



PLANNING DEPARTMENT

STAFF REPORT

HEARING BODY: Planning Commission

PUBLIC HEARING DATE: April 23, 2008

PROJECT NAME: **Retail Design Standards and EAGLE**

TYPE OF APPLICATION: Proposed Zoning Text Amendments

PROJECT FILE NUMBERS: 08001.ZTA

DESCRIPTION: A proposal to revise and update Ferndale Municipal Code chapter 18.58, Large Retail Development Standards, and adopt a development evaluation tool (EAGLE), which will evaluate retail development based on specific indicators and associated points

APPLICANT: City of Ferndale

LOCATION: Citywide

STAFF REPORT EXHIBITS

EXHIBIT #	TITLE
1	Proposed Text
2	EAGLE Checklist
3	EAGLE Appendices
4	EAGLE Indicator List
5	EAGLE Procedures
6	Public Meeting Comments
7	Edited Text
8	Affidavits
9	SEPA DNS

OVERVIEW

The City of Ferndale has initiated a review of design standards related to retail development exceeding 20,000 square feet or exhibiting characteristics of large retail centers. Following a series of public meetings, workshops, and research, staff is submitting a revision to the existing Ferndale Municipal Code, Chapter 18.58 (Large Retail Establishment Design Guidelines and Standards), as well as a Ferndale-based evaluation method (EAGLE) which seeks to ensure that retail development addresses the stated concerns of the community. The Planning Commission will listen to public comments provided at tonight's hearing, and will transmit a recommendation of approval or denial of the proposal to City Council for consideration in the upcoming months.

BACKGROUND

In April 2007, the City of Ferndale established a moratorium on retail developments over 75,000 square feet. Cities may establish such moratoriums as temporary emergency measures in order to provide sufficient time to amend the existing municipal code. Cities are authorized to extend moratoriums in six month increments if it can be established that more time is necessary to research and prepare necessary amendments. The retail moratorium has been extended once. A second moratorium was established in January 2008 in order to include all properties within the City. This moratorium will expire at the end of July 2008.

While the moratorium has been in place, staff has held three public meetings in order to identify specific community concerns as they relate to large retail development. Meeting attendees asked to list any concerns they had related to large retail development and any impacts they felt were associated with such development. A compilation of these comments is found in Exhibit 6.

A majority of comments were focused on five specific topics:

- ♦ Design and appearance of retail development
- ♦ Impacts to the existing or future public infrastructure
- ♦ Impacts on the Ferndale community and its identity
- ♦ Environmental Impacts
- ♦ Economic Impacts

Design and Appearance of Retail Development

Many of the concerns related to the appearance and design of large retail developments had been addressed prior to the establishment of the retail moratorium. The existing Large Retail Standards (FMC § 18.58) addresses the design and appearance of large retail structures and

sites. The code, which was written and approved in 2005, reflects extensive research into Best Management Design Practices utilized in other jurisdictions throughout North America.

While the existing code was not fundamentally altered, several revisions have been made. All revisions are shown in Exhibit 1. A description of specific changes is found at the conclusion of this staff report. The most significant amendments are as follows:

- ♦ Large retail developments over 50,000 square feet must submit re-use plans or establish a demolition bond
- ♦ Vehicular travel is prohibited in front of primary entrances
- ♦ SEPA, concurrency, and other State requirements are specifically listed and will be strictly enforced
- ♦ A retail matrix has been added to enable quick identification of requirements
- ♦ Adoption of EAGLE by reference

Impacts to Existing or Future Public Infrastructure

A common concern is the impact large development could have on existing infrastructure, specifically traffic impacts on roads. Of course, traffic impacts are not only generated by retail development, but by development of all kinds. An additional component of traffic impacts (or other impacts on infrastructure) relates to the question of who is responsible for the costs of improvements.

The Cities' position on this issue is firm and supported by the Washington State Growth Management Act: the developer shall pay for the impacts that they create. This concept, known as concurrency, is referenced in the revised code, but must be considered separately from the matter before the Planning Commission tonight.

Staff is currently developing an interim traffic concurrency ordinance that will be considered in upcoming months. The items being considered tonight will be held until an interim traffic concurrency ordinance is also ready for Council consideration. Staff has recommended lifting the retail moratorium only when traffic concurrency and the update to FMC § 18.58 are adopted.

