

1 **Major Industrial Urban Growth Area / Port Industrial**

2
3 **Cherry Point**

4
5 The Cherry Point Urban Growth Area (UGA) contains approximately 7,000 acres of
6 industrial land. The land has long been planned and designated by Whatcom County
7 for industrial development and is currently the site of three major industrial
8 facilities including two oil refineries and an aluminum smelter. Together, these
9 three existing industries own about 4,400 acres of the total Cherry Point industrial
10 lands.

11
12 Because of the special characteristics of Cherry Point, including deep water port
13 access, rail access, and proximity to Canada, this area has long had regional
14 significance for the siting of large industrial or related facilities. The Phillips 66
15 Ferndale Refinery was constructed in 1954, the Alcoa Intalco Works Aluminum
16 Smelter in 1966, and the BP Cherry Point Refinery in 1971.

17
18 Cherry Point is also important historically and culturally to the Coast Salish people,
19 and part of the usual and accustomed fishing area for five treaty tribes, reserved
20 under the Treaty of Point Elliot of 1855. The Lummi Nation and Western
21 Washington University have identified an ancestral village dating back over 3,000
22 years ago in this area. The Cherry Point UGA contains sites of primary
23 archeological and cultural significance.

24
25 Since the designation of this area for industrial development years ago, newer
26 scientific study of the shoreline ecology has identified Cherry Point’s unique function
27 as part of the Fraser River/Salish Sea ecosystem and the associated Cherry Point
28 Aquatic Reserve has been designated by the state Department of Natural Resources
29 to recognize the ecological importance of the aquatic lands in this area.

30
31 Since adoption of earlier versions of this Comprehensive Plan there has been an
32 increasing recognition of the impacts that fossil fuel use and transportation has on
33 human health, and both the local and global environment. The Cherry Point UGA
34 contains the second-largest emitter of carbon air pollution in Washington State
35 (Ecology, June 2016) and scientific findings show that the use of refined or
36 unrefined fossil fuels overseas contribute up to 16% of the mercury in the soil in
37 the Northwest from return air from Asian burning of those fossil fuels, and that
38 carbon deposition in water from air emissions are the major contributor to ocean
39 acidification.¹ Recent studies by NOAA have found that very small amounts of

¹ Jaffe, D., Strode, S., Sources, Fate and Transport of Atmospheric Mercury from Asia, Environmental Chemistry
Vol. 5(2): 121-126 (doi:10.1071/EN08010) (April 17, 2008); Boehm, A., et al., West Coast Ocean Acidification and
Hypoxia Science Panel: Major Findings, Recommendations and Findings (April 2016) at Appendix A.

1 ~~hydrocarbons lead to congenital heart failure in juvenile herring and salmon, and~~
2 ~~may have contributed to the crash of the Cherry Point Herring stock.²Because of the~~
3 ~~large acreage demands of the types of industries likely to locate there, the~~
4 ~~remaining undeveloped acreage at Cherry Point will likely be absorbed during the~~
5 ~~20-year planning period.~~

6
7 The Cherry Point shoreline ~~also~~ has great importance to the fisheries and ecology of
8 Northern Puget Sound because it provides essential spawning habitat for what once
9 was the largest herring stock in Washington State. This herring stock has supported
10 important commercial fisheries in the past and provides forage for salmonids and
11 other important marine species. ~~In August 2000 and again in November 2010, the~~
12 ~~State Lands Commissioner ordered the Cherry Point tidelands and bedlands~~
13 ~~withdrawn from the state's general leasing program, except for existing leases, and~~
14 ~~designated them as the "Cherry Point Aquatic Reserve." In December 2010, the~~
15 DNR recognized the need to "protect the significant environmental resource of
16 aquatic lands at Cherry Point" (CPAR Management Plan p. 1), and completed the
17 Cherry Point Environmental Aquatic Reserve Management Plan ~~and designated the~~
18 ~~Cherry Point Aquatic Reserve~~ to ensure long-term environmental protection of the
19 ~~area~~ Aquatic Reserve. The ~~r~~Reserve extends from the southern boundary of Birch
20 Bay State Park to the northern border of the Lummi Indian Nation Reservation. ~~The~~
21 ~~site excludes three existing aquatic land leases (BP, Intalco, Phillips 66 shipping~~
22 ~~piers) and one proposed aquatic land lease (Gateway Pacific Terminal site).~~

23
24 The overall purpose of the Cherry Point Aquatic Reserve (AR) is to ensure long-term
25 environmental protection for local habitats and species (CPAR MP p. 1). Specific
26 goals include protection and recovery (as applicable) of Cherry Point herring,
27 Nooksack Chinook salmon, ground fish, marine mammals, seabird/duck and
28 shorebird communities, Dungeness crab, and submerged native aquatic vegetation
29 (CPAR MP p. 2). Another goal is to cooperate with other stakeholders "to minimize
30 and reduce identified impacts of human activities on the species and habitats within
31 the Reserve" (CPAR MP p. 2).

