

URBAN GROWTH AREA REVIEW



UGA/UGA Reserve Proposal Supplement

February 20, 2026

I. Introduction

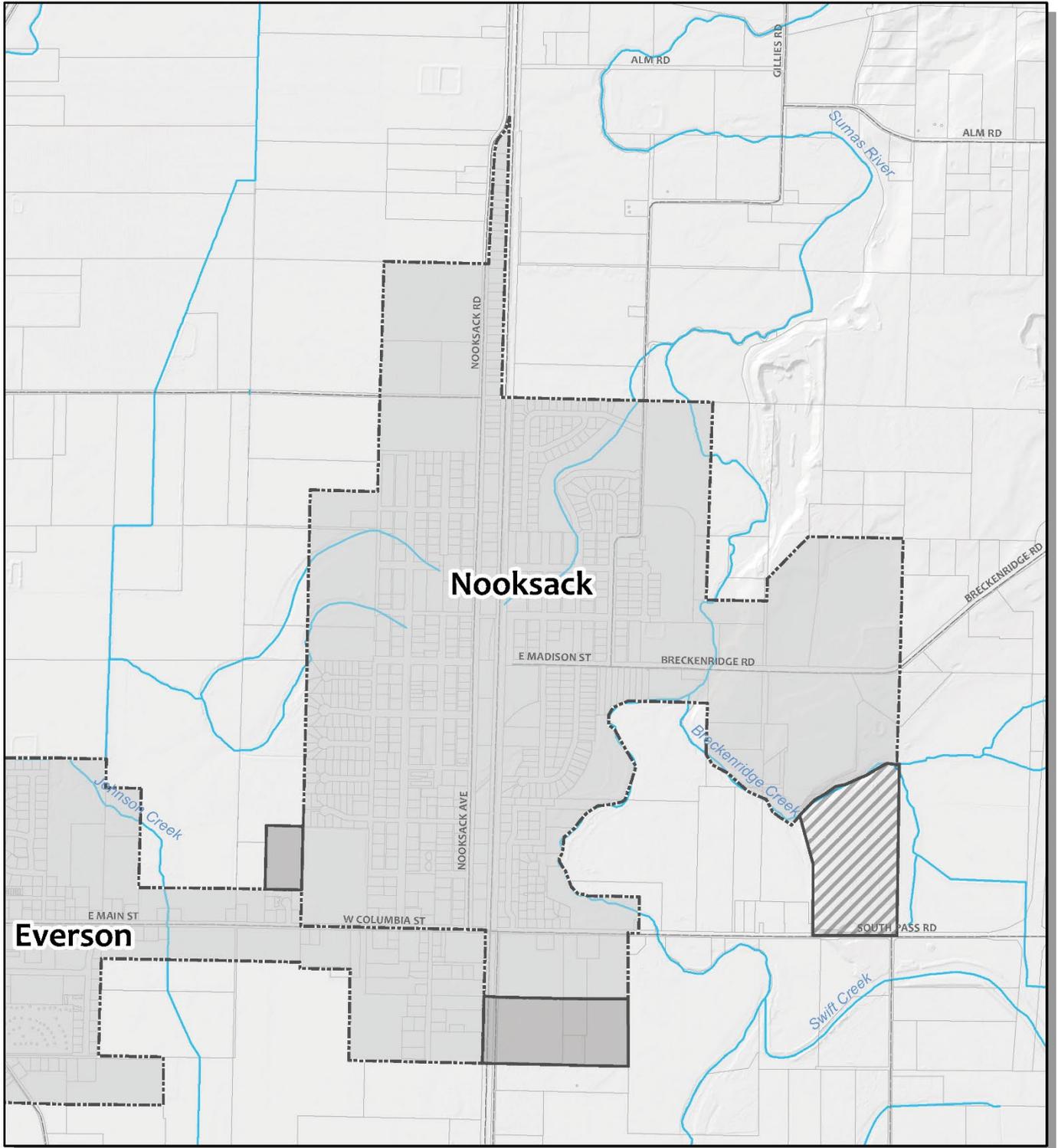
On August 29, 2025, the City of Nooksack submitted its UGA and UGA Reserve Proposal (UGA Proposal) to Whatcom County as part of the 2025 review and update of the city and county comprehensive plans required under the state Growth Management Act (GMA), RCW 36.70A. See the attached map that shows the City's existing urban growth area (UGA) and UGA Reserve. See also the attached map that shows the Nooksack UGA Proposal, including Areas 3, 4, 6, 7 and 8 that are proposed to be included in the Nooksack UGA.

On October 17, 2025, the City submitted its UGA and UGA Reserve Proposal Addendum (UGA Proposal Addendum) to provide additional information to address a number of concerns/issues raised by County Planning staff in relation to the City's UGA Proposal.