Impacts on the Ferndale community and its identity
Environmental Impacts
Economic Impacts

Community, Environmental, and Economic impacts were also identified in the public processes discussed previously. Although elements of these concerns are addressed in the existing code, through the SEPA process, and through other existing regulations at the State level, the real or perceived lack of Ferndale-specific mitigation measures reflects the original rationale of the retail moratorium.

EAGLE

With this in mind, staff and the Planning Commission have developed an evaluation and points system nicknamed EAGLE. EAGLE is intended to address Ferndale-specific concerns, while providing applicants with the ability to select specific mitigation measures that respond to the communities' goals.

EAGLE is based on five categories of desirable development:

Energy Efficient Design
Advanced Technologies
Greater Good
Low Impact
Economic Development

Each category consists of specific items, or indicators. In turn, each indicator has been assigned a particular point total. Points will be awarded based on the degree to which a development proposes to meet the requirements of the indicator. Depending on the size and intensity of the proposed use, developments are required to earn a specific number of points in each category and a minimum number of points overall, in all categories. No specific indicator is required – the applicant is given the opportunity to work with the City to identify the specific indicators and ratio of points that will best reflect the site conditions for each project (see discussion on the EAGLE Board, below). A complete explanation of EAGLE is contained in Exhibits 4-7.

Points

Points for each indicator have been established so as to reflect the relative cost to the applicant, the relative benefit to the citizens of Ferndale, and the City's desire to encourage the utilization of certain indicators by weighting them with additional points. As a result, no specific dollar value, or "cost per point" should be extrapolated from the indicators.

Still, a key component of this or any code is the establishment of a reasonable, predictable process which will enable staff, the public, and the applicant to accurately interpret and

respond to the regulations. Wherever possible, EAGLE indicators have been designed to be as transparent as possible in order to provide the applicant with a clear expectation of the points that will result from specific actions. There are, however, a number of indicators (generally in the Greater Good and Economic Development categories) which are situational in nature.

Public comments received to date reflect a concern on the part of prospective applicants of the potential for subjective review of individual indicators. The concerns expressed to staff relate to the worry that compliance with indicators may present a “moving target” for developers and will lack consistency from one project to another. In one scenario, this “moving target” could result in the applicant investing time and money in a good-faith design, with the expectation for a certain number of points, only to be informed by the City that the design did not meet minimum standards.

From a staff perspective, these are both important points to consider. Generally, the EAGLE program has been designed not as a tool to analyze technical studies, but as the vehicle through which project design can be measured. Technical analysis of specific proposals will be provided through the normal permitting process, which will generally follow the initial EAGLE review. The City should be reminded that some indicators - for example green roofs - are a means to an end: a green roof is intended to decrease water consumption and reuse storm water. Applicants who can demonstrate similar results using alternate means must also be acknowledged. For this reason, the green roof indicator has been eliminated from the EAGLE program.

In light of this perspective, adoption of the EAGLE program will also require the formation of an EAGLE Board, consisting of individuals from professional City staff, the development community, citizens, and technical experts. The EAGLE board shall be permitted to consider all EAGLE proposals. At the applicants’ option, the EAGLE board may convene to review EAGLE checklists prior to application, in order to determine what, if any, site-specific or project-specific adjustments are necessary. The EAGLE Board shall not be permitted to decrease the total number of points required for a project, but may transfer up to ten percent of points from one category to another, or place additional emphasis on specific indicators as the situation warrants.

The EAGLE Board will thus provide the applicant with a degree of flexibility in designing their project, along with a certain comfort level prior to substantial investment in property or design. The City and people of Ferndale, meanwhile, will be given the ability to suggest specific mitigation measures (within the context of EAGLE) which will benefit the community.

DRAFT DOCUMENTS

Several exhibits are attached. These include an edited zoning code chapter (Chapter 18.58 Large Retail Establishment Design Guidelines and Standards), EAGLE documents, including a draft EAGLE checklist, appendices, indicator list, and staff procedures. Staff proposes that the changes underlined in the zoning code chapter be adopted by the City Council after consideration and possible modification by the Planning Commission, and that the Commission recommend adoption of EAGLE by reference.

PROCESS

The Planning Commission shall hold a public hearing, giving opportunities for the public to comment on the proposed changes. In accordance with State law, SEPA notice was published and posted on April 9, 2008. The two-week comment period concludes tonight, April 23, 2008.

