

1 NOTE: Changes already approved by Planning Commission are shown in yellow.

2 Exhibit A

3 Comprehensive Plan (Chapter 2)

4 Major Industrial Urban Growth Area / Port Industrial

5 Cherry Point – Text

6 Change Second Paragraph of Cherry Point Text

7 Because of the special characteristics of Cherry Point, including deep water port access, rail access, and
8 proximity to Canada, this area has regional significance for the siting of large industrial or related
9 facilities. General Petroleum constructed the Ferndale Refinery in 1954, Alumax/Pechiney/Howmet
10 constructed the Aluminum Smelter in 1966, and the Atlantic Richfield Company constructed the Cherry
11 Point Refinery in 1971. The existing industries in the Cherry Point UGA, which provide significant
12 employment, have produced and shipped refined fossil fuels and other products for decades.

14 Amend Policy 2CC-11

15 Policy 2CC-11: It is the policy of Whatcom County to limit the number of industrial piers at Cherry Point
16 to the existing three piers, taking into account the need to:

- 17 • ~~Honor any existing vested rights or other legally enforceable agreements for an additional dock/ pier;~~
18 Act conservatively in land use matters at Cherry Point to prevent further harm to habitat important to the
19 Cherry Point Herring stock and Southern Resident Killer Whales;
- 20 • ~~Update the~~ Optimally implement the Whatcom County Shoreline Master Program to ~~conform with this~~
21 policy fulfill the Shoreline Management Act's shorelines of statewide significance policy to preserve
22 natural character, result in long-term over short-term benefit, and protect the resources and ecology of
23 the shoreline;
- 24 • Encourage the continued agency use of best available science;
- 25 • Support and remain consistent with the state Department of Natural Resources' withdrawal of Cherry
26 Point tidelands and bedlands from the general leasing program and the species recovery goals of the
27 Cherry Point Aquatic Reserve designation and Management Plan;
- 28 • Recognize federal actions upholding treaty rights;
- 29 • Protect traditional commercial and tribal fishing; and

30 • Prevent conflicts with vessel shipment operations of existing refineries that could lead to catastrophic oil
31 or fuel spills.

32 **Amend Policy 2CC-16**

33 2CC-16: The County will, through its adopted SEPA policies and applicable permitting processes, shall
34 undertake a study to be completed if possible by December of 2017 to examine existing County laws,
35 including those related to public health, safety, development, building, zoning, permitting, electrical,
36 nuisance, and fire codes, and develop recommendations for legal ways the County may choose to seek to
37 limit the negative impacts on public safety, transportation, the economy, and environment from new fossil
38 fuel facilities, including new or expanded crude oil, coal, liquefied petroleum gases, and natural gas, and
39 exports from facilities within the Cherry Point UGA above levels in existence as of March 1, 2017 [XXX,
40 2020/2019].

41 ~~To provide clear guidance to current and future county councils on the County's legal rights,~~
42 ~~responsibilities and limitations regarding interpretation and application of project evaluation~~
43 ~~under Section 20.88.130 (Major Projects Permits) of the Whatcom County Code. The County should~~
44 ~~consider any legal advice freely submitted to the County by legal experts on behalf of a variety of~~
45 ~~stakeholder interests, and make that advice publicly available.~~

46 • ~~Based on the above study, develop proposed Comprehensive Plan amendments and associated code~~
47 ~~and rule amendments for Council consideration as soon as possible.~~

48 • ~~Until the above mentioned amendments are implemented, †The Prosecuting Attorney and/or the~~ County
49 Administration should provide the County Council written notice of all known preapplication
50 correspondence or permit application submittals and notices, federal, state, or local that involve activity
51 with the potential to expand the export of fossil fuels from Cherry Point “Fossil Fuel Refinery, Renewable
52 Fuel Refinery, or Fossil Fuel or Renewable Fuel Transshipment Facilities,” as defined in the Whatcom
53 County Code (Chapter 20.97).¹

Rationale for Changes (shown in yellow): On February 27, 2020, the Planning Commission approved a motion deleting “Prosecuting Attorney” from the notice provisions above. The County Planning & Development Services Department reviews land use permits for fossil and renewable fuel facilities. The Prosecuting Attorney’s Office typically only becomes aware of a permit application if consulted by Planning & Development Services.

63 **Amend Policy 2CC-17**

64 Policy 2CC-16 shall not limit Allow existing operations or maintenance of existing fossil-fuel
65 related facilities operating at levels as of March 1, 2017 [XXX, 2020/2019] with limited
66 expansions subject to environmental review, greenhouse gas emission analysis mitigation, and
67 conformance with Policies 2CC-3 and -11.