On January 27, 2026, City staff attended the County Council Committee of the Whole (CVOTW) meeting to present the City's UGA Proposal and answer questions raised by County Council members. Based on the information provided, the COTW passed a motion of preliminary support for including Areas #3 and #4 in the Nooksack UGA. The COTW indicated that they needed more time to consider the other aspects of the City's Proposal (Retention of Areas #1 and #2 in the UGA and addition of Areas #6, #7 and #8 to the UGA).

The COTW has invited Nooksack staff to attend the February 24, 2026 COTW meeting to complete their preliminary consideration of the Nooksack UGA Proposal. The purpose of this UGA and UGA Reserve Supplement (UGA Supplement) is to provide supplemental information in advance of the upcoming COTW meeting directly related to questions raised by the COTW regarding the remaining aspects of the City's UGA Proposal.

Whatcom County | Current Comprehensive Plan

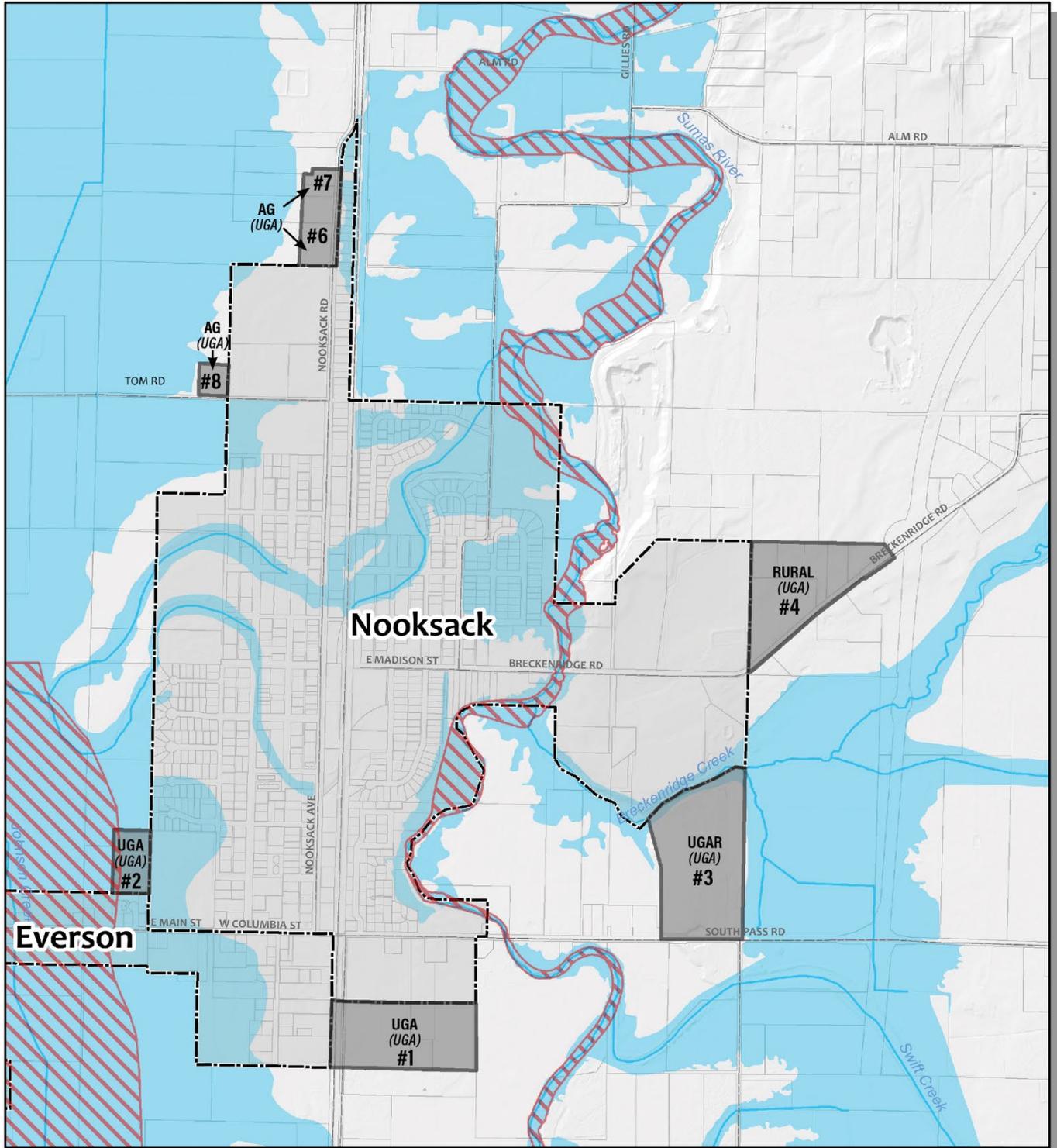


Nooksack Urban Growth Area

-  City of Nooksack
-  Urban Growth Area
-  Urban Growth Area Reserve

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- Nooksack Urban Growth Area

-  City of Nooksack
-  Urban Growth Area
-  Urban Growth Area Reserve

-  Effective Floodway
-  Effective Flood Zone

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II. Retention of Area #2 (School Ballfield) in the UGA

Area #2 from the City's UGA Proposal includes the existing Nooksack Valley Middle School ballfield. This Area was added to the Nooksack UGA by the County Council in 2016 to allow all of the Middle School properties and facilities to be within a single jurisdiction (Nooksack). The City has proposed to retain Area #2 in the UGA so that it can be annexed into the City in the near future.

