

# Fossil Fuel Facilities Proposed Code Changes

**October 3, 2022**  
**City Council**  
**Public Hearing**

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# Presentation Overview

- Fossil Fuel Moratorium Background
- Prior Council and PC Review
- Proposed Code Changes
- Existing Facilities
- Key Policy Issues
- Summary of Public Comments
- Staff Analysis
- Planning Commission Recommendation



# Fossil Fuel Facility Moratorium Background

- Enacted June 2020, most recently extended on June 6, 2022; set to expire November 6, 2022, unless extended
- Moratorium applies to new or expanded large-scale fossil fuel facilities over 2 million gallons in capacity
- Does not apply to storage or use of petroleum for commercial sales or industrial processes or maintenance or repair of existing facilities
- Council direction: promote public safety and environmental protection and implement climate-friendly policies related to fossil fuels; prohibit new bulk fossil fuel facilities; consider whether expansions should be allowed; keep new regulations simple

# Prior Council and Planning Commission Review

<b>June 2020</b> City Council enacted moratorium	<b>May 25, 2021</b> Planning Commission workshop	<b>July 27, 2021</b> Planning Commission workshop	<b>March 8, 2022</b> Planning Commission workshop
<b>June 6, 2022</b> City Council extension of moratorium	<b>July 12, 2022</b> Planning Commission workshop	<b>August 1, 2022 Sept. 12, 2022</b> City Council workshops	<b>Sept. 13, 2022</b> Planning Commission public hearing

# Proposed Fossil Fuel Code Changes (VMC Title 20)

## **Create three new land use categories for Fuel Storage and Handling Facilities:**

- Bulk Fossil Fuel
- Cleaner Fuel
- Small Fossil and Cleaner Fuel

## **Add definition of Cleaner Fuel**

*Liquid or gaseous fuels produced from renewable sources or that have low or no emissions...(with 7 specific types)*

# Proposed Fossil Fuel Ordinance (VMC Title 20)

## Bulk Fossil Fuel Facilities

- Prohibits any new facility in all zoning districts
- Allows for maintenance and upgrades to existing facilities
- Allows conversion of existing facilities to Cleaner Fuels
- Allows converted facilities to expand by up to 15%, subject to conditional use permit (CUP), SEPA and development standards

## Cleaner Fuel Facilities

- Allows new Cleaner Fuel Facilities up to 1M gallons total capacity in the IH District subject to conditional use permit and specific development standards

## Small Fossil and Cleaner Fuel Facilities

- <60,000 gallons capacity
- Small cleaner fuel facilities allowed in the IH Heavy Industrial District as limited use subject to specific standards
- Small fossil fuel facilities allowed in IH District as conditional use subject to special conditions

# Proposed Fossil Fuel Code Changes (VMC Title 20)

## Add new Special Use Standards as VMC 20.895.110

### For new or expanded bulk (cleaner fuel) facilities:

- Seismic upgrades required
- Spill and fire response plans
- Located at least 1,000 feet from residential zoning district
- Greenhouse gas assessment
- Financial assurance in case of accident
- Annual report regarding type and quantities of fuel

# Proposed Fossil Fuel Code Changes (VMC Title 20)

## Code “Clean-up” Amendments

- Delete solid fuel (e.g., coal) storage yards from Industrial Services land use description
- Delete reference to coal-fired electricity generation facility as an example of major utility facilities
- Delete use category “bulk crude storage” to be replaced by bulk fossil fuel storage and handling facilities

