

Whatcom County Fossil Fuel Policies and Potential Amendments

Policy Evaluation | Prepared by: Cascadia Law Group and BERK Consulting, Inc.

Countywide Planning Policies

E. NON-CITY URBAN GROWTH AREAS

3. Cherry Point shall be designated as an unincorporated industrial urban growth area in recognition of existing large scale industrial land uses. Additional large scale development shall be encouraged consistent with the ability to provide needed services and consistent with protecting critical areas along with other environmental protection considerations. The Cherry Point industrial area is an important and appropriate area for industry due to its access to deep water shipping, rail, all-weather roads, its location near the Canadian border, and its contribution to the County's goal of providing family wage jobs.

Evaluation Policy E.3: No specific change required. Even if fossil-fuel refinement and related fossil-fuel industries are limited with policy and code changes, a wide range of industrial uses are still allowed in upland industrially zoned areas in Cherry Point. In-water shipping is limited to existing facilities per the State of Washington Department of Natural Resources (DNR) Cherry Point Aquatic Reserve Management Plan.

I. ECONOMIC DEVELOPMENT AND EMPLOYMENT

2. New business development and expansion of existing businesses are key factors in providing “family wage” jobs and a strong tax base. Economic development that pays family wage rates should be encouraged. Industrial land designations must be sufficient to permit the concentration of industry in appropriate locations beyond 20 years. In order to attract new industry and provide for expansion of existing industries, the county and the cities will designate land supply of sufficient size and diversity to provide a range of suitable locations for industrial development. The designation of this land shall be established in a way that preserves natural resource based industries and critical areas.

3. To provide sufficient land supply for industrial growth and development, industrial designations must not only include lands suitable for development, but also lands suitably zoned to provide adequate buffers. It is also important that these lands and buffers be conserved with appropriate land use and zoning provisions to ensure that they will be available for future use.

4. Encourage business location, retention, and expansion according to city and county comprehensive plans in order to meet current and future demand for diverse business and industry. Work with funding agencies and the private sector to facilitate extension of adequate sewer, water, telecommunications and road access to existing commercial and industrial-zoned properties, creating shovel-ready sites. Cities and county may utilize the “Quick Sites” economic development program through OTED, which links

35 strategic elements of planning, zoning, environmental review, and permitting with the business-siting
36 effort.

37 11. Whatcom County encourages siting of industrial uses in proximity to and to further utilization of our
38 access to deep water and port facilities for shipping, rail, airports, roadways, utility corridors and the
39 international border.

40 *Evaluation, Policies 1.2, 1.3, 1.4 and 1.11: The proposed policy and code changes continue*
41 *to allow development of non-fossil-fuel industries, and review criteria for expansion of*
42 *existing uses relies on implementing existing critical area regulations and other state and*
43 *federal requirements, e.g. Cherry Point Aquatic Reserve Management Plan, Magnuson Act.*

44 10. The cities and county agree to set policies for approving proposals to authorize siting of Major
45 Industrial Developments for large or resource-based industries outside of Urban Growth Areas (as per
46 RCW 36.70A.365). The master planning process for specific manufacturing, industrial, or commercial
47 businesses shall address infrastructure, buffers, environmental protection, sprawl, resource lands, critical
48 areas, and land supply.

49 *Evaluation 1.10: The code changes provide more explicit master plan process review*
50 *criteria that implement this policy. The new code changes are designed to support*
51 *environmental protection and critical areas.*

52 Comprehensive Plan

53 LAND USE ELEMENT

54 Policy 2D-6: Review and update the Whatcom County Shoreline Management Program in accordance
55 with the schedule in the Shoreline Management Act (RCW 90.58.080). Updates should improve the
56 integration of the Shoreline Program with Growth Management and with the Cherry Point Aquatic
57 Reserve Management Plan in order to provide predictability and consistency in regulation, and eliminate
58 regulatory redundancy.

59 *Evaluation, 2D-6: This policy supports proposed amendments to the SMP to address*
60 *Cherry Point Aquatic Reserve Management Plan.*

61 Policy 2J-4: Protect culturally and spiritually significant places from nonessential development that is
62 viewed as incompatible by the affected community.

