**Community Development Department Staff Report**

**Hearing Body:** Hearing Examiner

**Hearing Date:** March 23, 2015

**Type of Application:** Conditional Use Permit

**Project File Number:** 15001-CUP

**Project Description:** Phase I and II of the Whatcom County Corrections Facilities and Sheriff’s Headquarters, consisting of approximately 215,000 square feet of new construction split between three primary buildings. Full build-out of both phases will result in space for up to 661 beds, with the first phase including space for up to 521 beds. Infrastructure and utility improvements, wetland mitigation and stormwater facilities are also included in the proposed project. The Correctional Facility is considered an Essential Public Facility subject to Ferndale Municipal Code 18.92, and the development must comply with Ferndale EAGLE Standards.

**Applicant:** Whatcom County – Michael Russell, Whatcom County Facilities Management (Applicant), DLR Group (Project Manager/Consultant)

**Project Location:** Northwest of the intersection of LaBounty Drive and Sunset Avenue, within the 5000 block of LaBounty Drive. Whatcom County Assessor Tax Parcel Number 390233195230.
STAFF REPORT EXHIBITS

<table>
<thead>
<tr>
<th>EXHIBIT #</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Staff Report (text)</td>
</tr>
<tr>
<td>2</td>
<td>FMC 18.92.040 - Essential Public Facility &amp; FMC 18.56 Manufacturing Zone</td>
</tr>
<tr>
<td>3</td>
<td>Project Narrative &amp; Condition Use Permit Application Form</td>
</tr>
<tr>
<td>4</td>
<td>2013 Final Environmental Impact Statement (FEIS)</td>
</tr>
<tr>
<td>5</td>
<td>Conceptual Wetland Mitigation &amp; Stormwater Layout</td>
</tr>
<tr>
<td>6</td>
<td>Zoning Map</td>
</tr>
<tr>
<td>7</td>
<td>Comprehensive Plan Designation Map</td>
</tr>
<tr>
<td>8</td>
<td>Aerial Map</td>
</tr>
<tr>
<td>9</td>
<td>Basic Site Plans</td>
</tr>
<tr>
<td>10</td>
<td>Basic Building Elevations</td>
</tr>
<tr>
<td>11</td>
<td>2013 Fiscal Impact Assessment</td>
</tr>
<tr>
<td>12</td>
<td>Landscape Plan</td>
</tr>
<tr>
<td>13</td>
<td>Site Section &amp; Screening Plan</td>
</tr>
<tr>
<td>14</td>
<td>Pre-Intake Binder</td>
</tr>
<tr>
<td>15</td>
<td>Photograph – Police Station Fencing</td>
</tr>
<tr>
<td>16</td>
<td>Lighting Plan</td>
</tr>
<tr>
<td>17</td>
<td>Conceptual Perspective – Skylights</td>
</tr>
<tr>
<td>18</td>
<td>FMC 18.94 - Public/Institutional Zone</td>
</tr>
<tr>
<td>19</td>
<td>Scoping Boards</td>
</tr>
<tr>
<td>20</td>
<td>Public Notices &amp; Affidavits of Posting &amp; Mailing</td>
</tr>
<tr>
<td>21</td>
<td>Traffic Study (Oct. 2013) and Memo (Jan. 2015)</td>
</tr>
<tr>
<td>22</td>
<td>Shoreline Maps</td>
</tr>
<tr>
<td>23</td>
<td>Adopted EAGLE Checklist</td>
</tr>
<tr>
<td>24</td>
<td>Applicant’s Request for Phasing Consideration</td>
</tr>
</tbody>
</table>

OVERVIEW

Whatcom County has submitted a Conditional Use application to the City of Ferndale in order to initiate formal review of a proposed Adult Corrections Facility and Sheriff’s Headquarters campus to be located within the 5000 block of LaBounty Drive, northwest of the intersection of LaBounty Drive and Sunset Avenue. As per Ferndale Municipal Code 18.92.040 (Exhibit 2), a Correctional Facility is considered an Essential Public Facility pursuant to RCW 36.70A.200 and is processed as a Conditional Use.¹

¹ Sheriff headquarters are not subject to Essential Public Facilities regulations, and are subject to the requirements of the underlying zone – Manufacturing (Exhibit 2) for the purpose of use, setback and height requirements. With the exception of these requirements, however, the City seeks to consider the Correctional Facility/ Sheriff’s Headquarters campus as one land use application.
As proposed, the campus would develop a vacant 39.3-acre property to include approximately 215,000 square feet of building area. If approved, Whatcom County expects to split the proposed work into two phases, with the first phase completing all infrastructure, site preparation, construction of the Sheriff’s facilities and the majority of the adult correctional facility (jail). The second phase would expand the correctional facility by squaring off the southwest corner of that building. Please see Exhibit 3, Project Narrative. The largest building would be the correctional facility, including the jail and jail support functions. The applicant has sought to physically screen this larger building with the smaller Sheriff’s office and to take advantage of natural topography that may further shield the jail building from view.

According to the applicant, Whatcom County intends to pursue the current Conditional Use application now to provide more certainty for the public before an anticipated August 2015 request to voters for a sales tax increase to fund the project. Formal development applications would be submitted in 2016 if the ballot measure is successful. It should be noted that build-ready construction drawings, engineering, or final modeling are not available at this time, due in part to the phased construction process.

The proposed project is large and on a site that, while vacant, includes a number of environmental and physical constraints. This staff report is intended to identify and evaluate these constraints (and opportunities), as well as provide analysis related to the City requirements that must be met.

Neither this staff report, nor the City’s review of this project, directly relate to the applicant’s decision to replace existing facilities with this one, or to analyze correctional facilities and their role in society. These decisions, and this conversation, may be more fully vetted with the Whatcom County Council and the pending sales tax measure to be considered by voters in August 2015. The City’s role is to evaluate the proposal based on the regulations administered by the City in effect at the time of application submittal.

The City of Ferndale recommends approval of the proposal, with conditions. It is the policy of the City of Ferndale to establish clear standards and to work cooperatively with the applicant, with the expectation that development proposals that meet the City’s regulations will be approved.

**PERMITS REQUIRED**

2 For the purposes of this staff report, unless otherwise noted, the “jail” references the correctional facility itself. Wherever possible, the overall development is described as a “campus,” with the Correctional Facility (also referred to as the “jail”) and Sheriff’s Headquarters being two distinct land uses within that campus.
The Conditional Use review and approval process will be discussed in more detail below. The CUP process is focused primarily on the approval – and conditioning – of a specific use, including the general configuration of the site and other mitigating conditions necessary to ensure adherence to City policies and regulations. The Conditional Use does not authorize any physical construction or site disturbance. In order for physical work to commence, additional permits will be required and the reviews of these permits shall conform to the general guidelines established by this CUP. Thus, in addition to the Conditional Use Permit being considered, the following additional permits will likely be required:

- Building Permit(s) – Building construction
- Mechanical and Plumbing Permit(s) – May be combined with building permits
- Revocable Encroachment Permit – Work within public right-of-way as well as work to modify or relocate City utility lines
- Land Disturbance Permit – Private infrastructure construction, grading, and stormwater/wetland disturbance or mitigation
- EAGLE Certification – Compliance with EAGLE Board recommendations to be adopted as part of this Conditional Use application (Exhibit 23), and conditioned as appropriate to subsequent development permits.
- Technical Review Committee (TRC) – Recommendations made by City staff related to compliance with City regulations and standards are made conditions of this review, subject to allowances for more specific conditioning to be added at the time of the review of development permits.
- Site plan review – If the use is approved by the Hearings Examiner, City staff and the applicant will coordinate efforts to revise the proposed site plan to reflect conditions adopted through the Conditional Use process. This site plan will then be stamped approved and will be utilized by the City and the applicant to inform subsequent permit decisions (building permit, land disturbance permit, etc.).

ENVIRONMENTAL REVIEW

The City recommends that the conclusions and mitigation measures identified in the joint Whatcom County – City of Ferndale Final Environmental Impact Statement (FEIS – see Exhibit 4) be adopted as conditions of this Conditional Use Permit. The FEIS was developed in 2013 and remains consistent with the current proposal, with the exception of interim

---

3 While these permits must be consistent with the requirements of the CUP (if granted), they shall also be governed by the regulations in place at the time the permit applications are submitted. As such, these permits are not “vested” to regulations currently in place.
4 Within the context of this proposal, infrastructure owned by Whatcom County (a public agency) is technically public. However, the City identifies this infrastructure as “private” for the purposes of distinguishing this infrastructure from infrastructure owned and/or maintained by the City.
5 EAGLE stands for the City’s Energy Efficient Design, Advanced Technologies, Greater Good, Low Impact, and Economic Development program. EAGLE compliance is required for new public buildings and “large” retail development and may be used in coordination with or in replacement of LEED (Leadership in Energy and Environmental Design) compliance.
traffic mitigation measures identified in the FEIS (stop signs at freeway ramp intersections at Pacific Highway and the north and south-bound ramps), which have since been mitigated with the installation of compact roundabouts at these locations.\(^6\)

The applicant will continue to work with the City of Ferndale, Army Corps of Engineers (ACOE) and Washington State Department of Ecology to finalize wetland avoidance and mitigation measures, including potential off-site mitigation that may be necessary. These measures will be finalized prior to the issuance of permits that could impact these sensitive areas, and a condition has been added to this effect.

**SETTING**

*Site Description*

The property is currently undeveloped. While the property has periodically been disturbed for utility installation and land clearing activities (including the most recent land clearing activity in 2008-2009), no permanent development has ever been located on the site.

As a result of the more recent land clearing activities, the site is characterized by pasture grass and thickets of native and non-native plant species. The site consists of a plateau paralleling LaBounty Drive, with a pronounced elevation change in the eastern third of the property. This elevation change is utilized to shield the correctional facility structures from views to the east.

Several wetland areas have been identified on the site, the largest of which (Wetland “D” on the proposed site plan, Exhibit 5) extends through the center of the site in a horseshoe shape. It should be noted that previous land clearing activities disturbed many of the existing critical areas, and many of the wetland functions or habitat have not re-established themselves. Additional wetlands associated with the Tenant Lake system of wetlands are present in the western portion of the site and will generally be undisturbed or enhanced.