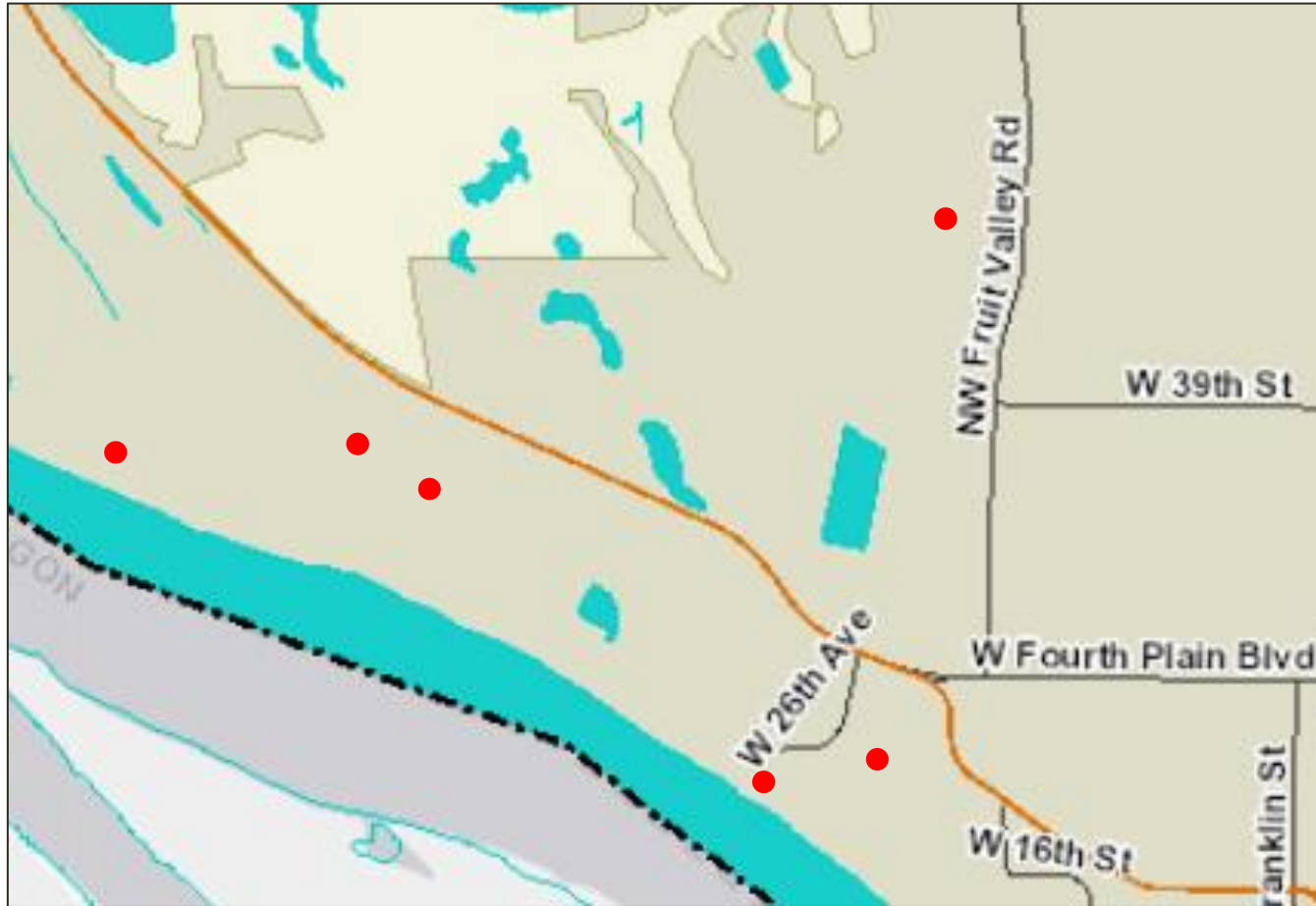


# Proposed Fossil Fuel Code Changes (VMC Title 20)

## Changes to Initial Public Draft in response to Comments Received

- VMC 20.160: Modify definition of Small Fossil Fuel or Cleaner Fuel Facility to allow accessory emergency generators outright (*Port of Vancouver comment*)
- VMC 20.440: Make industrial use table clear that existing bulk fossil fuel facilities are permitted, vs. non-conforming (*WSPA comment*)
- VMC 20.895.110: Make it clear that, so long as overall percent of fossil fuel does not increase, a partially-converted facility may move fuel to different storage tanks on-site (*Port of Vancouver comment*)

# Existing Bulk Fossil Fuel Facilities



- 6 existing facilities identified, on lands with moderate to high liquefaction susceptibility in the event of an earthquake
- The facilities generally process, store, or transport propane, natural gas, and petroleum products

# Existing Bulk Fossil Fuel Facilities

- Trillium CNG a.k.a.  
NuStar Annex located at  
5420 NW Fruit Valley Rd.
- Compressed Natural Gas Facility
  - Zoned IL, Light Industrial