63 *Evaluation, 2J-4: Per the Comprehensive Plan, the “Lummi Nation and Western*
64 *Washington University have identified an ancestral village dating back over 3,000 years*
65 *ago in this area. The Cherry Point UGA contains sites of primary archeological and*
66 *cultural significance.” Policy 2CC-3 calls for Archeological review in Cherry Point. There*
67 *are no implementing review criteria in the master site plan regarding avoiding impacts to*
68 *cultural resources.*

69 Policy 2L-2: Retain and periodically review the adopted Subarea Plans (Lummi Island, Cherry Point-
70 Ferndale, Urban Fringe, Birch Bay Community Plan, Foothills, and Point Roberts).

71 Evaluation, Policy 2L-2: This subarea plan is in the process of being repealed. Planning
72 Commission staff report:
73 <http://www.co.whatcom.wa.us/DocumentCenter/View/35465/Cherry-Point-Packet>
74 Listed in March 2019 public participation plan for docket in 2019.
75 [https://www.whatcomcounty.us/DocumentCenter/View/40344/pln2019-00009-draft-](https://www.whatcomcounty.us/DocumentCenter/View/40344/pln2019-00009-draft-ppp-March-2019)
76 [ppp-March-2019](https://www.whatcomcounty.us/DocumentCenter/View/40344/pln2019-00009-draft-ppp-March-2019)

77 Major Industrial Urban Growth Area / Port Industrial

78 Cherry Point – Text

79 The Cherry Point Urban Growth Area (UGA) contains approximately 7,000 acres of industrial land. The
80 land has long been planned and designated by Whatcom County for industrial development and is
81 currently the site of three major industrial facilities including two oil refineries and an aluminum smelter.
82 Together, these three existing industries own about 4,400 acres of the total Cherry Point industrial lands.
83 A fourth large tract of undeveloped land constituting approximately 1,500 acres is designated for
84 industrial development.

85 Because of the special characteristics of Cherry Point, including deep water port access, rail access, and
86 proximity to Canada, this area has regional significance for the siting of large industrial or related
87 facilities. General Petroleum constructed the Ferndale Refinery in 1954, Alumax/Pechiney/Howmet
88 constructed the Aluminum Smelter in 1966, and the Atlantic Richfield Company constructed the Cherry
89 Point Refinery in 1971.

90 Cherry Point is also important historically and culturally to the Coast Salish people, and part of the usual
91 and accustomed fishing area for five treaty tribes, reserved under the Treaty of Point Elliot of 1855. The
92 Lummi Nation and Western Washington University have identified an ancestral village dating back over
93 3,000 years ago in this area. The Cherry Point UGA contains sites of primary archeological and cultural
94 significance.

95 Since the designation of this area for industrial development years ago, newer scientific study of the
96 shoreline ecology has identified Cherry Point's unique function as part of the Fraser River/Georgia Strait
97 and greater Salish Sea ecosystem and the associated Cherry Point Aquatic Reserve has been designated
98 by the state Department of Natural Resources to recognize the ecological importance of the aquatic
99 lands in this area.

100 Since adoption of earlier versions of this Comprehensive Plan, governments have increased their
101 recognition of the observed and projected effects that fossil fuel extraction, transportation and use have
102 on human health and the environment.

103 *Evaluation: The background conditions are generally the same today. The proposed*
104 *policy/code changes do not require a consistency amendment. However, the Preliminary*
105 *Draft Text Changes dated January 15, 2019 (to the second paragraph) are compatible.*

- 106 • *Because of the special characteristics of Cherry Point, including deep water port*
107 *access, rail access, and proximity to Canada, this area has regional significance*
108 *for the siting of large industrial or related facilities. General Petroleum constructed*
109 *the Ferndale Refinery in 1954, Alumax/Pechiney/Howmet constructed the*
110 *Aluminum Smelter in 1966, and the Atlantic Richfield Company constructed the*

111 Cherry Point Refinery in 1971. The existing industries in the Cherry Point UGA,
112 which provide significant employment, have produced and shipped refined fossil
113 fuels and other products for decades.

114 *Environmental – Text*

115 The Cherry Point shoreline has great importance to the fisheries and ecology of Northern Puget Sound
116 because it provides essential spawning habitat for what once was the largest herring stock in Washington
117 State. This herring stock has supported important commercial fisheries in the past and provides forage for
118 salmonids and other important marine species. In 2000, 2010, and 2017 the State Lands Commissioner
119 ordered the Cherry Point tidelands and bedlands withdrawn from the state’s general leasing program
120 and designated them as the “Cherry Point Aquatic Reserve.” The following DNR Use Authorizations are
121 exempted from withdrawal: Lease application numbers 20-A09122 (British Petroleum), 20-A11714
122 (Phillips 66), 20-A08488 (Intalco Aluminum Corporation), and 20-010521 (Birch Bay Water and Sewer
123 District). In December 2010, the DNR recognized the need to “protect the significant environmental
124 resource of aquatic lands at Cherry Point” (CPAR Management Plan p. 1), and completed the Cherry
125 Point Environmental Aquatic Reserve Management Plan to ensure long-term environmental protection of
126 the Aquatic Reserve. The Reserve extends from the southern boundary of Birch Bay State Park to the
127 northern border of the Lummi Indian Nation Reservation.