West of the break in elevation, the land generally slopes to the west/southwest, and the property is de-watered by existing culverts beneath the Burlington Northern Santa Fe railway

\(^6\) The pre-existing stop-controlled interchange, which required that vehicles leaving the freeway stop before entering Slater (but allowing east-west traffic along Slater to move without controls) had created a situation in which traffic periodically queued up into the I-5 mainline. Meanwhile, vehicles entering Slater Road from Pacific Highway or the interstate frequently attempted to complete their turning movement without waiting for adequate spacing between vehicles moving at 35 mph or more. The compact roundabouts have dramatically reduced the length of vehicle queuing from the interstate and Pacific Highway, have acted as speed controls for east-west traffic, and have virtually eliminated the potential for head-on collisions in a manner equal (or likely better) than a four-way stop or signal. However, the roundabouts are likely not sufficient to support traffic volumes that may result from moderate to significant future development beyond the current proposal. The Cities of Ferndale and Bellingham, Whatcom County, Port of Bellingham, Washington State Department of Transportation and the Lummi Nation are all coordinating on long-range modifications at this interchange.
which acts as the western boundary of the property. Water flowing from the site reaches the Clay Pit Pond to the southwest of the BNSF railway, and flows from there through unchanneled waterways to the Nooksack River.

Several City utility lines and easements are present on the site, including lines stretching from the south to the northwest (and Creighton Road) that are proposed for relocation as a result of this development. An existing sewer line runs east to west along the northern portion of the property.

This northern portion of the property, particularly the northeastern portion, is influenced by a stream (and associated ravine) that runs from the east to the west. In the northeast corner of the site is a protected archaeological reserve in which no development activity is proposed, or can be permitted. This protected area acts as a buffer between the stream channel/ravine and development activity in this area, while existing wetlands and wetland mitigation measures are proposed to protect and enhance the stream channel and riparian area to the northwest.

**Comprehensive Plan and Zoning**

The Site is zoned Manufacturing (Exhibit 6) and is designated “Industrial” by the Ferndale Comprehensive Plan (Exhibit 7). The City expects that the site will be rezoned/re-designated to a “Public” land use designation and “Public/Institutional” zoning when a permanent use is established via zoning text and Comprehensive Plan amendments.

**Surrounding Zoning and Uses**

(Please refer to Exhibits 6-9 for the following.)

This section describes existing land uses and zoning in the area surrounding the project site. With few exceptions, the surrounding area has not yet been developed to the full extent anticipated by City zoning, and the City anticipates that additional growth will likely occur on many of the properties that are now vacant, under-developed, or developed with non-conforming uses.

**North**
To the north, an un-named stream channel runs from the northeast to the southwest. To the northeast is a lightly-developed single family residential area zoned Residential Office (RO), with a Medium Density Residential Comprehensive Plan designation. The majority of this 8.28 acre site is dominated by trees and the ravine associated with the adjacent stream. Beyond this property are several single family residences as well as several phases of the LaBounty estates residential subdivision (~70 existing single family units). Residential properties in this area access from LaBounty Drive.

To the northwest of the site are vacant lands zoned Manufacturing and designated for Industrial purposes. Prior to the encroachment of wetlands in this area (or regulations to
protect the wetlands), the City had anticipated that Creighton Road would be extended to the south, through the subject property in order to connect to an extended Sunset Avenue. The Creighton Road extension is no longer planned, though the Creighton Road right of way remains an active utility easement for the City. While future private development north of the site is still allowed per the City’s zoning regulations, the extensive, generally high-functioning wetlands that may exist in this area will likely limit development or make future development north of the site more expensive.

South
The City’s Manufacturing zone/ Industrial land use designation extends south of the property and includes a number of industrial businesses including a scrap yard, waste transfer station, wood shavings business, and more. To the southeast are additional manufacturing and light industrial businesses that together represent the industrial core of the City of Ferndale. These businesses include waste transfer, an asphalt plant, taxi headquarters, border patrol offices and other light industrial uses.

East
East of the subject site and directly fronting LaBounty Drive are several large-lot single family residences zoned Residential Office and carrying a Medium Density Residential Comprehensive Plan designation. Several of these properties have been owned and maintained by the same owners for several decades, and many of the properties are currently offered for sale. East of these properties is a single family residential subdivision with the same land use regulations.

West
West of the site is the Burlington Northern Santa Fe railway, a linear fifty-foot wide property placed on a raised embankment approximately five feet high. To the west of the railway is Tennant Lake and the associated “clay pit pond,” both owned by the Washington State Department of Fish and Wildlife (WDFW). As will be noted, stormwater from the site generally flows to the southwest and into the WDFW properties before being conveyed south, eventually reaching the Nooksack River and Bellingham Bay.

PROJECT DETAILS

City staff has sought to address the proposal first by discussing the project’s adherence to relevant land use codes, and second by describing the different elements of the proposal due to the size of the proposed project and the multiple permit reviews that are required.

Application Materials
The applicant has completed an application form and narrative (see Exhibit 3) that provides the proposal’s operational details. The applicant has also provided a basic site plan (see Exhibit 9), basic building elevations (Exhibit 10), and a conceptual wetland mitigation plan/stormwater layout (Exhibit 5).
The applicant has included a supplemental traffic analysis, the FEIS and Draft Environmental Impact Statement (DEIS), grading, drainage, lighting, and landscaping plans, geotechnical reports, EAGLE proposals, a pre-application meeting summary and a list of property owners that have been notified pursuant to City of Ferndale requirements.

Full building and civil plans will be submitted following approval of the Conditional Use Permit and the Site Plan Review.

**Ferndale Municipal Code 18.56 (Manufacturing Zone)**

The Whatcom County Sheriff’s Headquarters are required to comply with the standards of the underlying zone. The City’s Manufacturing Zone allows “Business firm headquarters and professional offices” (Exhibit 2) as a Permitted Use (FMC 18.56.020 (G)), and City staff has determined these facilities are consistent with this use.

The Manufacturing Zone limits buildings to a maximum height of forty-five feet (FMC 18.56.090) and requires that setbacks be a minimum of fifteen feet from any street right-of-way lines (FMC 18.56.100 A). No maximum lot coverage is established (FMC 18.56.100 B).

The City has determined that the proposed development meets these requirements.

**Ferndale Municipal Code 18.92 (Essential Public Facilities)**

RCW 36.70A.200 defines Essential Public Facilities to include correctional facilities and as “those facilities that are typically difficult to site (RCW 36.70A.200)” but are necessary for modern society and government to operate. Washington State acknowledges these facilities may have real or perceived impacts that could be difficult to mitigate and, because of this, neighbors or local jurisdictions may oppose them.

RCW 36.70A.200 restricts jurisdictions from barring these facilities, however. RCW 36.70A.200 (2) requires that jurisdictions “shall…establish a process, or amend its existing process, for identifying and siting essential public facilities.”

While State law prevents jurisdictions from prohibiting Essential Public Facilities, it does nothing to prevent a jurisdiction from establishing regulations to improve the overall design and to mitigate the potential impacts of these facilities. In 2013 the City of Ferndale undertook a public process to update the City’s Essential Public Facilities chapter specifically address Correctional Facilities. The City worked with Whatcom County, its consultants, and the general public to identify both general and area-specific requirements.
This process provided the applicant with a better understanding of local concerns as well as specific requirements for design. As a result, Ferndale Municipal Code 18.92 provides City staff, the Hearing Examiner and the general public with a dramatically-improved basis for review.

There are several basic elements of FMC 18.92:

- Correctional facilities are only allowed within the Manufacturing Zone east of the Nooksack River.
- Landscaping and lighting will be integrated into building and site design, generally “softening” or replacing the appearance of additional security elements.
- Inmates cannot view residential properties, nor will residents in adjacent properties be able to view inmates.
- Where possible, the correctional facility itself should be screened behind other buildings so as to minimize the appearance of the correctional facility itself.
- A correctional facility must be set back a minimum of 150 feet from the street, and 250 feet from residential properties.

The proposed development concept reflected in the application materials conforms to these primary requirements. The City recommends that the Hearing Examiner establish strict limits as a general condition of approval on subsequent modifications to the development proposal to ensure the final project is very consistent with what is proposed.

City staff recognizes that the Hearing Examiner, general public and applicant require not only a general assessment of project compliance, but a step-by-step analysis of relevant code sections. The relevant sections of FMC 18.92 are shown below, followed by Staff response.

18.92.020 Fiscal impact assessment.

The siting of essential public facilities generally results in the removal of land from property tax rolls and may sometimes eliminate existing sales tax or preclude future sales tax that would otherwise be generated. While these fiscal impacts cannot factor into the City’s approval or denial of a proposed essential public facility, such impacts can inform the City and the applicant of the fiscal impact that will likely result from the facility, and may result in the identification of mitigation measures necessary to offset fiscal impacts.
The proponent of an essential public facility shall complete, at proponent’s cost, a fiscal impact analysis 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, consideration of the following factors:

A. Property tax implications for the City resulting from the removal of property from tax rolls;

B. City taxes, including retail sales taxes, before and after proposed development; and

C. Anticipated sales taxes before and after the proposed development, including sales taxes generated by construction.

In 2013, a fiscal impact assessment (Exhibit 11) was prepared by consultants (BERK Consulting) working under the direction of the City and paid for by Whatcom County. This assessment responded to requirements identified in FMC 18.92.020. The conclusions of the fiscal assessment cannot be used as a basis to approve or deny the current proposal. The fiscal study concluded the proposed development would likely generate significantly higher one-time revenues than industrial uses on the site, but industrial uses on the site would likely generate higher subsequent annual revenues, based on the assumption that many industrial uses do generate sales taxes for the local jurisdiction. Utility and traffic impacts are assumed to be covered by connection/demand fees, impact fees and mitigation measures identified in the environmental document.

With regard to an increase or decrease in property values, the fiscal study concluded that increases (or especially decreases) in property values could not be accurately evaluated. While concerns had been raised that a jail could decrease property values, the study indicated that variables in jail design, the mix of uses surrounding the jail, the relative property values of existing development, the choice of housing options available in Ferndale and surrounding areas, and the amenities or lack thereof currently present in the surrounding area all factor into the property value calculation which ultimately leads to the choice of individual property owners to purchase property at a certain price-point.

As noted, the fiscal impact report cannot provide a basis for approval or denial of an Essential Public Facility. However, the Ferndale Municipal Code does provide for the City and the applicant to execute an agreement to mitigate adverse financial impacts (FMC 18.92.090 E). No verifiable adverse financial impacts have been identified. However, the City does note that nearly forty acres of property has been removed from the City’s inventory of land that could be developed by private interests (employment growth). The City

---

7 The document also clarified that the industrial alternatives analyzed were based on general assumptions that could vary widely depending on a specific industrial use, and that future industrial use of the site was not certain.
anticipates that the Whatcom County Council will consider this fact when evaluating Urban Growth Area proposals associated with required 2016 Comprehensive Plan updates, which is a separate process.

18.92.040 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 (manuifacturing) zone east of the Nooksack River subject to issuance of a conditional use permit.

