SPECIAL MEETING NOTICE  
FOR MARCH 29, 2016

SPECIAL COMMITTEE OF THE WHOLE  
12:30 p.m. Tuesday, March 29, 2016  
Council Chambers, 311 Grand Avenue

Committee Discussion and Preliminary Direction

1. Discussion and preliminary Council direction on Comprehensive Plan Chapter 8, Resource Lands (AB2016-047H)

2. Discussion and preliminary Council direction on Comprehensive Plan Chapter 2, Land Use (AB2016-047B) (discussion of this item will take place if time allows)

Other Business
Proposed Council Changes to Comprehensive Plan

Chapter 8 – Resource Lands

Page and line numbers reflect Planning Commission Recommended Draft (1/14/16). To improve clarity of Councilmember requested changes, previous edits (i.e. staff and Planning Commission) are included, but not show as edits.

1) p. 8-21; lines 3-4: The commercial working forest land base in Washington State and in Whatcom County has been steadily decreasing over time. (Brenner)

2) p. 8-22; Policy 8F-8: Review Title 20.42 (Rural Forestry) and 20.43 (Commercial Forestry) for opportunities to provide for compatible non-forest uses that encourage forest landowners to keep their land in productive forest uses. (Brenner)

3) p. 8-24; Policy 8F-12:
   3a) Identifying the amount of acreage necessary to support a viable local forestry industry. (Weimer)
   3b) Mitigation for loss of forest lands from productivity, including loss due to policy implementation of critical areas ordinances, etc. (Donovan, Weimer)
   3c) Track acres of forest lands lost from productivity due to conversion, development or policy implementation such as critical areas ordinance, so mitigation strategies can be implemented to offset the acres lost. (Weimer)

4) p. 8-26; Policy 8G-7: Encourage the United States Forest Service and the Department of Natural Resources to implement harvest practices that maximize the use of forest lands while allowing appropriate multiple uses. (Weimer)

5) p. 8-27; Goal 8I: Support the Department of Natural Resources in ensuring that forest practices avoid adverse impacts to the habitat of threatened and endangered fish and wildlife species and to marine waters that support shellfish resources. (Brenner)

6) p. 8-27; Policy 8I-1: Ensure that adequate riparian buffers, based on best available science, are maintained along rivers and streams. (Weimer)

7) p. 8-27, Policy 8I-2: Minimize, to the greatest extent feasible, using BMPs, sedimentation to rivers and streams, to the greatest extent possible, using BMPs. (Brenner)
8) p.8-20; lines 40-43: Controlling trespassing to surface mining can be a significant safety issue for mine operators. **Adjacent land use Property rights** issues range from the right to mine and use the value of mineral resource land to the right to live in an area with a high quality of life and retain home values. (Weimer)

9) p. 8-31; lines 4-9: Environmental issues associated with surface mining may include groundwater or aquifer impacts and disruption of fish and wildlife habitat. Surface mine reclamation can create wetlands and fish and wildlife habitat, **productive agricultural land**, or provide land for parks, housing, industrial or other uses. (Brenner)

10) p. 8-31; lines 11-15: As a natural result of geologic forces, it is not uncommon in Whatcom County to have excellent mineral deposits located under prime farmland soil and above an aquifer recharge area. Mining in these areas can substantially impact reduce the productive capacity of the soil and make the underlying aquifer more susceptible to contamination. (Brenner)

11) p. 8-33; Policy 8K-8: **Expansion of MRL designations** to parcels contiguous to, and held by more than 1% common beneficial ownership or beneficial interest with an existing mine is allowed, but before extraction of the additional area may commence the existing mine must be in complete compliance with all operating permits and regulations. (Weimer)

12a) p. 8-34; Policy 8M-1: Allow mining in the agriculture zone that would enhance farming by leveling knolls and ridges when appropriate. In these areas, reclamation of mineral extraction sites shall occur in a timely fashion. The site should also be restored for uses allowed in an agricultural zone and blend with the adjacent landscape and contours. (Weimer) **(alternative below)**

12b) p. 8-34; Policy 8M-1: Allow mining in the agriculture zone that would enhance farming by leveling knolls and ridges when appropriate. In these areas, reclamation of mineral extraction sites shall occur in a timely fashion. The site should also be restored for uses allowed in an agricultural zone and blend with the adjacent landscape and contours. (Donovan) **(for discussion)(alternative above)**

13) p. 8-35; Policy 8M-4: Recognize the role of commercial surface mining as part of farm enhancement. (Weimer, Donovan)

14a) p. 8-36; lines 9-17: Proponents of river bar scalping support it for both **River bar scalping**, when properly done, can have economic and flood control purposes benefits. River bar aggregate supplies high quality rock material and, if done properly, bar scalping can stabilize a section of the river channel and decrease flood damage immediately downstream.
However, although the public believes river bar scalping will significantly reduce flooding along the entire river, its benefits are local and, if done improperly, may have negative effects in areas surrounding the mining site. (Brenner) (14c alternative)

14b) p. 8-36; line 38: While river gravel is a renewable resource that could extend the life of other Whatcom County gravel resources... (Brenner) (14c alternative)

14c) p. 8-36:
Delete Riverine Areas language or restore introduction language to original (as follows):

Proponents of river bar scalping support it for both economic and flood control purposes. River bar aggregate supplies high quality rock material (although it produces poor quality sand due to excessive organic material). In addition, if done properly, bar scalping can stabilize a section of the river channel and decrease flood damage immediately downstream.

Although the public believes river bar scalping will significantly reduce flooding along the entire river, in fact its benefits are local and it may have negative effects in areas surrounding the mining site. For example, if done improperly gravel removal can de-stabilize the river channel locally and increase, rather than decrease, flood damage downstream. After intensive bar scalping, floodwater that is normally stored on the floodplain of the mined reach can be concentrated and dumped on the reach immediately downstream. If gravel mining exceeds the rate of replenishment from upstream, the river bed may lower both upstream and downstream; this bed degradation can undermine bridge supports and other structures, cause adjacent banks to erode (or stabilize, depending on how much and where gravel is removed), lower groundwater tables adjacent to the river, and damage riparian vegetation.