# Existing Bulk Fossil Fuel Facilities



## Tidewater Barge Lines (Class 1)

- 1.3 M gallons tanks storing diesel fuel
- Miscellaneous fueling stations and tanks with lube oil, gasoline, diesel, and used oil totaling less than 20K gal

# Existing Bulk Fossil Fuel Facilities



## NGL Energy Partners

- Bulk propane terminal with storage capacity of 640,000 gallons

## TriStar Fuel Transfer Facility

- Container loading and unloading services for propane and butane

# Existing Bulk Fossil Fuel Facilities

## Tesoro (Class 1)

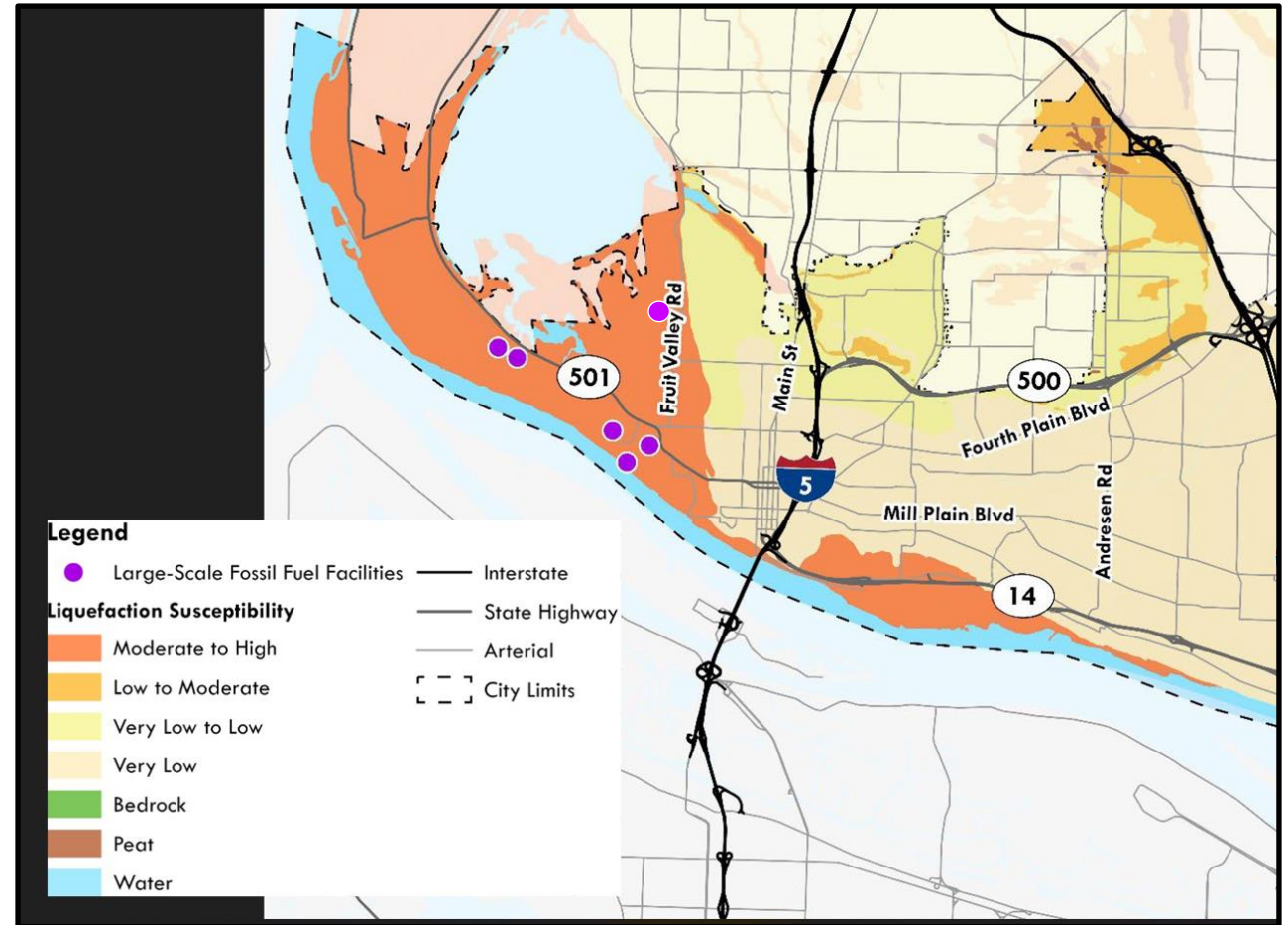
- 6.4 M gal diesel
- 5.1 M gal gasoline
- Misc. ethanol, B-1, less than 20 K gal

