COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

PLANNING COMMISSION MEETING

HEARING DATE: July 30, 2013
PROJECT NAME: Essential Public Facilities Zoning Text Amendment
TYPE OF APPLICATION: Proposed Zoning Text Amendment
DESCRIPTION: A proposal to amend the Ferndale Municipal Code 18.92 (Essential Public Facilities), clarifying requirements for such facilities. A public hearing has been scheduled for July 30th, and this may be the final opportunity for the Planning Commission to discuss this subject.

APPLICANT: City of Ferndale
LOCATION: City-wide, particularly within the Manufacturing (M) zone of the City of Ferndale

STAFF REPORT EXHIBITS

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OVERVIEW

At its July 10, 2013 meeting, the Planning Commission authorized City staff to schedule and post public notices for an Open Record Public Hearing on July 30th, related to potential text amendments to Ferndale Municipal Code 18.92 (Essential Public Facilities), focusing on requirements for Correctional Facilities, or jails.
Staff believes that the Planning Commission was generally supportive of the majority of text changes (Exhibit 1) presented on July 10th related to building and site design, but that uncertainty remained on height and setback requirements, particularly within the context of the “LaBounty Site” currently being considered by Whatcom County.

Staff recommends that the City preserve the existing height limits at 35’ and modify the setbacks to require a minimum front yard setback of 150 feet and minimum side and rear setbacks of 50 feet. The front yard measurement shall be from the adjacent street right of way. As per the direction of the Planning Commission, no views from prisoner housing or recreational facilities shall be possible, unless such facilities are setback a minimum of 600’ from residential properties.

**PLANNING COMMISSION REQUESTS FOR ADDITIONAL INFORMATION**

As has been previously noted by staff (and acknowledged by the Commission), the City typically considers zoning text amendments based on theoretical future development. In this case, the fact that one site is being considered for a specific development creates both opportunities and obstacles. The Planning Commission and staff have taken advantage of many opportunities, by discussing best management practices, current design principles, “need,” and more with the County and its consultants. This has provided a better understanding of what is possible in current jail design. The Planning Commission and staff have also attempted to avoid obstacles such as requiring that the County provide a final design proposal, prior to their acquisition of the site.

The desire to gain certainty over a potential proposal is difficult to resist, and no doubt could resolve a number of unknowns that the Commission is currently debating. However, there is no obligation on the part of the County or any other potential applicant to create a formal/final design at this point in the process, prior to a land use application, or for that matter land acquisition.

At the same time, the Planning Commission must remember that until a correctional facility is constructed, there is no certainty that the LaBounty site or any other site will be selected. Plus, there is no assurance that Whatcom County or another agency will not decide to construct a smaller, satellite facility similar to the Irongate facility in

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1 For the LaBounty site, a front setback of 150’ feet translates into a setback of approximately 210’ from residentially-zoned property to a potential correctional facility (exclusive of sheriff headquarters, which are subject to the standard Manufacturing Zone setbacks).

2 Washington State generally discourages what is known as a “contract rezone,” partly due to the fact that design concepts may change between the review of the Planning Commission and Council and the ultimate submittal of documents. The Planning Commission has done an excellent job thus far recognizing that any and all design concepts are provided as examples only, and do not obligate the City or County to design or require a development which matches those concepts.
Bellingham. This means that while the Planning Commission is appropriately focused on the LaBounty site, it must also ensure that the regulations in place could be applied to different sites as well.

This may mean that the zoning text itself remains somewhat general (though certainly more specific than the current text), allowing for staff and the conditional use process to identify those site-specific conditions that are necessary to achieve the purpose of the text.

MODEL RENDERINGS

With all of that said, the Planning Commission requested that interactive renderings be created in order to visually demonstrate potential buildings and to compare height and setbacks. Screen prints of these renderings are attached as Exhibit 2. Staff will bring a laptop and projector to the July 30th meeting and will be able to display additional perspectives/ manipulate the images in accordance with the direction of the Planning Commission.

The renderings enable the City to project buildings of various sizes onto the LaBounty site, to modify the height of buildings, and to increase or decrease the setback. However, staff must repeat the fact that the buildings shown will not necessarily reflect what is ultimately proposed or constructed. The configuration of the buildings with respect to one another may be different, landscaping may be established that would alter the screening of the buildings. A color or material change may substantially alter the perception of the building to the Commissioners. There are literally thousands, if not millions of variations that could change the design of the buildings. We are focused primarily at showing buildings of a certain size and at a certain height at a certain location.

The renderings do help to provide a better understanding of the site and buildings in proper context. In particular:

- The buildings are large, and it is likely impractical to expect that all buildings could be hidden behind walls or vegetation to the extent that they would be invisible. Though this statement may be obvious (“the buildings are large and thus they visible”), the re-orientation of the buildings in various locations on the property do not greatly change the base fact that a currently-vacant property changes dramatically when buildings are placed on it.

- The natural break in topography approximately midpoint on the LaBounty site does create the potential to establish a ~40’ tall building west of the break with a roofline no higher than a ~20’ building at or near the LaBounty right of way.
- While the renderings can be adjusted to depict buildings of any height, and the
treeline behind the model is to-scale in order to provide site-specific context, it is
still somewhat more difficult to visualize actual height than it is to visualize setbacks.
This relates back to the first point, wherein the greatest visual impact will occur by
simply developing the site with a large building of any height or setback. Variations
in height or setback do not change the site back to a pre-developed condition.

- Staff recommends that the Planning Commission simply preserve the existing
35’ height requirement for correctional facilities as contained within the
Essential Public Facilities chapter. There is no indication that a correctional
facility would require additional height, and a 25’ height requirement is less
than that in any other zone of the City, including height-limited area
adjacent to shorelines (the most restrictive height limit in the City).

