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Sent: Friday, August 13, 2021 11:21 AM

To: City Council

Subject: Cherry Point in the 21st Century

Attachments: Cherry Point in the 21st Century White Paper 2021 CLEAN 6-25-21.docx

Council,

In conjunction with the City of Ferndale, myself and other staff have developed the attached draft white paper. A few months ago I reported to you on the topic of a proposal by the Port of Bellingham and the County to take a proactive approach to develop Cherry Point. Changing the plan for Cherry Point development could have positive and negative impact. Investing public funds in development comes with trade-offs. These topics and others are what stimulated Jori Burnett, Ferndale City Administrator, and I to draft the white paper.

I will include the white paper as a “report item” on the August 23, 2021 agenda, and I will be seeking your guidance in regard to formally taking the positions outlined in the paper. It will not be an action item; however, I do want to ensure that the majority of the City Council concurs with the paper before I present it as being “from the City of Blaine.”

Thank you,

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City Manager

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Please note that all emails to and from me are potentially subject to public disclosure under public records act requirements.

CHERRY POINT IN THE 21ST CENTURY: A DISCUSSION OF OPPORTUNITIES, CHALLENGES, AND POTENTIAL IMPACTS TO NEIGHBORING JURISDICTIONS

Abstract

This document has been prepared by the Cities of Ferndale and Blaine (“the Cities”) at the request of the Whatcom County Executive (“the Executive”) and the Port of Bellingham (“the Port”). The purpose of this white paper is to address the urban and rural growth challenges and opportunities that may result from a recent recommendation by the Executive and the Port to encourage development in the Cherry Point Urban Growth Area (UGA) utilizing public resources to facilitate site development and occupancy. The following sections describe the environmental setting, cultural resources, and historic and current economic activities supported in the Cherry Point UGA; discuss the regulatory framework for adoption of any proposed land use code amendments pursuant to the Growth Management Act (GMA); demonstrate the potential economic impacts to the Cities if adoption were to occur; and ends with recommendations that may harmonize the Cities goals of attracting further commercial development with the proposal to encourage urban-style commercial development in the Cherry Point UGA.

Contents

Abstract..... 1

Executive Summary..... 2

I. Introduction **Error! Bookmark not defined.**

 A. The Cherry Point Urban Growth Area 3

 B. Natural and Cultural Resources 4

 C. The Alcoa-Intalco Closure 4

II. Analysis: The Regulatory and Economic Framework for Cherry Point UGA Amendments 5

 A. Growth Management Act 6

 B. Comprehensive Planning 8

 C. Impact Fees 8

 1. Residential Impacts/Commercial Benefits 9

 2. Workforce Housing and Growth Assumptions 10

 3. Revenue Sharing and Infrastructure Funding 11

III. Conclusions and Recommendations 12

Executive Summary

Industries at Cherry Point are some of the most significant economic drivers in Whatcom County. Their influences are particularly strong in the cities of Ferndale and Blaine, and the nearby Birch Bay UGA, as evidenced by both the Ferndale and Blaine school district's reliance on property tax from the industries as well as incidental sales tax purchases by the businesses themselves as well as employees commuting to and from those businesses.

Due to the proximity of Cherry Point to these nearby cities, both Ferndale and Blaine are impacted by the demands on housing supply that workers employed at Cherry Point may have, as well as other issues such as traffic volumes resulting from both commute trips and the transfer of freight through the adjacent cities.

The close proximity also means that as the regional capacity for developable commercial/industrial land increases, or as development costs at Cherry Point are eased through public programs or use of public funds, there may be a counter effect of reduced commercial and industrial development in the nearby cities. Fluctuations in the type and scale of industries at Cherry Point have significant direct impacts on these cities.

The recent closure of the Intalco Aluminum smelter results in an opportunity to re-imagine industrial development in this area. Whatcom County has invited the cities of Ferndale and Blaine to provide feedback on a proposal to promote and possibly use public funds to facilitate the growth of general industrial and manufacturing jobs in the Cherry Point UGA. The Cities concur with the adopted Whatcom County Comprehensive Plan policies and goals that define the Cherry Point Urban Growth Area as a large scale master planning area for industrial sites¹, and the cities view further economic development at Cherry Point² as an essential component of any regional economic plan, and believe that the future use for the area that maximizes the economic benefit to the region is major industrial development.

