

WHATCOM COUNTY COUNCIL

Proposed Comprehensive Plan Amendments — Chapter 7 (Economics)

Subject:

Addition of policies promoting a negotiated settlement approach to the ongoing water rights adjudication in order to reduce fiscal burden on Whatcom County government and protect long term economic stability.

Summary of Proposed Amendments

These amendments add new goals and policies to Chapter 7 (Economics) acknowledging the economic impacts of the State led Nooksack Basin water rights adjudication. It emphasizes that while adjudication may eventually provide legal clarity, experience from other Washington basins (particularly the Yakima Basin) shows that adjudication can last for decades and create prolonged uncertainty for water users, local governments, and the broader economy.

These amendments establish policy direction for Whatcom County to:

- Pursue a negotiated or mediated settlement as an alternative path to certainty;
- Evaluate and disclose the economic and fiscal costs of adjudication;
- Advocate for state reimbursement of adjudication-related expenses; and
- Ensure that agriculture, housing, and business development remain viable throughout the process.

Background and Findings

1. The Department of Ecology has initiated a general stream adjudication in the Nooksack Basin. While this process is expected to provide eventual certainty in water right determinations, adjudication in the Yakima Basin took more than 40 years to complete.

2. During adjudication, uncertainty regarding water rights limits new agricultural investment, deters housing development, and complicates business financing.

3. The State of Washington initiated the process but has not fully funded the local costs of adjudication. Whatcom County must absorb the expenses of an additional courtroom, a new Superior Court judge, clerks, administrative staff, technology upgrades, and other justice system overhead.

4. These costs place new pressure on an already taxed local justice system and divert resources from essential County services.

5. A negotiated or mediated settlement process, facilitated at the local or regional level, could achieve certainty more efficiently and equitably, saving public funds and supporting economic resilience.

6. Water certainty is essential not only for agriculture and industry, but also for housing affordability. Water certainty is a key economic factor addressed in Chapter 7.

Proposed Comprehensive Plan Text Amendment

Add the Following to Chapter 7 – Economics

Goal 7A-NEW: Promote Water Certainty and Fiscal Responsibility Through Negotiated Settlement

Long term prosperity in Whatcom County depends on reliable access to water and fiscally responsible management of local resources. While adjudication may ultimately clarify legal rights, experience from other basins demonstrates that multi decade litigation creates uncertainty and imposes significant costs not only on water users but also on County government. A proactive, negotiated settlement approach can achieve water certainty faster, protect the economy, and relieve unnecessary strain on the County's justice system and taxpayers.

Policy 7A-NEW-1 - Pursue a Negotiated Basin-Wide Settlement

Whatcom County shall actively pursue and support a negotiated or mediated settlement process among all major water use sectors - agricultural, municipal, industrial, tribal, and environmental - as an alternative to a protracted adjudication. The County should provide leadership, facilitation, and technical support to help all parties reach consensus on allocation, mitigation, and conservation measures that sustain the county's economic base while protecting ecological resources.

Policy 7A-NEW-2 - Evaluate the Economic and Fiscal Advantages of Settlement

The County shall evaluate both the economic and fiscal costs of adjudication, including impacts on agricultural production, housing investment, and County government operations. Analyses should compare the long term financial obligations of supporting additional courtroom facilities, staffing, and judicial appointments against the potential savings achieved through a negotiated settlement process.

Policy 7A-NEW-3 - Mitigate the Local Fiscal Burden of Adjudication

Recognizing that the State initiated the adjudication but does not fully fund its implementation, the County shall advocate for state reimbursement of adjudication-related costs. Including courtroom expansion, judicial staffing, and administrative expenses - while simultaneously pursuing settlement strategies that can reduce or eliminate the need for these ongoing expenditures.

Policy 7A-NEW-4 - Leverage Settlement to Strengthen Economic Infrastructure

A negotiated settlement should be used as a vehicle to invest in local economic infrastructure such as water storage, conveyance efficiency, and mitigation banking that benefits multiple sectors and offsets the costs of prolonged litigation. The County shall seek state and federal partnership funding to implement such projects as part of any basin-wide agreement.

Policy 7A-NEW-5 - Integrate Settlement Efforts with Housing and Agricultural Viability

Ensure that settlement frameworks explicitly address the water needs of both agriculture and housing, acknowledging that stable water supply supports job creation, food security, and housing affordability. The County's facilitative efforts should aim to preserve the viability of existing farms while ensuring sufficient water resources for urban and rural housing consistent with Comprehensive Plan goals.

Supporting Text

The adjudication of water rights in Whatcom County, while initiated by the State, places a significant fiscal burden on County government. Establishing additional court facilities and staff for adjudication related cases adds ongoing expenses to the local justice system without full state reimbursement.

A locally driven, negotiated settlement offers an economically efficient alternative which reduces long term legal costs, preserving public resources, and providing earlier certainty for agriculture, housing, and business investment.

Through leadership, collaboration, and advocacy, Whatcom County can help achieve water certainty while protecting both the public budget and the economic health of the community.

Justification

- **Economic Stability:** Multi-decade adjudication delays investment in agriculture, housing, and business development. Settlement provides earlier certainty, enabling capital reinvestment and job creation.
- **Fiscal Responsibility:** The County's justice system bears substantial unfunded costs from adjudication. Settlement would alleviate this burden and allow state and County resources to be redirected to public safety, housing, and infrastructure needs.
- **Collaborative Governance:** Whatcom County has an opportunity to lead a cooperative, basin-wide solution consistent with Growth Management Act goals of economic development, resource protection, and intergovernmental coordination.
- **Precedent and Pragmatism:** The Yakima Basin's 40 year adjudication illustrates the risks of delay. A negotiated outcome would demonstrate fiscal prudence and proactive problem solving aligned with the County's economic priorities.

