

**From:** [Eddy Ury](#)  
**To:** [Matt Aamot](#); [Mark Personius](#); [Atul Deshmane](#); [Robert Bartel](#); [Kelvin Barton](#); [James Hansen](#); [Kim Lund](#); [Natalie McClendon](#); [Jon Maberry](#); [Dominic Mocer](#); [Stephen Jackson](#); [Ashley Ubil](#); [PDS Planning Commission](#)  
**Subject:** Re: Planning Commission Packet for 07/09/2020 - Supplemental Memo # 2  
**Date:** Thursday, July 09, 2020 2:01:17 PM

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Commissioners,

Today's PDS memo suggests added rules specifying that new pipelines within the boundaries of the Heavy Impact Industrial Zone be a permitted use. Respecting the wishes of industry stakeholders to add explicit rules for short-range pipelines to the code, this is an important matter to address.

Our understanding of the policy intention of the County Council - and the effect of the draft amendments sent to the Planning Commission for review in August 2019 - was for new pipelines within the industrial zone to be a conditional use. The Planning Commission's alternate draft is already at odds with the Council proposal by implicitly exempting pipelines within the HII from CUPs. PDS is suggesting that the recommended policy change be stated more explicitly. However, adding the suggested language from PDS would actually make development rules less clear and consistent, contrary to the stated intention of the memo. PDS suggestions would be a substantive change in policy, not a clarification.

Under the Planning Commission's current draft rules, proposed WCC 20.68.068 lists 19 types of projects that would be considered permitted uses unless qualified as an expansion in 20.68.153. The list is preceded by the term "including but not limited to" thus is inclusive of pipelines by omission. Pipelines of this classification would remain a permitted use only if the project did not qualify as an expansion under the terms of proposed WCC 20.68.153. It is entirely plausible that a new pipeline or transfer piping could, for instance, increase the maximum transshipment capacity of the facility by 10,000 bbl/day, thus would be considered an expansion. The simplest way to clarify terms within the current draft's structure would simply be to add the word pipelines back onto the list under 20.68.068. Instead however PDS has proposed inserting new language as WCC 20.68.086 & 20.68.087, removed from the sub-section which states that the thresholds for requiring a CUP in proposed WCC 20.68.153 will apply to types of projects that would otherwise be permitted uses.

The arguments for making all pipelines permitted uses, stated in Pam Brady's July 7th letter on behalf of BP America, are frivolous and misleading. It is broadly recognized that requiring conditional use permits (CUPs) for pipelines is within the indisputable authority of the County and CUPs are already required by law for pipelines outside of industrial zones, in WCC 20.82.030 as well as other counties across the United States. It should be noted however that certain conditions on the operational use of the pipeline could be in conflict with federal law if applied to *interstate* pipelines.

An operating definition for pipelines, being subject to CUPs, should be inclusive of piping connecting storage tanks to the wharf for loading/unloading vessels, which could be technically differentiated from "process pipes" used within the refinery and transshipment terminals at Cherry Point to transfer liquids and gases between units, which could be subject to conditions otherwise precluded by federal law for interstate pipelines.

I will be available to answer any questions about this during the work session.

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**Eddy Ury**  
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On Thu, Jul 9, 2020 at 9:52 AM Matt Aamot <[MAamot@co.whatcom.wa.us](mailto:MAamot@co.whatcom.wa.us)> wrote:

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**From:** Matt Aamot  
**Sent:** Thursday, July 09, 2020 9:52 AM  
**To:** 'Atul Deshmane'; 'Dominic Mocerì'; 'JIM HANSEN'; 'Jon Maberry'; 'Kelvin Barton'; 'Kim Lund'; 'Natalie McClendon'; 'Robert Bartel'; 'Stephen Jackson'  
**Cc:** Mark Personius; Ashley Ubil  
**Subject:** Planning Commission Packet for 07/09/2020 - Supplemental Memo # 2

Hi Planning Commissioners:

Please see the attached memo relating to pipelines for discussion at the July 9 meeting.

Ashley – please post this memo on the website.

Thanks,

Matt

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**From:** Ashley Ubil  
**Sent:** Wednesday, July 01, 2020 3:46 PM  
**To:** Atul Deshmane; Dominic Mocerì; JIM HANSEN; Jon Maberry; Kelvin Barton; Kim Lund; Natalie McClendon; Robert Bartel; Stephen Jackson  
**Cc:** Matt Aamot; Mark Personius

**Subject:** Planning Commission Packet for 07/09/2020

Hi everyone,

Please see the attached packet for the 07/09/2020 meeting.

Thank you,

Ashley Ubil

Coordinator

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