The Port proposes a program that would facilitate the redevelopment of the Intalco site and surrounding parcels to support industrial uses that are not easily sited within incorporated UGAs; however, the program could just as effectively support industrial development that could easily be accommodated in the Cities existing UGA's. The implementation of this effort would be through publicly-funded efforts led by the Port of Bellingham.

"Shovel-ready" building pads and infrastructure would support users with large and/or intensive industrial and manufacturing operations. These future users would likely be a combination of local industries wishing to expand, or regional/global organizations that wish to locate in the Pacific Northwest/ Washington State. Whatcom County and the Port anticipate that these potential users will not be traditional resource extraction industries, and therefore may not require access to water-borne transportation or rail services as has been the model for Cherry Point to date.

¹ Whatcom County Code chapter 20.74, and Whatcom County Comprehensive Plan Land Use Element.

² For the purposes of this discussion, the former Intalco site is viewed as a primary opportunity for redevelopment. However, many of the principles, opportunities, and challenges described in this document may apply to not only the Intalco site itself, but to the further development or redevelopment of any site within the Cherry Point UGA. Therefore, at times the "Intalco site," and broad reference to "Cherry Point," may be used interchangeably.

The Cities are in support of the Executive's and Port's efforts to provide development opportunities in the Cherry Point UGA,, and look forward to collaborating with Whatcom County, the Port of Bellingham, and Lummi Nation to achieve those development goals. This white paper is the first step in that collaboration. The Cities posit that changes in regulations, policies or programs to support new development within the Cherry Point UGA must meet the following criteria:

- Will not result in unmitigated environmental or infrastructure impacts to the Cities;
- Will protect existing environmental and archaeological resources, ;
- Will not unfund or underfund social or civic services within the Cities; and
- Will not decrease the opportunities for future employment growth in the cities.
- Will not put land within City UGA's at a competitive disadvantage when compared to Cherry Point, or place lands within City UGA's in direct competition with the Chery Point UGA for the same development opportunities.
- Will first seek to address any gaps in infrastructure or utility coverage within City UGA's first, rather than expanding industrial development potential outside of City UGA
- The Cities would opine that the success of Cherry Point and the further development of other industrial and commercial areas will depend on three factors: changes to County land use policies, meaningful infrastructure funding, and expansion of affordable workforce housing.

A. Introduction: The Cherry Point Urban Growth Area

The Cherry Point Urban Growth Area contains approximately 7,000 acres of industrial land. Beginning in the mid-1950's with the construction of the Ferndale Refinery and continuing over the next several decades with the construction of additional deep water docks, a second refinery, an aluminum smelter, co-generation facilities, and more, the area at its peak employed several thousand people.

Pursuant to the Washington State Growth Management Act (GMA), Whatcom County designated the area as an Urban Growth Area as part of the County's first GMA-compliant comprehensive plans in the mid 1990's, although the area had been less-formally designated for these purposes for many years before then. The UGA designation includes a number of goals and policies, including goals and policies to:

- Protect industrial users at the site from incompatible uses;
- Preserve the Cherry Point Aquatic Reserve;
- Establish an area for major users that need to be located away from concentrated urban residential areas;
- Maintain larger parcelization of the site for the purpose of preserving opportunities for large users;
- Provide opportunities for smaller, ancillary uses only after major uses have been established;
- Ensure that large users implement Transportation Management Demand policies in order to reduce peak traffic impacts in and around Cherry Point and surrounding areas.

The closure of the Intalco Aluminum smelter in 2020 combined with a moratorium on certain types of industrial development of a fourth undeveloped tract of land has generated tremendous discussion concerning both the present, and future, of the area.