On July 10, Planning Commissioners expressed concern that the height could be
expanded to 45’, and wished to view renderings showing a 45’ building. While staff
is prepared to show the Planning Commission these renderings, we feel that as no
one is requesting a 45’ limit and neither the Planning Commission or neighbors
would likely be thrilled with such an increase, the issue has resolved itself.

- Recognizing the need for security measures, the desire for larger setbacks for
correctional facilities, and the reasonable amount of land that may be available
within the Manufacturing Zone, front yard setbacks of less than 100’ (excluding
sheriff offices or similar, and measured from the edge of the adjacent right of way)
do not appear to be necessary. At the same time, staff does not feel that there is a
legitimate reason to require setbacks of more than 200’ except to preserve the
existing code (requiring a 350’ setback).

We have reached this conclusion based on a number of different factors:

1. Though a jail facility may look as attractive or more attractive than many
industrial buildings allowed in the zone, it is still a jail facility. The public
has the right to expect higher-than-typical setbacks for such facilities.

2. The draft code requires that applicants seek to screen jail facilities behind
non-essential public facilities (such as sheriff offices). The Planning
Commission should keep in mind that not all correctional facility proposals
would contain additional structures that would provide such screening.

3. A 350’ setback from residentially-zoned properties on virtually any other
developable parcel within the Manufacturing Zone would essentially
preclude the siting of a correctional facility.
ADDITIONAL TEXT CHANGES

Staff has incorporated the July 10th draft into Exhibit 1 so that all changes made since July 10th are shown as red-lines and strike-throughs.

FMC 18.92.010: Based on comments and suggestions from the Planning Commission, the Purpose statement has been revised to better explain the City’s expectations for Essential Public Facilities in general.

FMC 18.92.020: Rewording language within the Fiscal Impact Assessment requirements: the City’s share of property taxes will likely not be affected, however there may be additional implications (positive or negative). The new wording does not assume a specific impact.

18.92.030 C (3) – Buffers – the section previously included setback requirements, which have been placed towards the end of the Correctional Facilities requirements.

18.92.030 C (6) d: Adds requirement for rooftop screens or similar to obscure rooftop HVAC or mechanical equipment.

18.92.030 E (1): Adds statement emphasizing the placement of correctional facilities behind structures containing non-EPF uses.

18.92.030 E (3): Clarifies that supervised work crews are not restricted from working at this site or other sites (there is no regulation currently in place that would restrict such crews, and this proposal would not add such a restriction).

18.92.030 E (5): Establishes requirements for application submittals, including color elevations and three-dimensional computer models or animations.

18.92.030 F (3): Adds setback requirements, including Planning Commission-directed language requiring an additional setback from residential properties.

DISCUSSION

Staff supports the changes proposed in Exhibit 1. From the beginning, the purpose of the draft changes was to better define the City’s expectations with regard to correctional facilities. The existing code section required large setbacks but did not
provide meaningful direction with regard to building or site design or the ultimate purpose for the larger setbacks.

The Planning Commission has met at least once a month over the past six months to discuss this issue, and extensive public notification has given residents and other interested citizens the ability to review draft documents and make comments throughout the process. While the public has been notably absent over the past several Planning Commission meetings, many of the concerns raised at public meetings have been acknowledged and addressed.

As proposed, the draft documents would provide Whatcom County or other applicants with the ability to construct a correctional facility closer to residential property than would previously have been permitted. This may be viewed as the City acquiescing to the design criteria of the County. However, the design requirements that are under consideration tonight provide a much higher degree of certainty over what could be constructed, and raise the bar in design beyond that which may have been envisioned when the existing code was put in place.

Would the 2005-2006 Planning Commission have felt comfortable with these proposals? Would the design requirements, which are based on the retail design standards (which were developed after the Essential Public Facilities chapter was written) have altered the determination that higher setbacks were necessary? It is impossible to say.

Often it is argued that previous commissions/councils made their decision for a reason, and that current commissions/councils must have an even better reason to change those decisions. In this case, staff feels confident that this Planning Commission has been provided with more information related to correctional facilities, and has spent more time considering these facilities, than the 2005-2006 commission. The Planning Commission should not feel the need to defer to the judgment of the previous commission, or to be concerned that the City Council will or will not accept their recommendation: at this point, no elected or appointed body in Whatcom County has as much information about jail needs than this Planning Commission.

**OPTIONS FOR ACTION**

The Planning Commission has several options for action: a public hearing has been scheduled, and as per Ferndale Municipal Code 18.12.270 C, the commission may make its recommendation at the hearing or continue the hearing to a specified time, date and place on the condition that further information be provided. The
commission may also choose to hold the hearing but delay deliberating until a future date.

As per the Ferndale Municipal Code, if the Planning Commission decides to move forward with the public hearing, it must find that the following has or will occur:

- The notice of public hearing has been duly published
  
  - The notice was published in the July 17 Ferndale Record. It was posted at City Hall and the Ferndale Public Library, and the LaBounty site. A mailer showing the public hearing was also sent to all parties of record and surrounding property owners/residents.

- The amendment(s) will not have significant adverse effects on the environment or on other uses, or the amendments with appropriate modifications will mitigate to the greatest extent possible all significant adverse effects on the environment.
  
  - The proposed amendments are intended to mitigate potential negative effects on surrounding properties, the City, and the environment. A Supplemental Environmental Impact Statement (SEIS) and Fiscal Impact Assessment are currently being developed, and are anticipated to identify potential impacts and potential mitigation measures.

- The amendment(s) will be necessary or appropriate to effectuate the goals and objectives of the Comprehensive Plan of the City.

  - Essential Public Facilities have a unique place within the land use framework of a jurisdiction. Unlike residential, industrial or commercial uses, individual jurisdictions are not required to plan for future growth of these facilities, but instead are required to accept them if they are proposed, subject to reasonable restrictions. Thus, there is no goal or objective within the City’s Comprehensive Plan that would provide additional guidance. Staff believes that the draft proposal is appropriate and is not in conflict with the Comprehensive Plan.