## NuStar Energy (Class 1)

- 17.8 M gal jet fuel
- Misc. additives = 10 K gal

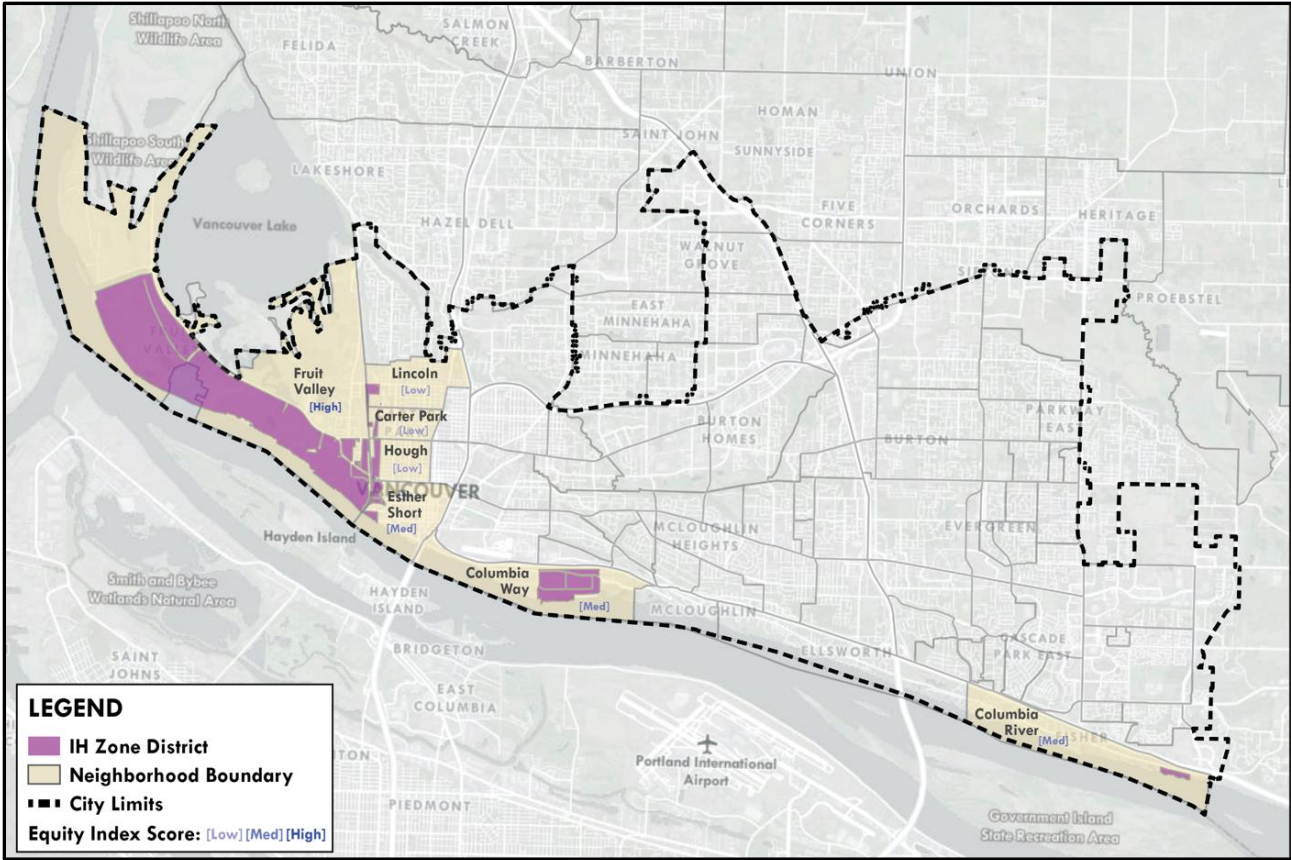
# Liquefaction Susceptibility Map

- All six existing bulk facilities are located in an area of unconsolidated soils
- Moderate to high susceptibility to liquefaction impacts in the event of an earthquake
- All new facilities would need to be designed and built to seismic standards; upgrades to existing structures allowed