At the January 27, 2026 meeting, the COTW correctly noted that Area #2 is within the 100-year floodplain of the Nooksack River. In general, areas used for recreational activities are not seen as being incompatible with floodplain areas.

Questions were also raised regarding future development potential within Area #2. When Area #2 was being considered for addition to the Nooksack UGA in 2016, the County required that a Restrictive Covenant be recorded that extinguished all development rights and limited allowed uses on this property as required by the GMA. A copy of the recorded Restrictive Covenant is attached to this Supplement.

III. Addition of Areas #6, #7 and #8 to the UGA

The City has proposed adding three small areas north of Tom Road to the UGA. At the January 27, 2026 COTW meeting, some members of the County Council raised concerns about adding these areas to the UGA based on potential future risks from flooding. While the City is quite sensitive to actions that might increase future flood risks (especially in light of recent flood events), the City does not see a substantive basis in the record for not adding these areas to the UGA.

As shown in the following table, these are very small areas that are located outside the currently effective FEMA 100-year floodplain. The County has taken the position that the 2025 Draft FEMA maps are considered to be the Best Available Science under the GMA. Areas #6, #7 and #8 are also shown as being outside the 100-year flood on the Draft FEMA maps. Similarly, these Areas are not shown as being within the floodplain on the County's 1.2X Future Flood Map. It is only on the County's 1.75X Future Flood Map where Area #8 along Tom Road is shown as being within the floodplain, and Areas #6 and #7 along the state highway are shown with minimal presence within the floodplain. Even in these cases, flood depths and flood velocities at the edge of the flood fringe would be very minimal. In addition, frontage onto major roadways that are not within the mapped floodplain would afford workers and residents easy access to emergency escape routes and services.

Table 1: Flood-related Risks – Areas #6, #7 and #8

	Area #6	Area #7	Area 8
Size	5 acres	2 acres	2 acres
Future Use	LI / COM adjacent to state highway	Limited RES in-fill adjacent to state highway	Church
Currently Effective FEMA Map - 100-year Floodplain	No	No	No
Currently Effective FEMA Map – Flood Depths and Velocities	NA	NA	NA
2025 Draft FEMA Map - 100-year Floodplain	No	No	No
2025 Draft FEMA Map – Flood Depths and Velocities	NA	NA	NA
2021 Flood Event – Flooding Within or Near Area	No	No	No
2025 Flood Event – Flooding Within or Near Area	No	No	No
County 1.2X Future Flood Map - 100-year Floodplain	No	No	No
County 1.2X Future Flood Map – Flood Depths and Velocities	NA	NA	NA
County 1.75X Future Flood Map - 100-year Floodplain	Minimal	Minimal	Yes
County 1.75X Future Flood Map – Flood Depths and Velocities	Close to Zero feet	Close to Zero feet	Very Low

As indicated in the above table, the risks from future flooding likely to result from adding these Areas to the Nooksack UGA appear quite low. That said, the City recognizes that certainty when it comes to future flooding is often hard to come by. For that reason, the City would offer the following as stipulated conditions to the addition of these Areas to the UGA:

- 1) All Structures Elevated. The City will agree to require all new construction within these Areas to be elevated so that the lowest floor would be constructed at least two (2) feet above the nearest FEMA base flood elevation. This requirement would apply even to areas outside the mapped floodplain.
- 2) Area #6. Area #6 along the state highway is planned to accommodate commercial or light industrial development. The Nooksack City Council has discussed increasing opportunities for housing in the downtown commercial area south of Madison Street, which is outside the floodplain. The City would stipulate that residential development within Area #6 (if any) be prohibited on the ground floor and be limited to upper floors above ground floor commercial developments.
- 3) Area #8. Given that Area #8 is the closest of these areas to the Nooksack River floodplain, the City would offer the following additional conditions: 1) Annexation and development of Area #8 would be limited to the current proposal to develop a local church; 2) If the Area is not annexed into the City within the next ten (10) years, then Area #8 would be removed from the Nooksack UGA; and 3) The ground elevation of the property would be required to be elevated during construction through the placement of fill to be at least one (1) foot above the nearest base flood elevation so that the property would function as a future component of the Nooksack protective berm.

