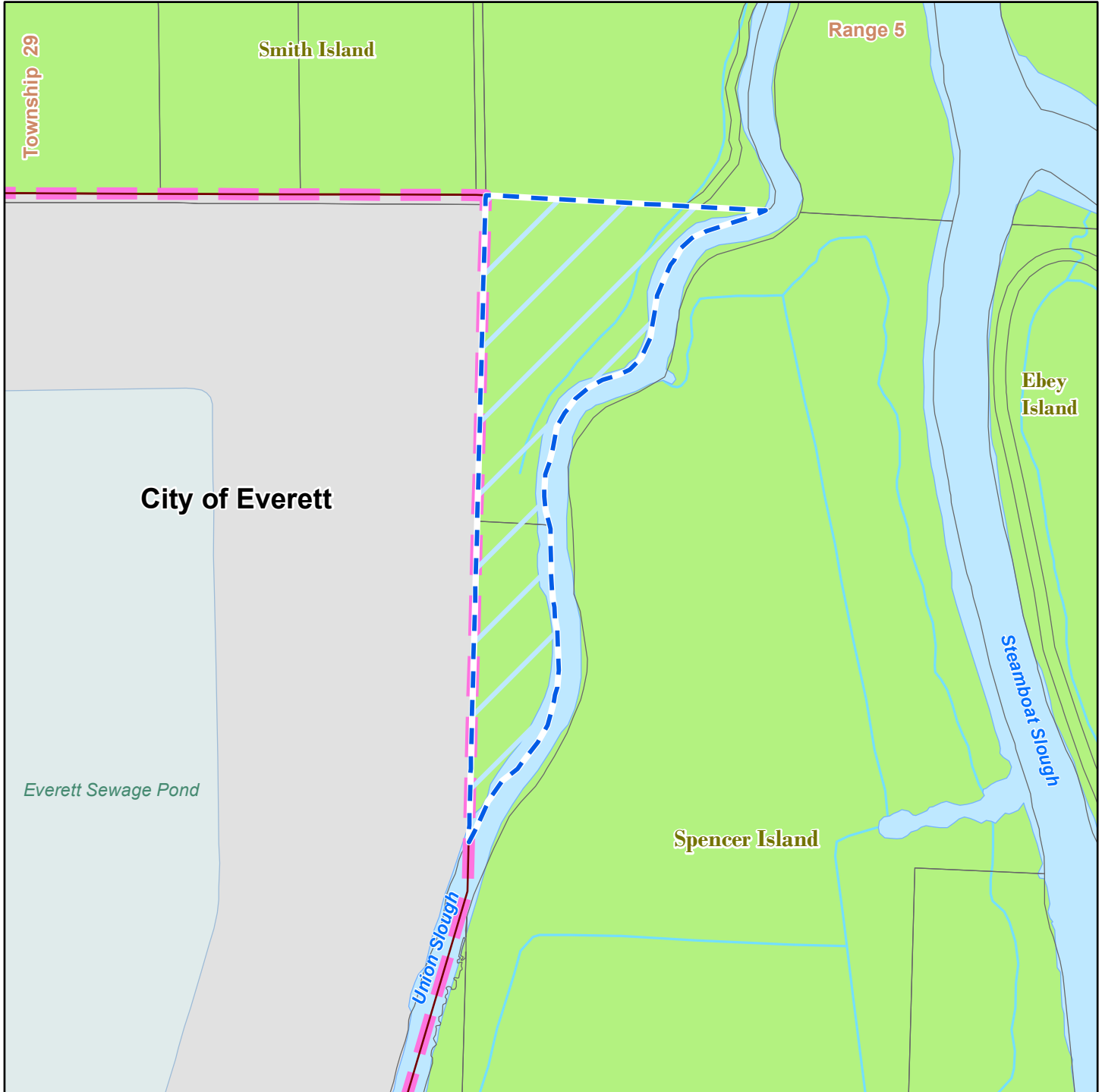
D-4

Exhibit A
Ordinance No. 14-131
EVR1 – City of Everett
Map 1
GPP Future Land Use Map Amendment

Final Docket XVII
City of Everett (EVR1)
June 10, 2015



Council Adopted Future Land Use Map
Comprehensive Plan Amendment



FLU Map Amendment:



EVR1

SW UGA Expansion


No FLU redesignation.