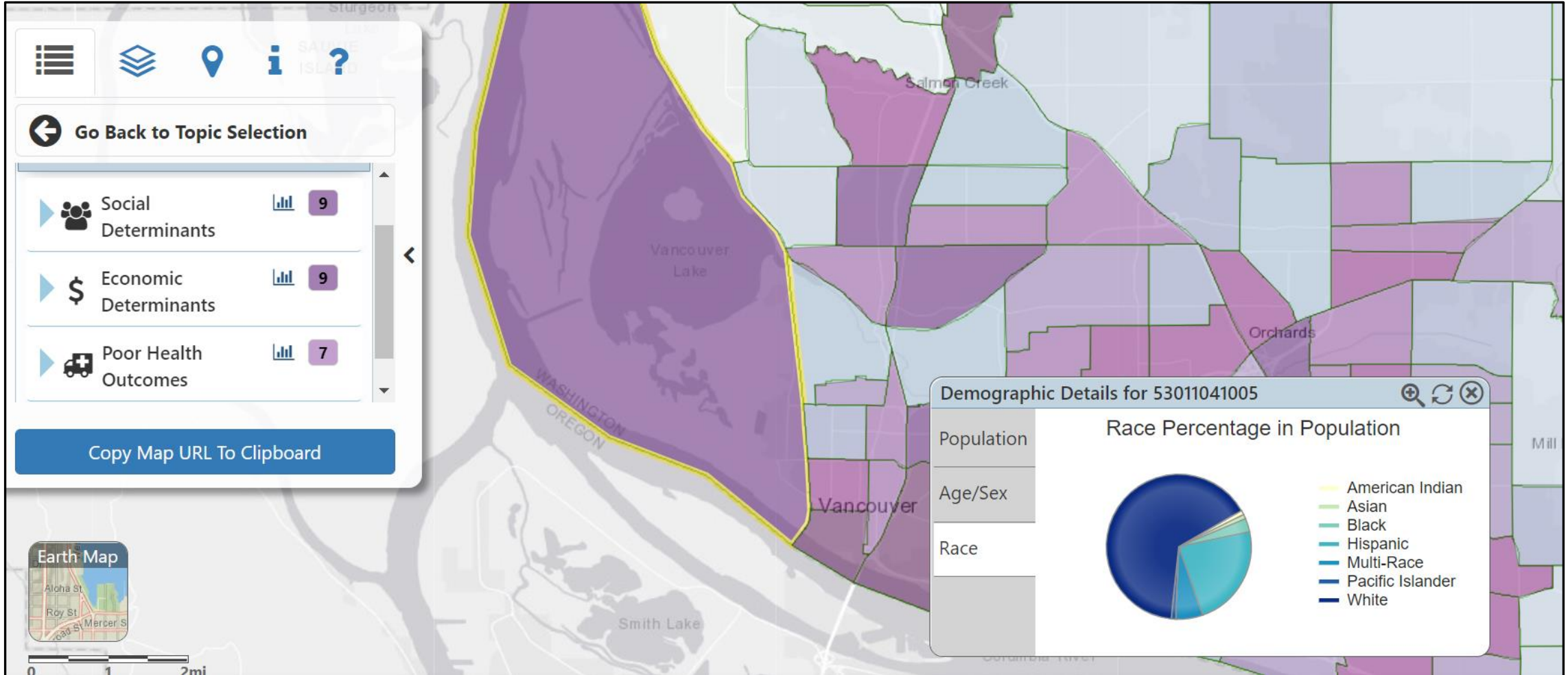
# Heavy Industrial (IH) District and Equity Map

- Most of IH District is within Fruit Valley Neighborhood Association (FVNA)
- FVNA has high Equity Index (lower incomes, higher % non-white households, etc.)
- Proposed code changes prohibit new bulk facilities, limit new or expanded fuel facilities to address impacts to vulnerable neighborhoods