B. Natural and Cultural Resources

The subject site and Cherry Point in general are known to include archaeological resources, including an historic village site, for the Coast Salish peoples, specifically Lummi Nation people. In fact the historic site (45WH1) is the first recorded archaeological site in Whatcom County. The sites were utilized as hunting and fishing grounds, and it is likely that seasonal or permanent settlements existed in the vicinity of Cherry Point. These resources were not fully acknowledged during the initial development of the Intalco site, and unpermitted land disturbance activities in the early 2000's was a major factor in the current development moratorium and subsequent policies changes that have been enacted. All parties agree that any future development must acknowledge and protect them. The Cities acknowledge that appropriate methods of locating, identifying, and protecting those resources is beyond the scope of this document.

The subject site supports extensive wetlands and critical areas, and a portion of the site is within Whatcom County's shoreline jurisdiction. The Cities anticipate that a modification of the documented wetlands will be desired for the purpose of consolidating developable property in one location. As with archaeological resources, the proper method of wetland and shoreline protection and mitigation is beyond the scope of this document. The Cities believe there may be opportunities to establish a regional wetland bank that could support not only development at Cherry Point, but would serve to mitigate critical area impacts within the cities as well. Cherry Point may be a suitable location for such a mitigation bank.

C. The Alcoa-Intalco Closure

The 2020 closure of the Alcoa-Intalco aluminum smelter resulted in the direct loss of 700 living wage jobs and the likely indirect loss of at least that many who were employed in support industries throughout Northwest Washington.³ The most significant impacts of this closure were felt in the City of Ferndale, the City of Blaine, and in the unincorporated community of Birch Bay. Global market conditions were responsible for the closure: re-imagining of the Intalco site and surrounding lands must consider the global, local, and regional demand for industries.

The Intalco smelter was constructed in the mid-1960's, towards the beginning of the modern global economy following World War Two. In the intervening half-century, available resources, regulation, environmental and social considerations, and more had changed to the point where the smelter was no longer sustainable for Alcoa or likely any other industrial user.

The Cities acknowledge it is unlikely that an aluminum smelter operation could operate successfully in the current global aluminum economic climate, and that the costs to update the smelter likely exceed the benefits of such a retrofit. As a result, the Cities acknowledge that the most likely development scenario will not rely primarily on the existing industrial buildings (though some infrastructure lend itself

³ Cauvel, Kimberly, "Intalco's closure brings pain for now – what may the future bring?" Salish Current, October 30, 2020. Accessed June 21, 2021 <https://salish-current.org/2021/01/11/intalco-curtaiment/>.

to reuse), but will instead consist of re-development and a subdivision of the existing property – unless one major industrial user is able to utilize all or a majority of the property.

The properties themselves are composed of approximately 1,000 acres previously devoted to the Intalco smelter, plus an additional ~1,500 acres of undeveloped property (see Figure 1). For the purpose of this discussion, the Cities assume that the existing Petrogas pier and related operations will remain, as those businesses operated independently of the smelter, but that additional marine access will be limited or prohibited.

Surrounding undeveloped or under-developed properties within the Cherry Point Urban Growth Area (UGA) are also included, for a total of approximately 3,500 acres – approximately half of the gross acreage of the UGA. The properties currently utilize PUD #1 non-potable water mains for industrial purposes, and utilize onsite septic systems. Electricity is provided directly through the Bonneville Power Administration (BPA). It is assumed that these utilities will remain available to future users and will be sufficient to support any future user, without impacting the Cities.

II. Analysis: The Regulatory and Economic Framework for Cherry Point UGA Amendments

The Cities support efforts to redevelop the Intalco site. Whatcom County’s strategic location between two global cities creates unique opportunities for the region to increase economic activity through the creation of living wage jobs, to decrease reliance on tourism and service industries, to establish name recognition for the area, to create locations in which successful industries may expand locally, and more.

Cherry Point provides a location for industries that would not currently be allowed in incorporated areas due to zoning restrictions, the industry’s size, potential impacts to adjoining land uses, freight/transportation needs, and more. These industries that may be unsuitable for urban settings are the type that the Cities specifically support for the Cherry Point UGA, and we therefore support continued recruitment of this type of large-scale, high-impact uses.

