



NOTICE OF DECISION

DATE OF NOTICE OF DECISION: April 15, 2015

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.

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.

HEARING EXAMINER'S DECISION: Approval

DATE OF DECISION: April 14, 2015

APPEAL PERIOD: Information related to requests for reconsideration and/or appeals by parties of record may be found in Sections 14.11.060 - 14.11.100 of the Ferndale Municipal Code.

CONTACT: Jori Burnett, Community Development Director
P.O. Box 936
Ferndale, WA 98248
(360) 384-4006

The Hearing Examiner made their decision after consideration of written comments and verbal testimony presented at the public hearing; and the recommendations of city staff as presented in the staff report.

The Hearing Examiner based its recommendation on the Findings of Fact and Conditions of Approval contained on the following pages.

FINDINGS OF FACT

See Attached Hearing Examiner Decision
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CONDITIONS OF APPROVAL

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, there for 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, there for a sewer 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.¹
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 vector 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.
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

¹ Please see approved EAGLE checklist for a discussion of the proposed "muffin monster."

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 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 is 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 building permit submittal of Phase II. This Notice must be given within 9 years from the date of this decision unless the County has requested an extension pursuant to condition 67, below.

67. Phase I of this development shall be completed, as evidenced by a Final Certificate of Occupancy, within ten years of the date of the Hearing Examiner's Decision.

A building permit for Phase II shall be obtained within 10 years of the date of the Hearing Examiner Decision granting this Permit. Extensions of up to five years total may be granted by the Hearing Examiner for building permit issuance for Phase II of the development provided that Phase I of the development has been issued a Final Certificate of Occupancy prior to the expiration of the initial ten-year timeframe and the request for an extension has been received within the ten year period for submission of a building permit for Phase II. The City shall be allowed to comment on the Extension request before the Hearing Examiner rules. Good cause, as determined by the Hearing Examiner is required for any extension the City objects to. The extension may be subject to conditions deemed appropriate by the Hearing Examiner if requested by the City.

Phase I and Phase II shall be defined as follows:

Phase I shall consist of the confirmed establishment (as evidenced by all necessary "approved/passed" City of Ferndale inspections) of all stormwater facilities, wetland impacts, frontage improvements, landscaping, and wetland mitigation measures associated with both Phase I and Phase II of the project.

Phase I shall consist of the payment of all impact and connection fees associated with the entirety of the Whatcom County Sheriff's Headquarters as well as the Phase I of the Whatcom County Adult Corrections Facilities, as measured by overall square feet and bed counts. For the purposes of calculating impacts for Phase I of the Adult Corrections Facilities, the Applicant and the City shall consider impacts associated with the development of 521 inmate beds and the facility of ~ 122,650 square feet plus an additional ~ 20,200 square foot mezzanine.

Phase I shall consist of the construction of the entirety of the Whatcom County Sheriff's Department (approximately 13,800 square feet), Sheriff Administration (~19,000 square feet), and Jail Administration (~17,100 square feet), the construction of the associated warehouse (~16,600 square feet), the Central Plant (~4,200 square feet), and Phase I of the Adult Corrections Facilities (~122,650 square feet, plus an additional ~20,200 square feet for a mezzanine within the Adult Corrections Facility).

Phase I shall consist of the establishment of Visitor and Staff Parking Lots to accommodate Phase I and Phase 2, construction not to exceed as shown on draft site plans issued with the Conditional Use Permit.

Phase I shall include all mitigation measures identified within the Final Environmental Impact Statement (FEIS) for this project, although certain performance standards (e.g. continued wetland monitoring, etc.) shall continue through construction of Phase II, and beyond.

Phase I may include the payment of impact and connection fees associated with Phase II of the project, so as to vest those fees to current rates.

Phase I shall only be considered to be complete when a Final Certificate of Occupancy is issued by the City of Ferndale for all structures described above. Such occupancy shall not be issued if any associated City permit remains active, with the exception of Building or Land Disturbance Permits associated with Phase II, plumbing, mechanical or building permits associated with minor repairs or maintenance activities, or State or Federal Environmental Permits that must remain active for monitoring purposes (e.g. NPDES Permits, etc.).

EAGLE Compliance shall be determined based on Phase I of the project; Phase II shall maintain those EAGLE requirements and conditions that were associated with Phase I.

Phase II shall include all land disturbance activities necessary to prepare the pad for expansion, the removal of vegetation and landscaping for construction and construction storage areas, and the replacement of landscaping.

Phase II shall consist of the completion of two housing pods to the Adult Corrections Facilities at the southwest corner of the facility, completing the rectilinear footprint of the South Housing Unit, similar to the existing North Housing Unit constructed during Phase I of the development.

68. 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.
69. 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.
70. 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 Hearing Examiner.
71. The City shall have the opportunity to express its support or opposition to any extension requests beyond the initial timeframe authorized by this Conditional Use Permit.

Cc:

Michael Russell, Facilities Management
311 Grand Avenue
Bellingham, Washington 98225

Tyler Schroeder, Executive Special Projects Manager
Whatcom County Executive's Office, Suite 108
311 Grand Avenue
Bellingham, Washington 98225

DLR Group
Erica Loynd
51 University Street, Suite 600
Seattle, WA 98101

Robert French
5044 LaBounty Drive
Ferndale, Washington 98248

Larry McCarter
Recycling and Disposal Services, Inc. [RDS]
4916 LaBounty Road / PO Box 2219
Ferndale, WA 98248

Joshua Hostetler
PO Box 2092
Ferndale, WA 98248

Jori Burnett
Community Development Director
City of Ferndale

Haylie Miller, Assistant Planner
Community Development Department
City of Ferndale

File 15001-CUP