32
33 The Aquatic Reserve Management Plan acknowledges that so long as the existing
34 industries, ~~complying~~ with all federal, state and local laws and regulations, they
35 ~~may~~ not conflict with the Aquatic Reserve although their activities may pose risks
36 for the recovery of species and other goals of the Aquatic Reserve. ~~Indeed, the~~
37 ~~industries' need for buffer space and their compliance with shoreline management~~
38 ~~requirements means that m~~Much of the Aquatic Reserve shoreline is in substantially
39 natural riparian vegetation and bluff processes proceed without interference.

² Incardona, J. P. et al., Very low embryonic crude oil exposures cause lasting cardiac defects in salmon and herring. *Sci. Rep.* 5, 13499; doi: 10.1038/srep13499 (2015).

1 Existing shoreline and upland stream and wetland functions and values are of
2 continuing importance to the recovery and protection of species identified in the
3 Aquatic Reserve Management Plan. The area includes one of the last undeveloped
4 intertidal wetlands of any size in Northern Puget Sound, with importance to juvenile
5 salmon and other species. Existing industries ~~may continue to can~~ serve the Aquatic
6 Reserve’s objectives so long as they are managed according to the Plan and so long
7 as the lessees comply with applicable legal requirements and actively work to
8 further the goals ~~offer~~ the Reserve (CPAR MP p. 2).
9

10 The County and industrial users have long recognized that the Cherry Point area
11 exhibits a unique set of characteristics that makes land there not only locally but
12 regionally important for the ~~siting of major~~existing industrial developments. While
13 deep water access made future shipping facilities desirable in the past, recent
14 actions by federal and state regulators denying a proposed fourth pier at Cherry
15 Point have underscored the fact that any future industrial development will undergo
16 scrutiny for compliance with federal and state laws, including treaty rights. Based
17 on the public record developed during this plan review and best available science in
18 the record, the County no longer supports construction of additional export docks or
19 piers at Cherry Point due to environmental and treaty right concerns related to: (a)
20 physical interference with shoreline functions and values; (b) physical interference
21 with traditional, historic and commercial fishing and shellfish harvesting at the
22 Cherry Point shoreline; and (c) the increased risk of catastrophic and cumulative
23 small oil and fuel spills from increased large vessel traffic, potential collisions with
24 tankers and other vessels serving the existing three piers at Cherry Point, and
25 related barge traffic and support vessels.

26 ~~_especially where deep water access for shipping is a critical locational factor.~~
27 ~~These characteristics were articulated in the Overall Economic Development Plan~~
28 ~~(OEDP) for Whatcom County adopted by the Whatcom County Council of~~
29 ~~Governments in May, 1993, in the 1997 Property Counselors Report on supply and~~
30 ~~demand for industrial land in Whatcom County and at Cherry Point, the 2002~~
31 ~~Greater Whatcom Comprehensive Economic Development Strategy, the 2003~~
32 ~~Whatcom County Industrial Land Study, and the 2015 Whatcom County~~
33 ~~Comprehensive Economic Development Strategy.~~
34

35 The characteristics that ~~make~~ made Cherry Point unique as a site for the existing
36 major industrial developments include the following:

37 Port Access – The marine waters off Cherry Point provide deep water access for
38 shipping. Deep water access for shipping was a major siting consideration for the
39 three major industries currently located at Cherry Point ~~and for the~~
40 industrial/shipping facilities currently being proposed.