The Cities support for amendments to the land use goals and policies of the Intalco site and its environs to support smaller, urban-style industries and businesses is predicated on those amendments not resulting in a loss of potential industrial development in Blaine and Ferndale. The Cities anticipates that as proposed, the amendments would siphon away industries to the Cherry Point UGA that would (in the current regulatory scheme) be established within city limits. The Washington State Growth Management Act⁴ was implemented in part to minimize urban levels of development in unincorporated lands (rural sprawl) – this minimization is balanced by the State’s acknowledgement that rural economic activity can continue to take place in Limited Areas of More Intense Rural Development (LAMIRDs). The following sections explore this rural/urban regulatory balance within the context of the County’s GMA-required comprehensive planning.

Recent code amendments adopted by Whatcom County that reduce the area’s focus on carbon heavy industries are a response to the general trends in the United States towards light assembly, research and development, and information-based industries. We acknowledge that the Port’s proposal to

⁴ Chapter 36.70A RCW

capitalize on these recent code amendments and activate development at the Intalco site are consistent with the County's plans for the Cherry Point UGA. The following sections present the financial and development challenges in the form of lost impact fees; a paucity of housing; and modified growth assumptions that may arise for the Cities if that "activation" includes targeting industries and businesses that would currently develop with the incorporated UGAs.

Of particular concern is that public funding to support redevelopment of the site may reduce the exposure of private interests to some or all of these direct costs.

The following analysis of the proposal's merit within the existing regulatory framework and economies of the Cities should be understood in the context of how GMA defines urban and rural development. Urban growth is defined by the installation and expansion of infrastructure to serve development; including, but not limited to, complete streets, multi-modal transportation opportunities, sewer, water, and stormwater. Developers pay impact fees to achieve concurrency, and construct improvements to maintain levels of service. The County neither administers a utility, nor charges impact fees, because outside of the LAMIRDS over 25 years of GMA case law has borne out the precept "Keep rural areas rural."⁵ The Cities would request that the County and Port consider that without appropriate mitigation, permitting urban-style commercial and industrial development outside of the incorporated UGAs will inappropriately subsidize that development at the Cities expense.

The Cities support any public/private efforts to attract and retain heavy industries to Cherry Point that could not otherwise be located in the region. The Cities would further concede that a public/private partnership may necessarily⁶ provide shovel-ready sites at a fraction of the cost as would otherwise be available in order to attract these industries. Subsequent to the analysis presented in the following sections, this document ends with a number of recommendations that could help achieve the goal of growing industry at Cherry Point, while also minimizing the financial harm to the Cities.

A. Growth Management Act

The Cherry Point Industrial area authorizes heavy industrial users because it is part of an Urban Growth Area. UGA's are an essential component of the GMA, which seeks to ensure that cities are the primary location for new development (residential, commercial, and industrial). The Cities agree that the UGA designation is appropriate with the uses currently allowed, as this designation has enabled Whatcom County to identify a geographic location for heavy industrial employment lands that would not otherwise be available to cities. But the rationale for a UGA designation outside of a city ceases to exist when the land uses allowed in the area are nearly identical to those allowed in cities – UGA's, and areas of more-intense development, should be located within or adjacent to cities, unless they provide unique development or business opportunities that cannot be appropriately located in more-urban areas. The argument for more-intensive industrial growth outside of cities has substantial merit, but this argument has limits within the context of GMA: the fact that the Cherry Point currently and appropriately exists for the purpose of establishing an area of heavy industrial use does not mean that the area can or should remain a UGA if the need for such uses diminishes; UGA status does not confer the right to

⁵ Parker, PM. 2015: *The Evolution of Growth Management in Washington: 25 Years and Counting*.

⁶ Washington State provides few opportunities to attract or retain industries, as compared to other states. Site preparation as envisioned by this plan and led by the Port of Bellingham is one of the most significant methods to add value to potential development as an incentive.

transition the Cherry Point area into a light industrial region. In other words, the Cherry Point UGA does not necessarily exist as a permanent designation on the landscape – it exists as a result of the unique opportunities that it provides. If those opportunities (i.e. a deep water port, the need for business to remain a distance away from population centers, a heavy industrial – or similar regional need) no longer exist, it could be argued that the UGA itself should no longer exist as well. The Cities do not advocate for the removal of the Cherry Point UGA; instead the Cities suggest that any reconsideration of the uses allowed within the Cherry Point UGA focus on the unique character of the area, rather than the fact that available land exists.