128 *Evaluation: Allow for existing in-water facilities consistent with DNR Management Plan.*

129 ...Much of the Aquatic Reserve shoreline is in substantially natural riparian vegetation and bluff
130 processes proceed without interference. Existing shoreline and upland stream and wetland functions and
131 values are of continuing importance to the recovery and protection of species identified in the Aquatic
132 Reserve Management Plan. The area includes undeveloped intertidal wetlands with importance to
133 juvenile salmon and other species. Existing industries can serve the Aquatic Reserve’s objectives so long as
134 they are managed according to the Plan and so long as the lessees actively work to further goals for the
135 Reserve (CPAR MP p. 2).

136 *Evaluation: Allow for existing industrial facilities consistent with DNR Management Plan.*

137 ...Whatcom County does not enforce the Magnuson Amendment through the local permitting process.
138 However, the County does encourage federal agencies to enforce the Magnuson Amendment. Therefore,
139 the County will strive to make appropriate federal agencies aware of applications for development
140 permits submitted to the County that may be subject to federal agency review under the Magnuson
141 Amendment before issuing local permits when possible (see Policy 2CC-15).

142 *Policy 2CC-15 addresses this text. Language like the Policy could be implemented in*
143 *master site plan criteria:*

- 144 • *Policy 2CC-15: Whatcom County will encourage federal agencies, including the*
145 *U.S. Army Corps of Engineers, to enforce the provisions of the Magnuson*
146 *Amendment (33 USC Sec. 476). To accomplish this the County will make*
147 *appropriate federal agencies aware of applications for development permits*
148 *submitted to the County that staff thinks may be subject to federal agency review*
149 *under the Magnuson Amendment.*

150 Cherry Point UGA Features: Port Access – Text

151 The marine waters off Cherry Point provide deepwater access for shipping. Deepwater access for
152 shipping was a major siting consideration for the three major industries currently located at Cherry Point.

153 *Evaluation: Allow for existing in-water facilities consistent with DNR Management Plan.*

154 Cherry Point UGA Features: Proximity to Canada, Alaska and Foreign Ports – Text

155 Cherry Point occupies a unique location for the siting of industry because of its close proximity to Canada
156 and because of its shorter travel distance than other regional port facilities for shipping to and from
157 Alaska and to other Pacific Rim locations. The large acreage, good rail access and proximity to
158 Washington State and Canadian ports makes the remaining upland area at Cherry Point suitable for
159 commercial or industrial production with emphasis on major sustainable clean energy manufacturing or
160 production (see Policy 2CC-3). The Cherry Point industrial area benefits from proximity to Canada, as
161 trade between the U.S. and Canada grows in response to the lifting of trade barriers under the Free
162 Trade Agreement. Canadian exports to the U.S. are expected to increase and Canadian firms exporting
163 to the U.S. are expected to seek locations in the U.S. as a way of improving access to U.S. markets.
164 Compared to other port facilities in Washington and Canada, Cherry Point is not constrained by
165 extensive upland development or vessel draft limitations.

166 *Evaluation: Proposed policy and code amendments continue to allow for port uses. Existing
167 fossil fuel industrial can continue; growth of existing facilities could occur based on growth
168 in demand in the facility service area.*

169 Cherry Point: Use Compatibility and Land Use Designation – Text

170 The industries currently located at Cherry Point are a substantial part of the economic base of Whatcom
171 County and the region and the economic welfare of the county is strongly tied to the health of these
172 industries and their ability to flourish and expand as opportunities present themselves. These industries
173 need to be protected from the inappropriate encroachment of incompatible uses; particularly residential
174 uses that could affect their ability to expand, at the same time, the expansion of these industries needs to
175 be done in ways that do not significantly impact the ecology of the Salish Sea or encourage expanded
176 transshipment of unrefined fossil fuels. The best means for protecting these industries from incompatible
177 adjoining uses and to assure their continued regulatory conformity is to maintain the industrial land use
178 designation of these lands and adjoining properties currently designated for industrial development. The
179 Cherry Point industrial lands have been designated for industrial development and as a direct result of
180 the industrial designation, incompatible and inappropriate residential development has been curtailed.