Rationale for Changes (shown in yellow): On October 24, 2019, the Planning Commission approved a motion to remove the proposed GHG mitigation requirements from the Zoning Code and keep proposed GHG provisions in SEPA (with further discussion on the SEPA language at a later date). The proposed SEPA rules will require GHG analysis and authorize GHG mitigation. Pursuant to the proposed SEPA rules, GHG mitigation may be imposed by the Responsible Official, but will not be automatically imposed for any project that creates any increase in GHG emissions.

¹ The reference to a definition in the Whatcom County Code could be removed to avoid a policy with a code reference. A definition could be added to the Comprehensive Plan if thought necessary. Typically, the code is more detailed.

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Add a new policy as follows:

Policy 2CC-18: This chapter is intended to allow the on-going operation, maintenance, and repair of existing facilities, modifications designed to comply with adoption and implementation of new product standards and fuel standards, operational and site safety improvements, environmental improvements, and regulatory compliance projects.

Rationale for Changes (shown in yellow): On February 27, 2020, the Planning Commission approved a motion inserting new Policy 2CC-18 into the Cherry Point UGA section of the Comprehensive Plan.

~~Add a new policy on renewable fuels:~~

~~2CC-18. Treat renewable fuels facilities similar to fossil fuel facilities.~~

Rationale for Changes (shown in yellow): On October 10, 2019, the Planning Commission provided direction that renewable fuel facilities should not be required to mitigate greenhouse gas emissions if they reduce lifecycle greenhouse gas emissions. On December 12, 2019, the Planning Commission recommended that new renewable fuel refineries and transshipment facilities should be allowed as a permitted use but new fossil fuel refineries should be prohibited. Additionally, on January 16, 2020, the Planning Commission recommended that expansion of existing renewable fuel refineries and transshipment facilities should be allowed as a permitted use (expansion of fossil fuel facilities would require a conditional use permit). Therefore, in some respects, renewable fuel facilities would not be treated in a manner “similar” to fossil fuel facilities.

Essential Public Facilities

Amend Policy 2WW-4

Policy 2WW-4 State and regional highways in unincorporated Whatcom County that have been designated as essential state or regional transportation facilities are I-5, State Route 539 (the Guide Meridian), State Route 546/9 (Badger from the Guide to Sumas), and State Route 20 to eastern Washington. Other transportation facilities in unincorporated Whatcom County that have been designated as essential public facilities are Amtrak Cascades passenger rail service, the Burlington Northern Santa Fe railroad tracks, and the Cherry Point marine port facilities. Such facilities in the City of Bellingham include Fairhaven Station (intercity passenger rail terminal), Bellingham Cruise Terminal (Alaska Ferry), and the Port of Bellingham (marine port). Additionally, State Route 543 (the truck route at the Blaine border) is an essential public facility located within the city limits of Blaine.

Widening of existing state highways or railroad tracks (including construction of sidings) and siting new state highways or railroad tracks should be planned in the Washington Highway System Plan, Amtrak Cascades Plan and the Freight Rail Plan. The state will invite the Regional Transportation Planning

107 Organization and the County to participate in planning studies, review design plans, and provide
108 comments when siting new or expanded state highways or railroad tracks.

109 Highways and railroad tracks that qualify as essential public facilities should be sited in accordance with
110 all of the following principles. These facilities should be located:

- 111 • In a manner that minimizes or mitigates noise impacts to surrounding residential areas.
- 112 • Outside of the Lake Whatcom Watershed, unless there are no viable alternatives.
- 113 • In a manner that allows continued fish passage beyond the road or railroad tracks or restores blocked
114 passage.
- 115 • In a manner that avoids or mitigates wetland impacts.
- 116 • In a manner that minimizes impacts of additional impervious surfaces by treating stormwater runoff.
- 117 • In a manner that encourages a vibrant economy by facilitating the efficient movement of people and
118 freight.
- 119 • In a manner that accommodates pedestrians, bicycles, and transit.

120 Major passenger intermodal terminals should be located in General Commercial, Airport Operations,
121 Urban Residential-Medium Density or industrial zones.

122 Freight railroad switching yards and terminals should be located in industrial zones.

123 Marine port facilities should be located within the Heavy Impact Industrial zone of the Cherry Point
124 Major/Port Industrial Urban Growth Area. Allow existing facilities and limited expansions consistent with
125 the State of Washington Department of Natural Resource Cherry Point Aquatic Reserve Management
126 Plan.