Protective Berm: The City is aware that the County has secured a consultant to study options for constructing berms that would protect areas within the cities of Everson and Nooksack to reduce risks from future flooding. This consultant work will not be completed for over a year, well after the County adopts its comprehensive plan. The City of Nooksack is committed to participating in and supporting these efforts and will work to ensure that any such berm will provide protection along Nooksack's western City limits line, both to the south and north of Tom Road. A major issue with the County waiting to designate Areas #6, #7 and #8 as being within the Nooksack UGA until after study of the berm is complete would be that the City would (as a direct result of this non-designation) be required to modify its land capacity analysis and/or its growth allocations now (to comply with the GMA), which would make it much more difficult to justify designating these Areas in the future. As noted above, the City is willing to stipulate to requiring any development of the future church property (Area #8) to include elevation of the property to essentially function as part of the Nooksack berm, if and when it is constructed in this vicinity.

IV. Retention of Area #1 (South of City) in the UGA

At the January 27, 2026 COTW meeting, questions were raised about risks posed by flooding in Area #1, which was added to the Nooksack UGA back in 2016 and which is proposed to be retained in the UGA. The City would like to highlight the following factors that support retention of Area #1 in the Nooksack UGA:

1. Flat Topography. As shown in the attached map, the topography in Area #1 is very flat. The ground elevations are consistently around 91 feet above mean sea level. The base flood elevation in this area is at or below that same elevation, which means that any flood depths and velocities in the Area would be quite low or not present at all.
2. Area Separated from Main Floodplain. Area #1 is separate from the main flow channel of the Sumas River by a ridge of higher ground, which would tend to protect Area #1 from direct flooding and damaging flood velocities.
3. Sumas River, Not Nooksack River. Area #1 is located within the Sumas River floodplain, not the Nooksack River floodplain or the Nooksack River overflow corridor. This is a very important distinction for a number of reasons. First, flood flow volumes in the Sumas River are orders of magnitude less than in the Nooksack River floodplain. While flood flows in the Sumas River are in the 100's of cubic feet per second, Nooksack River flood flows are in the tens of thousands.
4. No History of Flooding. The City is not aware of there being any history of flooding on or near Area #1 in the 2021 or 2025 floods. Neither of the two homes located in Area #1 were flooded.
5. Very Limited History of Damage. While hundreds of homes were impacted and suffered damage within the Nooksack River Overflow Corridor flooding in the 2021 and 2025 floods within Everson and Nooksack, the City of Nooksack is only aware of one home within Nooksack that was damaged as a result of Sumas River flooding.

The City would also note that removal of a previously designated UGA for reasons other than a City proposal or due to an excess of land capacity would be an unprecedented action by the County Council. In addition, it was suggested at the January 27, 2026 COTW meeting that this existing UGA might be removed based on the presence of floodplain mapping within the Area. However, this criterion for UGA de-designation has been utilized as part of the County's 2025 Update in relation to all existing UGAs; therefore, use of this criterion in relation to the Nooksack UGA would be seen as an unfair and somewhat arbitrary action.

V. Potential Impact on Local Comprehensive Planning

The City wants to make it clear that any major change to the City's UGA Proposal at this late stage in the GMA-required update process would have significant impacts on the City and its resources. The City has prepared its draft comprehensive plan update, including all required Elements, based on the UGA configuration included in the City UGA Proposal. Changing the size and location of the UGA at this late date would necessitate major revisions to the text, tables, maps, land capacity analysis, and affordable housing unit allocations that have been prepared over the past two years. Any such change would likely delay adoption of the City's comprehensive plan even further.