Urban Growth Areas are an outgrowth of the long-range comprehensive planning process, and are designed to accommodate growth within a twenty-year period. The Growth Management Hearings Board (GMHB), which considers legal challenges to comprehensive plans, has issued a series of opinions that UGA's cannot have substantively more capacity than the twenty-year growth projections for both employment and residential lands. This principle applies to the entirety of a geographic area (i.e. all of Whatcom County). This means that Whatcom County, the cities within the County, and the UGA's within the County should not have more development capacity (through land use regulations) than the anticipated twenty-year growth projections. Thus an increase in developable acreage suitable for light industry or smaller scale industry promulgated by a change in zoning regulations in Cherry Point would have the effect of reducing the nearby Cities' ability to annex developable land and expand UGA's to accommodate similar industrial development. Absent clear changes in the Growth Management Act that would reverse previous opinions issued by the GMHB, in this instance, growth beyond existing projections in one area will result in a reduction in growth projections elsewhere in the County.

The theoretical development capacity of Whatcom County is significantly larger than the twenty-year growth potential, but this theoretical capacity is limited by current land use regulations. As an example, much of unincorporated Whatcom County allows by regulation only one dwelling unit per five, ten or even twenty acres – even though individual parcels may be fully capable of supporting significantly more growth⁷. GMHB decisions further discourage long-range planning efforts that are overly speculative; substantial documentation must be shown that growth overall, or growth in one area, will be significantly different from historic trends. Even when jurisdictions can demonstrate substantial investment in infrastructure (such as new roadways or utility extensions), the GMHB has often determined that these investments have no impact on future growth projections – and are sometimes even identified as examples of efforts that precipitated the adoption of the GMA in the first place: substantial investments of public funds based on speculation, rather than need or demand.

The Cities concede that over-reliance on historic trends (particularly trends which focus on Bellingham as the seat of growth) ignore market or livability conditions that would tend to make the small cities more attractive and cost-effective. However, the Cities must develop plans consistent with the County CWPPs, which by extension must be compliant with GMA.

⁷ It should be noted that in most cases, more-intense rural densities are not allowed unless public sewer is available to the area; the Cities note that development outside city limits but within UGA's has been allowed in the past by relying on onsite septic systems, a practice that the Cities recommend cease.

B. Comprehensive Planning

The comprehensive planning process evaluates the total anticipated growth in a region, and an increase in anticipated growth in one area will necessarily result in a decrease in anticipated growth in another. There is no certainty that creating additional land that can be developed will be sufficient cause to assume a net increase in employment in the region: creating capacity does not ensure that capacity will be filled, and there are myriad GMHB decisions that strike this concept down. Under GMA employment and population must remain in balance, and efforts to increase employment capacity without associated increase in population will be fraught with issues, GMA non-compliance being not the least of them.

Previously, planned employment growth⁸ in the Cherry Point Industrial area was fairly limited (though additional planning-level growth capacity did remain), primarily due to the fact that three of the largest developable sites were already at or near full utilization. The closure of Intalco and its 700 jobs leave a theoretical gap of 700 positions, in addition to the remaining employment capacity that was already planned.

A redevelopment scenario that is based on a combination of large and small users, plus ancillary uses such as retail, convenience, or food services has the potential to significantly increase the employment growth potential of the area beyond what was already planned. And while the Cities enthusiastically support efforts to create additional living wage jobs in the area, there is the substantial risk that planning-level assumptions that would push growth to one area will mean that other areas (particularly in the Cities) will be required to give up growth capacity in their own UGA's, in order to make the planning-level growth forecasts work.