- The amendment(s) will not designate an area for a use which:
  a. Differs completely from that of surrounding land; and

  - The proposal includes restrictions and limitations that are unique to Essential Public Facilities, but not completely different from other requirements within the Manufacturing Zone.
b. Is inconsistent with that of surrounding land; and

- The proposal is not inconsistent with that of surrounding land. This is not intended to suggest that there are not existing difficulties resulting from the close proximity between the Residential Office zone and the Manufacturing zone. Staff does not believe that the new proposal would increase these difficulties.

c. Is inconsistent with the Comprehensive Plan; and

- Staff does not believe the proposal is inconsistent with the Comprehensive Plan.

d. Is of benefit to a particular interest only; and

- Although there are only a few entities that could propose a correctional facility, the proposed changes do not necessarily benefit the applicant. Staff believes that the draft changes represent a combination of benefits to the community, to the applicant, and to the City, and that there are a number of changes that may disadvantage the applicant by increasing the costs of development.

e. Is not of benefit to the community as a whole.

- Staff believes that the proposed changes will provide additional benefit to the community, as compared to the potential development that could occur if no changes were made.

5. The amendment(s) will not be materially detrimental to the public welfare.

- Staff does not believe the amendment will be detrimental to the public welfare.

**TIMING OF HEARING**

Some commissioners have questioned why a public hearing has been scheduled for July 30th and not later in the year.

- At this time, it is unlikely that new information will become available that would alter the Planning Commission’s decision. The environmental impacts of a
development proposal cannot factor into the commission’s decision to recommend approval or denial of a more general zoning text amendment. The SEIS is part of a separate process for which the Planning Commission has no oversight.

The Planning Commission has requested additional information, and staff has done our best to provide it. Should this information be lacking, the Planning Commission may seek to clarify what it is needed from staff. The packet is being made available a week before the hearing in anticipation of comments by individual commissioners who may need more information that could be provided on the 30th. However at some point staff may not be able to provide information – either because it cannot be produced or because there is not a budget to produce it. If that is the case, the Planning Commission may need to determine whether it can recommend approval or not based on the information that is available.

Either way, there will likely not be a “light bulb” moment where the Planning Commission feels that all parties involved (the County, the City, the surrounding property owners) will see significant positive benefits.

- The Planning Commission schedule for the remainder of the year will likely be fairly packed. Ferndale’s is the only Planning Commission amongst Bellingham, Lynden, Blaine and Whatcom County that does not meet twice per month, and all jurisdictions are accelerating their review of population and employment allocations for the 2016 Comprehensive Plan update. Because of this, staff has worked with the commission to identify information that may be missing, in order to allow commissioners to be able to make their decision prior to their August recess. At the July 10th meeting only the height and setback issues appeared to be unresolved. Thus while staff will certainly follow the Planning Commission’s direction, we are unsure why an additional meeting would be necessary, except for the purpose of simply having an additional meeting (which again begs the question – if all information that can be provided has been provided, and if the commission has sufficient time to deliberate on July 30th [this is the only agenda item] – what would be the purpose of an additional meeting?).

POTENTIAL MOTION

A potential motion in favor of the amendments may be made as follows:

Based upon the staff report and findings of fact dated July 30, 2013, as well as public testimony related to the proposal, I motion that the Planning Commission recommend that the City Council amend Ferndale Municipal Code 18.92 as shown in Exhibit 1.
Chapter 18.92
ESSENTIAL PUBLIC FACILITIES

Sections:

18.92.010 Purpose.
18.92.020 Fiscal Impact Assessment
18.92.020 Secure community transition facilities.
18.92.030 Correctional facilities.
18.92.040 Substance abuse treatment facility.
18.92.050 Mental health facility.
18.92.060 Hospitals.
18.92.070 Convalescent centers.
18.92.080 Miscellaneous essential public facilities.

18.92.010 Purpose.

The siting of essential public facilities within a jurisdiction cannot be precluded under state law. The City has an interest in ensuring that these facilities are innovative and built with the community in mind; that they are sited in appropriate locations and subject to reasonable conditions for design, intensity of use, noise, infrastructure capacity, neighborhood context, and operation. Such facilities shall also meet the City’s high standards for environmental design and shall avoid or mitigate adverse fiscal impacts to the City. It is the purpose of this code to establish appropriate requirements for reasonably accommodating essential public facilities.

Essential Public Facilities typically create real or perceived negative impacts on social, environmental and/or economic features of their host jurisdiction. These impacts may be difficult or impossible to mitigate completely. As such, communities are likely to resist the placement of Essential Public Facilities within their jurisdictions, and as a consequence Washington State has found it necessary to adopt laws which prohibit any community from excluding such facilities outright.

The City, therefore, has a vital interest in ensuring that these facilities are innovative and built with the community in mind; that they are sited in appropriate locations and subject to reasonable conditions for design, intensity of use, noise, infrastructure capacity, neighborhood context, and operation. Such facilities shall also meet the City’s high standards for environmental design and shall avoid or mitigate adverse fiscal impacts to the City. (Ord. 1400 § 2, 2006)

Essential Public Facilities generally result in the removal of land from property tax rolls and may sometimes remove existing or prevent future sales tax that would otherwise be generated. While these fiscal impacts cannot factor into the approval or denial of a proposed Essential Public Facility, they can inform the City and the applicant of the fiscal impact that will likely result from the facility.

The proponent of an Essential Public Facility shall cause a fiscal impact analysis to be completed as a component of environmental review or as a requirement of the Conditional Use process. Such an analysis shall include, but will not be limited to, the following:

1. City share of property taxes before and after proposed development.
2. City taxes, including retail sales taxes, before and after proposed development.
3. Anticipated sales taxes before and after the proposed development, including sales taxes generated by construction.