Staff Response: The proposed correctional facility meets this locational requirement.

B. Siting Criteria.

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

Staff Response: The proposed correctional facility meets this requirement. Whatcom County has found that a correctional facility and Sheriff’s Headquarters benefit from a centralized location in close proximity to transportation corridors in order to provide efficient response times to emergencies. In addition, all Whatcom County jurisdictions transport inmates to the Whatcom County jail for processing. In some cases jurisdictions experience diminished police response when officers are in transit to and from the correctional facility – a centralized location will tend to improve or maintain these transport times.

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 that there may be multiple facilities housed on one campus.

Staff Response: The proposed correctional facility meets this requirement. While the Washington State Border Patrol offices are within a mile of the proposed campus, they do not include facilities that could be considered a correctional facility or secure community transition facility.

3. Distance shall include facilities inside and outside the City’s jurisdiction.
Staff Response: City response to 2, above, includes facilities outside of the City’s jurisdiction.

C. Lot Design Criteria.

1. Landscaping and Fencing.

   a. Standards.

   i. In addition to the adopted City 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 in burlap to a two-inch or three-inch caliper size consistent with City landscaping standards.

   Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The City requires that landscaping trees must be balled in burlap to a two-inch or three-inch caliper size. Landscaping notes shown on the proposed Landscaping Plan (Notes 1-7) are consistent with the City’s requirements, and shall be made conditions of approval. The City also recommends a condition that where practical, landscaping used for screening purposes be installed early in the site development process so as to allow vegetation to grow onsite for as long a period as is practical prior to occupancy.

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

   Staff Response: The proposed Landscaping Plan (Exhibit 12) portrays landscaping that is consistent, and at times more intensive than that required by the City’s landscaping standards. In addition, the Ferndale EAGLE Board has recommended that landscaping along LaBounty Drive be modified to allow for a meandering sidewalk along the west side of the roadway. Finally, Whatcom County Fire District 7 will require that a fire hydrant be installed along LaBounty Drive and that a curb cut or cut-out be created in order to facilitate emergency response to this portion of the property.

   The City requires a Basic L-1 landscaping standard (Basic Landscape Standard - FMC 18.74.040 A) along street frontages, but requires an L-3 landscaping standard (High Screen...
Landscape - FMC 18.74.040 C) as a buffer between the Manufacturing and Residential Office zone. Provided that life-safety and motorist/pedestrian vision clearance can be provided (which they can), the City requires the more-intensive L-3 landscaping.

L-3 Landscaping is intended to “create a living visual barrier and insert a psychological separation” between uses and zones. The landscaping is intended to be high – requiring a continuous screen at least six feet tall – and wide – featuring a minimum width of seven feet.

A continuous screen of shrubs is proposed if a wall is not established, and trees must be provided at least every thirty linear feet. Low maintenance ground cover must be established on at least 70% of the area within five years of planting. The Hearing Examiner should note that City staff has consistently interpreted the code to allow the applicant to propose non-linear arrangements of landscaping, including clustered landscaping and meandering landscaping, depending on the specific context of a proposal. This is consistent with the requirements of FMC 18.74.040 A (1) d.

As proposed (and with modifications required by the Fire District and EAGLE Board), the proposed landscaping meets or exceeds the requirements of the Ferndale Municipal Code without impacting the visibility of motorists or pedestrians in a manner that would cause confusion or concerns for life-safety.

The applicant’s Site Section, Screening attachment (Exhibit 13) depicts the proposed earthen berm in relation to the right of way and fencing. Above the earthen berm is a continuous vegetative screen, which when combined with the berm will be more than the 6’ in height required by code. Trees planted along the berm are expected to reach 14’ within the same period of time. While the City’s requirements to modulate the sidewalk and provide fire access will result in a modification of the proposal, the City is confident that the same screening effect will be created even with these changes. A condition requiring a meandering sidewalk, fire access, and modification of the landscaping proposal has been added.

The City has determined that the plant and tree species proposed for the development are consistent with the City’s landscaping requirements, including street tree requirements. However, the City has identified two tree species – Tulip Tree and Red Maple – that may be incompatible with overhead utility lines. The City will require that these species be planted
in a manner that does not conflict with overhead lines. In addition, the City will require that all trees or vegetation with a significant root system east of the proposed parking areas will be required to include a root barrier designed to direct root growth downward in a manner that does not impact City utilities, sidewalks, or the public street.

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.

Staff Response: The proposed landscaping meets these requirements. Beginning at the street, the proposed earthen berm appears to be intended to soften the appearance of not only security features and fences (which are proposed behind the berm), but the campus in general.

Within the site, the proposed Planting Strategy (Slide 18 of the Pre-Intake Binder – Exhibit 14) perhaps best illustrates the manner in which these elements will be defined by landscaping. Landscaping, combined with the design and construction of pedestrian-scale elements such as walkways, benches, and lighting, has the potential to further soften appearances while at the same time easing the transition from one element to another. Associated with the vegetative landscaping itself, the Site Materials shown on Slide 11 also provide specific examples of possible improvements. While the precise application of these materials to specific locations within the site cannot yet be evaluated, the City has attached a condition requiring that site materials are established in a manner that compliments the landscaping and structures, similar to what is shown on the application materials. The City has also attached a condition requiring that the type and location of landscaping be consistent with the landscaping plans shown, subject to modifications necessary to create a meandering sidewalk and vegetation along the public right of way as well as limited amendment within the site itself. In no case shall a meandering landscape along the public right of way decrease its effectiveness as a screen from what is shown.

The City also recommends that the Hearing Examiner require that the applicant continue to focus on landscaping designs that screen linear points and driveways, as shown on the site plan. As shown, landscaping along driveways to the visitor parking, staff parking and the
warehouse area retains clear vision areas, but places vegetation at key points to reduce
direct views to the warehouse, jail building, and other related uses.

iv. No barbed wire, concertina fencing, or similar fencing shall be visible on the
facility or the site without a variance. However, the Zoning Administrator may grant an
exception for sally ports and similar prisoner\(^8\) transfer locations to allow such fencing
for security reasons; provided that the facility is designed to limit or obscure the
appearance of such fencing.

Staff Response: The City has determined that as conditioned, the applicant’s proposal
complies with this requirement. The sally port will have two electronic sliding gates that are
a woven wire mesh material, generally thicker than a chain link fence. The remainder of the
enclosed sally port will consist of precast concrete panels. One roll of barbed tape will be
put in place within the interior of the sally port – but will not be visible from the exterior of
the structure except when in front of the sliding gates themselves. The City recommends
that a condition be established, restricting barbed tape or similar materials to the interior of
the sallyport, with exterior visibility of the tape limited to the area in and around the gate
area.

v. Perimeter fencing shall be consistent with requirements of the City landscaping
standards for L-3 high screen landscaping.

Staff Response: The City has determined that as conditioned, the applicant’s proposal
complies with this requirement. As described in the project narrative, the only perimeter
fencing onsite will be around the staff parking lot to the northeast. Such fencing will be
climb-resistant architectural metal fencing of a type that will match similar fencing at and
around the Ferndale Police Station (see Exhibit 15). The City will not consider chain link
fencing in the same category as architectural metal fencing. A condition has been added to
this effect.

The City and the applicant have interpreted the Ferndale Municipal Code as requiring a
certain aesthetic requirement when and if perimeter fencing is proposed. The City does not

\(^8\) The Ferndale Municipal Code uses the term “prisoner” when referring to individuals housed or detained
within the Adult Corrections Facility. Except where the Ferndale Municipal Code is cited verbatim, these are
considered inmates, a fact that is reflected in this staff report.
interpret the code as requiring perimeter fencing, if none is necessary for security. In this case, the applicant relies on the structure itself, rather than the surrounding grounds, as the primary means of security. This means that the remainder of the site does not require perimeter fencing.

2. Signage.
   a. Standards.
      i. Signage shall be in accordance with the City sign code (Chapter 18.80 FMC), except that no freestanding pole signs shall be permitted, other than signs for internal direction.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has not shown any freestanding signs in their application materials. Unless variances are requested, the City anticipates that review of proposed signage would be completed administratively in accordance with FMC 18.80.

   a. Off-street parking areas shall be designed to minimize visual impact.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. As proposed, the applicant identifies two primary parking areas in addition to secured parking warehouse parking and the sally port within the southern portion of the jail building. The staff parking lot is the largest parking lot and would be accessed by way of one of two access points north of the sheriff administration buildings. This parking lot also provides access for transport parking.

The applicant has proposed four large planter islands/parking partitions within this parking area. The northernmost island and landscaping along LaBounty Drive has been designed to shield the majority of the lot from view of pedestrians and motorists along the roadway. This shielding is maintained along LaBounty Drive, as previously described.

Within the parking lot itself, a system of planter islands/parking partitions reduce the appearance of unbroken impervious pavement and will also treat some of the stormwater leaving the site. They will also minimize the appearance of the parking lot itself.
The applicant proposes a similar, but reduced approach to the visitor parking area to the south, with the southernmost planter island being used as a screen for the remainder of the parking area.

The City recommends the following conditions:

1. No parking shall be designated south of the southern visitor parking area planter island or north of the northernmost planter island in the staff parking area.

2. Landscaping shall be placed in a manner which preserves life-safety vision clearance but partitions the parking areas.

3. Parking lot location and configuration shall be consistent with the proposed site plan.

   b. Separation between fleet/employee vehicles and public parking areas, if required, shall utilize attractive elements which may consist of landscaping or fencing compatible with other on-site design elements.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant proposes the physical separation of staff/ fleet parking from visitor parking areas. As proposed, the sheriff administration building itself (as well as associated landscaping) would act as a separation between these two areas.

   c. 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.

      i. 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.

Staff Response: The proposed site plan meets this objective. The sally port completes the southern portion of the jail building itself, and will utilize precast concrete panels along its eastern boundary and southern boundaries. These panels would be the only portion of the sally port/inmate transport location visible from the public right-of-way as the sally port entryway is screened by frontage improvement landscaping, parking lot landscaping,
Detention Area A and a landscaping island adjacent to the sally port gate. All prisoners will be loaded and unloaded within the sally port.

Recommended Condition: The sally port location and construction will be substantially as shown on proposed documents. The applicant shall screen the sally port from view of the public right of way substantially as shown on proposed documents. All prisoners will be loaded and unloaded within the sally port, unless unique security or health conditions require alternative methods.

4. Lighting and Glare.

   a. Minimum and maximum lighting standards shall assure that correctional facilities provide safe vehicular and pedestrian access as well as illumination necessary for security.

   Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has proposed a lighting plan as well as a site photometric plan (See Exhibit 16, Lighting) that will meet the security standards of this campus. Staff has compared the estimated Foot Candles (FC’s) and has verified that the proposal meets the accepted standards for parking lot and exterior lighting.

   b. Excess “spill-over” lighting and negative off-site impacts shall be minimized.

   Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant proposes a system of capped and LED lights, both of which serve to reduce spillover effects and glare. The photometric plan illustrates the manner in which the spillover diminishes rapidly with distance, creating little or no light spillover onto adjacent properties, and preserving near-natural lighting in the majority of the proposed wetland reserve/mitigation areas. The proposed lighting layout appears to achieve the intent of the code provision. The City recommends a condition requiring that a revised lighting plan and photometric consistent with the current proposal be provided when development plans are submitted.

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

   Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has indicated that LED lighting will be utilized
throughout the campus (see approved EAGLE Checklist, Exhibit 23). In some areas, particularly inmate areas, LED lighting may not be practical. However, all exterior lighting is anticipated to be LED, which allows for decreased glare, more-focused lighting, and in many cases ambient lighting controls and timers. EAGLE compliance will require verification of LED lighting, and these conditions are recommended to be adopted by reference (as will be described below).

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

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The legend contained on Page 1 of the applicant’s lighting plan proposes 18’ poles within parking areas as well as 12’ – 12.5’ poles or lighting installation heights throughout the remainder of the campus. The maximum height of buildings in the proposed development, measured from grade to the peak of rooftop mechanical units in the correctional facility itself is proposed to be 31’. However, the applicant’s proposed use of sloping topography will give the appearance of a much lower building. The proposed 21’8” height for the proposed administration building is a more conservative measure. Staff recommends that a condition be placed limiting pole heights to 18’ as shown. In no case shall exterior light standards exceed the height of nearby structures.

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

Staff Response: As noted, signage has not yet been proposed. With the exception of signage, the City has determined that as conditioned, the applicant’s proposal complies with this requirement. As described in the applicant’s lighting plan, exterior lighting will consist of poles and wall sconces. Additional landscaping illumination may also be proposed but will be shielded to prevent glare. As proposed, it does not appear that the lighting system will detract from the visibility of surrounding buildings – the lighting system does not dominate this or other sites. The fact that the lighting system has been designed at the same time as the rest of the development and in close coordination with the building architect demonstrates that the overall lighting plan is compatible with the architect’s vision. Should
changes to the lighting system be proposed, the City requests that the architect be included in such discussions in order to ensure that lighting remains consistent with architectural plans, with the exception of lighting required for security purposes.

f. Landscape and architectural lighting shall be situated to illuminate building facades, building entrances and features or courtyard spaces including the internal lighting at primary entrance points and foyers.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. In addition to exterior lighting in parking lots and walkways, the applicant proposes a combination of up and down-lighting at canopy entrances within the primary entry points to the administration building. A condition has been added to ensure that this system of lighting is retained.

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

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The proposed plan relies primarily on external ramps in lieu of stairs. In these locations, pole, wall sconce and up/down canopy lighting will establish night lighting sufficient to meet demand. This lighting may be in place only during hours of operation for the administrative offices and may be turned off at close of normal business hours.

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

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant proposes five primary exterior lighting fixtures:

- A double head parking pole with full cutoff (18’), within parking areas.

- A single head parking pole with full cutoff (18’), along driveway areas and within parking areas.
- Wall packs mounted at 12’ 6” with full cutoff along the exterior walls of the building.

- Pedestrian decorative poles along the perimeter of interior landscaped areas, with partial cutoff,
  180 degree backlight optical shielding at 12’.

- Combination of canopy up and down lighting at entry

As proposed, the lighting will meet the intent of the Ferndale Municipal Code. Staff recommends a condition requiring that the final lighting plan be substantially similar to the proposed plan, and that all exterior lighting utilize full or partial cutoffs, or similar (such as up or down lighting that is screened by buildings and/or recessed within the building or ground).

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

Staff Response: The applicant’s lighting plan, photometric plan, and Exterior Lighting Plan shown on Slide 20 of the pre-application materials demonstrate compliance with these requirements.

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

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. No light poles exceed 18’ within the campus.

  k. Prisoner housing shall utilize skylights to the greatest extent practical in lieu of wall windows. Under no circumstances shall windows in areas available to prisoners be placed in locations that face residentially zoned property or risk potential facilities/activities.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. As proposed, skylights are a major source of daytime lighting within the inmate housing area. These skylights are most visible in the “Conceptual Perspective” included as Exhibit 17, although it should be noted that this depiction is an artistic rendering and is subject to more variation than many of the more technical drawings.

No windows are located in areas available to inmates that face residentially zoned property. The applicant’s elevation drawings depicting the east and north exterior elevations reflect the
5. Outdoor Storage, Trash Collection, and Loading Areas.

a. Standards. Loading areas and outdoor storage areas may result in visual and noise impacts on surrounding neighborhoods and should be designed so that the impacts of delivery and loading operations on adjoining neighborhoods are minimized. These areas, when visible and audible from public streets or residentially zoned property, shall be screened, recessed and/or enclosed. Appropriate locations for loading and outdoor storage areas shall 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 areas on those sides of a building that does not have public entrances.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. As proposed, Trash enclosures are located at the loading dock of the Adult Corrections Facility. The loading dock is located at the lower elevation of the site, and is outside of the 350’ buffer to LaBounty Drive. This will ensure garbage equipment, cans, and loading activities are not visible from LaBounty Drive.

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.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. As proposed, the enclosure is screened by the tree screening and topography change on the site.

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.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. As proposed, the area for garbage equipment, cans, and loading activities are not 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 when alternative installation would 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 of a correctional facility, 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 other similar means.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant proposes the rooftop installation of the majority of external mechanical or Heating, Ventilation and Air Conditioning (HVAC) equipment associated with the correctional facility itself. As per City code, rooftop screens are proposed to shield this equipment from view of residentially-zoned property and the public right of way. In some locations, the applicant seeks to utilize a combination of screens, articulated rooflines, and other architectural elements to block this equipment from view.

The applicant has indicated that the angled roofs of the Sheriff’s headquarters prevent rooftop equipment on these structures. As proposed, the mechanical equipment would be placed on the ground but enclosed by fences constructed of materials compatible with the structures themselves. As a result the units would not be visible from the public right of way but would provide ventilation to the adjacent building(s). Conditions have been added to this effect.

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 proponent upon the demonstration that strict compliance with these provisions would result in security implications.
Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has not requested a modification of building design standards. As shown on proposed site plans and architectural elevations, the sheriff’s headquarters provides the most substantial visual interest and articulation. The correctional facility itself is much more utilitarian and is designed for security and efficiency.

As proposed, the articulation of the campus changes depending upon the approach direction: when travelling along Labounty Drive from the north to the south (from within the residential area), the articulation of the Sheriff’s Headquarters is intended to suggest a system of cottages or single family residences – the headquarters may appear to be broken up into smaller buildings.

When travelling from the south (from within the industrial area), the scale of the campus is more obvious, and the sloped roofs of the Sheriff’s Headquarters give the impression of additional height and connectivity.

Identity and Character: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has sought to evoke the character of the surrounding area using both natural (landscaping) and manmade (structural) materials. The applicant’s landscaping proposal attempts to recreate natural functions, as well as thickets of native vegetation, shrubs, and grasses that have historically existed in this area. They have sought to utilize primary building materials that have the appearance of materials available locally – sandstone and sandstone coloring are examples – and to integrate these natural materials with metal, wood, glazing and pre-cast concrete that are visible in surrounding industrial and residential uses. The intended result is a hybrid of sorts.

Scale: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The City understands that the applicant considered a number of campus layouts including a multi-story campus that could consolidate multiple functions within a significantly smaller footprint. A horizontal campus was selected for operational and aesthetic/visual impact reasons. The area around the proposed campus (particularly to the south) is already developed and consists of large and small structures that are generally single-story or warehouse space. To the east and north are residentially-zoned properties developed with single family residences. While future development in these residential areas may be significantly more dense (and taller) than the existing character of the area, City
staff believes that a vertical correctional campus would dramatically alter the character of the area – beyond the alteration that will occur as a result of property transitions from vacant to developed.

City staff believes that the applicant has spent significant time and effort attempting to blend a variety of very different elements into a cohesive design.

Staff recommends a condition requiring that construction documents are consistent with the current proposals and include transitions between industrial and residential areas. The City also recommends the use of natural and manmade materials in building design (including the use of sandstone or similar materials as primary building materials, substantial glazing, and metal siding/wood as significant accent materials), and the allowance of only minor deviations in the configuration of the campus in general.

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.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The Sheriff’s Headquarters utilize a variety of architectural elements to break up the mass of the buildings, from roof changes to material changes, articulation, landscaping and window glazing. In contrast, the larger jail building itself likely has fewer opportunities – both because of the security requirements necessary for a building of this type as well as the limitations placed on the building by the City. As proposed, the applicant seeks to utilize color changes, roof projections and limited material changes to break up the mass of the building. The applicant also proposes utilizing the natural topography to shield the large mass from view of adjacent properties.

i. Prisoner housing areas not visible from residentially zoned property or the public right-of-way shall be exempted from the requirements in subsections (D) (1) (a) and (b) of this section, for the purpose of security and operational efficiency.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. As noted, the inmate housing area utilizes fewer
architectural elements than the sheriff offices. However, the applicant has not sought an exemption from these requirements.

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

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. As proposed, the primary building materials will be pre-cast concrete with other materials (glass, metal, etc.) used for emphasis. These are all considered to be durable materials.

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

   i. Smooth-faced concrete block;

   ii. Smooth-faced tilt up concrete panels; and

   iii. Prefabricated steel panels.

Staff Response: As proposed, the buildings comply with these requirements. In some cases smooth-faced panels and prefabricated steel panels may be proposed (and are encouraged) as accents.

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.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The primary entryway(s) are located within the sheriff’s headquarters. The staff/fleet vehicle parking lot is located to the north and is intended exclusively for those vehicles. The public entrance is to the south. The staff entrance consists of full-length window doors and is in close proximity to an extensive window glazing associated with sheriff offices. Otherwise, this entrance does not include significant architectural features. As this is not considered the “primary public entrance,” the City does not anticipate requiring additional architectural features.
The public entrance is located along an elevation dominated by window glazing and includes an entry canopy. The applicant seeks to utilize landscaping and a system of walkways to “guide” visitors to this entryway, is located mid-way between both the Jail Administration and Sheriff Administration facilities. As a result of the central location of the entryway and the manner in which the various sheriff and jail offices are separated from one another, the architecture of the entrance itself is not more significant than the surrounding building.