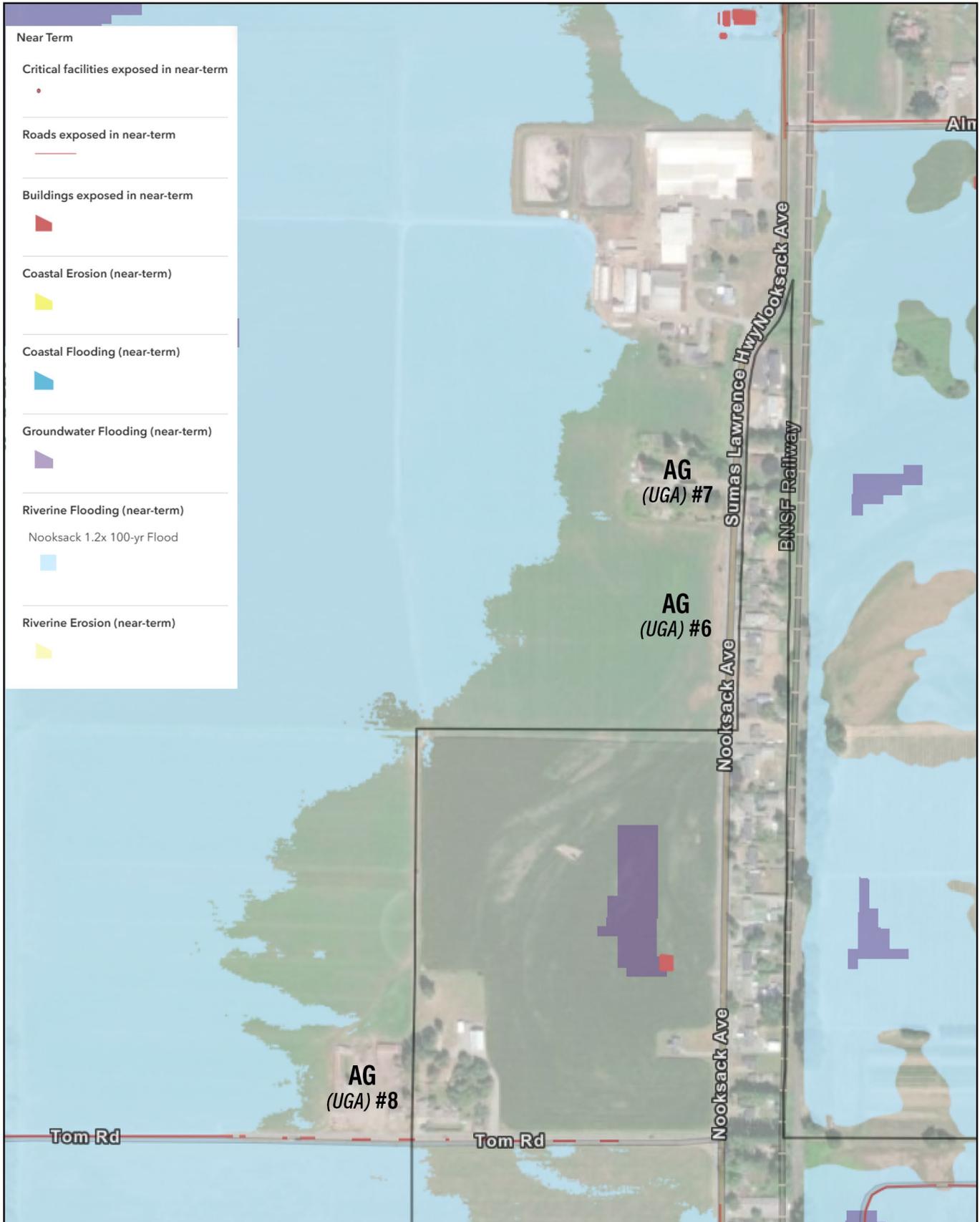
In addition, the City has very limited staff and financial resources and funding available to re-do the draft comprehensive plan. City employees include two positions in the Clerk's office, two positions in the Public Works Department, and no planning staff. Planning services are secured on a contract basis and are paid for out of the General Fund, which is often stretched quite thin. State grant funding through the Department of Commerce ended in June of last year; therefore, additional planning-related costs would not be eligible for reimbursement from the State. In short, the City's needing to make major revisions to the comprehensive plan at this time would constitute a hardship that the City would hope to avoid if at all possible.