Following the Public Hearing, the Commission shall take one of the following actions:

- ◆ Forward the proposal to the City Council with a recommendation for approval as presented by staff,
- ◆ Forward the proposal with a recommendation of approval as revised by the Planning Commission,
- ◆ Continue the public hearing to a date certain and direct staff to revise the proposal for consideration at the continued public hearing,
- ◆ Or, forward the proposal to Council with a recommendation for denial.

The documents before the Commission tonight reflect changes as suggested by the City Council and Planning Commission at the March 17, 2008 and March 31, 2008 public workshops. The EAGLE program may be recommended for adoption tonight. As the program would be adopted by reference, it may continue to be revised as necessary.

ANALYSIS

Portions of the documents before you tonight, EAGLE in particular, have not been implemented in other jurisdictions. If adopted, Ferndale would be the first jurisdiction to enforce such a system. It is likely that as the initiating municipality, there will be changes that must occur in order to achieve a process that realizes its potential. There is an element of risk inherent in such a decision. However, there are also a variety of benefits.

EAGLE has been designed to allow the applicant and the City to enter into a dialogue on specific developments, while establishing clear parameters that will be the basis of a decision. There is little doubt, however, that EAGLE compliance will raise the costs (at least the initial costs) of development for the applicant. Although it is not the responsibility of the

City to ensure that projects are affordable to the developer, it is a reality that will factor into the developers' decision to proceed with their project. Like any tool, there is the potential for EAGLE to be used as a way to prevent development by raising costs and requirements to the extent that projects are no longer feasible. As currently designed, EAGLE provides the ability for the City and the applicant to avoid this scenario. Future adjustments, and the full utilization of the EAGLE Board, will ensure this remains the case.

The following sections address the proposed code changes item by item and in the order they appear in the "draft" document attached as an exhibit to this report

18.58.010: Reference to "Large" retail eliminated

- Chapter now relates to retail design without a minimum square footage threshold

18.58.010: Reference to "small town" character eliminated

- Chapter references Ferndale's "unique sense of place"

18.58.020: Incorporates small stores into chapter

- Expands on existing code which allows outlying development, stores less than 20,000 square feet

18.58.020 and: Specifically identifies size of structures that must comply with 18.58.050 standards

- The chapter has a variety of thresholds, which needed to be identified

18.58.030: Identifies thresholds at which Fiscal and Environmental Impact Assessment (FEIA)

and Environmental Impact Assessment (EIA) reports will be required

- FEIA and EIA reports allow the City to more accurately identify the relative impacts of development. These reports will be required when the size and anticipated intensity of use exceed certain thresholds. The City may waive these requirements in certain cases.

18.58.040: Definitions expanded to include "Adjusted Assessed Value," "Development," "Fiscal and Economic Impact Analysis," "Floor," "Floor Area," "Gross Floor Area"

18.58.030: Adopts EAGLE by reference

- Adopting EAGLE by reference allows for periodic updates of EAGLE

18.58.050: Retail matrix added

- The Retail Matrix enables the reviewer to quickly identify the requirements that apply to specific development

18.58.060 (E): Parking Structures, when a part of development, must meet design standards

18.58.060 (E): Encourages establishment of Parking Structures

- EAGLE points are also available for establishment of parking structures

18.58.060 (E): Requires rest areas in large parking lots

- Includes a covered bench, lighting, and canopy tree in large parking lots

18.58.060 (H): Eliminates vehicular travel directly in front of primary entrances

- Intended to create a “vehicular free zone” between primary entrance and parking lot

18.58.060 (J): Adds public art and safety lighting as amenities

- EAGLE points are also available for such amenities

18.58.060 (K): Adds Concurrency Language

- Inclusion of concurrency language will enable concurrency ordinance to be adopted without revision to chapter

18.58.060 (L): Vacant or Abandoned Properties expanded to require Re-Use plans or demolition bond for structures over 50,000 square feet

- Intended to pro-actively address the difficulty in re-using large structures if structure becomes vacant

18.58.070 (A): Encourages vertical development

- EAGLE points are also available for vertical development

18.58.070 (A): Requires articulation of facades over 100 feet in length, regardless of building

size

- Planning Commission had suggested that even small structures sometimes have elements of large retail development