These amendments to growth capacity will have both political and legal repercussions. From a political standpoint, the Whatcom County Council has historically been extremely hesitant to expand UGAs, especially in the small cities. This is due in part to concerns that the expansion of UGAs would result in unchecked sprawl, and/or a belief that the small cities were not willing or able to consider adopting regulations that would promote or require more-urban densities, instead looking to sprawl as an easy solution, at least in the short-term. While the focus on small cities is not entirely misplaced, the concern about a lack of adequate regulatory framework is unfounded, and paternalistic. From a legal perspective, the Cities have observed Whatcom County and legal counsel have sought to prioritize long range plans that would sustain legal challenge – a laudable goal, but a goal that seeks to minimize risk – perhaps at the cost of innovation. A reasonably foreseeable application of this perspective will be to reduce manufacturing job allocations in the only other areas available, City UGA's, concurrent to its increase in the Cherry Point industrial area during the upcoming Comprehensive Plan updates – at the cost to the Cities and their long-term employment projections.

C. Impact Fees

Jurisdictions planning under GMA may establish impact fees pursuant to RCW 82.02.050. Impact fees are utilized by jurisdictions to require that new growth share in the costs of the expansion of

⁸ The various comprehensive plans and long-range employment and population forecasts are all based on the required Land Capacity Analysis (LCA), which seeks to evaluate the development potential (capacity) of lands within the cities and the unincorporated County. Each parcel, rolled up into various zones or land use designations, is assigned a specific growth potential, and the cumulative growth potential cannot exceed the aggregate planned employment and population growth of the County. The LCA is one of the documents most susceptible to legal challenge, and deviations from historic trends must be adequately explained.

infrastructure capacity necessitated by that growth. Each of the cities in Whatcom County charges impact fees. Whatcom County does not.

The Cherry Point Industrial area is accessed through the Cities, particularly Ferndale: Slater Road, Main Street, and portions of Grandview Road/Portal Way are within the City limits, and are the responsibility of the City of Ferndale. Should land use changes at Cherry Point alter or expand traffic and freight patterns through Ferndale, there is no mechanism aside from SEPA to require development to mitigate its impacts.

The Intalco site is at the west end of Mountain View Road, which is a continuation of Main Street in Ferndale. Shift changes at Intalco have always had a significant impact on Ferndale traffic, as Main Street is the preferred commuting corridor. For those workers coming or going to work from outside of Ferndale, Exit 262 in Ferndale is the primary connector to Interstate Five. This interchange is significantly undersized, and peak hour backups currently and frequently halt motorists on the freeway mainline as they wait for signals to change on Main Street. This is an untenable and dangerous position that could become even more dangerous, if development at Cherry Point increases the number of peak hour trips (coming and going) at this interchange. Ferndale's long-range transportation plans anticipate that the interchange at Exit 262 will need to be substantially reconfigured relatively early in the planning period; the need for reconfiguration and expansion could be triggered much earlier if traffic patterns outside of the City shift dramatically.

The interchange is the property of the Federal Highway Administration (FHWA), and is operated by the Washington State Department of Transportation (WSDOT). The City has conducted preliminary analysis of this interchange and its long range plans identify a widening of the bridge deck crossing the freeway at Main Street, and the construction of two, two-lane roundabouts to serve the north- and south-bound ramps. The total cost of these improvements is anticipated to be at least \$30 million.

Ferndale charges impact fees that could be used in part to supplement these construction costs, and proposes as a mitigating condition that Whatcom County also establish traffic impact fees for development at Cherry Point for this purpose. These funds would be pooled together, and the parties would be expected to work with the FHWA and WSDOT to prioritize the construction of a new interchange at this location, to be completed concurrently with the availability of new parcels at the Cherry Point site. Additional improvements along the Main Street corridor are also anticipated, and the City of Ferndale believes that it is appropriate for County impact fees to support these costs as well. The Cities request that a full cost accounting of redevelopment and its impacts at Cherry Point be considered, in order to avoid foisting unfunded impacts on the small cities.

1. Residential Impacts/Commercial Benefits

These unfunded impacts stretch beyond transportation impacts that can be relatively easily quantified. As noted, GMA land use projections are focused on employment and population lands, where there is the potential to redirect employment growth from the Cities to Cherry Point. Even if the overall employment growth expectations are expanded to include additional Cherry Point development (without decreasing City employment expectations), there is no ability to create additional residential land capacity outside of the Cities without modifications to the Countywide Planning Policies, potentially in a manner that would expand residential growth into rural areas – potentially inconsistent with the Growth Management Act.