18.92.020 Secure community transition facilities.

A. Secure community transition facilities (SCTF) are permitted in the M (manufacturing) zone east of the Nooksack River subject to issuance of a conditional use permit.

B. Siting Criteria.

1. The SCTF should be located in relationship to transportation facilities in a manner appropriate to its transportation needs.

2. In no case shall an SCTF be located within line of sight of a “risk potential facility or activity.” “Within line of sight” means that it is possible to reasonably visually distinguish and recognize individuals. An unobstructed visual distance of 600 feet shall be considered within line of sight, unless the applicant can substantially demonstrate that visual obstructions or barriers exist that limit line of sight. At no time shall line of sight be reduced to less than 350 feet. Distance shall be calculated as a straight-line measurement from that point on the SCTF property closest to the risk potential facility or activity.

3. An SCTF shall not be located within 350 feet of a residentially zoned property. Distance shall be calculated as a straight-line measurement from that point on the SCTF property closest to the nearest residentially zoned property.
4. At no time shall an SCTF within the City be located within one mile of another SCTF or within one mile of a “correctional facility,” as defined in this title, except in that there may be multiple facilities housed on one campus. Distance shall include facilities inside and outside the City’s jurisdiction.

C. Design Criteria.

1. Screening and Landscape Requirements.
   a. Design shall be consistent with the following requirements:
      i. A minimum five-foot deep landscaped buffer shall be provided along any public or private right-of-way. Such buffer shall contain a mix of ground cover, shrubs, and shade trees. Trees shall be spaced a maximum of 30 feet on center. Sufficient amount of shrubs and vegetative groundcover shall be planted to provide full coverage in three years.

      ii. One finger planter shall be provided for every 10 parking spaces. Finger planters shall be a minimum of six feet wide by 16 feet long. Finger planters shall contain a minimum of one shade tree and sufficient low maintenance vegetative groundcover to provide full coverage in three years.

      iii. An underground irrigation system is required which is adequate to provide watering needs for plant materials. The requirement for an irrigation system may be waived for small planting areas that contain only drought-tolerant vegetation.

   b. A six-foot high, solid wood or masonry perimeter fence shall enclose the rear and side yards including fencing along a line parallel to the street and conterminous with the front facade of the primary structure.

   c. Any security fencing (barbed wire, concertina wire, etc.) shall not be visible from the public right-of-way.

   d. Fencing and landscaping requirements may be revised for security purposes with approval of the hearing body.

2. Minimum lot size: The site area shall be adequate to provide required parking, yards, and off-street loading areas.

3. Minimum lot width: None.

a. Setbacks.
   i. Front: 25 feet.
   ii. Rear: 25 feet.
   iii. Side: 25 feet.

b. Lot coverage: 40 percent.
c. Maximum building height: 35 feet.

5. Parking: 1.5 parking spaces per bed. Partial parking spaces are rounded up to the nearest whole number.

D. Public Notice Requirements.

1. Public notice shall be given consistent with FMC 14.15.050, except that public notice mailing shall be extended to all owners of record of properties within 1,000 feet of the proposed site.

2. If the 1,000-foot notification area extends into areas outside the City limits, the affected adjacent jurisdiction shall be notified by mail. (Ord. 1400 § 2, 2006)

18.92.030 Correctional facilities.

Purpose: The City seeks to locate correctional facilities in a manner that upholds community safety, achieves best management practices and sets high standards for architectural and site design.

A. Correctional facilities are permitted in the M (manufacturing) zone east of the Nooksack River subject to issuance of a conditional use permit.

B. Siting Criteria.

1. The correctional facility should be located in relationship to transportation facilities in a manner appropriate to its transportation needs.

2. At no time shall a correctional facility within the City be located within one mile of another correctional facility or within one mile of a “secure community transition facility” as defined in this title, except in that there may be multiple facilities housed on one campus. Distance shall include facilities inside and outside the City’s jurisdiction.
C. Lot Design Criteria.

1. Landscaping and Fencing

   a. Standards.

   i. In addition to the adopted City of Ferndale landscaping standards (Chapter 18.74 FMC), all landscaping that is intended to act as a screen should consist of mature vegetation. Landscaping trees must be balled and burlap 2” or 3” caliper size to City of Ferndale standards.

   ii. All on-site landscaping, together with landscaping along frontage streets within the public right-of-way, shall utilize the adopted City of Ferndale landscaping standards (Chapter 18.74 FMC).

   iii. Landscaping shall be utilized to enhance the personal scale of a facility by clearly defining pathways, entrance areas, parking areas, and access roadways. Such landscaping may also be used to soften the appearance of security features and fencing.

   iv. No barbed wire, concertina fencing, or similar fencing shall be visible on the facility or the site without a variance. Exception: sally ports and similar prisoner transfer locations may include such fencing for security reasons, provided that the facility is designed to limit or obscure the appearance of such fencing.

2. Signage.

   a. Standards

   i. Signage shall be in accordance with the City of Ferndale sign code (Chapter 18.80 FMC), except that no freestanding pole signs shall be permitted, other than internal direction signs.
3. **Setbacks and Buffers**

   a. **Standard Front, Side, Rear Setbacks:**

   b. Setbacks shall be increased to X feet from residentially-zoned properties.

   c. A line of site setback of 600 feet shall be required from areas of the facility in which prisoners are likely to be located, including but not limited to prisoner housing, cafeteria, and recreation facilities, to a “risk potential facility or activity.” However, this requirement will be waived if it can be demonstrated that the facility and site design has eliminated the line of site from the prisoner areas to such facilities.

**Buffers**

d. Perimeter fencing shall be consistent with requirements of the Ferndale Landscaping Standards for L-3 High Screen landscaping.