Improper mining methods in fish spawning reaches can de-stabilize spawning gravel or clog it with silt, remove cover vegetation or trap smolts during out-migration. Over harvesting of gravel can erode the river bed and expose the underlying substrate, reducing or eliminating pool and riffle habitat for fish and other aquatic animals. Finally, petroleum spills from mining equipment can degrade local surface water quality if not responded to properly.

While river gravel is a renewable resource that could extend the life of other Whatcom County gravel resources, river bars are not a reliable source from year to year. The amount of gravel that can be mined varies with seasonal and yearly rates of gravel deposition; high and low water levels and timing; and fish migration, spawning and out-migration timing.
Various costs raise the price of river bar gravel. For example, there are several streams (e.g. Boulder Creek, Porter Creek, Glacier Creek, etc.) which may offer significant quantities of sand and gravel, but which are not currently being mined due to prohibitive transportation costs. Other factors include the cost and limited availability of access easements to the river, the repeated handling that is necessary for extraction and processing of the material, and the cost of complying with regulations.

Finally, many state and federal regulations restrict scalping locations and practices. The cost and time delay of duplicate regulation, environmental restrictions, royalty charges and the regulatory process are deterrents to river bar mining. (Donovan) (14a & 14b alternative)

15) p. 8-41: Policy 8Q1: Through a county-led county-wide assessment seek to identify and designate protect all potential commercially significant mineral resource lands construction aggregate supply, to meet future demand, compatible with water resources, agricultural lands, forest lands and other GMA goals. (Weimer)

16) p. 8-42; Policy 8R-6: Avoid river bar scalping where it would adversely affect spawning or critical habitat areas. (Donovan) (if riverine section is retained)

17) p. 8-43; MRL Criteria:

17a) 1. Non-metallic deposits must contain at least 1,000,000 250,000-cubic yards of proven and extractable sand, gravel or rock material per new MRL Designation. (Donovan) (for discussion)

17b) 2. Minimum MRL Designation size is ten twenty acres. (Brenner, Donovan)

17c) 12. Expansion of MRL Designations to parcels contiguous to, and held by more than 1% common beneficial ownership or beneficial interest with an existing mine, shall require that the existing mine is substantially in compliance with all operating permits and regulations before expansion of the designation will be approved. is allowed, but before extraction of the additional area may commence the existing mine must be in complete compliance with all operating permits and regulations. (Weimer)

17d) 16. MRL Designation status applies to river gravel bars possessing necessary permits and containing proven significant quality reserves. (Weimer)
17e) 17. MRL Designation status may apply to those upland sites located in proximity to river gravel sources and used primarily for handling and processing significant amounts of river gravel *so long as such upland sites are not in areas where MRL designation is otherwise prohibited.* (Weimer)

Referred to Staff:

p.8-45; New Section (Weimer)

While the idea of adding an Aquatic Lands section to Chapter 8 was Councilmember Weimar's idea, he raised it to the Marine Resource Committee meeting in January; the majority of this section was drafted by members of that committee and other aquatic lands experts. Some of those people may attend the meeting on the 22nd help clarify changes they have recommended.

Aquatic Lands – Introduction

**Purpose**
This section contains policies to guide Whatcom County in conservation of functioning aquatic or submerged resource lands of long-term commercial, ecological and recreational significance, and to ensure that all uses requiring functioning aquatic lands, and the cultural heritage that use of our aquatic lands represent, thrive in the years to come.

**GMA Requirements**
Goal 8 of the GMA (RCW 36.70A.020) guides the county to "Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries." Aquatic lands have a clear nexus regarding the physical conditions and habitat required to generate and maintain of fisheries of all types, including commercial and recreational harvest of shellfish, fin fish, invertebrates such as crab and shrimp, and lesser known species e.g. octopus. While the GMA does not require specific designation of marine or freshwater aquatic lands that support aquatic based uses and industries, functioning aquatic lands are so intrinsically necessary for the creation and sustainability of historical fish and wildlife production that these lands are identified on our GMA required critical areas maps, shoreline inventory and analysis, and integral in the state /county approved 2008 Shoreline Restoration Plan.

Map xx-x shows aquatic lands in the county designated as shorelands, tidelands, and bedlands.

**Process**
Whatcom County has implemented zoning regulations for some aquatic lands. For example, the aquatic lands for the Cherry Point industrial piers have a Heavy Impact Industry zoning. However the county's
Shoreline Management Program determines the broad types of uses, development and activities that may be allowed i.e. water-dependent, etc. The Whatcom County Critical Areas Ordinance also provides protection for these lands.

**Background Summary**

The aquatic lands of Whatcom County have historically been one of the most important natural resources in the region. For thousands of years the shores of Whatcom County provided an important shellfish resource sustaining our local tribes while more recently the tideland of Drayton Harbor supported one of the earlier commercial oyster farming business in the Salish Sea. The shore and near shore lands of the County provided spawning, rearing and forage areas for a diverse array of fin fish and shellfish species which together formed an incredible food web for ancestral tribes and early commercial fisheries.

The county's aquatic lands are located along the coastal areas bordering the Salish Sea as well as the rivers, streams and lakes that drain the upland areas of western Whatcom County. The designated lands include more than 130 miles of marine shoreline and 220 miles of stream channel.

Aquatic lands in the area of Cherry Point are zoned Hll to support adjacent industrial uses that require deep water access such as the two existing refineries and an aluminum smelter. The Harbor Area and waterways in Bellingham Bay are designated for preservation of commerce and navigation along the Bellingham shoreline. The tidelands of Drayton Harbor are zoned to support a small commercial wharf, marinas, residential shoreline development, shellfish production, and natural areas.