This requirement was put in place to ensure that correctional facilities do not hide their entryways from view just because they do not have a large number of visitors, thereby lending to a fortress atmosphere. In this application, the sheriff offices do have a more substantial public component, and the site lends itself towards using the exterior entry landscaping and walkway as the most focal element. As such, City staff believes that the entryway proposal does reflect the requirements of the code. The City recommends conditions that will preserve or enhance the entrance walkway with landscaping, lighting and even benches, and that the front canopy is preserved in the final building drawings.

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

Staff Response: The applicant has utilized the majority of the sheriff facilities to conceal inmate housing and other features.

E. Miscellaneous.

1. Buildings within the same campus shall exhibit complementary design elements such as a common color palette, uniform signage, common materials, similar building height, rooflines, and other similar design features. When practical, the applicant shall seek to place correctional facilities behind structures that contain complementary uses that would otherwise be permitted within the manufacturing zone.

Staff Response: As noted above and throughout, the proposed campus attempts to draw a number of features together into an overall coordinated design. Nowhere is this more obvious than the manner in which the jail building is screened by the Sheriff’s Headquarters. While the individual buildings are quite different from one another in terms of style, they share a significant number of common elements (including the coordinated landscaping and
lighting, as well as complementary colors), thereby creating a campus setting. This represents something of an evolution in overall architectural styles, as large campuses (be they retail, office, college, etc.) in the late 1980’s and early 1990’s tended to seek repetitive design in order to tie campuses together. The proposed facility reflects more-recent architectural and site design theory which encourages a variety of compatible architecture in order to create a more vibrant but coordinated development.

2. Nothing in this chapter shall require design elements that would minimize the security and safety of the facility and surrounding facilities, or negatively impact the ongoing operation of such facility. However, in the event that the design elements required by this chapter are not feasible, proponents of a correctional facility shall identify practical alternatives that would minimize aesthetic impacts, consistent with the spirit and intent of this chapter.

Staff Response: The applicant has not sought a reduction in architectural requirements for security purposes. As will be discussed below, the applicant has sought certain exemptions from EAGLE compliance for security and life-safety reasons.

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.

Staff Response: The applicant proposes a horticultural area to the west of the jail building that will be used by inmates. This area will be secured and supervised. A condition has been added to this effect. While no additional inmate work is proposed, the City recommends a condition requiring that if work crews are allowed onsite for the purpose of maintenance or other reasons, they will be supervised and appropriate signage will be put in place informing residents and visitors of this fact.

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

Staff Response: Due to the size of the proposed facility the applicant is required to meet EAGLE Platinum standards. The City’s EAGLE Board has met with the applicant on two occasions and has recommended approval of the applicant’s EAGLE Checklist. Except where noted by the EAGLE Board; no structural changes are required at this time. City staff recommends that compliance with identified EAGLE requirements be a condition of the Conditional Use application.
5. 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 between the two chapters, the most restrictive requirements shall apply.

Staff Response: The majority of requirements contained in Ferndale Municipal Code 18.94, attached as Exhibit 18, are also requirements for Essential Public Facilities. They are discussed below:

**FMC 18.94.010 (A): Public Neighborhood Meeting**

Staff Response: The City has determined that the applicant has satisfied this requirement. The applicant held a neighborhood meeting Thursday, May 16, 2013 at Horizon Middle School in Ferndale to identify the scope of the project and the required environmental review. The City held a joint Planning Commission/City Council workshop on May 22, 2013 at Whatcom Educational Credit Union to discuss the City’s Essential Public Facilities chapter. A series of scoping boards (Exhibit 19) were presented at each meeting, and representatives of the City, the County, and the County’s consultants presented information and responded to questions. Residents within 1,000 feet of the subject property were included in a joint mailing for both meetings.

**FMC 18.94.050: Design Criteria and Performance Standards**

A. Public buildings which are regularly open to the public shall be designed to a human scale, reflecting their use as a resource and gathering spot for the community.

Staff Response: The City has determined that the applicant’s proposal substantially meets this requirement. The jail is not open to the public and the sheriff’s headquarters, while open to the public, does not have the same volume of activity as a city hall or public library. However, the sheriff’s headquarters are designed to a human scale: the buildings are split into smaller areas, windows and landscaping provide a welcoming appearance, and entrances are clearly marked.

B. Heating, ventilating, and air conditioning (HVAC) equipment shall be incorporated into the building design and hidden from view to the greatest extent practicable.
Staff Response: The Essential Public Facilities chapter (FMC 18.92) is more specific and restrictive. Please see discussion beginning on Page 9 of this staff report.

C. Public and municipal structures shall comply with EAGLE standards appropriate to the building size.

Staff Response: Please see attached EAGLE Checklist (Exhibit 23) and staff report.

D. Outdoor Storage of Materials. Public uses which require the outdoor storage of materials, large bulky items, or equipment shall screen those uses from the view of adjacent properties and public roadways. Landscaping, walls, accessory storage buildings of compatible design or materials, and other methods may be used to screen such items.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant proposes a warehouse and an enclosed exterior space for the storage of materials, including impounded vehicles and similar items.

E. Outdoor Lighting. With the exception of landscape or flag illumination, public uses which are adjacent to or in close proximity (less than 100 feet) of residential uses must install outdoor lighting that is downcast and minimizes glare beyond property boundaries.

Staff Response: The Essential Public Facilities chapter (FMC 18.92) is more specific and restrictive. Please see discussion beginning on Page 9 of this staff report.

F. Trash Receptacles. Trash receptacles shall be screened from view and either incorporated into the building envelope or contained within an accessory structure of compatible materials or design.

Staff Response: The Essential Public Facilities chapter (FMC 18.92) is more specific and restrictive. Please see discussion beginning on Page 9 of this staff report.

18.94.060 Continuity of design

This chapter shall not require that public buildings or uses are designed to reflect a similar design theme, architectural style, or the use of similar materials used in other public buildings in the City. However, public buildings should contain features which serve to identify their purpose and link the structures together. The following requirements shall be adhered to:
A. Public buildings owned and/or operated by the City of Ferndale shall adopt signage that is consistent from building to building.

Staff Response: This provision does not apply – no buildings are owned by the City of Ferndale

B. Durable primary construction materials, such as stone or masonry, with a lifespan of 50 to 100 years shall be utilized in order to provide a sense of permanence to the structures.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The proposed primary construction materials have a similar lifespan and the applicant has publicly stated that the proposed campus is intended to be utilized for these purposes for several decades.

C. When buildings are proposed adjacent to properties zoned for single-family residential purposes, special attention shall be paid to preserve the appearance of residential scale or compatibility.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The proposed buildings are adjacent to the Residential Office zone. While many of the structures within the zone are single family residential, the primary purpose of the zone is for multifamily residential development and offices. However as described earlier, the applicant’s proposed design seeks to preserve the scale of the surrounding neighborhood.

D. Landscaping, the use of compatible materials and other methods may be utilized to mitigate the appearance of public structures that are adjacent to residential neighborhoods.

Staff Response: The applicant’s use of landscaping is described in more detail above on Page 12 of this staff report.

E. The use of emergency sirens shall be minimized to the greatest extent practical within residential areas.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has indicated that the majority of police vehicles will respond to emergencies when on patrol and that vehicles will only rarely leave the site directly to respond to an emergency. The City recommends a condition that would
prohibit the use of sirens from the site south to Slater Road and north to Smith Road unless necessary to navigate around vehicles or other impediments in the roadway.

F. Landscaping buffers shall be required adjacent to properties zoned for single-family residential purposes, pursuant to Chapter 18.74 FMC.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The existing archaeological reserve and buffers to the north will be preserved. No encroachment into these areas may be allowed without prior permission of the City and the respective regulatory agencies responsible for the protection of these areas, unless otherwise noted in development permits or other permits approving work in these areas.

G. Public buildings owned and/or operated by the City of Ferndale are encouraged to utilize recycled materials in their construction.

Staff Response: This provision does not apply – the facility is not owned by the City of Ferndale.

18.94.070 Parking and loading facilities.

A. Parking and loading on site shall be provided in connection with any permitted or conditional use as specified in Chapter 18.76 FMC. Parking in front yards is permitted, but rear parking is encouraged, especially for employees. Landscaping for parking areas shall be established pursuant to Chapter 18.74 FMC.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. FMC 18.76 and FMC 18.92 provide the applicant with the ability to identify parking requirements unique to the proposed campus, and this applicant has done that. The nature of the proposed development is such that required parking combines fleet vehicles, staff vehicles, and vehicles to be utilized by the public – these requirements could vary substantially depending upon the specific proposal. The City accepts the applicant’s calculations for overall parking spaces.

The code does permit parking within front yards (as proposed by the applicant), and while rear parking is encouraged, the site conditions, future phases and the use of parking lot
landscaping to screen the correctional facility are appropriate and comply with code requirements.

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

   a. Color elevations with material types and colors shown; and

   **Staff Response:** The applicant has provided this information (Exhibit 10).

   b. Three-dimensional computer models or animations of the proposed facility and site.

   **Staff Response:** The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has provided the City and the public with views of the proposed facility from a variety of angles, and the City believes that the renderings are sufficient to determine compliance. The applicant intends to provide the City with three-dimensional models that can be manipulated by the City to change views at the time of building permit submittal.

F. Lot Size, Setbacks and Parking Requirements.

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

   **Staff Response:** The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has indicated the site is adequate to provide required parking, yards, and off-street loading areas.

2. **Minimum lot width:** none.

3. **Setbacks, Lot Coverage and Building Heights.**

   a. **Setbacks.**

      i. **Front:** 150 feet.
Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. As noted above, the Essential Public Facility requirements apply to the correctional facility (jail) itself, and not the sheriff’s headquarters. The correctional facility is more than 320’ from the public right of way.

ii. Rear: 50 feet.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The correctional facility is more than 50 feet from the rear (west) property line.

iii. Side: 50 feet.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The correctional facility is more than 50 feet from either the north or south property lines.

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

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. There is no view of residential property from inmate housing; a 600-foot line of site setback is not required.

v. Setbacks shall be increased to 250 feet from residential properties.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The correctional facility is more than 250 from residential properties (RO zoning).

b. Lot coverage: no minimum.

c. Maximum building height: 35 feet.

Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The maximum height of structures, including rooftop mechanical equipment, is less than 35 feet.
4. 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 rights-of-way. The proponent shall provide the City with a parking analysis in order to determine the appropriate number of parking spots for the facility.

   Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant has identified 150 staff parking spaces, 40 transport parking spaces and 63 visitor parking spaces – a total of 253 spaces, including 9 ADA parking spaces. The applicant has also indicated that parking area spaces and impacts may be reduced in the future based on refinements to the development proposal. The City recommends a condition stating that expansion of the gross parking area would result in a substantial change to the project which would have to be reviewed and approved by the City of Ferndale Hearing Examiner after an open record hearing.