4. **Parking Lot Design and Access**

   a. Off-street parking areas shall be designed to minimize visual impact. Separation between fleet/employee vehicles and public parking areas, if required, shall utilize attractive elements which may consist of landscaping or fencing consistent with other components of the site.

   b. Prisoner transport locations such as sally ports as well as the vehicles associated with that transport shall be placed in a location that is not visible from residentially zoned property. This may be accomplished through vegetative screening, the installation of structural elements, or by locating these components in an area of the facility that is already shielded from view.
5. Lighting and Glare

a. Minimum and maximum lighting standards shall assure that correctional facilities provide safe vehicular and pedestrian access as well as providing illumination necessary for security. Excess "spill-over" lighting and negative off-site impacts shall be minimized.

b. The use of LED or similar exterior lighting shall be considered.

c. Exterior light standards may not exceed the maximum height allowed by zone. If practical, exterior light standards should not exceed the height of nearby structures within the facility.

d. Illuminated signage and exterior building lighting should be compatible with the architecture of the project and shall not detract from the visibility of surrounding buildings.

e. Landscape and architectural lighting should be sued to illuminate building facades, building entrances, and feature or courtyard spaces including the internal lighting at primary entrance points and foyers.

f. Night lighting must be provided for all pedestrian walkways and where stairs, curbs, ramps and crosswalks occur.

g. All exterior lighting fixtures in parking areas and driveways should utilize cutoff shields or other appropriate measures to conceal the light source from adjoining uses and rights-of-way.

h. Other lights shall be designed to avoid spill-over glare beyond the site boundaries.

i. Light posts within 350 feet of residentially-zoned property shall not exceed 18 feet.

j. Prisoner housing shall utilize skylights to the greatest extent practical in lieu of wall windows. In no case shall windows in areas available to prisoners be placed in a location that faces residentially-zoned property.

6. Outdoor Storage, Trash Collection, and Loading Areas

a. Standards. Loading areas and outdoor storage areas may exert visual and noise impacts on surrounding neighborhoods and should be designed so that delivery and
loading operations do not disturb adjoining neighborhoods. These areas, when visible and audible from public streets or residentially-zoned property, shall be screened, recessed or enclosed. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have public entrances.

b. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall be screened from public or private rights-of-way.

c. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or private street or public sidewalk.

d. Mechanical or HVAC equipment should not be installed at ground level along any portion of a building facing a public or internal street unless such location is necessitated by the nature and design of the building it serves, or would otherwise present a risk to security or operations. A solid fence or wall and native plants shall screen such equipment. Should mechanical or HVAC equipment be installed on the roof, it shall be concealed from view of residentially zoned property and the public right of way through the use of rooftop screens, strategic location upon the roof, articulated rooflines, or similar means.

D. Building Design

1. Facades and Exterior Walls

a. Facades shall be articulated to provide visual interest that will be consistent with the community’s identity, character and scale. The Hearing Examiner may modify standards as requested by the applicant upon the demonstration that strict compliance with these provisions would result in security implications.

b. Regardless of building size, all facades greater than 100 feet in length, measured horizontally and visible from public streets, sidewalks, or trails, or residentially-zoned
property, must incorporate wall-plane recesses, projections, color changes, significant landscaping, or other measures, in order to break up the apparent mass of the building.

i. Prisoner housing areas not visible from residentially zoned property or the public right of way shall be exempted from the requirements in (a) and (b) above, for the purpose of security and operational efficiency.

c. Facades and exterior walls shall consist of appropriate durable materials.

d. Front facades and facades visible from public streets or residentially zoned properties should not include the following as the primary building material:

i. Smooth-faced concrete block

ii. Smooth-faced tilt up concrete panels

iii. Prefabricated steel panels

2. Entryways

a. The primary public entrance for buildings with public access shall include significant architectural features such as articulated roofs and walls, outdoor patios, extensive window glazing, archways, or other similar elements.

b. Entryways may be utilized to conceal flat roofs, rooftop HVAC and mechanical equipment, and other similar features.

E. Miscellaneous

1. Multiple buildings within the same campus shall exhibit complimentary design elements such as a common color palette, uniform signage, common materials, similar building height, rooflines, or similar. When practical, the applicant shall seek to place correctional facilities behind structures that contain complimentary uses that would otherwise be permitted within the Manufacturing zone. —
2. Nothing in this chapter shall result in a reduction in design necessary to protect the security and safety of the facility and surrounding facilities, or the ongoing operation of such facility. However, applicants shall be required to identify alternatives that address the form of such elements and their compatibility with residential land uses, and to identify practical alternatives to minimize aesthetic impacts.

3. Nothing in this chapter shall prevent supervised work release crews from working within the community or on the site, subject to certain reasonable restrictions.

3. Correctional Facilities are considered public buildings and are subject to compliance with the City’s EAGLE standards.

4. In addition to the specific requirements of this section, Correctional Facilities must comply with the requirements of Chapter 18.94 FMC – Public/Institutional Zone. In those cases where a conflict exists, the most restrictive requirements shall apply.

5. In order for City staff, the Ferndale Hearing Examiner and the general public to review developments for compliance, it shall be a requirement of the applicant to provide the following information, above and beyond the requirements for a typical submittal, to the City as part of the development review application:

   _____ 1. Color elevations with material types and colors shown.
   _____ 2. Three-dimensional computer models or animations of the proposed facility and site.

F. Lot Size, Setbacks and Parking Requirements

21. Minimum lot size: The site area shall be adequate to provide required parking, yards, and off-street loading areas.

32. Minimum lot width: None.

43. Setbacks and Lot Coverage and Building Heights.

   a. Setbacks.

      i. Front: 150 feet.
      ii. Rear: 50 feet.
iii. Side: **50 feet**.

b. Lot coverage: **percent**.

iv. No view of residential property shall be allowed from inmate housing or recreational areas unless it adheres to a minimum 600’ line of site setback.

b. Lot coverage: **no minimum**

c. Maximum building height: **35’-feet**.