The majority of aquatic lands in Whatcom County are owned by the State of Washington (managed by DNR), the Lummi Nation and the Port of Bellingham (via Port Management Agreement with DNR). These include many of the tidelands and subtidal lands in the County, most of the Nooksack River, much of Lake Whatcom and some of the smaller navigable streams.

These landowners also including some private entities that were sold tidelands prior to 1971 who manage their aquatic lands for a variety of uses including recreational, commercial, industrial, and bank or fill shoreline armoring.

Historically, aquatic lands have been managed for natural and farmed shellfish production and harvest, and fishing, transportation, utility corridors for oil/gas/natural gas pipelines, sewer and stormwater outfall pipes, and for communication (phone/fiber optic lines) and power (electric) lines, flood control, hydropower, irrigation intakes, municipal water supply intakes, and commercial, recreational and subsistence/cultural fishing and food gathering. Also used for commercial and industrial uses such as waste discharge pipelines, wood waste and mill bark/sawdust dumping, regional dumping of low level dredge spoils (Bellingham Bay site), marinas (Bellingham, Blaine), development on fill or pilings e.g. industrial/commercial, garbage dumps, parks, etc.

With a growing population, there is increasing interest in improving public access to aquatic lands through the addition of boat ramps and access points for both motor-powered, wind and human-
powered craft. Over the last 20 years the desire to harvest more and diverse aquatic resources, particularly from tidelands has driven a number of significant efforts to improve water quality as well as innovative culturing techniques such as inter-tidal geoduck seeding, nori farming, etc.

Conservation efforts have resulted in protection of several areas including the Cherry Point Aquatic Reserve and two Harbor Area withdrawal areas in Bellingham Bay. These areas are valuable due to their high productivity of aquatic life that contributes to the economy and greater ecosystem of Whatcom County. Twenty years of effort and millions of dollars in public investment have kept Drayton Harbor a viable commercial and recreational shellfish growing area for future generations to enjoy.

Aquatic lands provide a huge economic benefit to the county. The health of our stream, river and estuarine environments is the foundation for a critical tribal and non-tribal finfish and shellfish industry that provide substantial economic benefits to the County, both directly and indirectly.

Whatcom County shorelines continue to provide income to over 250 Lummi Nation registered shellfish harvesters. Many other Lummi and Nooksack tribal members depend on fin-fish and crab harvest for a substantial part of their yearly family income. The Lummi Nation Shellfish enterprise is highly productive and provides clam, oyster and geoduck seed to a large part of the NW shellfish industry. To the extent that the environmental health of these lands impacts the ability of Tribal Nations to practice fish and wildlife harvests and conduct ceremonial activities for their cultural, economic and spiritual welfare, protection of these lands is a Treaty trust resource supporting Treaty reserved rights to take fish.

Indirect benefits to the county are even more substantial given the multiplier effect from marina-related boat works, electronics, fuel and supplies, charter and whale watching businesses, the Alaska Ferry service, sporting goods, kayaking, rowing, sailing, windsurfing, power boating, and all the sales, repair, maintenance and provisioning that goes with these type of activities. Being not only an international destination for water-related and dependent outdoor activities such as bird and wildlife watching, sailing and cruising, fishing and gathering, but also a gateway community to the San Juan Islands and Gulf Islands, as well as the greater Salish Sea environs, is a renewable and sustainable economic driver that will serve this region well into the future.

**Issues, Goals, and Policies**

The following goals and policies apply to both Commercial, Industrial and undesignated aquatic lands and address the issues of conserving productive aquatic land and meeting the goals of the Growth Management Act.

**Aquatic Land Base**

The aquatic land base in Washington State and in Whatcom County has largely been protected by the Shoreline Management Act, as well as Whatcom County’s Shoreline Management Program (SMP) and Critical Areas Ordinance. Prior to the SMP, certain inappropriate uses and development were allowed and have been "grandfathered" in e.g. over-water residential, bulkhead filling seaward of the Ordinary
High Water Mark, etc. In addition, since the SMP many minor armoring, filling and bulkheading infractions have occurred which, in a cumulative sense have eroded the productive biological base.

Historically, shoreline modification including filling, hardening and diking of many natural shorelines has resulted in a significant reduction in acreage and functioning aquatic lands in many areas of the County. These modifications came as a result of transportation improvements (roads, railroads, barge landings, and ferry terminals), utilities of all types (electrical, communications, sewer, stormwater, etc), hydropower, water dependent uses (marinas, fish processing, ship yards), non-water dependent uses (large industrial facilities), flood control efforts, residential development including bulkheading, armoring, and docks, and parks.

Aquatic lands marine waters, major lakes and navigable rivers were owned by the State of Washington at the time of statehood unless reserved for other uses such as federal facilities or Indian reservations. Between 1889 and 1971, the state sold many of its tidelands to railroads, timber companies and shellfish growers as a way to finance the state. As a result, the state owns only about 30% of the tidelands. The bulk of tidelands and many shoreland areas are owned or managed by ports, industries, tribes and private shoreline property owners. The State retains ownership of most all of the subtidal lands which were not sold.

It is important to remember that although the state or private entities may own the aquatic lands, the county and the State Department of Ecology determine what activities and uses are allowed on such submerged lands. Shoreline substantial development, conditional use and variance permits are required for related development or usage on or above the county’s aquatic lands. The county’s SMP, which is part of the state SMP that in turn is part of the federal Coastal Zone Management Plan (CZMP), requires that all federal projects, plans and funding be consistent with these plans and regulations. Similarly, projects such as pipelines, communication towers and cables, hydroelectric facilities, Coast Guard facilities, Border Patrol facilities, and all federally-funded projects such as roads, bridges, docks, housing, flood damage reductions efforts, airports, landfills, utilities, and farm subsidy activities are reviewable.