181 *Evaluation: Proposed code changes are meant to avoid ecological impacts and without
182 expanded transshipment of unrefined fossil fuels.*

183 Goal 2CC: Maintain Cherry Point as an unincorporated urban growth area based on its unique location,
184 characteristics and its significant contribution to the overall industrial land supply and Whatcom County's
185 tax base.

186 Policy 2CC-1: Designate Cherry Point as a major industrial Urban Growth Area to accommodate major
187 users that need to be located away from concentrated urban residential areas and that can manage

188 their activities in such a way that they do not conflict with the goals of the Aquatic Reserve Management
189 Plan.

190 Policy 2CC-2: Encourage developments in the Cherry Point UGA to maintain and operate under
191 management plans consistent with the Aquatic Reserve Management Plan.

192 *Evaluation Policy 2CC-1 and 2CC-2: Proposed policy and code amendments are*
193 *compatible with this policy. Proposed code amendments address the DNR Aquatic Reserve*
194 *Management Plan.*

195 Policy 2CC-3: Encourage that future developments or expansions within the Cherry Point UGA are
196 consistent with the following:

- 197 • Clean and reduced carbon emitting technology;
- 198 • Avoidance of estuaries and near shore wetlands;
- 199 • Archeological review;
- 200 • Water recycling technology to minimize water use; and
- 201 • Enhance existing and future industries.

202 *Evaluation: Existing industries may continue and supporting facilities may be enhanced.*
203 *Future industries that meet allowed uses and master site plan criteria are allowed.*
204 *Environmental and archaeological review is required; review criteria in these respects are*
205 *enhanced.*

206 Policy: 2CC-4: Assure that Cherry Point's unique features of large parcelization, port access, and
207 pipeline, vehicular and rail transportation availability are maintained and protected from incompatible
208 development.

209 *Evaluation: Proposed policy and code amendments are compatible with this policy. The*
210 *amendments do not affect parcelization. Port access is allowed to existing sites per the*
211 *DNR Cherry Point Aquatic Reserve Management Plan. Proposed amendments do not*
212 *change the range of supporting transportation and utility services or their plans.*

213 Policy: 2CC-5: Require the master planning of each large parcel in advance of any development or
214 subdivision at Cherry Point.

215 *Evaluation: The proposed code amendments update master site plan and major project*
216 *permit review criteria.*

217 Policy: 2CC-6: Require the designation and site plan for a major user (generally 40 acres or more)
218 before the development of accessory or supporting uses to assure that accessory or supporting uses are
219 compatible with and will not interfere with the major industrial user.

220 *Evaluation: The proposed code amendments address accessory/supporting uses for*
221 *existing facilities designed to ensure that existing fossil fuel terminal facilities can maintain*
222 *and enhance their current businesses.*

223 Policy: 2CC-7: Specify 160 acres as a minimum area for planning, prior to the commitment of a parcel
224 for a major user (40 acres or more, singularly or as a cluster or group).

225 *Evaluation: No change to the major user or planning area is proposed.*

226 Policy 2CC-8: Permit support activities, warehousing, shipping, machine repair and service, educational
227 services, food service and conveniences, to locate on a parcel only after the completion of a master plan,
228 and the identification and site plan approval for the major user.

229 *Evaluation: Policies or code amendments would not change the need for a master plan or*
230 *major user standards.*

231 Policy 2CC-9: Exclude Cherry Point as part of any future incorporation of Birch Bay.

- 232 • to protect interests of the property owner in terms of taxation and urban regulations;
- 233 • to preclude urbanism near "smokestack" industries;
- 234 • to preserve county government tax base.

235 *Evaluation: The proposed policy and code changes do not change the County's approach*
236 *to incorporation of Birch Bay or the exclusion of Cherry Point from incorporation.*

237 Policy 2CC-10: Continue to work with service providers that serve Cherry Point to ensure the delivery of
238 services and to allow it to develop to its fullest potential.