41
42 Rail Access – Cherry Point is served by a branch line of the Burlington Northern
43 mainline serving western Washington from Blaine to Portland. Rail service is
44 considered to be vital to statewide as well as local interests for the competitive

1 movement of freight. Rail service is particularly important in relation to the water
2 borne commerce of the existing users. The Cherry Point area has the rail access to
3 support marine terminals and industrial users in the area. The BP refinery at Cherry
4 Point uses the railroad to ship calcined coke to U.S. markets and to other port
5 facilities for transshipment to foreign markets. Both the BP and Phillips 66 refineries
6 receive crude oil shipments by rail.

7
8 Proximity to Canada, Alaska and Foreign Ports - Cherry Point occupies a unique
9 location for the siting of industry because of its close proximity to Canada and
10 because of its shorter travel distance than other regional port facilities for shipping
11 to and from Alaska and to other Pacific Rim locations. The large acreage, good rail
12 access and proximity to Washington State and Canadian ports makes the remaining
13 upland area at Cherry Point suitable for major sustainable, clean-energy
14 manufacturing or production of other commercial or industrial products. The Cherry
15 Point industrial area benefits from proximity to Canada, as trade between the U.S.
16 and Canada grows in response to the lifting of trade barriers under the Free Trade
17 Agreement. Canadian exports to the U.S. are expected to increase and Canadian
18 firms exporting to the U.S. are expected to seek locations in the U.S. as a way of
19 improving access to U.S. markets. ~~Additionally, just as other port facilities in~~
20 ~~Washington are constrained by lack of extensive upland areas to support major~~
21 ~~industrial development, Canadian port facilities are likewise constrained. There are~~
22 ~~limited expansion sites available at Roberts Banks and in the Vancouver Harbor,~~
23 ~~and development sites further up the Fraser River are constrained by limitations on~~
24 ~~vessel draft. Marine terminals at Cherry Point could serve a portion of the potential~~
25 ~~growth in Canadian marine cargo.~~

26 27 **Presence of Necessary Utilities and Infrastructure**

28
29 Cherry Point is a major industrial area in Whatcom County. The Phillips 66 Ferndale
30 Refinery was constructed in 1954, the Alcoa Intalco Works Aluminum Smelter in
31 1966, and the BP Cherry Point Refinery in 1971. The infrastructure to support these
32 industries and future industrial users at Cherry Point is in place and includes the
33 following:

34
35 Electric Power: Electric Power is available from three providers in the Cherry Point
36 area: Puget Sound Energy, Public Utility District #1 (PUD #1), and Bonneville
37 Power Administration.

38
39 Puget Sound Energy owns two electrical generating facilities at Cherry Point. The
40 electricity generated by these two facilities can be transmitted outside the region
41 into the grid for supply to Puget's customers or some of it can be consumed by
42 Cherry Point customers through interties with the PUD #1. Puget Sound Energy
43 also acquires power from outside the region and transmits it via their transmission
44 grid into Cherry Point. The BP Cherry Point Refinery purchases electrical supply on

1 the market and pays Puget Sound Energy to transmit the power and operate
2 distribution systems to provide that power to the refinery.

3
4 PUD #1 purchases electricity from the Bonneville Power Administration and takes
5 ownership of that power at the Bonneville substation in Bellingham and then
6 transmits it over its transmission line to Cherry Point to serve the Phillips 66
7 Ferndale Refinery.

8
9 PUD #1 and Puget Sound Energy have interties at Cherry Point allowing the
10 transmission of power in and out of Cherry Point depending on the amount of power
11 generated and consumed at Cherry Point.

12 The Bonneville Power Administration supplies power directly to the Alcoa Intalco
13 Works aluminum production facility.

14
15
16 Water: Whatcom County Public Utility District #1 currently provides industrial
17 process water to all major industrial facilities at Cherry Point and has additional
18 water available contracts in place to provide process water to properties that are
19 currently undeveloped. PUD # 1 also operates a small system to provide potable
20 water to one industry (Praxair). Birch Bay Water and Sewer District provides
21 potable water to the BP Cherry Point Refinery. The other industries operate their
22 own water treatment facilities to provide potable water for their facilities. Existing
23 industries consume large quantities of water, in many cases drawn from the
24 Nooksack River. It is the County's policy to support renewed efforts to reduce both
25 water consumption levels and the quantity of discharges, in favor of recycled water
26 use.

27
28
29 Sewer: Sewer service is not typically required for large industrial developments.
30 Most of the existing industrial users provide their own on-site sewage treatment
31 and waste water treatment. Sewer service for domestic wastewater is provided to
32 the BP Refinery by the Birch Bay Water and Sewer District. If and when sewer
33 service should become necessary for other industries, service could be provided on
34 a contractual basis with the Birch Bay Water and Sewer District, which borders the
35 Cherry Point industrial area on the north.