5. Parking.

a. A minimum of one parking space per employee during the largest shift is required. In no case shall parking be allowed on adjacent public right of ways. The applicant shall be required to provide the City with a parking analysis in order to determine the appropriate number of parking spots for the facility.

b. Correctional Facilities shall seek to identify opportunities to decrease the number of parking spots required for the facility by limiting or prohibiting offender release from the site, limiting or prohibiting in-person visitation, employing advanced methods of video conferencing and communication, and more.

b. Work release facilities shall have one parking space per employee during the largest shift, plus one parking space per client/occupant.

G. Public Notice Requirements.

1. Public notice shall be given consistent with FMC **14.15.050**, except that public notice mailing shall be extended to all owners of record of properties within 1,000 feet of the proposed site.

2. If the 1,000-foot notification area extends into areas outside the City limits, the affected adjacent jurisdiction shall be notified by mail. (Ord. 1400 § 2, 2006)

**18.92.040 Substance abuse treatment facility.**

A. Substance abuse treatment facilities are permitted in the RO (residential office), HC (highway commercial) and GC (general commercial) zones subject to issuance of a conditional use permit.
B. Siting Criteria.

1. The substance abuse treatment facility should be located in relationship to transportation facilities in a manner appropriate to its transportation needs.

2. A substance abuse treatment facility shall not be located within 350 feet of community centers, public park and recreation facilities, public and private schools, playgrounds, sports fields, and youth camps. Distance shall be calculated as a straight-line measurement from that point on the substance abuse treatment facility property closest to the nearest point on the protected use property.

C. Design Criteria.

1. Screening and Landscape Requirements.
   a. Design shall be as defined in Chapter 18.74 FMC.
   b. A six-foot high, solid wood or masonry perimeter fence shall enclose the rear and side yards including fencing along a line parallel to the street and conterminous with the front facade of the primary structure.
   c. Any security fencing (barbed wire, concertina wire, etc.) shall not be visible from the public right-of-way.
   d. Fencing and landscaping requirements may be revised for security purposes with approval of the Hearings Examiner.

2. Minimum lot size: The site area shall be adequate to provide required parking, yards, and off-street loading areas.

3. Minimum lot width: None.

   a. Setbacks.
      i. Front: 25 feet.
      ii. Rear: 20 feet.
      iii. Side: 15 feet.
   b. Lot coverage: 40 percent.
   c. Maximum building height: 35 feet.
5. Parking: One parking space per employee during the largest shift plus one-half parking space per bed and/or day treatment occupant as determined by design. Partial parking spaces are rounded up to the nearest whole number.

D. Public Notice Requirements. Public notice shall be given consistent with FMC 14.15.050. (Ord. 1400 § 2, 2006)

18.92.050 Mental health facility.
A. Mental health facilities are permitted in the RO (residential office), HC (highway commercial) and GC (general commercial) zones subject to issuance of a conditional use permit.

B. Siting Criteria.

1. The mental health facility should be located in relationship to transportation facilities in a manner appropriate to its transportation needs.

2. A mental health facility shall not be located within 350 feet of community centers, public park and recreation facilities, public and private schools, playgrounds, sports fields, and youth camps. Distance shall be calculated as a straight-line measurement from that point on the substance abuse treatment facility property closest to the nearest point on the protected use property.

C. Design Criteria.

1. Screening and Landscape Requirements.

   a. Design shall be as defined in Chapter 18.74 FMC.

   b. A six-foot high, solid wood or masonry perimeter fence shall enclose the rear and side yards including fencing along a line parallel to the street and conterminous with the front facade of the primary structure.

   c. Any security fencing (barbed wire, concertina wire, etc.) shall not be visible from the public right-of-way.

   d. Fencing and landscaping requirements may be revised for security purposes with approval of the Hearings Examiner.

2. Minimum lot size: The site area shall be adequate to provide required parking, yards, and off-street loading areas.

3. Minimum lot width: None.
   a. Setbacks.
      i. Front: 25 feet.
      ii. Rear: 20 feet.
      iii. Side: 15 feet.
   b. Lot coverage: 40 percent.
   c. Maximum building height: 35 feet.

5. Parking. One parking space per employee during the largest shift plus one-half parking space per bed and/or day treatment occupant as determined by design. Partial parking spaces are rounded up to the nearest whole number.

D. Public Notice Requirements. Public notice shall be given consistent with FMC 14.15.050. (Ord. 1400 § 2, 2006)

18.92.060 Hospitals.
A. Hospitals are permitted in the RO (residential office), HC (highway commercial) and GC (general commercial) zones subject to issuance of a conditional use permit.

B. Siting criteria: The hospital should be located in relationship to transportation facilities in a manner appropriate to its transportation needs.

C. Design Criteria.
   1. Screening and landscape requirements shall be as defined in Chapter 18.74 FMC.
   2. Minimum lot size: The site area shall be adequate to provide required parking, yards, and off-street loading areas.
   3. Minimum lot width: None.
      a. Setbacks.
         i. Front: 25 feet.
         ii. Rear: 20 feet.
iii. Side: 20 feet.

b. Lot coverage: 40 percent.

c. Maximum building height: 45 feet.

5. Parking: One and one-half parking space per bed as determined by design. Partial parking spaces are rounded up to the nearest whole number.

D. Public Notice Requirements. Public notice shall be given consistent with FMC 14.15.050. (Ord. 1400 § 2, 2006)

18.92.070 Convalescent centers.
A. Convalescent centers are permitted in the RM 1.5 (residential multifamily), RO (residential office), and HC (highway commercial) zones subject to issuance of a conditional use permit.

B. Siting criteria: The convalescent center should be located in relationship to transportation facilities in a manner appropriate to its transportation needs.

C. Design Criteria.

1. Screening and landscape requirements shall be as defined in Chapter 18.74 FMC.

2. Minimum lot size: The site area shall be adequate to provide required parking, yards, and off-street loading areas.

3. Minimum lot width: None.


   a. Setbacks.

      i. Front: 25 feet.

      ii. Rear: 20 feet.

      iii. Side: 20 feet.

   b. Lot coverage: 40 percent.

   c. Maximum building height: 35 feet.