**Goal 8S:** Protect Whatcom County’s aquatic land base with policies that do not allow adverse impacts to the aquatic land base.

**Policy 8S-1:** Regulate land use on aquatic lands within the county through the designation of Aquatic Conservation Zones and other appropriate means.

**Policy 8S-2:** Apply the following general criteria for Aquatic Land comprehensive plan designations and zones:

*Commercial aquatic lands:* Lands mostly devoted to the commercial production of aquatic organisms, e.g. shellfish or algae. Land parcels are generally 0.5 acres or greater in size.
**Industrial aquatic lands:** Lands primarily devoted to large industrial water-dependent shipping consistent with the Shoreline Management Program and fossil fuel reduction goals of this comprehensive plan. Land parcels are generally 20 acres or greater in size.

**Policy 8S-3:** Protect appropriate commercial, industrial and recreational aquatic land base through cooperation between tribal governments, public agencies, landowners and private organizations.

**Policy 8S-4:** Do not allow conversion of aquaculture lands if the proposed use is incompatible with the maintenance of long-term aquaculture and ecological management. Incompatible uses include those that:

- Cause water pollution (of all types including sedimentation, temperature changes, etc.) that impacts the opportunity to grow healthy shellfish and other organisms
- Permanently (defined as more than 6 months) alter or remove greater than 20% of a parcel from production of aquaculture.
- Create a financial hardship for adjacent aquatic landowners;
- Lead (as determined by a county-approved study) to land use conflicts with adjacent aquatic landowners.

**Policy 8S-5:** Maintain a productive commercial, industrial, scientific and sustainable aquatic land base to support productive, viable Aquatic lands resources. Measures that can be taken to support sustainable aquatic lands may include:

- Land use policies that encourage active management plans that support sustainable aquatic lands resources
- No net loss of aquatic lands productivity
- Land use policies that recognize the multiple values of aquatic lands and the waters above them and provide basic life-giving properties that are and can only be public for all people to enjoy.
- Education programs that emphasize the importance of aquatic resource production in Whatcom County
- Public and institutional education programs that promote the benefits of aquatic lands
- Discourage conversion of any aquatic lands to non-compatible uses.
### Aquaculture, Fishing, and other Aquatic Lands Activities

**Goal 8T:** Support measures to increase the viability and sustainability of Whatcom County's aquatic biodiversity and production.

**Policy 8T-1:** Improve the efficiency, effectiveness and flexibility of state and local environmental regulations affecting aquatic lands, in order to assure environmental protection and improve predictability.

**Policy 8T-2:** Develop a range of non-regulatory programs, options, and incentives that landowners with aquatic lands can employ to meet or exceed county environmental goals.

**Policy 8T-3:** Support the efforts of people in Whatcom County to operate in a long-term, sustainable manner as part of a stable, broad based economy.

**Policy 8T-4:** Work cooperatively with the Washington State Departments of Natural Resources, Ecology, and Fish and Wildlife the most productive and appropriate use of State aquatic lands within Whatcom County.

### Land Use Conflicts

Conflicts with adjacent and upstream land uses may significantly impact the use of aquatic resource lands. One of the most significant current impacts for commercial aquatic landowners in Whatcom County is the bacterial pollution of our rivers and streams that has led to closure of important shellfish production areas in Portage Bay and Drayton Harbor.

**Goal 8U:** Reduce land use conflicts between Whatcom County's aquatic lands operations and upland property owners.

**Policy 8U-1:** Before a development permit or a rezone is approved, applicant should demonstrate, to the satisfaction of the County, that adequate protection of aquatic land will be in place for the resident and adjacent properties and that adjacent properties are protected from adverse effects.

**Policy 8U-2:** Support improved communication and understanding between aquatic land owners and the public through such mechanisms as management plans, community forums, environmental testing/monitoring stations, and educational programs.

**Policy 8U-3:** Work cooperatively with state agencies such as the Washington State Departments of Ecology, Fish and Wildlife, Natural Resources, adjacent upland property owners, and the general public to address community concerns and land use conflicts that may arise as a result of aquatic lands practices.
Policy 8U-4  Continue cooperation and funding for a comprehensive Pollution Identification and Correction (PIC) program as needed to reduce bacterial pollution to levels that meet National Shellfish Sanitation Program Growing waters criteria to allow reopening of closed shellfish beds, and to maintain the operation of those beds in a commercially viable manner.

Fish and Wildlife

Use of aquatic lands and upland inputs can impact tidelands and other shallow and deepwater habitats that are important to a wide variety fish and wildlife.

Goal 8V:  Ensure that operations associated with aquatic lands avoid adverse impacts to the survival and habitat of aquatic species particularly to threatened and endangered fish and wildlife species and shellfish resources.

Policy 8V-1:  Implement the Whatcom County Shorelines Management Plan with appropriate regulations within the context of the Critical Areas Ordinances.

Policy 8V-2:  Take action to reduce stormwater impacts on the marine food web and contaminant loads affecting the abundance and productivity of fin fish and shellfish species.