   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 other similar limitations on activities that would impact parking on the site.

   Staff Response: The City has determined that as conditioned, the applicant’s proposal complies with this requirement. The applicant proposes an increased use of video conferencing and the potential use of video arraignments. The applicant has also proposed an inmate release transport shuttle to Bellingham. The majority of court appearances by inmates will continue to occur in Bellingham. All of these measures are expected to reduce the number of in-person visits to the campus. The City recommends that a condition be added stating that if one or more of these parking/transportation mitigation measures is not pursued, or if any of the measures should cease, it would result in a substantial change to the project which would have to be reviewed and approved by the City of Ferndale Hearing Examiner after an open record hearing. This would include a new review and assessment of Traffic Impact Fees and transportation impacts.
c. Work release facilities shall have one parking space per employee during the largest shift, plus one parking space per client/occupant.

Staff Response: Not applicable.

G. Public Notice Requirements.

1. Public notice of an application for a correctional facility 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.

Staff Response: The City has determined that the applicant has met this requirement. Please see Exhibit 20, (Public Notices and affidavits) showing all properties that were included in public notice mailings and notification.

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

Staff Response: See G (1) above. The applicant has met these requirements.

PROJECT PHASING

The applicant proposes construction in two phases that may be separated by several years (Exhibit 24). The initial phase would include all site work and construction of the sheriff offices, warehouse, central plant and the majority of the correctional facility. The second phase would expand the jail facility to the southwest.

The applicant contends that the Conditional Use approval of both the first and second phases will be consistent with the environmental review and will provide Whatcom County and the public with certainty over subsequent approvals. As all environmental work (wetland mitigation, stormwater) will be completed, the applicant believes that the remaining development permit approvals will be purely technical in nature. The applicant has requested that the Hearings Examiner provide an initial 10-year time period for the Conditional Use approval (subject to Ferndale Municipal Code 18.12.160 (A), as well as the potential for additional five year extensions, as per Ferndale Municipal Code 18.12.160 (B).

City staff does not disagree with the applicant’s arguments that future permits will be only technical, although it is appropriate to point out that the environmental impacts identified in the FEIS are somewhat dynamic: the City’s water and sewer capacity may or may not be sufficient to serve Phase II when it is proposed; traffic constraints may be very different at
that point as well. The City recommends that six conditions be placed on Phase II of the proposal:

1. The applicant shall notify the City of Ferndale at least twelve (12) months prior to submitting building Permits for Phase II, in order to allow the City sufficient time to determine appropriate methods for addressing capacity constraints for utility and transportation impacts.

2. The applicant shall provide the City with updated water and sewer demand calculations and a revised traffic study showing the impact of the proposed Phase II, prior to application for Phase II.

3. Prior to application for Phase II, the applicant shall be required to provide third-party justification demonstrating that environmental conditions established in the FEIS have not changed, or proposing alternative mitigation measures to address changed conditions.

4. Phase II of the proposed development shall comply with the City’s regulations in place at the time of submittal of a complete building permit.

5. If Phase II of the proposed development requires significant changes to the site plan, approvals contained within this Conditional Use, additional impacts to the environment, or if the Conditional Use approval expires, a new hearing shall be held by the Ferndale Hearings Examiner.

6. The City shall have the opportunity to express its support or opposition to any extension requests beyond the initial timeframe authorized by the Conditional Use Permit.

If these conditions are attached to the approval, the City does not object to the phased development of the proposal and would have the opportunity to object or support additional extension requests in the future. With the exception of the use approval itself, the City will not be responsible for maintaining or tracking a valid permit. Instead, the most substantial obstacle to this phased approach may be procedural in nature - Ferndale Municipal Code 18.12.160 A (Expiration of Permit – Authorization for Use) states that:

A. With the exception of cases where the Hearings Examiner sets a specific expiration timeframe, all permits or authorizations for use approved in a Hearings Examiner decision will remain valid for a period of five years from the date of decision. If establishment of the use(s) authorized by a Hearings Examiner decision has not commenced within five years from the date of the decision, the permit or authorization shall expire and become null and void unless the Hearings Examiner grants an extension of not more than 12 months.
upon the written request of the owner prior to the expiration of said permit or authorization and subject to evidence that the owner intends to activate the permit or use within that extended time period.

B. If a conditional use permit is granted or other authorization is made by the Hearings Examiner for a use that does not involve the construction of a permanent structure, the conditional use permit shall be considered a temporary permit and shall expire five years from the date the grant of the permit becomes final, unless the Hearings Examiner grants an extension of an additional five-year period upon a written request prior to the expiration of said permit or authorization and subject to evidence that the owner intends to activate the operation authorized under the conditional use permit or decision for the succeeding five-year period. Nothing in this section shall prohibit the Hearings Examiner from granting multiple extensions to a temporary conditional use permit; provided that no single extension shall exceed five years in length. Further, nothing in this section shall limit the Hearings Examiner from granting a temporary permit or other authorization for a time period of less than five years in length.

Based on the applicant’s stated timeline, a five-year timeframe from either the start of construction or final occupancy of the first phase may be too short: Phase II may not be constructed for ten years or more. City staff does not believe the intent of the Conditional Use process is to allow a Conditional Use to rely on initial approvals for all subsequent expansions; instead, expansions of Conditional Uses are required to re-initiate the Conditional Use process.

While the default time period for decisions by the Hearings Examiner is five years, the Hearings Examiner is authorized to establish specific longer or shorter timeframes for compliance. In this case, the applicant has requested a ten year timeframe for the initial approval, with the potential for an additional extension, as per FMC 18.12.160 B.

Traffic:
By adopting the conclusions of the 2013 FEIS, the City relies on the trip generation estimates (and mitigation measures) outlined in that document, as amended by the traffic study memorandum (Exhibit 21) prepared by the DLR Group on January 14, 2015 in consultation with Gibson Traffic. The FEIS concluded that the combined campus development (corrections facility and sheriff’s headquarters) would generate 157 total pm peak hour trips. The City charges $2,783 per pm peak hour trip, which equals a total Traffic Impact Fee of
$436,931. These amounts may change, and the application does not vest to current transportation impact fee amounts.

It should be noted that the proposed traffic mitigation measures identified within the FEIS are not considered “capacity improvements,” and in the case of the compact roundabouts are considered interim improvements (as noted in the 2015 Gibson memorandum). As such, no credit against traffic impact fees may be provided for the construction of these improvements.

**Water & Sewer:**
Based on the FEIS, the jail will generate a peak demand of 110,000 gallons of water per day. No separate calculation for sewer demand has been provided, and the City assumes there will be a sewer discharge roughly equivalent to water. The City’s Equivalent Residential Unit (ERU) calculation is 210 gallons of water/sewer per day, resulting in water and sewer demand equivalent to 523.8 ERU’s. Based on existing connection fees, the water connection fee of $5,835 would result in a connection fee of $3,056,373. Sewer connection fees at $7,293 per ERU would result in a sewer connection fee of $3,820,073.40.

The City anticipates that Whatcom County will prepare revised water and sewer demand estimates prior to submittal of building permit applications. The City further recognizes that the FEIS included peak capacity demand in order to ensure that the full potential environmental impacts of the proposed development were considered. The City recommends that a condition be added allowing Whatcom County to submit revised water and sewer calculations for the submittal of building permit applications. If approved, the City will revise water and sewer connection fees accordingly.

**Stormwater:**
The applicant proposes the onsite detention and treatment of all stormwater generated by the project, including the stormwater generated by required frontage improvements. The size of stormwater ponds shown in the application materials is anticipated to represent the maximum size of these facilities, and may be reduced based on refined calculations.

Regardless, the proposed stormwater facilities are not vested at this time and are not subject to approval per this Conditional Use application (though the City may require that they remain substantially similar for the purpose of a coordinated site plan). The facilities will not vest until engineered civil drawings are submitted to the City. Ferndale will be adopting the 2012 Department of Ecology Stormwater Manual effective January 1, 2017. The 2012 DOE Manual generally encourages “Low Impact Development” (LID) approaches to stormwater, such as the system of raingardens shown in the eastern portion of this project. The applicant has indicated that LID techniques may not be possible in the western portion of the property due to poor infiltration. The full stormwater design shall be reviewed as part of the review of engineered civil drawings, and conditions have been added to this effect.
In addition to onsite stormwater mitigation requirements, the City of Ferndale requires that new developments pay a Citywide stormwater mitigation fee of $.05 per gross square foot of the property. The site is 1,715,366 square feet, and a stormwater mitigation fee of $85,768.30 will be required at the time of building permit issuance. A condition has been added to this effect.

**Fire District:**
Whatcom County Fire District 7 has participated in the review of the proposed development during both the Environmental Impact Statement process as well as the Technical Review Committee process regarding the current applications. While the Fire District reserves the right to require modifications based on final designs that will be submitted to the City, as conditioned the District is confident that its requirements can be met. A condition has been added stating that Whatcom County Fire District 7 must review and approve civil drawings prior to issuance.

**Fats, Oils and Grease/Backflow Requirements:**
A complete review of measures necessary to mitigate the impacts of fats, oils and grease to the City’s system will take place at the time of civil plan review. The City will require that the Adult Corrections Facility have a minimum of a Reduce Pressure Backflow Assembly (RPBA). The Sheriff’s Headquarters will be required to have a minimum of a Double Check Valve Assembly (DCVA), or other similar measures to be approved by the City of Ferndale’s Public Works Department. The City anticipates the installation of back flow devices and/or double check valves which will likely require an external testing area. The City recommends a condition to this effect.

**Wetlands:**
The applicant has identified a number of wetlands on the subject property (see Exhibit 5). The majority of these wetlands have been disturbed by previous land use and site clearing activities conducted by previous property owners. These wetlands are regulated by the City of Ferndale, the Army Corps of Engineers, and the Washington State Department of Ecology. Each of these agencies has commenced review of the proposed wetland impacts and mitigation measures, but the precise extent of these impacts will not be known until civil calculations have been completed.

For the purposes of City of Ferndale review, the applicant will be required to comply with Ferndale Municipal Code 16.08 (Critical Areas), which generally requires that wetland impacts be avoided, but allows a variety of mitigation measures based on ratios that vary depending upon the category of wetlands that have been impacted. The City has concluded that the applicant’s initial proposal generally adheres to these requirements, but a condition has been added clarifying that the City’s final approval of wetland mitigation measures will
not be made until full civil drawings are submitted. The City will also consult with the Army Corps of Engineers and Washington State Department of Ecology.