5. Parking: One parking space per bed as determined by design.
D. Public Notice Requirements. Public notice shall be given consistent with FMC 14.15.050. (Ord. 1400 § 2, 2006)

18.92.080 Miscellaneous essential public facilities.
Uses not addressed in the preceding sections, but which may potentially be considered essential public facilities, shall be subject to conditional use permits and shall be evaluated under the following process:

A. An agency or organization may request in writing that a proposed facility be reviewed through the miscellaneous essential public facilities conditional use permit process. This request should be in the form of a letter to the Zoning Administrator, addressing the criteria in subsection (A)(1) of this section.

1. The Zoning Administrator shall review this request and grant it if the following criteria are met:
   a. The facility meets the definition of essential public facility defined in this section, or as currently defined in the RCW;
   b. The facility is a type difficult to site because of one of the following:
      i. The facility needs a typsite of which there are few sites,
      ii. The facility can locate only near another public facility,
      iii. The facility has or is generally perceived by the public to have significant adverse impacts that make it difficult to site, or
      iv. The facility is of a type that has been difficult to site in the past;
   c. It is likely this facility will be difficult to site; and
   d. There is need for the facility and Ferndale is in the facility service area.

2. The Zoning Administrator shall determine if the facility serves a regional, countywide, statewide or national need. If it does, the Administrator may condition the review with a requirement that the review process consider one or more sites in parts of the service area outside of the City of Ferndale.

B. Where more than one local government is involved in the review process, Ferndale staff shall participate in the review process and use the data, analysis and environmental documents prepared in that process in the City’s review, if planning and building staff determines those documents are adequate. If the facility would require a variance or other
development permit, those approvals shall also be decided through the processes appropriate for those actions.

C. The Zoning Administrator shall require that the conditional use permit process include a public involvement component that meets the following standards:

1. Notice of application shall be mailed to all property owners living within the zone of likely impact, a minimum of 300 feet and a maximum of 1,000 feet, as determined by the Zoning Administrator to encourage public participation for any proposed site considered under this essential public facility siting process.

2. At least one neighborhood meeting process, conducted by the applicant, that gives those who live near the proposed site or sites and those who will use the facility, where appropriate, the opportunity to affect the design and location of the facility. The neighborhood meeting shall present information relevant to subsection (D) of this section. Public notice of the meeting shall be provided as per FMC 14.15.050, except that mailing shall be extended to the distance consistent with the notice of application. If the notification area extends into areas outside the City limits the affected adjacent jurisdiction shall be notified by mail.

3. At least one public hearing shall be held with notice of public hearing provided as per FMC 14.09.030, except that mailing shall be extended to the distance consistent with the notice of application.

D. The following criteria shall be used to decide the application:

1. Whether there is a public need for the facility.

2. The impact of the facility on the surrounding uses and environment, the City, and the region.

3. Whether the design of the facility or the operation of the facility can be conditioned, or the impacts otherwise mitigated, to make the facility compatible with the affected area and the environment.

4. Whether a package of incentives can be developed that would make siting the facility within the community more acceptable.

5. Whether the factors that make the facility difficult to site can be modified to increase the range of available sites or to minimize impacts on affected areas and the environment.

6. Whether the proposed essential public facility is consistent with the Ferndale Comprehensive Plan.
7. If a variance is requested, the proposal shall also comply with the variance criteria.

8. Essential public facilities shall comply with any applicable state siting and permitting requirements (e.g., hazardous waste facilities).

E. A financial analysis of the proposed facility’s impact on the City of Ferndale’s budget shall be completed by the organization proposing the essential public facility. If the study shows that locating a facility in a community would result in a disproportionate financial burden on the City, an agreement should be executed to mitigate the adverse financial impact or the approval shall be denied. (Ord. 1400 § 2, 2006)
THE IMAGES SHOWN IN THE FOLLOWING SLIDES ARE INTENDED TO PROVIDE EXAMPLES OF BUILDINGS (PRIMARILY BASED ON THE CONCEPTUAL “STEPPING STONE” MODEL PRESENTED BY THE DLR GROUP, THOUGH WITH ADDITIONAL, MORE SIMPLE, BUILDINGS SHOWN TO ILLUSTRATE SETBACKS AND HEIGHT). THE IMAGES DO NOT REPRESENT A PROPOSAL FOR BUILDING DESIGN.
GENERAL COMPARISON: 25’ – 45’ HEIGHT BUILDINGS
25’ HEIGHT, 25’ SETBACK FROM ROAD

NOTE: REAR BUILDINGS MEASURING 35’ FROM GRADE TO ROOF ARE INCLUDED IN THE MODEL, BUT NOT VISIBLE FROM THIS PERSPECTIVE
35’ HEIGHT, 35’ SETBACK FROM ROAD

NOTE: REAR BUILDINGS ARE 45’ FROM GRADE TO ROOF
35’ HEIGHT, 75’ FROM ROAD
THREE EXAMPLES OF PROPERTY LINE SETBACKS

350' SETBACK: RES. PROPERTY

300' SETBACK FROM ROAD

25' SETBACK FROM ROAD
BOTH PICTURES SHOW THE SAME EXAMPLE:

THE 35’ BUILDING DOES NOT BECOME VISIBLE FROM EYE LEVEL UNTIL A 6’5” PERSON IS 175’ AWAY FROM THE BUILDING. THIS DISTANCE MAY CHANGE DEPENDING UPON THE ELEVATIONS OF THE PROPERTY AND THE CONFIGURATION OF THE BUILDING.