36
37 Natural Gas: Natural gas is currently available at Cherry Point.

38
39 All-weather Roads: Grandview and Slater roads, the major east-west connectors
40 between Cherry Point and Interstate-5, provide all-weather road access to Cherry
41 Point.

42
43 The industries currently located at Cherry Point are a substantial part of the
44 economic base of Whatcom County and the region and the economic welfare of the

1 county is strongly tied to the health of these industries and their ability to flourish
2 and expand appropriately as opportunities present themselves. While these
3 existing industries need to be protected from the inappropriate encroachment of
4 incompatible uses; particularly residential uses that could affect their ability to
5 expand, at the same time, the expansion of these industries needs to be done in
6 ways that do not significantly impact the ecology of the Salish Sea or encourage
7 expanded use of fossil fuels. The best means for protecting these industries from
8 incompatible adjoining residential uses and to assure their continued regulatory
9 conformity is to maintain the industrial land use designation of these lands and
10 adjoining properties currently designated for industrial development. The Cherry
11 Point industrial lands have been designated for industrial development and as a
12 direct result of the industrial designation, incompatible and inappropriate residential
13 development has been curtailed.

14
15 **Goal 2CC: Maintain Cherry Point as an unincorporated urban growth**
16 **area based on its unique location and characteristics and**
17 **its significant contribution to the overall industrial land**
18 **supply and Whatcom County's tax base.**

19
20 Policy 2CC-1: Designate Cherry Point as a major industrial Urban Growth Area
21 to accommodate major users that need to be located away from
22 concentrated urban residential areas and that can manage their
23 activities in such a way that they do not conflict with the goals
24 of the Aquatic Reserve Management Plan.

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27
28 Policy 2CC-2: Ensure that existing developments in the Cherry Point UGA
29 maintain and operate under management plans that
30 accomplish the goals of the Aquatic Reserve Management Plan.
31 Ensure that future developments or expansions within the
32 Cherry Point UGA are consistent with the following:

- 33 • Clean-energy and low-carbon emitting industries are
34 favored;
- 35 • Strict avoidance of estuaries and near-shore wetlands, as
36 they play not only an important role in protecting habitat,
37 but also serve as flood storage areas in the absorption of
38 future sea level rise;
- 39 • Additional hardening of the shoreline through bulkheads or
40 other methods at Cherry Point is prohibited;
- 41 • Any proposed new development is consistent with an
42 archeological study designed in cooperation with the Lummi

- 1 Nation and reviewed by the Lummi Nation as part of the
2 record for any permitting review;
- 3 • Water-intensive uses are prohibited and any new
4 development shall utilize state-of-the-art water recycling
5 manufacturing technology to minimize water use.
6
- 7
- 8 Policy 2CC-3: Assure that Cherry Point's unique features of large parcelization,
9 existing port access, and rail transportation availability are
10 maintained and protected from incompatible development.
11
- 12 Policy: 2CC-4: Require the master planning of each large parcel in advance of
13 any development or subdivision at Cherry Point.
14
- 15 Policy: 2CC-5: Require the designation and site plan for a major user (generally
16 40 acres or more) before the development of accessory or
17 supporting uses to assure that accessory or supporting uses are
18 compatible with and will not interfere with the major industrial
19 user.
20
- 21 Policy: 2CC-6: Specify 160 acres as a minimum area for planning, prior to the
22 commitment of a parcel for a major user (40 acres or more,
23 singularly or as a cluster or group).
24
- 25 Policy: 2CC-7: Permit support activities, warehousing, rail shipments~~shipping~~,
26 machine repair and service, educational services, food service
27 and conveniences, to locate on a parcel only after the
28 completion of a master plan, and the identification and site plan
29 approval for the major user.
30
- 31 Policy 2CC-8: Exclude Cherry Point as part of any future incorporation of Birch
32 Bay.
33 • to protect interests of the property owner in terms of
34 taxation and urban regulations;
35 • to preclude urbanism near "smokestack" industries;
36 • to preserve county government tax base.
37
- 38 Policy 2CC-9: Continue to work with service providers that serve Cherry Point
39 to ensure the delivery of services and to allow it to develop to
40 its fullest potential, consistent with other County policies
41 mandating and supporting energy and water conservation.
42