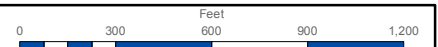
 City of Everett

 Assessor Parcels

 UGA Boundary

Future Land Use Map Designation

 Riverway Commercial Farmland



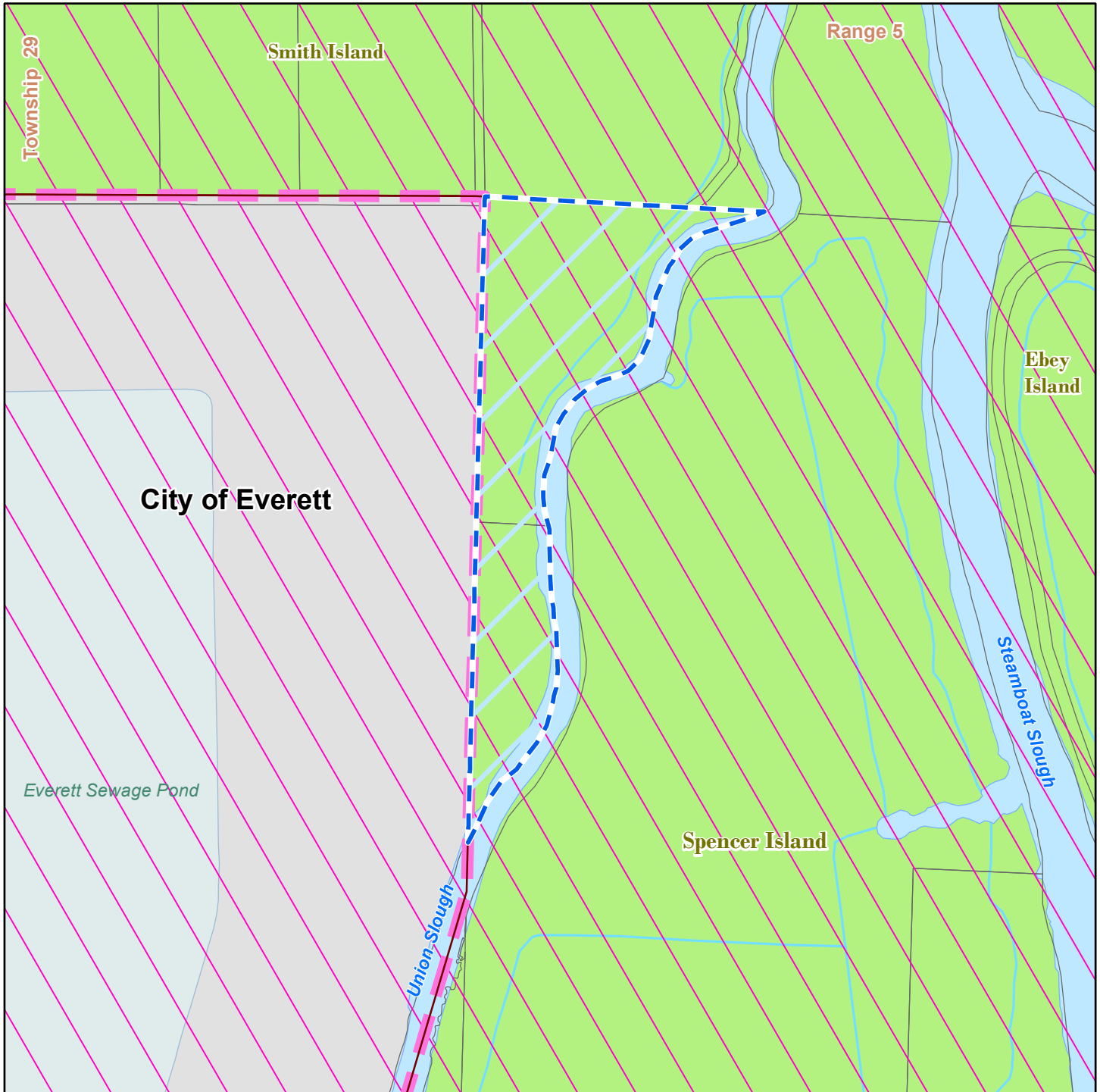
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Exhibit B
Ordinance No. 14-131
EVR1 – City of Everett
Zoning Map Amendment

**Final Docket XVII
City of Everett (EVR1)
June 10, 2015**








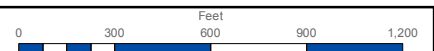
Council Adopted Rezone



Rezone:



-  UGA Boundary
-  City of Everett
-  Assessor Parcels
-  100-year Floodplain
- Zoning**
-  Agriculture 10-Acre



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