NOTE THE DISTANCE INTO RESIDENTIAL PROPERTY A PERSON MUST STAND IN ORDER TO VIEW THE 35’ BUILDING.
ESSENTIALLY THE SAME PICTURE AS THE PREVIOUS SLIDE, BUT WITH THE BUILDING PUSHED BACK AN ADDITIONAL 150', TO 200' FROM THE ROADWAY. A PERSON STANDING AT THE SAME LOCATION ON THE SITE CAN SEE THE 25', 35', AND 45' HEIGHT ELEVATIONS.
THIS IMAGE DEPICTS A BUILDING SETBACK 15’ FROM THE STREET WITH A HEIGHT OF 45’. SUCH A BUILDING COULD BE PERMITTED IN THE MANUFACTURING ZONE AS A PERMITTED USE. THE STRUCTURE SHOWN IN PREVIOUS SLIDES IS IMMEDIATELY ADJACENT FOR COMPARISON
MATERIALS EXAMPLES

CANNOT BE USED AS PRIMARY MATERIAL (CAN BE USED AS SECONDARY/ACCENT)

SMOOTH FACED CONCRETE BLOCK

SMOOTH FACED TILT-UP CONCRETE

PREFABRICATED STEEL PANEL

CAN BE USED AS PRIMARY MATERIAL (PLUS OTHERS NOT SHOWN)

BRICK

GLASS

TEXTURED CONCRETE

CMU (CONCRETE MASONRY UNIT)
MITIGATED DETERMINATION OF NON-SIGNIFICANCE

DESCRIPTION OF PROPOSAL: The City of Ferndale proposes amending sections of Chapter 18.92 of the Ferndale Municipal Code (FMC 18.92) in order to clarify requirements related to the siting of Essential Public Facilities. Proposed changes include amendments to the locational criteria for “correctional facilities,” including describing in more detail the general objectives of the City with regard to these facilities, as well as necessary measures to provide reasonable setbacks from nearby uses, specifically residential uses or zones. The City may clarify that elements of a correctional facility housing inmates must be a more significant distance from such properties than other elements (such as administrative offices, parking, etc.). This checklist is intended only as a non-project review for a zoning text amendment. Any subsequent environmental reviews for projects or non-project actions will require further/separate review, if applicable.

PROPOINENT: City of Ferndale, Contact: Jori Burnett

LOCATION OF PROPOSAL: Citywide

LEAD AGENCY: City of Ferndale
PO Box 936  2095 Main Street
Ferndale, WA  98248

The lead agency has determined that, with appropriate mitigation measures, the proposed project does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c) for this zoning text amendment. This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available for review by the public upon request.

None identified

This MDNS is issued under WAC 197-11-350. A 14-day comment period was provided beginning on January 30, 2013 and extending to February 13, 2013. Notice of the intent to issue the DNS was published, posted at Ferndale City Hall and the Ferndale Public Library, and circulated to interested state and local agencies. The SEPA checklist was re-issued on June 5, 2013 for a new 14-day comment period. Notice of the intent to issue the MDNS was published, posted at Ferndale City Hall and the Ferndale Public Library, circulated to
interested state and local agencies, and made available to the public through a direct mailing to residents and property owners within the affected area. No comments were received. Mitigation is consistent with the comments received.

Responsible Official: Jori Burnett, Community Development Director

Address: Ferndale Planning and Building Department
P. O. Box 936, 2095 Main Street
Ferndale, WA 98248

Telephone: (360) 384-4006

Date: June 20, 2013  Signature: [Signature]
I, Jori Burnett, being first duly sworn on oath, depose and say that on (date) July 17, 2013, I: (check one of the following):

☐ Deposited in: the United States mail at (city) _____________________________, Washington, postage prepaid,

☐ Posted at (physical location(s)) City Hall + Library _____________________________,

☐ Delivered to: ____________________________________________________________

The notice referred to the following application:
Amend FMC 18.92 - Essential Public Facilities

Located at (project location):
Manufacturing zone

☐ Attached is a list of the names and addresses that this notice was mailed to.

Signature of person who mailed notices

Subscribed and sworn before me this 17 day of July, 2013

Notary Public in and for the State of Washington

Residing at: Bellingham, WA

My Commission Expires On: 9-15-14
IMPORTANT DATES: CITY OF FERNDALE REVIEW OF POTENTIAL
WHATCOM COUNTY JAIL AND SHERIFF OFFICES

The City of Ferndale has initiated a review of its existing zoning regulations related to Essential Public Facilities – Correctional Facilities (Ferndale Municipal Code 18.92). You are receiving this notice due to your proximity to areas subject to the potential zoning text amendment and/or you have requested information on upcoming meetings and important dates. Please visit http://www.cityofferndale.org/CDD/jailplanning.php for additional information.

The City of Ferndale has tentatively scheduled the following:

**June 5th – June 19th**: Public comment on the re-issuance of a SEPA Mitigated Determination of Non-Significance (MDNS) related to potential changes to the Ferndale Municipal Code. A SEPA determination was issued in February, but the City has determined that it is appropriate to re-issue the determination with a new public comment period. The SEPA checklist, the full notice, and preliminary draft amendments can be viewed at the City’s website. Comments may be sent to Jori Burnett at PO Box 936 Ferndale, WA 98248 or joriburnett@cityofferndale.org. Comments must be received by 5pm June 19th, 2013.

**June 12th and July 10th**: Planning Commission meetings. 7pm at 5694 Second Avenue in Ferndale. The Planning Commission will discuss potential zoning text amendments at a public workshop. The public is invited to attend. This is not a public hearing.

**June 17th**: City Council meeting: 6pm at 5694 Second Avenue in Ferndale. The City Council will consider an advisory vote related to the potential siting of a jail facility/ sheriff offices in Ferndale. The public is invited to attend. This is not a public hearing.

**July 30th (TENTATIVE)**: Special Planning Commission meeting/ public hearing. 7pm at 5694 Second Avenue in Ferndale. The Planning Commission has scheduled a tentative public hearing to consider potential zoning text amendments. The public is invited to attend. This date is subject to change.