Archaeological Reserve:
The Washington State Department of Archaeology and Historic Preservation (DAHP) has determined that archaeological artifacts exist within the northeastern portion of the site. Initial investigations occurred in 1974 when the site was prepared for development. Despite the fact that the site was already heavily disturbed, some tools were found on the surface of the property. More recent investigations began in 2009 with shovel probes and additional surface investigations, and two concentrations of artifacts were identified within the parcel. These areas of concentration were further tested in 2011 in compliance with the United States Army Corps of Engineers (USACE) using hand-tool excavation of test units and shovel probes. Most artifacts were located at or near surface soil horizons. Below surface findings of charcoal were initially thought to be tied to the tools and surface findings and were believed to be evidence of a cooking pit that had been filled in. However, the final conclusions provided by Arthur and Hodges indicate a tree tip or large root cast had created a charcoal sedimentation within the subsurface – and that the charcoal “pit” was a natural condition that was not tied to cultural habitation.

As tools and archaeological findings have occurred within the northeast portion of the site, the archaeological preserve has been identified in order to maintain the topology of the site in the most natural state possible, in spite of the heavy disturbance of the 1970-80’s. With the exception of maintenance of existing City utility lines and construction of frontage improvements to the east of the reserve area, no work shall be performed within the archaeological reserve. Pursuant to the FEIS, the County will be required to have an archaeologist available to monitor and record the daily progress of excavation. The mitigation measures identified in the FEIS are adopted by reference, and this condition is included in that document.

Shoreline and Flood Management Review:
The City has concluded that no Shoreline or Flood Management review is required at this time, and these reviews may not be required at all for this project. As no work is authorized by the Conditional Use Permit, associated environmental permits (Shoreline Conditional Use Permit) would not be necessary at this time, though could be necessary in the future should the site be determined to be within a floodplain.

Shoreline review is required when wetlands are located within the 100-Year Floodplain. Wetlands that are not within the 100-Year Floodplain and outside of identified Shoreline boundaries do not require Shoreline of Flood review.

The City of Ferndale’s adopted Shoreline Master Program includes revised flood maps that were generated based on flood modeling conducted by the City of Ferndale and Whatcom County River and Flood from 2005-2006, and approved by the Washington State
Department of Ecology in 2010. The City of Ferndale and the applicant have concluded that these maps are much more accurate than FEMA Flood Insurance Rate Maps (FIRM) that were adopted in 2004.

In this area, the adopted Shoreline Master Program maps (Exhibit 22) conclude that the BNSF railway acts as a barrier to floodwaters; the ~50’-wide railway itself is 24’ above sea level, while the 100 Year Flood is expected to crest at 20’. Based on this understanding, the 100-Year Floodplain likely does not extend east of the BNSF railway at this location, and therefore wetlands within the subject site should not require Shoreline review.

The applicant has indicated that it may wish to pursue a Letter of Map Amendment (LOMA) or Conditional Letter of Map Amendment or Revision (CLOMAR) to modify the FIRM. The City recommends that a condition be added requiring that a CLOMAR (or similar approvals from FEMA) be approved prior to issuance of development permits, or that a Shoreline Substantial Development Permit be applied for through the City and approved by the Hearing Examiner.

**City of Ferndale Technical Review:**
In addition to review for compliance with the City’s zoning and EAGLE regulations, the City held a Technical Review Committee (TRC) meeting on February 5, 2015. Representatives of the City of Ferndale’s Public Works Department, Water and Sewer Treatment Plan, Building, Planning, and Whatcom County Fire District 7 were in attendance, as well as the project applicant. Conditions identified during this TRC meeting are included below.

**PROCESS**
Affidavits demonstrating compliance with City public notice requirements are attached as Exhibit 20.

**APPROVAL CRITERIA**
The Hearing Examiner may grant a conditional use permit only if he finds that the applicant has demonstrated the following facts. Each of the numbered criteria is followed by a brief staff response in bold italics, which is supported by the analysis in this staff report.

1. **The use is an enumerated conditional use in the zone wherein the property is located.**

   *A sheriff office is considered a “professional office” and is specifically allowed as a Permitted Use within the Manufacturing Zone.*
   *A correctional facility is considered an “Essential Public Facility” and is specifically allowed as a Conditional Use at this location.*
2. The notice of public hearing has been duly published.

The notice of public hearing was published pursuant to the Ferndale Municipal Code. The notice was posted onsite, at the Ferndale Public Library and City Hall, and mailed to all properties within 1,000 feet of the boundaries of the subject property on February 23, 2015. The notice was published in the Ferndale Record on February 25, 2015. Affidavits to this effect are included as Exhibit 20.

3. The use, with appropriate conditions imposed, will not have significant adverse effects on the environment or on other uses, or the use, with appropriate conditions imposed, will mitigate to the greatest extent practicable, all significant adverse effects on the environment.

The proposed use, as conditioned and with mitigation measures in place, will not have significant adverse effects on the environment or on other uses per the FEIS and for the reasons enumerated above.

4. The use, with appropriate conditions imposed, will be compatible with the existing uses, designs and appearance of the properties in its vicinity.

The proposed use, as conditioned, will be compatible with the existing uses, designs and appearance of the properties in the vicinity.

5. The use, with appropriate conditions imposed, will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

The proposed use, as conditioned, will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity.

If the Hearing Examiner finds that appropriate conditions have not been proposed by the applicant so as to permit the granting of the permit, he may either deny the permit or impose such conditions upon the use as he finds will allow the granting of the permit.

RECOMMENDATION

Based upon City Staff’s assessment that the project meets all of the above approval criteria, the City recommends that the Hearing Examiner APPROVE the proposed Conditional Use Permit, subject to the following Conditions of Approval:
As a general condition, the City recognizes that the current Conditional Use Permit submittal is focused primarily on obtaining entitlements for future land use actions, and that the Conditional Use does not permit actual construction or land disturbance to commence. As is typical for Conditional Use applications that precede applications for development, the City cannot anticipate the specific conditions that may result from these reviews. Therefore, the City recommends that a condition be added stating:

1. The City reserves the right to require a Technical Review Committee meeting, or similar, prior to the submittal of building permits and engineered civil drawings. Should conditions resulting from this review result in any substantial changes to the proposal, the changes must go to the Hearing Examiner for review and approval and another open record hearing must be held.

2. Within the context of this proposal, “substantial changes” shall mean an expansion of any individual parking lot or structure by more than 10%, a re-orientation of structures or parking facilities in relation to one another, the establishment of uses not currently proposed, or other changes that are not included in the current proposal that may reasonably impact the surrounding area or environment. Modification to stormwater facilities and critical areas may be reviewed administratively subject to review by the Army Corps of Engineers and Department of Ecology, as applicable.

3. All mitigation measures identified by the 2013 Final Environmental Impact Statement (attached electronically as Exhibit 4) shall be adopted, with the exception of traffic mitigation measures requiring the construction of stop-controlled intersections at both the north and south-bound ramps to Interstate 5 and Pacific Highway. The City of Ferndale acknowledges that the construction of three compact roundabouts at these locations is equal or better than stop-controlled intersections for Level of Service and life-safety. As per Washington State law, the City and other coordinating agencies, including Whatcom County, will continue to monitor the performance of these interim measures for concurrency purposes. The conclusions and mitigation measures identified in the joint Whatcom County – City of Ferndale Final Environmental Impact Statement (FEIS) shall be adopted as conditions of this Conditional Use Permit.

4. The City will utilize development assumptions included in the Final Environmental Impact Statement to determine fees related to traffic and water and sewer consumption. These fees will be due at building permit issuance. If the applicant believes the assumptions are conservative (a worst-case scenario), they may submit revised calculations for City review prior to building permit application.
5. Development fees including but not limited to water and sewer connections, stormwater mitigation and traffic impact fees shall be paid prior to issuance of building permits.

6. Note: Pursuant to the Ferndale Municipal Code, the fee amount does not vest until paid. As such, the fees described in this Site Plan Response letter are estimates only and reflect the fees that would be due if paid today. As currently proposed, the following shall apply:

7. Traffic Impact Fees: are based on the traffic study estimation that estimated the project will generate 157 total PM peak hour trips. The City charges $2,783 per pm peak hour trip, which equals a total Traffic Impact Fee of $436,931.

8. Water and Sewer Connection Fees: Water and Sewer connection fees are based the number of equivalent residential units (ERUs) used per day. One ERU equals 210-gallons of water per day. Currently, the cost of one water ERU is $5,835 and the cost of one sewer ERU is $7,293.

9. Estimates provided by the applicant indicate a total of 523.80 Equivalent Residential Units at 210 gallons per day (110,000 gallons per day) will be used, therefor a water connection fee totaling $3,056,373.00 will be owed.

10. Estimates provided by the applicant indicate a total of 523.80 Equivalent Residential Units at 210 gallons per day (110,000 gallons per day) will be used, therefor a water connection fee totaling $3,820,073.40 will be owed.

11. As per the FMC, Chapter 13.08.170(D)2., the City has the ability to charge additional connection fees if water and sewer uses increase by 25% or more after one year of operation.

12. The storm sewer impact fees estimated total $85,813.20 for the project is based on a total newly developed area of 39.4-acres at a rate of $.05 per square foot. This fee shall be paid at building permit issuance and shall constitute the final storm sewer impact fee for this property.

13. Building permits shall be fully engineered and stamped by a licensed Washington State Engineer. Architectural stamps shall also be required.

14. Building permits shall comply with adopted City of Ferndale regulations in place at the time of building permit issuance; Conditional Use approval does not vest the applicant to specific development regulations and standards.
15. All building, parking and entrances shall meet American with Disabilities Act (ADA) requirements, unless otherwise exempt per ADA standards.

16. The plans shall be stamped and signed by an architect and structural engineer currently licensed in the State of Washington.

17. A Land Disturbance Permit Application, together with civil drawings associated with proposed grading, utilities installation, and drainage improvements shall be submitted to the Public Works Department and approved prior to issuance of Building Permits.

18. All proposed earthwork, drainage improvements, and utilities to serve this site must be designed and installed to comply with all current applicable state and local development standards to the satisfaction of the Public Works Department prior to issuance of Occupancy Permits for any building on the site. Additionally, an encroachment permit will be required for any work within the City’s right of way.

19. State approved backflow preventers between premises and the public water system shall be shown on the Civil Plans for review and approval by the City. (Ord 1416 §1, 2006).

20. An industrial user survey and Fats, Oils and Grease (FOG) management plan will be submitted by the applicant to the City for review and approval at the time of civil plan submittal. The City will use the survey to determine the proposed project’s impacts on the sewer infrastructure and may require additional conditions. The applicant shall continue to work with Public Works & Water Treatment Plan to determine additional requirements if applicable.