Changes Approved March 8 and March 22

p. 8-1; lines 4-9:  The growth and harvest of farm products, re-generation and harvesting of timber, use of aquatic lands for shellfish harvest, and excavation of minerals all shape Whatcom County's landscape and strongly influence the economy. Resource lands, which include agriculture, forestry, aquatic resource lands and mineral resource lands, also largely represent Whatcom County's cultural heritage. These natural resource activities have been major industries since European settlement began in the area, and the use of aquatic lands by our indigenous citizens far predates European settlement. (Weimer)

p. 8-1; lines 12-14:  This chapter is divided into four three sections: Agricultural Lands, Forest Resource Lands, Aquatic Resource Lands, and Mineral Resources. (Weimer)

p. 8-2; lines 7-8:  The Agricultural Lands, Forest Resource Lands, Aquatic Resource Lands, and Mineral Resources sections of this chapter address Goal 8 of the GMA, which reads: ... (Weimer)
Identifying and designating productive resource lands also helps implement County-Wide Planning Policies that state that Whatcom County shall "become a government of rural areas in land-use matters directed towards agriculture, forestry, mineral resources, aquatic industries and other natural resources." [CWPP B(1)]. In addition, land use policies that encourage best management practices are included within this chapter to support and maintain the County-Wide Planning Policies regarding economic development. As part of a broad based economy of productive timber, agriculture, mineral and fisheries aquatic industries should be maintained in a sustainable manner (CWPP 1-9). (Brenner)

Those lands designated as Agriculture in the comprehensive plan are designated as Agricultural Lands of Long-Term Commercial Significance as defined by GMA: ... (Weimer)

Those lands designated as Agriculture in the comprehensive plan are designated as Agricultural Lands of Long-Term Commercial Significance as defined by GMA. Agricultural lands of long-term commercial significance are land: (a) not already characterized by urban growth (b) that is primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), including land in areas used or capable of being used for production based on land characteristics, and (c) that has long-term commercial significance for agricultural production, as indicated by: "includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land." (RCW 36.70A.030(10). (Browne, Donovan)

Conserving productive agricultural lands in rural areas, without infringing on private property rights, is a primary objective of the APO.

Conserve productive agricultural lands and agricultural resource lands, including areas with prime soils that are not now zoned agriculture, or where the areas is composed of agricultural operations that have historically been and continue to be economically viable, by developing and implementing a long range strategy. The planning horizon should be 20 years in the short term and 100 years in the long term. (Browne)

Maintain a working agricultural land base sufficient to support a viable local agricultural industry by considering the impacts to farmers and agricultural lands as part of the legislative decision making process. Measures that can be
taken to support working farms and maintain the agricultural land base may
should include: ... (Donovan)

- Maintenance of 100,000 acres of agricultural land to support a healthy
  agricultural industry. (Donovan)

- A workable transfer of development rights program (TDR) in which the
devolution potential of a site could be transferred to another
location where development is more favorable. (Weimer, Donovan)

- The workable TDR program shall give priority to the creation of
economically viable receiving areas. (Browne)

- Developing a marketplace approach to strengthening agricultural
practices while enhancing larger-scale watershed processes and
functions by identifying feasible opportunities on agricultural land to
improve both watershed health and agricultural viability and
developing incentives and tools to compensate farmers for actions
that exceed minimum regulatory standards. (Weimer)

- Mitigation for loss of productive agricultural lands, including loss-Track
acres lost due to conversion, development or policy implementation
such as critical areas ordinance, so mitigation strategies can be
implemented to offset the acres lost etc. (Weimer)

- Identify and evaluate any new or changed zoning or comprehensive
plan agricultural lands of long term commercial significance
designations as needed or warranted for the Rural Study Areas. (Staff)

The criteria for designating or de-designating lands under the Agriculture land
use designation shall be considered on an area-wide basis. When applying the
following criteria, the process should result in designating an amount of
agricultural resource lands sufficient to maintain and enhance the economic
viability of the agricultural industry in the county over the long term, and to
retain agricultural support businesses, such as processors, farm suppliers, and
equipment maintenance and repair facilities. The criteria are as follows:

1. The land is not already characterized by urban growth. In determining
   this factor, the County should consider WAC 365-196-310 and RCW
   36.70A.030(19).

2. The land is used or capable of being used for agricultural production. In
   making this determination, the County shall use the land-capability
   classification system of the U.S. Department of Agriculture Natural
   Resources Conservation Service. These eight classes are incorporated into
map units and are based on the growing capacity, productivity, and soil composition of the land.

3. The land has long-term commercial significance for agriculture. In determining this factor, consider the following nonexclusive criteria:

   a. The majority of the area contains Prime Farmland Soils as determined by the Natural Resource Conservation Service (NRCS).

   b. The area may contain 100-year floodplains as delineated by the Federal Emergency Management Agency (FEMA).

   c. Land use settlement patterns, the intensity of nearby uses, and the history of approved land development permits are generally compatible with agricultural practices. Existing land uses are primarily full-time agriculture intermixed with part-time agriculture and woodlots; and minimal commitment to non-farm uses has been made.

   d. A majority of the area is composed of agricultural operations, that have historically been and continue to be economically viable.

   e. The predominant parcel sizes in the area is large enough to adequately maintain agricultural operations, are generally greater than 40 acres.

   f. The availability of public services. Urban utility services including public sewer and water are not planned.

   g. The availability of public facilities such as roads used to transport agricultural products.

   h. Special purpose districts that are oriented to enhancing agricultural operations exist, including such as drainage improvement, watershed improvement, and flood control exist.

   i. The areas have has a pattern of landowner capital investment in agricultural operations improvements including irrigation, drainage, manure storage, the presence of barns and support buildings, enhanced livestock feeding techniques, agricultural worker housing, etc.

   j. The areas contain a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act.

   k. The area’s proximity to urban growth areas.

   l. The area’s proximity to agricultural markets.

   m. Land values under alternative uses.

