

Councilmember Browne Cherry point comments September 29 2020

16.08.090

Line 16

Retain consultation with "Climate Impacts Advisory Group and its members".

Add "with final approval of county council"

Green House Gas & SEPA

Retain Green House language but have it sunset once equivalent language is provided for in State law

16.08.160

Line 164

Delete "that create specific adverse environmental" as this could be interpreted as saying that only the portion of GHG emissions produced in Whatcom – that has remains to have a "*specific adverse environmental*" impact in Whatcom is what has to be mitigated

20.68.150

Line 551

.153 Expansion of existing legal Fossil or renewable Fuel or expansion of existing legal Fossil or renewable Fuel Transshipment Facilities. For purposes of this section, an expansion is any Fossil Fuel Refinery and/or Fossil Fuel Transshipment Facility development (including otherwise permitted or accessory uses), vested after the effective date of this ordinance, that meets any one of the following thresholds:

A. Cumulatively increases its maximum atmospheric crude distillation capacity of fossil fuels by more than 10,000 barrels (or 420,000 gallons) per day based upon an evaluation of physical equipment limitations conducted by a licensed professional engineer; or

B. Cumulatively increases the maximum transshipment capacity of the facility by more than 10,000 barrels (or 420,000 gallons) per day; or

C. Cumulatively increases the maximum ~~transshipment fossil fuels storage~~ capacity of ~~unrefined fossil fuels from~~ the facility by more than 10,000 barrels (or 420,000 gallons) ~~per day~~.

If a conditional use permit is obtained, the baseline for determining the cumulative increases is reset.

Line 598

Retain (10) Minimization of greenhouse gas emissions and inclusion of local carbon offset mitigation projects; and

20.68.200 Prohibited uses.

Line 708

.205. New Fossil Fuel Transshipment Facilities; provided that, the following uses of facilities are not prohibited: (i) inter-refinery shipments of refined petroleum products, (ii) transferring petroleum products during emergency scenarios where contingencies require petroleum products to be moved, and (iii) necessary petroleum product transfers during turn-arounds or maintenance periods., including bulk storage or transfer facilities for fossil fuels [XXX effective date].

.206 ...

.207 ...

.208. New Unrefined Fossil Fuel Transshipment Facilities

20.68.800

Line 830

.801 Environmental Review and Greenhouse Gas Mitigation

Retain Green House language but have it sunset once equivalent language is provided for in State law

Retain local mitigation requirement after state law is updated

20.74.110 Change of Use

Line 996

Retain

A change of use occurs when the occupancy of a building or a site use changes from one use to another in whole or in part. A change of use permit is required to document a change of use, even where no alterations are planned or required by the code. This shall be processed as a Type I permit in Chapter 22.05 WCC. The new use shall ensure:

- (1) Applicable building and construction codes are met per Title 15;
- (2) Consistency with the requirements of the CP Industrial District, Chapter 20.74, and base zone; and
- (3) Transportation concurrency requirements are met per Chapter 20.78.

20.88.100 Major project permits.

.110 All major developments shall, prior to any construction, obtain 1030 a major project permit.

.120 A major project permit will be required for mitigation banks proposed in accordance with the provisions of Chapter 16.16 WCC and for any proposed development that meets any two of the following conditions:

- Cost (estimated construction cost exclusive of land value) \$5,000,000
- Size Retail 75,000 square feet office or industrial (gross leasable floor space) 200,000 square feet
- Residential 300 dwelling units
- motel/hotel 200 units
- Number of Employees 250
- SEPA Review An EIS is required
- Increases the maximum fossil fuels transshipment capacity by more than 10,000 barrels per day
- Increases the maximum storage capacity of fossil fuels by more than 10,000 barrels.

20.97.124.1 Facility Emissions.

Retain

20.97.160.5 Fossil-Fuel Refinery Capacity.

Retain

22.05.125 Proof of insurance for hazards created in the County

Retain for further discussion

Need to establish who responsible party is for all scenarios. If it's not clear who will pay to clean up and compensate it likely means the community will have to

Rail engine failure – likely BNSF

Rail employee negligence – likely BNSF

Rail track failure – likely BNSF

Leased rail car failure – often Third Party rail car leasing companies

Inside refinery fence line - likely Refinery

- BNSF - likely has adequate assets/insurance to compensate
- Refinery - likely has adequate assets/insurance to compensate
- Third Parties – multiple companies, assets/insurance to compensate may be zero. If so the Refinery should provide guarantee to cover any uncovered liability because they have control over the choice of provider