21. The City will require a new 12-inch line be installed within the LaBounty right-of-way, with an 8-inch water line to circle the developed area of the site, providing a looped system.

22. The City will require that physical access be provided to all City utility lines via new or existing easements benefitting the City that are recorded with the Whatcom County Auditor and in conformance with City standards and approvals.

23. Water meters shall be located within the public right of way.

24. Three quarter frontage improvements including curb, gutter and sidewalk on the west side of LaBounty Drive shall be installed by the applicant along the full extent of the property frontage prior to occupancy.
25. The applicant shall modify frontage improvements to include a meandering sidewalk and an area adjacent to a centrally-located fire hydrant that will accommodate an emergency response (fire) vehicle. Such modifications will be included in the submittal of civil drawings and will be subject to City review and approval.

26. The City shall consider the existing fire hydrant at Sunset Avenue to serve a portion of the southeastern area of the development.

27. The City shall be provided access to all public utilities on site. The applicant has proposed, and the City is agreeable to, a system of communication with an officer within one of the two central control rooms in the corrections facility that are staffed twenty-four hours per day, seven days per week. Additional methods of providing access to the site will also be considered.

28. The City will require a ten-foot easement for all City utilities that are proposed to be relocated onsite.

29. The applicant shall provide additional details related to the proposed “muffin monster” system, specifically related to the inclusion of screens on the muffin monster to eliminate or reduce inorganic waste that could impact the City’s infrastructure.9

30. The applicant shall be required to establish a haul route agreement with the City of Ferndale to clarify the route of travel for construction equipment and machinery. This haul route agreement will be established during the period of Phase I construction only, and may be amended for Phase II.

31. The applicant shall coordinate with the City to determine the locations necessary for access by the City’s vactor truck, and improvements shall be provided by the applicant to facilitate legal and physical access to those areas.

32. The applicant shall analyze downstream stormwater channels prior to submitting applications for land disturbance permits in order to verify that stormwater leaving the site will not increase offsite flooding or turbidity. The results of this analysis shall be provided to the City.

33. The City shall retain access to all private stormwater structures, including ponds and rain gardens in order to monitor maintenance of these facilities in accordance with the City’s National Pollution Discharge Elimination System (NPDES) permit. Easements allowing, at a minimum, walking access to these facilities shall be provided to the City that will enable this monitoring.

---

9 Please see approved EAGLE checklist for a discussion of the proposed “muffin monster.”
34. The proposed development must comply with the Department of Ecology’s 2005 Stormwater Manual for Western Washington if a complete application for civil construction is submitted prior to January 1, 2017. Applications submitted after January 1, 2017 will be required to comply with the 2012 Stormwater Management Manual for Western Washington.

35. The applicant shall provide independent fire flow analysis to the City prior to building permit submittal, and the City reserves the right to modify conditions, including requiring that the applicant upsize certain lines or conveyance in order to provide sufficient fire flow, based on International Fire Code requirements.

36. The applicant will establish a looped fire system with a separate main connection from the fire loop. Water meters will be associated with this main connection.

37. In consultation with the City’s Public Works Director, and in compliance with Section 705 of the Ferndale Development Standards, the Fire District shall determine the number and locations of all required fire hydrants, including the locations of their tie-ins with water mains, size of water mains, and/or extensions and inter-ties with existing water mains, and locations of lock-boxes. These improvements shall be indicated on the civil construction drawings, one set of which shall be submitted to the Fire Chief of Fire District #7 for review for compliance with applicable fire code provisions prior to approval of the drawings by the Public Works Department. Documentation that the civil drawings have been approved by the Fire Chief shall be provided prior to issuance of permits for construction.

38. Fire hydrants will be required every 300 feet around the perimeter of the developed area. Fire hydrants are not required within the wetland mitigation areas in the western portion of the site.

39. Whatcom County Fire District 7 shall be included in the review of fire sprinkler systems, and anticipates the need for multiple systems within the buildings.

40. All fire protection equipment and facilities, and emergency services requirements, shall be provided to the satisfaction of the Fire District and pursuant to the currently adopted International Fire Code.

41. Adequate fire protection infrastructure, of a type and location approved by the Fire District for compliance with applicable fire code provisions shall be included in the civil construction plans. All access shall meet the requirements of the fire code. No buildings may be constructed until adequate fire flow and emergency access is provided.
42. The district will require a meeting prior to civil plan approval to discuss fire hydrant locations, fire department connections, lock box locations and other requirements.

43. All driving, parking and vehicle loading areas shall be paved with an all-weather driving surface (asphalt, concrete, or pavers) acceptable to the Community Development and Public Works Departments.

44. Except where necessary to meet the applicant’s stormwater design, six-inch high, extruded concrete curbing shall be installed at the perimeter of all new parking, loading, and driving areas located on this lot prior to issuance of Certificates of Occupancy.

45. No parking shall be designated south of the southern visitor parking area planter island or north of the northernmost planter island in the staff parking area.

46. Parking lot location and configuration shall be substantially as shown on the proposed site plan.

47. The City has received a preliminary landscaping plan. Prior to submittal of land disturbance permits, the applicant shall submit a final landscaping plan to the City and shall establish bonds or assignment of savings guaranteeing the performance and subsequent maintenance of this landscaping. Trash areas shall be meet L-6 landscaping requirements and shall be shielded from Public and Private right-of-ways. The applicant shall locate the trash facilities at the lower elevation of the site, and is outside of the 350’ buffer to LaBounty Drive.

48. The City has determined that the plant and tree species proposed for the development are consistent with the City’s landscaping requirements, including street tree requirements. However, the City has identified two tree species – Tulip Tree and Red Maple – that may be incompatible with overhead utility lines. The City will require that these species shall be planted in a manner that does not conflict with overhead lines. In addition, the City recommends that all trees or vegetation with a significant root system east of the proposed parking areas shall be required to include a root barrier (or a similar measure) designed to direct root growth downward in a manner that does not impact City utilities, sidewalks, or the public street.

49. The City requires a condition that the type and location of landscaping shall be consistent with the landscaping plans shown, subject to modifications necessary to create a meandering sidewalk and vegetation along the public right of way as well as limited amendment within the site itself. In no case shall a meandering landscape
along the public right of way decrease its effectiveness as a screen from what is shown.

50. The City requires a condition that the applicant shall continue to pay additional attention to landscaping as shown on the site plan that screens linear access points and driveways. As shown, landscaping along driveways to the visitor parking, staff parking and the warehouse area retains clear vision areas, but places vegetation at key points to reduce direct views to the warehouse, jail building, and other related uses.

51. Landscaping shall be placed in a manner which preserves life-safety vision clearance but partitions the parking areas.

52. FMC 18.74.080 requires an automatically controlled irrigation system for all landscaped areas. The use of drought-tolerant plant species may preclude the need for irrigation. The City may allow the maintenance of landscaping through existing systems, if it can be demonstrated that those systems are sufficient.

53. A three (3) year maintenance and performance bond or assignment of savings shall be required for required landscaping on the site, and posted with the City of Ferndale prior to issuance of Certificates of Occupancy for Phase I. Should Phase II require additional or replacement landscaping, subsequent bond(s) will be required.

54. As described in the project narrative, the only perimeter fencing onsite will be around the staff parking lot to the northeast. Such fencing must be climb-resistant architectural metal fencing of a type similar to fencing installed at the Ferndale Police Station.

55. Limited ground-level mechanical equipment may be installed adjacent to Sheriff’s Headquarters buildings with sloped roofs, provided that such equipment I screened from view of the adjacent right of way by fences or other enclosures constructed of durable materials, and are compatible with the materials and colors of the adjacent structures.

56. At the time of building permit submittal, the applicant shall provide the City with three-dimensional models, or electronic access to three-dimensional models, showing the proposed structures and general site. The City shall have the ability to manipulate views of the model but may not be provided with the ability to manipulate the model itself.
57. Lighting shall be installed in the parking and driving areas. All lighting shall be shielded so as not to light adjacent properties or the night sky. Further, lighting shall be shielded to avoid glare to protected wildlife areas to the south.

58. Applicant shall work with the USPS to determine the type and location of mailboxes. Mail box location shall be approved by USPS and the City prior to site plan approval.

59. Any new signage shall comply with the requirements of the City of Ferndale’s Sign Ordinance (FMC 18.80), and a separate sign permit will be required.

60. Prior to issuance of Certificates of Occupancy, provide this office with written verification that Sanitary Service Company (SSC) has accepted the location of trash/recycling area.

61. The EAGLE Checklist approved by the EAGLE Board will be adopted as conditions of approval of the project.

62. The applicant will continue to work with the City of Ferndale, Army Corps of Engineers (ACOE) and Washington State Department of Ecology (DOE) to finalize wetland avoidance and mitigation measures, including potential off-site mitigation that may be necessary. These measures will be finalized prior to the issuance of permits that could impact these sensitive areas, and a condition has been added to this effect.

63. The applicant has indicated that they may wish to pursue a Letter of Map Amendment (LOMA) or Conditional Letter of Map Amendment or Revision (CLOMAR) to modify the FIRM. A CLOMAR (or similar approvals from FEMA) shall be approved prior to issuance of development permits, or a Shoreline Substantial Development Permit must be applied for through the City and approved by the Hearing Examiner.

64. No encroachment into protected wetland areas or the archaeological reserve may be allowed without prior permission of the City and the respective regulatory agencies responsible for the protection of these areas, unless otherwise noted in development permits or other permits approving work in these areas.

65. Prior to application for Phase II, the applicant shall be required to provide third party justification demonstrating that environmental conditions established in the FEIS have
not changed, or proposing alternative mitigation measures to address changed conditions.

66. The applicant shall notify the City of Ferndale at least twelve months prior to submitting building permits for Phase II, in order to allow the City sufficient time to determine appropriate methods to address potential capacity constraints for water and sewer utilities. The City shall also require a revised transportation and concurrency analysis at the time of submittal of Phase II.

67. Prior to application for Phase II, the applicant shall be required to provide third-party justification demonstrating that environmental conditions established in the FEIS have not changed, or proposing alternative mitigation measures to address changed conditions.

68. Phase II of the proposed development shall comply with the City’s regulations in place at the time of submittal of a complete building permit.

69. If Phase II of the proposed development requires significant changes to the site plan or approvals contained within this Conditional Use, or if the Conditional Use approval expires, a new hearing shall be held by the Ferndale Hearings Examiner.

70. The City shall have the opportunity to express its support or opposition to any extension requests beyond the initial timeframe authorized by the Conditional Use Permit.