(Staff)

Support conservation of productive agricultural land by requiring the use of best management practices including soil and water conservation, livestock manure nutrient management, etc. (Donovan)
Discourage conversion of productive agricultural land to incompatible non-agricultural uses. (Weimer)

Develop a range of non-regulatory programs, options, and incentives that agricultural landowners can employ so long as such programs, options, and incentives can be shown to produce results that meet or exceed county environmental goals. (Weimer)

Encourage retiring farmers to pass their farms on to beginning farmers and encourage the use of programs that help beginning farmers buy productive farmland. (Weimer)

Agriculture may conflict with other land uses. Improper nutrient or manure management practices on agricultural land may impact the commercial and recreational use of aquatic lands miles away. (Weimer)

Maintain the right to farm ordinance. Give priority to agricultural uses and owners of parcels zoned for agriculture priority in land use and nuisance conflicts with residents of adjacent properties and adjacent property owners. (Donovan)

Through a continuum of efforts moving from education to enforcement of regulations, that includes outreach, development of voluntary best practices, technical assistance, incentives, monitoring, and regulation, ensure that agricultural practices do not negatively impact aquatic resource lands and critical areas. (Weimer)

Ensure agricultural practices avoid adverse impacts to the habitat of threatened and endangered fish and wildlife species and to aquatic resource lands that support shellfish resources. Encourage agricultural land uses to voluntarily protect and restore habitat of threatened and endangered species through education and incentive programs. (Weimer)

Prevent livestock from degrading riparian and instream habitat by using best management practices for the fencing of livestock from streams and support the provision of alternative watering systems. Encourage fencing along rivers and streams to prevent livestock from degrading riparian and instream habitat. (Weimer)

Ensure proper storage and application of compounds that can pollute our waterways such as manure and other fertilizers, pesticides and herbicides. (Weimer)
p. 8-15; Policy 8E-5: Ensure voluntary restoration to properly functioning habitat conditions for those riparian areas and stream reaches that do not currently provide such habitat conditions through voluntary restoration, technical assistance and incentives. (Weimer)

p. 8-15; Policy 8E-6: Encourage the maintenance and operation of drainage systems such that the habitat and water quality impacts from such systems are minimized and agricultural uses remain viable. (Weimer)

p. 8-16; Policy 8F-1: Actively participate in the WRIA 1 Watershed and Salmon Recovery Programs to ensure that the agricultural sector’s needs, as well as other interests, are addressed. (Weimer)

p. 8-16; Policy 8F-3: Work to support that the agricultural community has access to sufficient in ensuring that legal direct legal water rights and other sources of water are available for agricultural uses. (Weimer)

p. 8-16: New Policy 8F-4: Balance the needs of agricultural water users with needs for instream uses through such process as the WIRA 1 Salmon Recovery Program. (Donovan)

p. 8-20; lines 33-36: Such conversions include changing the use of forest land from commercial timber production to incompatible residential, commercial, industrial, and agricultural land uses, or parks and preserves that exclude intense forest production management. (Brenner)
Proposed Council Changes to Comprehensive Plan

Chapter 2 - Land Use
Page and line numbers reflect Planning Commission Recommended Draft (1/14/16). To improve clarity of Councilmember requested changes, previous edits (i.e. staff and Planning Commission) are included, but not show as edits.

1) p. 2-1; Vision Statement: Whatcom County is a place where urban growth is concentrated in urban areas, where there is a distinct boundary between urban and rural uses, where agricultural use is encouraged, where resource lands and water resources are protected, and where land use changes are brought about through incentive programs. Rural areas are peaceful and quiet with less traffic and congestion than in urban areas. There is low-density development with open spaces allowing for privacy. A sense of community is retained and local control is exercised input is respected in land use decisions. (Weimer)

2) p. 2-1; lines 14-19: The Land Use chapter and map include a set of adopted land use designations which combine the predicted needs of future populations with the availability of land and the desires of residents. These needs and desires are expressed through the goals, and policies, and actions included below as well as through implementation of the land use map. This chapter is divided into sections that address: ... (Brenner)

3) p. 2-2; lines 10-12: County-Wide Planning Policies (CWPP), found in Appendix C, are supported throughout the Land Use chapter in goals, policies, and actions in land use designations. (Brenner)

Items 4 through 9 concern comma use and may be considered as one motion.

4) p. 2-2; lines 32-34: ...providing for economic development opportunities in the eastern portion of the county, and addressing fiscal impact in interlocal agreements with cities. (Brenner)

5) p. 2-2; lines 37-40: ...Planning Policies have been addressed in the development of this chapter through citizen committee participation, town hall meetings, and public hearings. (Brenner)
6) p. 2-5; Goal 2A: Ensure designation of sufficient land and densities to accommodate the growth needs of Whatcom County and protect the local economy, rural lifestyle, habitat, fish, and wildlife, which are the cornerstone qualities that make the county a desirable place to live. (Brenner)

7) p. 2-6; Policy 2A-8: Include business/industry parks, tourist/resort areas, and allowance for existing crossroads commercial areas ... (Brenner)

8) p. 2-6; Policy 2A-12: Adoption of residential, industrial, and commercial comprehensive plan... (Brenner)

9) p. 2-12; Policy 2F-4: Review and adopt, where appropriate, incentive programs such as cluster density bonuses in urban growth areas, purchase of development rights, transfer of development rights, and tax deferrals. (Brenner)

10) p. 2-4; lines 17-21: The goal of growth management is to provide sufficient land area with adequate facilities and utilities either presently available or economically feasible to accommodate future growth. This means having an adequate distribution of developable land to provide housing, services, jobs, and resource land for the expected population. (Weimer)

11) p. 2-4; lines. 31-35: A key need for meeting land demands to generate family wage employment is land that is "ready to go" for industrial development. Most potential major industrial employers seeking to locate in Whatcom County require large tracts of land where the infrastructure and site improvements are already in place. (Weimer)

12) p. 2-5; lines 19-20: The Growth Management Act requires, and the Vision statement encourages, concentrating growth in urban growth areas. (Brenner)

13) p. 2-5; Goal 2A: Ensure designation of sufficient land, water and densities to accommodate the growth needs of Whatcom County and protect the local economy, rural lifestyle, habitat, fish and wildlife which are the cornerstone qualities that make the county a desirable place to live. (Weimer, Donovan)