239 *Evaluation: The proposed policy and code changes do not change the delivery of*
240 *transportation or utility services.*

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

- 243 • Honor any existing vested rights or other legally enforceable agreements for an additional dock/pier;
- 244 • Update the Whatcom County Shoreline Master Program to conform with this policy;
- 245 • Encourage the continued agency use of best available science;
- 246 • Support and remain consistent with the state Department of Natural Resources' withdrawal of Cherry
247 Point tidelands and bedlands from the general leasing program and the species recovery goals of the
248 Cherry Point Aquatic Reserve designation and Management Plan;
- 249 • Recognize federal actions upholding treaty rights;
- 250 • Protect traditional commercial and tribal fishing; and
- 251 • Prevent conflicts with vessel shipment operations of existing refineries that could lead to catastrophic oil
252 or fuel spills.

253 *Evaluation: The proposed policy and code changes fulfill this policy.*

254 *The County had proposed a change to the first bullet in January 15, 2019 amendments as*
255 *follows:*

- 256 • ~~Honor any existing vested rights or other legally enforceable agreements for an~~
257 ~~additional dock/pier; Act conservatively in land use matters at Cherry Point to prevent~~
258 ~~further harm to habitat important to the Cherry Point Herring stock and Southern Resident~~
259 ~~Killer Whales;~~

260 This policy change is consistent with the purpose and intent of the fossil-fuel policy/code
261 changes and could be carried forward.

262 Since the SMP amendments are being crafted now, the second bullet can be changed. It
263 would support the County's duty to fulfill the State policy in RCW 90.58.020 for
264 shorelines of statewide significance. Suggest changing bullet 2 as follows:

265 • ~~Update the~~ Optimally implement the Whatcom County Shoreline Master Program to
266 ~~conform with this policy~~ fulfill the Shoreline Management Act's shorelines of statewide
267 significance policy to preserve natural character, result in long-term over short-term
268 benefit, and protect the resources and ecology of the shoreline;

269 Policy 2CC-12: RCW 36.70A.365 requires the implementation of Traffic Demand Management (TDM)
270 programs for the designating of a Major Industrial Urban Growth Area. Any employer in the Cherry
271 Point Urban Growth Area that employs one hundred or more fulltime employees at a single worksite who
272 begin their regular work day between 6:00 am and 9:00 am on weekdays for at least twelve continuous
273 months during the year are required to meet the TDM requirements of WCC 16.24.

274 Evaluation: The proposed policy and code changes do not change the County's approach
275 to Traffic Demand Management.

276 Policy 2CC-13: Work with the Cherry Point industries to maximize public access to the Cherry Point
277 beaches without compromising industrial security.

278 Evaluation: The proposed policy and code changes do not change the County's approach
279 to shoreline public access.

280 Policy 2CC-14: Cooperate with the DNR and existing industries to monitor the effects of industrial
281 activities on water quality and habitat functions in and adjacent to the Cherry Point Aquatic Reserve.

282 Evaluation: The proposed policy and code changes do not change the County's approach

283 Policy 2CC-15: Whatcom County will encourage federal agencies, including the U.S. Army Corps of
284 Engineers, to enforce the provisions of the Magnuson Amendment (33 USC Sec. 476). To accomplish this
285 the County will make appropriate federal agencies aware of applications for development permits
286 submitted to the County that staff thinks may be subject to federal agency review under the Magnuson
287 Amendment.

288 Evaluation: The proposed code changes implement this policy.

289 Policy 2CC-16: The County shall undertake a study to be completed if possible by December of 2017 to
290 examine existing County laws, including those related to public health, safety, development, building,
291 zoning, permitting, electrical, nuisance, and fire codes, and develop recommendations for legal ways the
292 County may choose to limit the negative impacts on public safety, transportation, the economy, and
293 environment from crude oil, coal, liquefied petroleum gases, and natural gas exports from the Cherry
294 Point UGA above levels in existence as of March 1, 2017.

295 To provide clear guidance to current and future county councils on the County's legal rights,
296 responsibilities and limitations regarding interpretation and application of project evaluation under
297 Section 20.88.130 (Major Projects Permits) of the Whatcom County Code.

298 The County should consider any legal advice freely submitted to the County by legal experts on behalf
299 of a variety of stakeholder interests, and make that advice publicly available.

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

302 • Until the above mentioned amendments are implemented, the Prosecuting Attorney and/or the County
303 Administration should provide the County Council written notice of all known pre-application
304 correspondence or permit application submittals and notices, federal, state, or local that involve activity
305 with the potential to expand the export of fossil fuels from Cherry Point.

