

1 NOTE: Changes from existing text are shown within underlines and strikethroughs (Planning Commission  
 2 changes that differ from the County Council Resolution 2019-037 are also highlighted in yellow).

## 3 Exhibit A

### 4 Comprehensive Plan (Chapter 2)

#### 5 Major Industrial Urban Growth Area / Port Industrial

##### 6 Cherry Point – Text

##### 7 **Change Second Paragraph of Cherry Point Text**

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

##### 15 **Amend Policy 2CC-11**

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

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

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

33 **Amend Policy 2CC-16**

34 2CC-16: The County will, through its adopted SEPA policies and applicable permitting processes, shall  
35 undertake a study to be completed if possible by December of 2017 to examine existing County laws,  
36 including those related to public health, safety, development, building, zoning, permitting, electrical,  
37 nuisance, and fire codes, and develop recommendations for legal ways the County may choose to seek to  
38 limit the negative impacts on public safety, transportation, the economy, and environment from new fossil  
39 fuel facilities, including new or expanded crude oil, coal, liquefied petroleum gases, and natural gas, and  
40 exports from facilities within the Cherry Point UGA, above levels in existence as of March 1, 2017[XXX,  
41 2020/2019].

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44 Rationale for Changes (shown with highlighting): Refinery operations may fluctuate over  
45 time, depending on product demand, maintenance turnarounds, etc. Therefore, it may be  
46 difficult to implement this policy if it relates to exceeding impacts that existed on a  
47 particular day (the day of adoption of the policy). Rather, the County would review the  
48 impacts of the new or expanded development, when proposed.

49  
50 To provide clear guidance to current and future county councils on the County's legal rights,  
51 responsibilities and limitations regarding interpretation and application of project evaluation  
52 under Section 20.88.130 (Major Projects Permits) of the Whatcom County Code. The County should  
53 consider any legal advice freely submitted to the County by legal experts on behalf of a variety of  
54 stakeholder interests, and make that advice publicly available.

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

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

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

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<sup>1</sup> 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.

74 **Amend Policy 2CC-17**

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

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80 Rationale for Changes (shown with highlighting): On October 24, 2019, the Planning Commission  
81 approved a motion to remove the proposed GHG mitigation requirements from the Zoning Code and  
82 keep proposed GHG provisions in SEPA (with further discussion on the SEPA language at a later date).  
83 The proposed SEPA rules will require GHG analysis and authorize GHG mitigation. Pursuant to the  
84 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.

85 **Add a new policy as follows:**

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

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

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95 **Add a new policy on renewable fuels:**

96 2CC-18. Treat renewable fuels facilities similar to fossil fuel facilities.

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98 Rationale for Changes (shown with highlighting): On October 10, 2019, the Planning  
99 Commission provided direction that renewable fuel facilities should not be required to  
100 mitigate greenhouse gas emissions if they reduce lifecycle greenhouse gas emissions. On  
101 December 12, 2019, the Planning Commission recommended that new renewable fuel  
102 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.

103

## 104 Essential Public Facilities

### 105 Amend Policy 2WW-4

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

115 Widening of existing state highways or railroad tracks (including construction of sidings) and siting new  
116 state highways or railroad tracks should be planned in the Washington Highway System Plan, Amtrak  
117 Cascades Plan and the Freight Rail Plan. The state will invite the Regional Transportation Planning  
118 Organization and the County to participate in planning studies, review design plans, and provide  
119 comments when siting new or expanded state highways or railroad tracks.

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

- 122 • In a manner that minimizes or mitigates noise impacts to surrounding residential areas.
- 123 • Outside of the Lake Whatcom Watershed, unless there are no viable alternatives.
- 124 • In a manner that allows continued fish passage beyond the road or railroad tracks or restores blocked  
125 passage.
- 126 • In a manner that avoids or mitigates wetland impacts.
- 127 • In a manner that minimizes impacts of additional impervious surfaces by treating stormwater runoff.
- 128 • In a manner that encourages a vibrant economy by facilitating the efficient movement of people and  
129 freight.
- 130 • In a manner that accommodates pedestrians, bicycles, and transit.

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

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

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