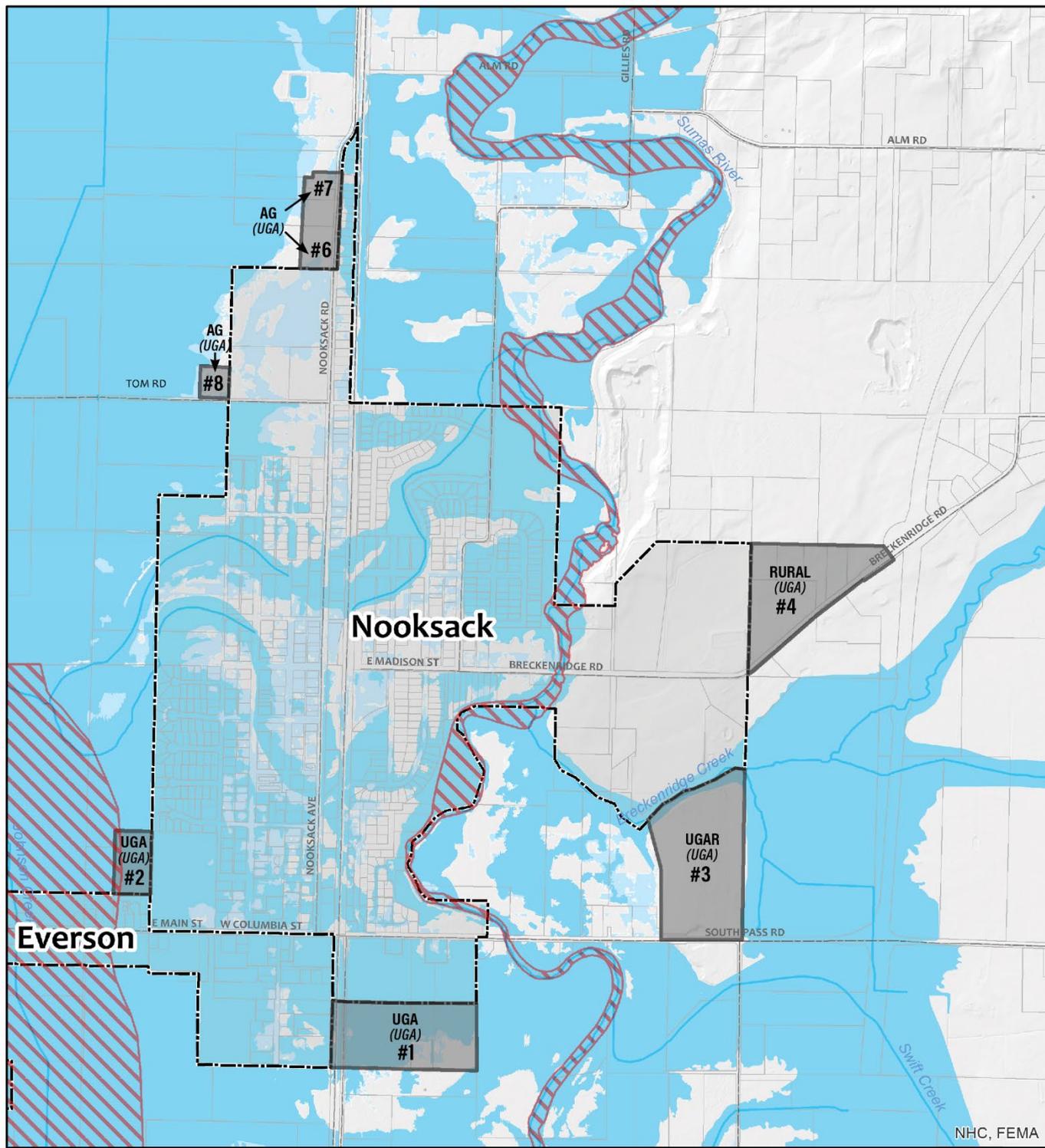
VI. Conclusion

This UGA Proposal Supplement has provided additional information intended to address questions and concerns raised by the County Council Committee of the Whole regarding the City of Nooksack's UGA Proposal. This information supplements the information previously provided in the City's UGA Proposal and UGA Proposal Addendum. It is the City's hope that the County Council's questions and concerns have been addressed sufficiently to allow the City's UGA Proposal to move forward with preliminary support from the County. This would allow the City to finalize its draft comprehensive plan update documents and move forward with the remaining portions of the public review and formal adoption process.

CITY OF NOOKSACK
UGA AREAS 6/7/8 - SHORELINES
NEAR TERM - PROPOSED FLOODING

PROPOSED UGA
February 19, 2026





- Nooksack Urban Growth Area

- City of Nooksack
- Urban Growth Area
- Urban Growth Area Reserve

- Draft Floodway (2024-2025)
- Draft SFHA (2024-2025)
- Nookack 1p75x 100 Year Flood

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0 500 1,000 2,000 Feet
 NK 26-02-19

**SEE ATTACHED RESTRICTIVE COVENANT
FOR UGA AREA #2 (BALLFIELD)**



When Recorded Return To:
City of Nooksack
103 W. Madison Street
Nooksack, WA 98276

DOCUMENT TITLE: IRREVOCABLE COVENANT TO RESTRICT SUBDIVISION, PLATTING, AND RESIDENTIAL DEVELOPMENT

GRANTOR(S): NOOKSACK VALLEY SCHOOL DISTRICT

GRANTEE: CITY OF NOOKSACK

ABBREVIATED LEGAL DESCRIPTION OF RESTRICTED PROPERTY:

Ptn. of SW 1/4 of SW 1/4, S29, T40N, R4E
Full legal descriptions found on page 6.

ASSESSOR'S PARCEL NUMBER: 400429 047067 0000

IRREVOCABLE COVENANT TO RESTRICT SUBDIVISION, PLATTING, AND RESIDENTIAL DEVELOPMENT

BE IT HEREBY KNOWN that the Nooksack Valley School District, the owner of the real property more particularly described in attached Exhibit "A" (the "Property") does hereby execute and burden the above Property with the following Irrevocable Covenant to Restrict Subdivision, Platting, and Residential Development, which shall run with the land and hereby bind all grantees, assignees and successors to the terms hereinafter stated.