14) p. 2-6; Policy 2A-7: Establish sufficient levels of developable residential, commercial, and industrial lands informed by approved population and economic forecasts, inventory of existing use, land capacity outside of critical areas and buffers, cost of infrastructure, legal water availability, and goals and policies of all chapters of this plan. (Weimer)

15) p. 2-6; New Policy 2A-14: Establish a clear, predictable, and fair formula for allowing expansion of urban growth. Ensure that UGA expansions go hand in hand with density
reductions in rural sending areas through required participation in either a Transfer or Purchase of Development Rights program. This should be accomplished by:

Convening a multi-stakeholder work group, including the Cities, tasked with:

- Reviewing the current TDR and PDR programs.
- Identifying political, financial, and regulatory barriers.
- Identify opportunities and solutions for creating a working TDR program.
- Identify mechanisms to create a PDR fund that could be used to protect important rural lands.
- Recommend policy and regulatory amendments necessary to implement the above policy.
- Identify proposed sending areas in critical areas, the Agricultural Zone, and the Agricultural Study Areas.
- Identify receiving areas within existing UGAs and urban areas.

(Weimer)

16) p. 2-8; Policy 2B-7: Master Planned Resorts should only include other residential uses within its boundaries if residential uses are integrated into and support the on-site recreational nature of the resorts.... (Brenner)

17) p.2-10; Policy 2D-2: Eliminate regulations that could be more effectively achieved through incentive or education programs. (Donovan)

18) p. 2-11; Policy 2D-9 (ln. 34): ...or zone 6 (traffic pattern zone) as shown in the Safety Compatibility Zone Examples... (Brenner)

19) p. 2-13; lines 32-35: Property rights are an important issue in Whatcom County. People want to use their land as they wish. Land can be used as desired as long as it doesn’t conflict with the rights of others. It is not necessary for the preservation of property rights and protection of the environment and resources to conflict with one another. (Brenner)

20) p. 2-14; Policy 2H-2: Establish programs such as cluster density bonuses in urban growth areas, purchase of development rights and transfers of development rights, where appropriate, to compensate property owners when rights are unduly infringed upon. (Brenner)

21) p. 2-15; Policy 2K-3: Prohibit expansion of urban growth areas into floodplains, except where allowed under the GMA, and consider danger to individuals related to flooding when designating land use in other areas. (Brenner)
22) p. 2-15; lines 28-30: Not all parts of Whatcom County have the same available resources and land use options. A one-size-fits-all approach to comprehensive planning may not adequately serve the needs of different regions of the county. (Brenner)

23) p. 2-18; Goal 2M: Protect and encourage restoration of habitat for fish and wildlife populations including adequate in-stream flows. (Weimer)

24) p. 2-19; New Policy 2M-7: Remain actively engaged in efforts to better define ground water resources and connection to surface water, current water usage, water rights, adequate in-stream flows, and policy barriers that create conflicts between these things. (Weimer)

25a) p. 2-23; Goal 2P: Encourage Bellingham to establish new residential developments at densities averaging five six to twenty four units per net residential acre; encourage Ferndale to establish new residential developments at densities averaging five six to ten units per net residential acre; encourage Lynden to establish new residential developments at densities averaging six to ten units per net residential acre; ... (Weimer, Donovan)

25b) p. 2-23; Goal 2P: ... and encourage remaining smaller cities, the Birch Bay UGA and the Columbia Valley UGA to establish new residential development at average densities of four six units per net residential acre, while respecting unique characteristics associated with each city or community. (Weimer)

26) p. 2-25; Goal 2R: Establish an interlocal agreement with each city which sets out general guidelines to address revenue sharing, the provision of services, management of growth including working Transfer of Development Rights and Purchase of Development Rights efforts to protect rural areas, annexation, protection of critical areas, and designation of open space within urban growth areas. (Weimer)

27) p. 2-25; Policy 2Q-5: Encourage and assist the citizens of Birch Bay and Columbia Valley Urban Growth Areas with the requirements to incorporate when appropriate. (Brenner)

28) p. 2-27; 25-5: Annually monitor population growth and publish a report no later than November 1 of each year that analyzes population growth trends over time in comparison with the adopted population growth projections. Land capacity by compiling annual reports from the cities on development activity, and comparing that data with adopted growth projections for the urban growth areas. If the trend over several years indicates that population growth in urban growth areas is significantly higher than adopted projections, coordinate with the cities to consider appropriate action. Actions may include amending growth projections, or amending urban growth area densities or boundaries. If, over several years, these data indicate that growth is occurring at a significantly different rate than adopted projections. (Donovan)
29) p. 2-35: Bellingham UGA Map: Amend map to show South Caiac and South Yew Street as UGA Reserve. (Donovan)

Proposed changes 30 through 38 add the same language to all UGA areas and may be considered as a single motion.

30) p. 2-27; New Policy 2R-3 (renumber existing 2R-3 and subsequent 2R policies):

Include in interlocal agreements, a clear, predictable, and fair formula so increases in potential densities through expansion of Urban Growth Areas goes hand in hand with participation in reducing densities in designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)

31) p. 2-33; Policy 2U-5: ...

- affordable housing; and
- transfer of development rights within the City of Bellingham; and
- a clear, predictable, and fair formula so increases in potential densities through expansion of Urban Growth Areas goes hand in hand with participation in reducing densities in designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)

32) p. 2-38; Policy 2V-5: ...

- timing and procedures to be used for review of adequate land supply; and
- consistency with the Coordinated Water System Plan; and
- a clear, predictable, and fair formula so increases in potential densities through expansion of Urban Growth Areas goes hand in hand with participation in reducing densities in designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)

33) p. 2-43; Policy 2W-4: ...