# Health Disparities Index [Source: WA State Dept. of Health]



# Health Disparities Discussion

- Fruit Valley Neighborhood includes the Port and most of the land zoned for heavy industrial uses in the city
- In addition to having a vulnerable population, the census tract for FVNA ranks medium to high for environmental exposures and environmental effects
- Other neighborhoods also have high equity and poor health outcomes. Evaluating this in the upcoming Comp Plan Update/Climate Action Plan is a high priority
- New cleaner fuel facilities would be heavily scrutinized for impacts, and development standards are intended to minimize potential health and environmental impacts

# Key Land Use Policy Issues

1. Should small fuel facilities (< 60,000 gallons) be allowed in the IH District as a limited use with specific development standards instead of a conditional use? (PC said yes to cleaner fuels as limited use, fossil fuels as a conditional use)
2. Should new cleaner fuel facilities of up to 1 million gallons be allowed in the IH District as a conditional use subject to specific development standards? (PC said yes)

# Limited Use vs. Conditional Use Permit

Limited Use	Conditional Use
1. Administrative approval (by staff)	1. Approval by City Hearing Examiner
2. Public notice (14-day) for other application, e.g. site plan review	2. Public notice (30-day) and public hearing required
3. Relies on pre-defined conditions and mitigation measures	3. Additional conditions can be required based on specific project impacts
4. Appeal to Hearing Examiner (if related to impacts, would need to be under SEPA)	4. Appeal to City Council (if related to impacts, would be under SEPA <i>or</i> conditional use permit)
5. Lower permit cost, faster review, generally more certainty for applicants	5. Higher permit cost, more public process, less certainty for applicant due to unknown conditions
	6. Applicant's failure to comply with conditions may result in revocation of conditional use permit

# Stakeholder Outreach

- Port of Vancouver and NuStar (tenant)
- Western States Petroleum Association (WSPA)
- Tidewater
- SW Washington Beyond Fossil Fuel Task Force
- Friends of the Gorge
- Physicians for Social Responsibility
- NW Natural
- Columbia Riverkeeper (ACE)
- Washington Environmental Council (ACE)
- Stand Up to Oil Coalition (ACE)
- Sierra Club Loo Wit (ACE)
- Fruit Valley Neighborhood Association



# Summary of Public Comments

## **Environmental advocates**

- Emphasis should be on public safety over climate action
- Should not allow new cleaner fuel facilities until more is known about impacts to community
- If allowed, should only be by conditional use

## **Fuel-industry related advocates**

- Concern about City regulating a commodity (fuel)
- Conditional use permit will inhibit innovation and transition to cleaner fuels
- GHG emission study would go beyond direct facility
- Annual report requirement may disclose proprietary information

# SEPA

## (State Environmental Policy Act)

- Prior SEPA completed in 2021, withdrawn to allow for further analysis
- New SEPA DNS issued in August 2022
- Three SEPA Comment Letters Received by deadline:
  - Washington State Petroleum Association
  - Port of Vancouver
  - ACE
- Deadline to File SEPA Procedural Appeal was 9/13/22; no appeal was filed

# Staff Analysis & Summary

## Proposed Fossil Fuel Code Changes

- Responsive to and consistent with moratorium and Council direction
- Balances priorities of public safety, environmental protection, and climate action
- No additional large fossil fuel facilities would be allowed; modest expansions permitted if converted to cleaner fuels, upgraded to seismic codes, etc.
- New cleaner fuel facilities would be allowed with conditional use permit and compliance with specific standards
- Concerns about risks to public safety and environment from expansions, new cleaner fuel facilities, and small fossil fuel facilities would be addressed by approval process and specific development standards



# Planning Commission Recommendation 9.13.22 Public Hearing



*Planning Commission recommends City Council adoption of fossil fuel facility standards as recommended by staff in the proposal dated August 11, 2022, with modifications dated September 6, 2022, based on the findings and conclusions in the staff report presented at the hearing.*



# Next Steps

- October 3: City Council Public Hearing; Council Adoption of Ordinance
- November 5: Ordinance takes effect
- November 8: Moratorium expires

# Questions and Discussion

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