The Cities anticipate that the majority of Cherry Point employees will continue to reside in Ferndale, Blaine, and unincorporated Birch Bay. Residential land, through property taxes, does not adequately cover the costs of municipal services. Instead, jurisdictions rely on the buying power of those residents, B&O taxes on commercial enterprises, and sales tax to generate sufficient revenue to support non-enterprise services such as road maintenance, parks and recreation, and social services.

By placing significant employment lands outside of the Cities, there is a substantial risk that these Cities will act as bedroom communities to both Cherry Point and Bellingham. Bedroom communities often struggle to survive, as residents expect the same services as they would in other cities, but work and shop outside of the Cities. As a consequence, many of these bedroom communities are forced to increase property or utility taxes to fund basic services, and/or to cut services in order to reduce taxes. Ferndale and Blaine are especially impacted by these trends – Ferndale residents are immediately north of Bellingham, and Bellingham’s larger retail and cultural opportunities are a significant draw away from Ferndale. Blaine is a greater distance from Bellingham, but relies heavily on Canadian citizens who cross the border for goods and services. The COVID-19 border closure has strangled Blaine’s economy. Blaine is also impacted by its larger neighbor, Birch Bay, whose residents travel to Blaine for social services and programs supported directly by the city such as the library, senior center, and Boys & Girls Club, or indirectly supported through the citizens of Blaine, such as the Blaine Food Bank. Job growth in Cherry Point coupled with housing growth in Birch Bay leaves Blaine in the unenviable position of providing services without any of the tax benefits.

Thus, even as the small cities would continue to grow with new Cherry Point development, the growth would be residential – increasing the gap between revenues and expenditures. If the nature of Cherry Point growth is in the form of commercial or industrial development that the Cities would otherwise take, the Cities would not enjoy the property tax benefit of these developments. Further, if a redeveloped Cherry Point was so self-contained as to include food, convenience retail, and ancillary businesses – the positive impacts that the Cities had previously experienced from Cherry Point (eating in town for lunch, etc.) would be negated. The County would also find that it would need to defend itself against likely appeals of changes that are inconsistent with the Growth Management Act.

2. Workforce Housing and Growth Assumptions

The durability of existing and new businesses depends on a workforce that can afford housing near their place of employment. In Whatcom County, the expansion or relocation of some businesses has been delayed because the workforce is not capable of supporting sustained growth: regional housing is insufficient to support the growth and durability of local commerce. As a result, the Cities believe that it is more likely than not that the long-range regional growth assumptions have underestimated the actual growth demand for Whatcom County. While it is true that many of these trends are cyclical and that the current lack of available workforce has been heightened by the COVID-19 pandemic and other factors, evidence suggests that this is part of a longer trend in Whatcom County.

Because Whatcom County has over the last several comprehensive plan amendment cycles sought to rely on historic growth trends to evaluate future growth assumptions⁹, the County has not adequately

⁹ Which the Cities acknowledge is the safest harbor from a political and legal perspective.

evaluated the (lost) opportunity costs of employers leaving, shutting down, or not expanding in the face of a scarcity of workers.

The Comprehensive Planning process has also failed to adequately account for the myriad changes to environmental and land use regulations since the UGA's were established in the early 1990's.¹⁰ As a result, much of the existing UGA territory throughout Whatcom County is unbuildable, or cannot be cost-effectively built-out: the theoretical capacity of the UGA's exists only on paper, and has had a corrosive impact on affordable housing throughout the region. The Cities call on Whatcom County and its staff to use the upcoming Comprehensive Plan update to re-imagine Urban Growth Areas from the ground up, and to begin this process in early 2021.

It will take significant political will and time to understand whether the anecdotal evidence of lost expansion opportunities is real. For these reasons, it is vital to start the process of evaluation now, and to ensure that the elected bodies of the various jurisdictions, including the County Council, understand the questions being asked, the results, and the consequences. Specifically, it must be the role of the administration of each jurisdiction to have these discussions with their legislative bodies, well before the formal discussion of growth assumptions that will occur in 2022 or 2023. The Cities request that this research and educational effort be combined with any infrastructure funding, as neither infrastructure funding nor additional workforce support can stand alone.

