

Planning Commission 3.12.2020 – Jon Maberry Notes

- **Adopt Value Added Processing Definition**

Motions:

Adopt the definition of value added processing as provided by Holli Johnson with WSPA

- **Add Intention Language to Comp Plan and Code**

It is important that the Comp Plan Language or County Code is not misinterpreted to inhibit ongoing operations or upgrades essential to the long-term success of these facilities and the residents that depend on them

Motions:

- Add to Chapter 20.68 – Heavy Impact Industrial (HII) District 20.68.010 Purpose
 - Nothing in this Chapter is intended to unnecessarily interfere with the ongoing 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

Motions:

- Define Transshipment – Transshipment shall be defined as the storage of liquid fossil fuels in Whatcom County for the purpose of shipment to a destination outside of Whatcom County without value added processing

The current definition of transshipment could be interpreted as any movement of product within the refining facility and would be difficult to measure. Defining transshipment solely as the transfer of non value added fossil fuels aligns with the spirit of the moratorium and alleviates concern of inhibiting ongoing operations.

- **Exhibit A 2CC-11 Edits**

Line 16 - Maintain language pertaining to honoring existing vested rights or legally enforceable agreements – only remove the word “additional”.

Line 20 – Remove language only calling into consideration specific aspects of the Shoreline Management Act

The Shoreline Management Act requires both economic and environmental consideration. We should not just pick and chose the parts to follow.

- **Exhibit A 2CC-17 Edits**

Line 59 – Being as we have defined expansions as an increase in MACDC, is it necessary to require environmental review or greenhouse gas emission analysis. I suggest we remove.

- **Exhibit B SEPA Code Sections – 16.08.090(E) & 16.08.160(F)**

Motions:

- Remove sections 16.08.090(E) & 16.08.160(F)

The additional categories in 08.160(F) and checklist 08.090(E) are duplicative of existing SEPA requirements, vague in interpretation and will likely create an unnecessary administrative burden in determining impacts. Governor Inslee has already directed Ecology to implement GHG considerations within SEPA statewide. These rules are to be adopted by Sept 21, 2021. Any changes the county makes to SEPA regarding GHGs will likely be in conflict with the upcoming Ecology rules. Further, I question the necessity of these changes when we have already required a conditional use permit for expansions.

Reasoning and Examples below

Line 17 – Have we not already addressed this within the expansion definition?

Line 103 – remove “adequately”

Line 104 – remove “may expressly”

Line 109-110 – remove “The County shall not so defer if such regulations did not anticipate or are otherwise inadequate to address a particular impact of a project – Subjective - cannot reasonably predict permit approval

Line 122-124 – Must define what will require mitigation and how much

Line 124 – “may require mitigation” – this is not specific. Does existing SEPA language contain similar ambiguity? And how is the level of mitigation determined?

Line 132 – Remove F.1.b. – This contains no specific requirements or policy. What is Whatcom County’s fair share and what is a moderate adverse impact?

Line 149 – “may” – must set specific triggers

Line 152 – “scientifically valid modeling techniques” – must have a definition and an agreed upon model

Line 162 – “specific adverse environmental impacts” – what specific adverse impacts?

- “may” – subjective

Line 194 – Method of analysis must be decided upon. Not specifying allows for a moving target

Line 196 – Mitigation must be defined and easily anticipated

Line 198 – “If regulations did not anticipate” – so the decision maker will just create new regulations as seen fit?

Line 216 – May condition or deny the project to mitigate its specific adverse environmental impacts

What environmental impacts?

- **Exhibit B Edits – Cont.**

Line 312-313 & 315-316 – Remove – Cherry Point facilities have no control over emissions generated outside of their physical location

- **Exhibit C Edits**

Line 567 – Add language – “Except for the criteria on Uses” (Provisions 1-4)

These requirements are not necessary as current uses align with fossil fuel expansions

Line 569 & 588 – “to the satisfaction of the County decision maker” - remove

Subjective – No reasonable expectation of permit approval

Line 589 – 590 “including properly addressing tribal treaty rights or the provisions of the Magnuson Amendment through state and federal permitting decisions”

No need for the county to police state and federal law – would allow the administrator to make judicial interpretation on law not created by Whatcom County

Reword 153 (9)

Prior to commencement of any site preparation or construction activities, all necessary state leases shall be acquired for any piers or aquatic land improvements. To the extent practicable the County shall support enforcement of any federal or state permit requirements addressing tribal treaty rights or the provisions of the Magnuson Amendment.

Line 1017 – Remove new language and retain existing

Why would the County police state and federal law?

Line 1079 – “but not limited to” – is this consistent with other parts of the code and why is it necessary?

Line 1219 – why would we discourage incremental improvements – 50% seems high

Industry Input – what renewable projects might this discourage

- **Exhibit D Edits**

Line 1350 – “but not limited to” – remove

Cannot leave open ended avenues for permit denial