1 Policy 2CC-10: It is the policy of Whatcom County to limit the number of
2 industrial piers at Cherry Point to the existing three approved
3 leases identified in the Lands Commissioner’s Order No. 201037
4 designating the Cherry Point Aquatic Reserve (BP, Intalco, and
5 Phillips 66) to:

- 6 • Support and remain consistent with the state Department of
7 Natural Resources’ withdrawal of Cherry Point tidelands and
8 bedlands from the general leasing program and species
9 recovery goals of the Cherry Point Aquatic Reserve
10 designation and CPAR MP;
- 11 • Further public health and safety;
- 12 • Recognize federal actions upholding treaty rights;
- 13 • Protect traditional commercial and tribal fishing;
- 14 • Prevent conflicts with vessel shipment operations of existing
15 refineries that could lead to catastrophic oil or fuel spills; and
- 16 • Adhere to best available science documenting species decline
17 in the Salish Sea and at Cherry Point and enhance the
18 likelihood of reaching the recovery goals of the CPAR and the
19 Puget Sound Partnership’s recovery goals for Year 2035.

20
21 This policy shall be implemented as of the date of adoption of
22 this Plan, including but not limited to:

- 23 • during review of pending applications,
- 24 • as a Council declaration of changed conditions affecting
25 public health and safety concerning impacts of shoreline use
26 at Cherry Point, in the reopening of any hearing on existing
27 approvals;
- 28 • during consistency determinations of new applications; and
- 29 • at all levels of County land use review, as a health and safety
30 policy, as a substantive SEPA policy under RCW 43.21C.060,
31 and as a basis for modifying and interpreting development
32 and zoning regulations.

33
34 This policy potentially provides greater protection of the
35 shoreline than other County policies or regulations and therefore
36 takes precedence and is controlling over any conflicting policy or
37 regulation.

38 ~~by establishing a development moratorium. Notwithstanding the~~
39 ~~above, this moratorium shall not affect, nor otherwise apply to,~~

~~any proposed pier that Whatcom County approved under its Shoreline Management Program prior to adoption of the moratorium.~~

Policy 2CC-11: RCW 36.70A.365 requires the implementation of Traffic Demand Management (TDM) programs for the designating of a Major Industrial Urban Growth Area. Any employer in the Cherry Point Urban Growth Area that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 am and 9:00 am on weekdays for at least twelve continuous months during the year are required to meet the TDM requirements of WCC 16.24.

Policy 2CC-12: Work with the Cherry Point industries to maximize public access to the Cherry Point beaches without compromising industrial security.

Policy 2CC-13: In recognition of national policy protecting the unique ecosystem of Puget Sound/the Salish Sea, as reflected in the Magnuson Amendment to the Marine Mammal Protection Act, 33 USC Sec. 476(b), and to protect human and environmental health, the County shall immediately adopt County regulations and rules governing land use practices that prohibit the development or expansion of any new or existing infrastructure within the Cherry Point UGA , limited to the following:

No officer, employee, or other official of Whatcom County shall issue, amend, renew, grant, or otherwise approve any easement, vacation of right-of-way, permit, license, or any authorization or entitlement of any kind under County authority that would have the effect of facilitating construction, renovation, modification, or alteration of any terminal, dock, or other facility in, on, adjacent to, or affecting the navigable waters of the Salish Sea (Puget Sound), which may result in any increase in the volume of crude oil capable of being handled at any such facility, other than oil to be refined at that facility for consumption in the State of Washington.

The Whatcom County zoning code, development regulations, and SEPA policies shall reflect and implement this policy directive.

Policy 2CC-14: Without delaying implementation of the foregoing policy (2CC-13), the County shall undertake a study to be completed by