306 *Evaluation: Once the policy and code amendments are adopted this policy could be*
307 *eliminated. Alternatively, it could be amended to match the January 15, 2019 policy*
308 *language below but would exclude “radioactive substance” since that is not a focus of the*
309 *fossil fuel related policy/code changes. It could be its own policy topic.*

310 ~~2CC-16: The County will, through its adopted SEPA policies and applicable permitting processes,~~
311 ~~shall undertake a study to be completed if possible by December of 2017 to examine existing~~
312 ~~County laws, including those related to public health, safety, development, building, zoning,~~
313 ~~permitting, electrical, nuisance, and fire codes, and develop recommendations for legal ways the~~
314 ~~County may choose to seek to limit the negative impacts on public safety, transportation, the~~
315 ~~economy, and environment from new fossil fuel facilities, including new or expanded crude oil, coal,~~
316 ~~liquefied petroleum gases, natural gas, and radioactive substance exports from facilities within the~~
317 ~~Cherry Point UGA above levels in existence as of March 1, 2017.~~

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

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

325 ~~• Until the above mentioned amendments are implemented, †The Prosecuting Attorney and/or the~~
326 ~~County Administration should provide the County Council written notice of all known preapplication~~
327 ~~correspondence or permit application submittals and notices, federal, state, or local that involve~~
328 ~~activity with the potential to expand the export of fossil fuels from Cherry Point “Fossil Fuel~~
329 ~~Refinery or Fossil Fuel Transshipment Facilities,” as defined in the Whatcom County Code (Chapter~~
330 ~~20.97).¹~~

331 Policy 2CC-17: Policy 2CC-16 shall not limit existing operations or maintenance of existing facilities as of
332 March 1, 2017.

333 *Evaluation: The policy and code amendments reinforce allowing existing uses and their*
334 *maintenance. The shaded language was proposed in January 15, 2019, otherwise the*
335 *other adjustments are based on the latest policy/code amendment direction:*

336 *Amend this policy: Policy 2CC-16 shall not limit Allow existing operations or maintenance*
337 *of existing fossil-fuel related facilities operating at levels as of March 1, 2017 with*

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.

338 limited expansions subject to environmental review, greenhouse gas emission mitigation,
339 and conformance with Policies 2CC-3 and -11.

340 *Other*

341 Add a new policy on renewable fuels: Support industries that create or use renewable fuels.

342 Essential Public Facilities

343 **Goal 2WW: Utilize the established siting criteria for essential public facilities.**

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

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

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

- 360 • In a manner that minimizes or mitigates noise impacts to surrounding residential areas.
- 361 • Outside of the Lake Whatcom Watershed, unless there are no viable alternatives.
- 362 • In a manner that allows continued fish passage beyond the road or railroad tracks or restores blocked
363 passage.
- 364 • In a manner that avoids or mitigates wetland impacts.
- 365 • In a manner that minimizes impacts of additional impervious surfaces by treating stormwater runoff.
- 366 • In a manner that encourages a vibrant economy by facilitating the efficient movement of people and
367 freight.
- 368 • In a manner that accommodates pedestrians, bicycles, and transit.

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

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

372 Marine port facilities should be located within the Heavy Impact Industrial zone of the Cherry Point
373 Major/Port Industrial Urban Growth Area.

374 *Evaluation: Amend final sentence to address that the Port facilities are limited to existing*
375 *ones by the DNR Cherry Point Aquatic Reserve Management Plan. While fossil-fuel*
376 *terminals are restricted in the County's proposed policies and code, other uses are not.*

377 *Proposed Amendment language: Marine port facilities should be located within the Heavy*
378 *Impact Industrial zone of the Cherry Point Major/Port Industrial Urban Growth Area.*
379 *Allow existing facilities and limited expansions consistent with the State of Washington*
380 *Department of Natural Resource Cherry Point Aquatic Reserve Management Plan.*

381 **Policy 2YY-2: County regulations will not preclude the siting of essential public facilities in designated**
382 **zoning districts.**

383 *Evaluation: Per RCW 36.70A.200 and RCW 47.06.140, and policy 2WW-4, marine*
384 *port facilities and services that are related solely to marine activities affecting*
385 *international and interstate trade are essential public facilities. The port facilities at Cherry*
386 *Point can continue and limitations on expansion are based on DNR Cherry Point Aquatic*
387 *Reserve Management Plan. Proposed policy and code changes limit fossil fuel terminals*
388 *but allow for their continuation and limited expansion. A wide range of other allowed uses*
389 *is still possible, if consistent with environmental regulations.*