- cooperation regarding conversion of mineral resource lands; and
- long term measures to assure compatibility with resource lands; and
- a clear, predictable, and fair formula so increases in potential densities through expansion of Urban Growth Areas goes hand in hand with participation in reducing densities in designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)
• timing and procedures to be used for review of adequate land supply; and
• consistency with the Coordinated Water System Plan; and
• a clear, predictable, and fair formula so increases in potential densities through expansion of Urban Growth Areas goes hand in hand with participation in reducing densities in designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)

35) p. 2-52; Policy 2Y-3: ...

• timing and procedures to be used for review of adequate land supply; and
• consistency with the Coordinated Water System Plan and demonstration of sufficient water rights for current and projected needs; and
• a clear, predictable, and fair formula so increases in potential densities through expansion of Urban Growth Areas goes hand in hand with participation in reducing densities in designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)

36) p. 2-58; Policy 2Z-4: ...

• measures for protection of adjacent resource lands through control of incompatible uses and/or buffers; and
• long term measures to assure compatibility with resource lands; and
• a clear, predictable, and fair formula so increases in potential densities through expansion of Urban Growth Areas goes hand in hand with participation in reducing densities in designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)

37) p. 2-62; Policy 2AA-5: ...

• re-examination of the densities outside the floodplain to see if they can be increased; and
• long term measures to assure compatibility with resource lands; and
• a clear, predictable, and fair formula so increases in potential densities through expansion of Urban Growth Areas goes hand in hand with participation in reducing densities in designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)

38) New Policy 2BB-16: Establish a clear, predictable, and fair formula so increases in potential densities through expansion of either the Birch Bay or Columbia Valley Urban Growth Areas goes hand in hand with participation in reducing densities in
designated rural sending areas through required participation in efforts such as Transfer or Purchase of Development Right programs. (Weimer)

39) p. 2-73; lines 31-34: In 2010, the DNR recognized the need to “protect the significant environmental resource of aquatic lands at Cherry Point” (CPAR Management Plan p. 1), and completed the Cherry Point Environmental Aquatic Reserve Management Plan, and designated the Cherry Point Aquatic Reserve to ensure long-term environmental protection of the area. (Donovan)

40) p. 2-73; lines 37-41: The reserve extends from the southern boundary of Birch Bay State Park to the northern border of the Lummi Indian Nation Reservation. The site excludes three existing aquatic land leases (BP, Intalco, Phillips 66 shipping piers) and one proposed aquatic land lease (Gateway Pacific Terminal site). (Brenner)

41) p. 2-74; lines 6-13: The Management Plan acknowledges that the existing industries, complying with laws and regulations, do not conflict with the Aquatic Reserve although their activities may pose risks for the Aquatic Reserve. Indeed, the industries’ need for buffer space and their compliance with shoreline management requirements means that much of the Aquatic Reserve shoreline is in substantially natural riparian vegetation and bluff processes proceed without interference. Existing industries can serve the Aquatic Reserve’s objectives so long as they are managed according to the Plan and so long as the lessees actively work to further goals for the Reserve (CPAR MP p. 2). (Weimer)

42) p. 2-77; **New Policy 2CC-2** (renumber existing 2CC-2 and subsequent 2CC policies): Ensure that developments in the Cherry Point UGA maintain management plans to accomplish the goals of the Aquatic Reserve Management Plan. (Donovan)

43) p. 2-77; Policy 2CC-7: Resist inclusion of **Exclude** Cherry Point as part of any future incorporation of Birch Bay. (Brenner)

44a) p. 2-82; Policy 2DD-1: Concentrate growth in urban areas per the population projections in Chapter 1 of this plan, and recognize rural lands as an important transition area between urban areas and resource areas. As part of the population growth monitoring report required in Policy 2S-5, monitor residential development activity outside the urban growth areas during the previous year and compare that data with the adopted population growth projection for those areas. If it is apparent that growth occurring outside the urban growth areas is inconsistent with compare non-urban population growth trends with the adopted non-urban population growth projection. If the trend over several years indicates that non-urban growth is significantly higher than adopted projections, the County shall take action to address the discrepancy.... (Weimer) *(alternative below)*
44b) p. 2-82; Policy 2DD-1: Concentrate growth in urban areas per the population projections in Chapter 1 of this plan, and recognize rural lands as an important transition area between urban areas and resource areas. As part of the population growth monitoring report required in Policy 2S-5, compare non-urban population growth trends with the adopted non-urban population growth projection. If the trend over several years indicates that non-urban growth is significantly higher than By February 1 of each year the department will publish a report that monitors residential development activity outside the urban growth areas during the previous year and compares that data with the adopted population growth projection for those areas. If it is apparent that growth occurring outside the urban growth areas is inconsistent with adopted projections, the County shall take action to address the discrepancy. ... (Donovan) (alternative above)

45) p. 2-92; Policy 2GG-3: Uses and densities within the Rural designation should reflect established rural character. Rezones within the Rural designation should be consistent with the established rural character and densities. Land in the R10A district may be rezoned to a rural zone that allows a higher density only if: ... (Donovan)

46) p.2-115; Line 14:
**Title:** Aquatic Resource Lands - Resource Lands

**Purpose:** To guide Whatcom County in conservation of functioning aquatic resource lands of long-term commercial and recreational significance, and to ensure that both industries requiring functioning aquatic lands, and the cultural heritage that use of our aquatic lands represent, thrive in the years to come.

**Definition:** ....

**Locational Criteria:** ...
(Weimer)

47) p. 2-128; Policy 2VV-7: Correctional facilities... New facilities should be located: ...
- At least one quarter mile from public and private schools.
(Weimer)

48a) New Goal 2xyz: Administer a Transfer of Development Rights program. (Donovan)

48b) New Policy 2xyz-1: Identify and establish sending areas in the Agricultural Zone and Agricultural Study Areas. (Donovan)

48c) New Policy 2xyz-2: Identify and establish receiving areas within existing UGAs. (Donovan)