



Memorandum

June 15, 2020

TO: The Whatcom County Planning Commission

FROM: Matt Aamot, Senior Planner

THROUGH: Mark Personius, Director

RE: Cherry Point Amendments (PLN2018-00009)

The County Council worked with the Cascadia Law Group to develop proposed Comprehensive Plan and Whatcom County Code (WCC) amendments primarily relating to fossil fuel and renewable fuel facilities in the Cherry Point Area (some of the amendments apply to various land uses on a countywide basis). The Council approved Resolution 2019-037 on August 7, 2019 forwarding the proposed amendments to the Planning Commission for review. The Planning Commission is holding a series of meetings on the proposed amendments, as shown below.

Meeting	Date	Type of Meeting	Comments
1	9/12/19	Town Hall Meeting	Opportunity for the public to speak on the proposal.
2	9/26/19	Work Session	Included discussion with a representative of Cascadia Law Group. Planning Commission approved a motion requesting the Planning and Development Services Department to meet with industry representatives to obtain input.
3	10/10/19	Work Session	Discussion with industry representatives, environmental group representatives, and the Northwest Clean Air Agency. Planning Commission reached consensus to delete the proposed greenhouse gas (GHG) mitigation requirements for renewable fuel facilities that reduce lifecycle GHG emissions.
4	10/24/19	Work Session	Industry presentation relating to GHG regulations. Planning Commission approved a motion that the conditional use permit requirement should be maintained in the proposal for expansions of existing refineries and transshipment facilities (with further discussion on change of use and exempt/permitted uses at a later date). 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).

5	11/14/19	Work Session	<p>Industry presentation relating to insurance.</p> <p>Planning Commission approved a motion to insert the following language in proposed WCC 22.05.125: "Permit applicant to provide proof of insurance naming Whatcom County as additional insured." The remainder of the insurance language was deleted.</p> <p>Planning Commission approved a motion to retain the term "expansion" of existing refineries and transshipment facilities in the conditional use section and other sections of the code.</p>
6	12/12/19	Work Session	<p>Planning Commission approved a motion to recommend that new fossil fuel refineries be a prohibited use in the Heavy Impact Industrial zone (proposed WCC 20.68.204).</p> <p>Planning Commission approved a motion that new renewable fuel refineries or renewable fuel transshipment facilities be allowed as a permitted use in the Heavy Impact Industrial zone (proposed WCC 20.68.159 in the conditional use section of the code would be deleted and these uses would be moved to the permitted use section).</p>
7	1/16/20	Work Session	<p>Planning Commission approved a motion to move expansion of renewable fuel facilities from conditional use to permitted use, as long as the expansion is for the increased production of renewable fuels.</p> <p>Planning Commission approved motions to amend proposed WCC 20.68.153 relating to expansion of existing legal fossil fuel refineries or transshipment facilities. The motions define what activities constitute an "expansion" and when a conditional use permit is required.</p>
8	1/30/20	Work Session	<p>Planning Commission approved motions to:</p> <ul style="list-style-type: none"> • Amend proposed WCC 20.68.153 relating to expansion of existing legal fossil fuel refineries or transshipment facilities. The motions further define what activities constitute an "expansion" that requires a conditional use permit. • Amend proposed WCC 20.68.153 by removing the following from the conditional use permit approval criteria: "Demonstration that the proposal will retain or add living-wage jobs or contribute to the Whatcom County economy." • Add a definition of "Maximum Atmospheric Crude Distillation Capacity" to the Zoning Code (WCC 20.97). • Delete proposed WCC 20.74.110 relating to Change of Use. • Amend proposed WCC 20.68.068 relating to permitted uses in the Heavy Impact Industrial Zone. • Amend proposed WCC 16.08.090, relating to the

			SEPA worksheet for fossil and renewable fuel facilities, by removing the reference to the Climate Impact Advisory Committee.
9	2/27/20	Work Session	<p>Planning Commission approved motions to:</p> <ul style="list-style-type: none"> • Amend proposed WCC 16.08.090 to state that the SEPA Responsible Official will consult with the Planning Commission when preparing or updating the worksheet for fossil and renewable fuel facilities. • Accept the staff proposed changes in Exhibit A (Comprehensive Plan amendments). • Amend Comprehensive Plan Policy 2CC-16 by removing the reference to the Prosecuting Attorney as a person who should give notice to the County Council of fossil or renewable fuel facility applications and documents. • Amend Comprehensive Plan Policy 2CC-17 to "Allow existing operations or maintenance of existing fossil-fuel related facilities operating at levels as of 2020. . .". • Insert a new Policy 2CC-18 allowing the on-going operation, maintenance, repair, certain modifications, safety and environmental improvements, and regulatory compliance projects at existing facilities.
	March, April, and May		<i>Work sessions cancelled because of the COVID-19 pandemic.</i>
10	6/25/20	Work Session	

At the June 25, 2020 meeting, the Planning and Development Services (PDS) Department would like to continue discussing Council's proposed amendments, and suggested changes, shown on the attached documents. Specifically, we would like to discuss:

- Exhibit A – Comprehensive Plan Amendments
- Exhibit B – SEPA Code Amendments
- Exhibit C – Zoning Code Amendments
- Exhibit D – Project Permit Procedure Code Amendments
- Worksheet for Fossil and Renewable Fuel Facilities

Exhibits A, B, C, and D are attached. Changes approved by the Planning Commission to date are shown in yellow. Proposed staff changes, not yet acted upon by Planning Commission, are shown in gray.

Immediately following these Exhibits is a document entitled "Proposed Modifications" that contains changes suggested by Commissioner Maberry and a definition proposed by industry. These changes have been combined into a single document, organized by Exhibit, so the Planning Commission can work methodically through the changes (e.g. proposed changes to Exhibit A appear 1st in the document, then changes to Exhibit B, etc). The original Maberry Notes (3/12/2020) and Industry e-mail from Holli Johnson (2/18/2020) follow the "Proposed Modifications" document.

Thank your review and consideration of these issues. We look forward to discussing them with you.