

OFFICE OF THE HEARING EXAMINER

CITY OF YELM

DECISION ON RECONSIDERATION

CASE NO.: SPR-05-0091-YL – WAL-MART SUPERCENTER

APPLICANT: PACLAND, Inc.
606 Columbia Street NW, Suite 106
Olympia, WA 98501

PROPERTY OWNER: Wal-Mart Stores, Inc.
2001 SE 10th Street
Bentonville, AR 72712-6489

**APPLICANT'S
ATTORNEY:** John C. McCullough
McCullough Hill Fisko Fretscmer Smith Dixon
2025 First Avenue, Ste. 1130
Seattle, WA 98121-2100

APPELLANT: Yelm Commerce Group
P.O. Box 1616
Yelm, WA 98597

**APPELLANT'S
ATTORNEY:** David A. Bricklin
Bricklin Newman Dold
1001 Fifth Avenue, Ste. 3303
Seattle, WA 98154

By Report and Decision dated November 1, 2005, the Examiner denied the environmental appeal of the Yelm Commerce Group challenging the City of Yelm's responsible official's decision to issue a Mitigated Determination of Nonsignificance following review pursuant to the State Environmental Policy Act (SEPA). In the same decision the Examiner conditionally approved the applicant's proposed site plan which allowed construction of a Wal-Mart Supercenter north of SR-507 and east of Grove Road.

On November 14, 2005, reconsideration requests were timely filed by Valentin Fyrst, Bill Nicholls, Edward A. Wiltsie, and James Zukowski. Section 2.26.150(E) of the Yelm Municipal Code (YMC) provides that following receipt of a reconsideration request(s):

The Hearing Examiner may, after review of the record, take further action as the Hearing Examiner deems proper...

The reconsideration request filed by Zukowski, Wiltsie, and Fyrst essentially reargue the traffic issues decided in the original decision. The Nicholls reconsideration request also addresses traffic, but also raises air quality, odor, and air pollution issues which are beyond the scope of the environmental appeal and therefore cannot be considered.

The issues raised by the reconsideration request have either been previously considered in the original decision or are beyond the scope of the environmental appeal.

DECISION:

The requests for reconsideration are hereby denied.

ORDERED this 18th day of November, 2005.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 18th day of November, 2005, to the following:

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ATTORNEY:**

David A. Bricklin
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1001 Fifth Avenue, Ste. 3303
Seattle, WA 98154

City of Yelm
Grant Beck/Tami Merriman
105 Yelm Avenue West
P.O. Box 479
Yelm, Washington 98597

OTHERS:

See Attached Mailing List

APPEAL OF EXAMINER'S DECISION:

The final decision by the Examiner may be appealed to the city council, by any aggrieved person or agency of record, oral or written that disagrees with the decision of the hearing examiner, except threshold determinations (YMC 15.49.160) in accordance with Section 2.26.150 of the Yelm Municipal Code (YMC).