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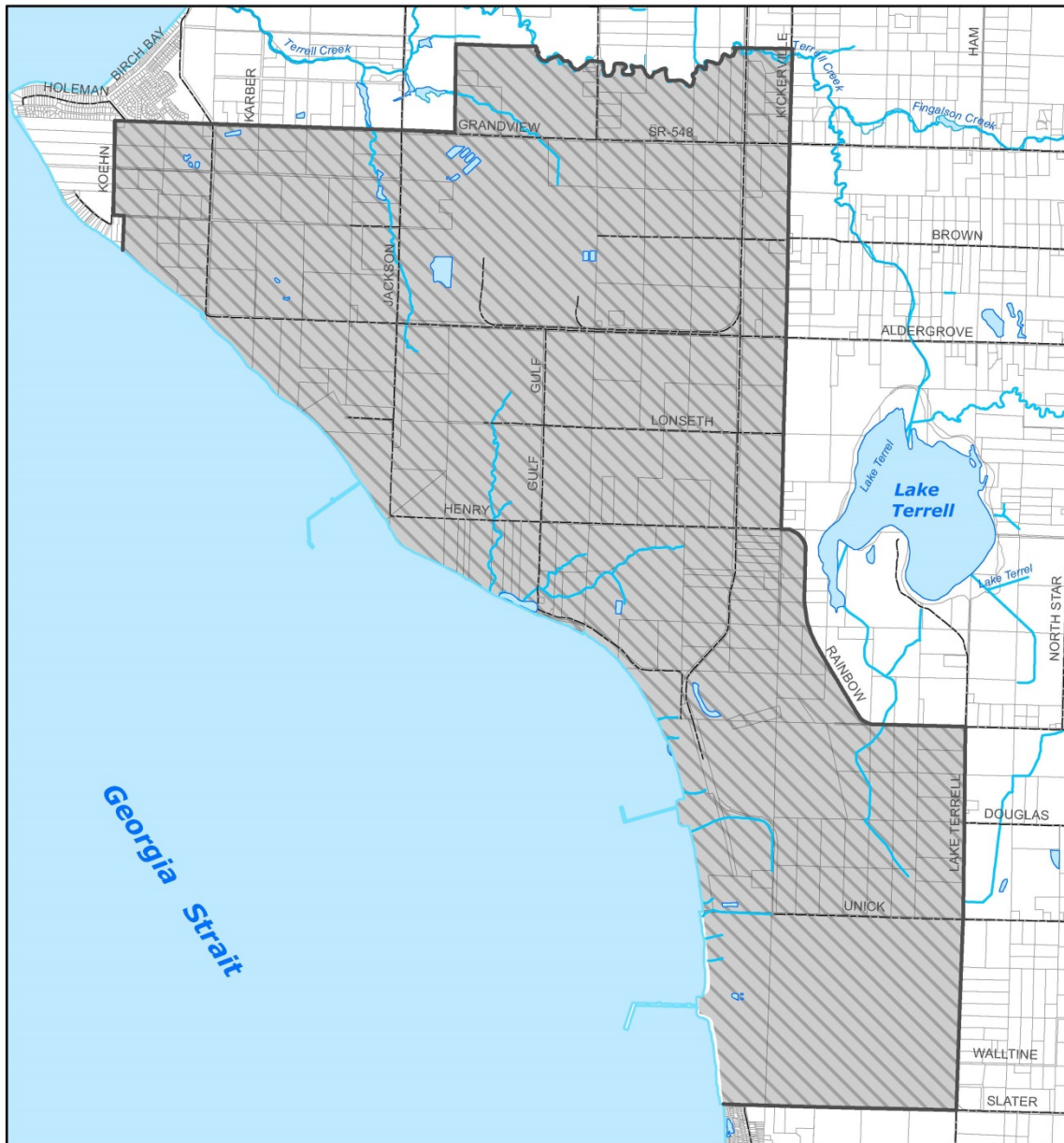
December of 2017 to examine existing County laws, including those related to public health, safety, development, building, zoning, permitting, electrical, nuisance, and fire codes, and develop recommendations for legal ways the County can work to limit fossil fuel exports. The study shall review and analyze any legal advice freely submitted to the County by legal experts on behalf of a variety of stakeholder interests, and make that advice public as part of the study report

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

- Until the above mentioned amendments are implemented, the Prosecuting Attorney and/or the County Administration shall on a bi-weekly basis, provide the County Council a written summary listing all known pre-application correspondence or permit application submittals and notices, federal, state, or local, that involve activity with the potential to expand the export of fossil fuels from Cherry Point.

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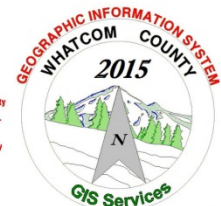
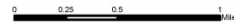
Map UGA-10



- Cherry Point Urban Growth Area

 Major Port/Industrial UGA

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