3. Revenue Sharing and Infrastructure Funding

Executive Sidhu has suggested that a revenue sharing option may be possible, and the Cities are in support of a meaningful and permanent proposal. The suggestion on the part of the County is a significant departure from previous administrations and County Council actions, and though welcome, must be further discussed. The Cities would endorse a full-cost accounting of the impacts development at Cherry Point would have on the Cities, and a mechanism – through a combination of impact fees, property tax sharing, and other means – to address these impacts.

Executive Sidhu and the Port of Bellingham have also correctly raised concerns that the region has the potential to not only lose potential inbound businesses, but to lose successful existing businesses that cannot cost-effectively expand locally – unless serviced land is available when expansions or relocations are first considered. To that end, the Executive and the Port have suggested that a meaningful infrastructure stimulus bond be considered that would assist local jurisdictions in funding needed infrastructure improvements and expansions.

The Cities commend this vision, and the leadership that the Executive and the Port have shown. As these plans continue to develop, the Cities will seek to ensure that any such funding focus not only on

¹⁰ In 2019 the Small Cities participated in the Ruckelshaus Center's ongoing re-analysis of the Growth Management Act, as requested by Washington State. In this correspondence, the Cities argued that the GMA itself has in some ways contributed to many of the issues that are discussed in this white paper, and that the GMA should be substantially modified (while retaining its primary objectives) in order to address changes in Washington State – and growth in general – that have occurred in the last thirty years. Many of the problem statements described in this white paper become problems as a result of the limitations that the GMA may place on good, common sense ideas. Regardless, until or unless the GMA is changed, it remains the law of the land and the region must plan accordingly.

the Cherry Point area, but on existing incorporated and unincorporated Urban Growth Areas as well. The Cities recognize that the Cherry Point area may have the potential to demonstrate the most evident “change” as a result of new infrastructure – but for the reasons stated in this paper, the most long-lasting and sustainable infrastructure improvements (and the most direct benefits) will likely occur in and around existing cities.

III. Conclusions and Recommendations

Cherry Point represents a unique opportunity to attract large-scale, high-impact industrial users that could not otherwise be accommodated in the Cities, if regulations will allow it. The Cities are willing partners in any process that maximizes this opportunity. However, the Cities will strenuously object to a proposal that takes the position that Cherry Point’s desirability is that it is outside of a city, and thus free of constraints beyond size and intensity.

If the primary goal of Cherry Point redevelopment is to create large business parks for corporate campuses, or moderate-sized light or clean industries, the GMA; currently adopted Comprehensive Plans; and growth management case law all support the Port and County’s efforts focusing on establishing these parks within the Cities. If there is insufficient land available in the existing City UGA’s; State law anticipates the expansion of those UGAs in order to support these parks. Cherry Point development must, both by law and principle, must be *different* from what could be found in the Cities.

To summarize, the Cities recommend that the Port and County consider the following proposals in their legal, procedural, and factual analysis of the Cherry Point amendments:

- County to establish Traffic Impact Fees within the Cherry Point UGA;
- Cities and County to develop interlocal agreement for the distribution of Traffic Impact Fees for qualifying projects
- Ferndale and County to work with FHWA, WSDOT, and elected representatives to fund Exit 262 Interchange Improvements
- County to allow non-water dependent industrial uses within the shoreline jurisdiction at Cherry Point
- County to analyze potential cost impacts to small cities, to develop a revenue sharing proposal to mitigate these impacts.
- County to amend WCC 20.68 to require master planning at Cherry Point that will result in a maximum allocation/ratio of small businesses and services.
- County to amend WCC 20.68 to require a Conditional Use process for certain accessory or ancillary uses.
- County to amend WCC 20.68 to establish a minimum unit size requirement (recommended 100,000 square feet or greater) for independent businesses that are not a legal division or subsidiary of primary businesses on the site.
- City and County planners to review Land Capacity Analysis for the purpose of determining existing Cherry Point capacity and potential future capacity; if the potential future capacity exceeds the current capacity, County planners shall make proposals to expand regional growth capacity in a manner that does not reduce potential City employment growth.