This Irrevocable Covenant to Restrict Subdivision, Platting, and Residential Development is made with reference to the following recitals:

WHEREAS, the undersigned is the owner of real property in Whatcom County, Washington, the legal description of which is as described in attached Exhibit "A," and which is identified under the following Whatcom County Assessor's tax parcel number: 400429 1047067 0000; and

WHEREAS, all of said Property shall be subject to this Irrevocable Covenant to Restrict Subdivision, Platting, and Residential Development; and all of said Property shall hereafter be referred to as the "Restricted Property", the legal description of which is as set forth in attached Exhibit "A"; and

WHEREAS, the Restricted Property contains 5.38 acres, more or less; and

WHEREAS, the Restricted Property is approximately depicted on Exhibit "B" attached hereto and incorporated herein; and

WHEREAS, the Restricted Property has been proposed to be added to the Nooksack urban growth area (UGA) in the 2016 Update of the Whatcom County Comprehensive Plan; and

WHEREAS, the Restricted Property is located within the 100-year flood plain of the Nooksack River, and addition of the Restricted Property to the UGA and subsequent uses are subject to the restrictions of RCW 36.70A.110(8); and

WHEREAS, the Restricted Property's addition to the UGA is conditioned upon, and subject to, the extinguishment of all development rights on the Restricted Property, and the uses of the Restricted Property must remain consistent with the exemptions in RCW 36.70A.110(8), which exempt property from the general prohibition against additions to UGAs in floodplains as follows:

RCW 36.70A.110(8):

(8)(a) Except as provided in (b) of this subsection, the expansion of an urban growth area is prohibited into the one hundred year floodplain of any river or river segment that: (i) Is located west of the crest of the Cascade mountains; and (ii)

has a mean annual flow of one thousand or more cubic feet per second as determined by the department of ecology.

(b) Subsection (8)(a) of this section does not apply to:

(i) Urban growth areas that are fully contained within a floodplain and lack adjacent buildable areas outside the floodplain ;

(ii) Urban growth areas where expansions are precluded outside floodplains because:

(A) Urban governmental services cannot be physically provided to serve areas outside the floodplain; or

(B) Expansions outside the floodplain would require a river or estuary crossing to access the expansion; or

(iii) Urban growth area expansions where:

(A) Public facilities already exist within the floodplain and the expansion of an existing public facility is only possible on the land to be included in the urban growth area and located within the floodplain ; or

(B) Urban development already exists within a floodplain as of July 26, 2009, and is adjacent to, but outside of, the urban growth area, and the expansion of the urban growth area is necessary to include such urban development within the urban growth area; or

(C) The land is owned by a jurisdiction planning under this chapter or the rights to the development of the land have been permanently extinguished , and the following criteria are met:

(I) The permissible use of the land is limited to one of the following: Outdoor recreation; environmentally beneficial projects, including but not limited to habitat enhancement or environmental restoration; storm water facilities; flood control facilities; or underground conveyances ; and

(II) The development and use of such facilities or projects will not decrease flood storage, increase storm water runoff, discharge pollutants to fresh or salt waters during normal operations or floods , or increase hazards to people and property.

(c) For the purposes of this subsection (8), "one hundred year floodplain" means the same as "special flood hazard area" as set forth in WAC 173-158-040 as it exists on July 26, 2009.

NOW THEREFORE, based on the foregoing, the undersigned agrees as follows:

1. Parcel. This Irrevocable Covenant to Restrict Subdivision, Platting, and Residential Development, in accordance with the recitals above, shall apply to the Restricted Property.

2. Effective Date. This Irrevocable Covenant to Restrict Subdivision, Platting, and Residential Development shall be in full force and effect upon the effective date of the ordinance adopted by the Whatcom County Council adding the Property to the Nooksack UGA; provided, however, that this Irrevocable Covenant to Restrict Subdivision, Platting, and Residential Development shall become void and be of no effect upon the removal of the Property from the Nooksack UGA, whether by ordinance of the Whatcom County Council or invalidation of that portion of the County ordinance adding the Property to the Nooksack UGA by the Washington State Growth Management Hearings Board, Court of Appeals or Supreme Court having jurisdiction.

3. Term. The term of this Irrevocable Covenant to Restrict Subdivision, Platting, and Residential Development shall be perpetual.

4. Restriction on Subdivision. The Restricted Property shall not be further subdivided to create any additional residential lots for the purpose of development, sale or transfer.

5. Restriction on Residential Development. No residential dwelling unit(s) may be constructed on the Restricted Property.