Proposed Placement

Add this new Goal and accompanying Policies to Chapter 7, Section 7A (General Economic Development) following existing policy 7A-7, and cross-reference to:

- Chapter 10 (Environment) - Water Resource Management
- Chapter 5 (Utilities) - Infrastructure and Water Supply
- Chapter 3 (Housing) - Housing Affordability and Growth

WHATCOM COUNTY COUNCIL

Proposed Comprehensive Plan Amendments to Chapter 7 of the Whatcom County Comprehensive Plan

Subject:

Adding new goals and policies to strengthen the economic viability of agriculture by ensuring that agricultural land is used for active farming and by recognizing that water access is essential to a viable agricultural economy.

Summary of Proposed Amendments

These amendments build on Whatcom County's longstanding goal of preserving 100,000 acres of farmland by emphasizing that preservation alone is insufficient to sustain a viable agricultural economy. It establishes new policies prioritizing the ability to farm, not just the preservation of farmland, and explicitly recognizes that water availability is essential to agricultural productivity.

The amendments direct the County to:

- Make farming the highest and best use of designated agricultural lands;
 - Ensure that water access is protected as a foundational economic resource;
 - Modernize agricultural zoning to remove barriers to infrastructure and value-added operations;
- and
- Align conservation and land-use policies with the economic realities of farming.

Background and Findings

1. Whatcom County has succeeded in protecting its agricultural land base but continues to lose active farms and dairy operations due to regulatory and economic pressures.
2. Farmers face increasing challenges from water uncertainty, restrictive zoning, and the rising cost of agricultural land.
3. Agricultural zoning and preservation tools were originally designed to prevent conversion but now often limit infrastructure and diversification, undermining economic resilience.
4. A sustainable agricultural economy depends on active production, infrastructure investment, and reliable water access.
5. Without access to water, the County cannot maintain a viable agricultural economy, regardless of land preservation efforts.

Proposed Comprehensive Plan Text Amendment

Add the Following to Chapter 7 – Economics

Goal 7B-NEW: Ensure Agriculture Remains the Highest and Best Use of Agricultural Land

Preserving farmland alone is not sufficient to sustain Whatcom County's agricultural economy. County policy shall ensure that agricultural lands remain not only physically preserved but also economically productive, infrastructure-ready, and supplied with the water necessary for continued production. Agriculture must be treated as the highest and best use of designated agricultural lands.

Policy 7B-NEW-1 - Prioritize the Ability to Farm Over Passive Land Preservation

Land-use regulations, conservation easements, and preservation tools shall be implemented in a manner that supports active agricultural production and farm business viability. The County shall evaluate existing agricultural zoning, easement terms, and critical area provisions to ensure they do not unnecessarily restrict agricultural infrastructure or operational flexibility.

Policy 7B-NEW-2 - Recognize Water as Essential to Agricultural Viability

A viable agricultural economy cannot exist without reliable access to water. The County shall ensure that agricultural water use is prioritized and protected in all aspects of land-use, resource management, and economic planning. Water management policies shall explicitly support ongoing and future agricultural operations as a critical component of Whatcom County's economy.

Policy 7B-NEW-3 - Promote Agricultural Viability as a Core Economic Objective

The County shall recognize agricultural production as a cornerstone of the local economy and shall integrate farm viability into its economic development strategies. Planning efforts shall emphasize infrastructure investments, workforce development, and financing mechanisms that enable continued agricultural production.

Policy 7B-NEW-4 - Encourage Agricultural Infrastructure and Value-Added Uses

To sustain a viable agricultural economy, the County shall support the development of processing, storage, distribution, and marketing facilities as permitted or accessory uses in the Agriculture Zone. The County shall review zoning and permitting processes to remove unnecessary barriers to small and medium scale "value added" operations, including processing, storage, and on farm retail.

Policy 7B-NEW-5 - Align Conservation Tools with Agricultural Productivity

Conservation easements and Transfer of Development Rights programs shall be designed to protect both the land base and the ability to farm it. Easement terms shall permit necessary agricultural buildings, farmworker housing, and resource improvements essential for modern and sustainable farming.

Policy 7B-NEW-6 - Modernize Agricultural Zoning Standards

The County shall review Title 20.40 (Agriculture District) to ensure that the regulations reflect current agricultural practices and market realities. This review should evaluate minimum lot sizes, accessory use definitions, and conditional use procedures to promote economically viable farm operations while maintaining environmental protections.

Policy 7B-NEW-7 - Make Agricultural Land Use Decisions Data-Driven

All future amendments to agricultural land policy shall consider data on farm income, product diversification, infrastructure capacity, and generational land transfer trends to ensure that preservation measures enhance rather than constrain long-term viability.

Supporting Narrative

Whatcom County's goal of preserving 100,000 acres of farmland has helped protect resource lands, but preservation alone does not ensure a thriving agricultural economy. To remain viable, agriculture must be viewed as a productive, evolving economic system that requires flexibility, infrastructure, and reliable access to water.

The County must ensure that policies, zoning, and conservation programs strengthen - not restrict - the ability to farm. Water access, processing capacity, and adaptive land-use standards are critical to maintaining agriculture as the highest and best use of farmland and to sustaining the broader rural economy.

Placement Recommendation

Add this section following existing Goal 7B (Agricultural Development and Preservation) in Chapter 7, replacing or expanding upon preservation-only language.

Cross-references:

- Chapter 10 (Environment) – Critical Areas Ordinance and watershed protection
- Chapter 5 (Utilities) – water infrastructure and irrigation systems
- Chapter 3 (Housing) – farmworker housing and rural affordability