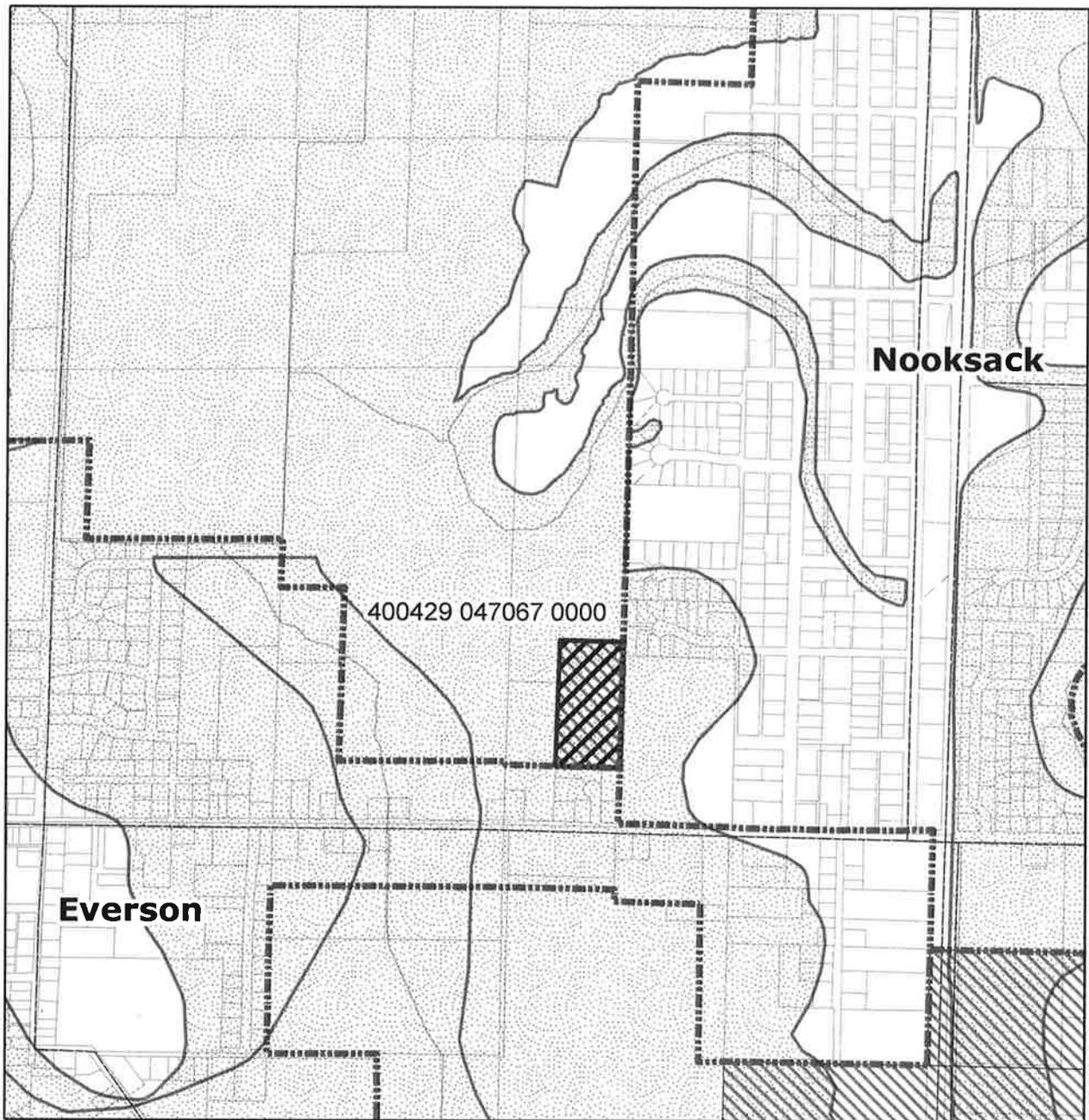
6. Restriction on Future Use. In accordance with RCW 36.70A.110(8), future use of the Restricted Property shall be limited to the following: outdoor recreation; environmentally beneficial projects, including but not limited to habitat enhancement or environmental restoration; storm water facilities; flood control facilities; or underground conveyances.

7. Limitation on Environmental Impacts. In accordance with RCW 36.70A.110(8), future use of the Restricted Property shall not decrease flood storage, increase storm water runoff, discharge pollutants to fresh or salt waters during normal operations or floods, or increase hazards to people and property.

8. Enforcement. Enforcement shall be by proceedings of law or equity against any person or persons violating or attempting to violate any covenant. The enforcing party may seek either to restrain violations, to recover damages, or both. The prevailing party in any such proceeding shall be entitled to recover all costs and fees incurred in connection therewith, including reasonable attorney's fees.

EXHIBIT B

Approximate Depiction of Property/Restricted Property



**Irrevocable Covenant -
Restricting Subdivision, Platting,
and Residential Development**

-  Restricted Property - APN 400429 047067 0000
-  Urban Growth Area
-  Area inundated by 100 year flooding
-  Incorporated City

