



# MEMORANDUM

## *City of Yelm* *Community Development Department*

To: Mayor Adam Rivas  
Yelm City Council

From: Grant Beck, Director of Community Development

Date: December 12, 2005 (for December 28, 2005 City Council Meeting)

Subj: Response to Yelm Commerce Group's Appeal  
SPR-05-0091-YL and APL-05-0203-YL

### **Recommendation**

Approve Resolution Number 460, upholding the Hearing Examiner's approval of the site plan review for the construction of a Wal-Mart supercenter (SPR-05-0091-YL and APL-05-0203-YL).

### **Background**

The Yelm Commerce Group appealed the Hearing Examiner's issuance of a site plan review approval for the construction of a Wal-Mart supercenter (SPR-05-0091-YL).

The Examiner issued this approval after a public hearing prompted by an appeal of the Community Development Department's issuance of a Mitigated Determination of Non-significance pursuant to the State Environmental Policy Act. While the Examiner also upheld the issuance of the MDNS, this action was not appealed to the City Council pursuant to Sections 2.26.150 and 15.49.160 YMC.

The Examiner approved the site plan review application on November 1, 2005, after holding an open record public hearing on August 29 and 30, and September 1, 2005. Four requests for reconsideration were filed on November 14, 2005, which the Examiner denied on November 18, 2005. As part of the open record hearing, the Community Development Department submitted a staff report regarding the site plan review application, that recommended approval of the site plan review with conditions, all of which were adopted by the Hearing Examiner in his decision.

The sole basis for the appeal is whether the proposed development meets concurrency requirements for the City of Yelm as they relate to transportation. Specifically, the Yelm Commerce Group alleges that the City used the wrong level of service standards for the State Highways which run through Yelm and that the project fails concurrency when tested against the City's adopted level of service standard.

## Current Situation

### 1. ***The City of Yelm establishes the level of service for concurrency management purposes.***

The Hearing Examiner correctly determined that the City of Yelm establishes the level of service for concurrency management purposes and that the Thurston Regional Planning Council establishes level of service standards for planning purposes for all state owned transportation facilities in Thurston County.

The Growth Management Act is clear about concurrency standards for transportation facilities and how the planning and development review processes intertwine. Specifically, the Act requires that jurisdictions plan and coordinate planning with the State and Region, but only requires concurrency tests be made to local facilities. This two tiered system makes sense, as improvements to state owned facilities are outside the control of local governments, but may be the weak link in the regional transportation system. The Examiner's example of this concept was development within the City of Gig Harbor being held hostage to traffic on the Tacoma Narrows bridge.

First, Section 36.70A.070 RCW requires that local Comprehensive Plans include a transportation element that establishes level of service standards for regional planning purposes. The City of Yelm has adopted a transportation plan that meets this requirement.

*Level of service standards for all locally owned arterials and transit routes to **serve as a gauge to judge performance of the system.** These standards should be regionally coordinated; [RCW 36.70.070 (6)(a)(iii)(B)]*

*For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, **to gauge the performance of the system.** The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to **monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's six-year investment program.** The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection; [RCW 36.70.070 (6)(a)(iii)(C)]*

*Specific actions and requirements for bringing into compliance **locally owned transportation facilities** or services that are below an established level of service standard; [RCW 36.70.070 (6)(a)(iii)(D)]*

Partial Transcript from Day 3, Tape 2B starting at 36:41 -

**David Bricklin:** Right, just so we are clear, TRPC sets the level of service standard for SR 507 and 510 in Yelm, right?

**Perry Shea:** In conjunction with the City. It's a collaborative process, the Comprehensive Plan for the City is melded in to the Comprehensive Plan for the region which is then adopted and the level of service they are citing in their regional plan relates to level of service standards for facilities for what I would view as for planning and design. The City establishes their own concurrency standard, in this case level of service F for the downtown core, very similar to what the City of Olympia does...

Next, Section 36.70A.070 (6)(b) RCW requires that local governments adopt a transportation concurrency management system which mandates that infrastructure needed to serve new development be in place at the time of development. This mandate is only required to apply to locally owned transportation facilities, however. The City of Yelm has adopted such an Ordinance, codified at Chapter 15.40 YMC.

*After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a **locally owned transportation facility** to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. [RCW 36.70.070 (6)(b)]*

Partial Transcript from Day 3, Tape 2B starting at 26:14 -

**Mick Phillips:** You mentioned concurrency and can you indicate to the Examiner how this particular project meets the concurrency ordinance of the City of Yelm

**Perry Shea:** The City of Yelm has a concurrency ordinance of level of service D for their commercial and industrial area, level of service C elsewhere, and with level of service F in what's called the urban core, which is primarily the two or three blocks downtown, and it really only affects the intersection of First and Yelm Avenue, and that's level of service F and that will be level of service F until the other loop facilities are developed and opened and then that facility will go back to level of service D criteria so until then it meets the concurrency test for projects.

Hearing Examiner finding of fact:

*Thus, even if the City declared a moratorium, traffic on said state highways would continue to increase. Thus, while Yelm might impose a moratorium, other cities and counties would continue to grow with commercial and residential development which would use said state highways. Thus, the answer to traffic congestion on SR-507 and SR-510 is likely regional in nature. Such is akin to prohibiting development within the City of Gig Harbor due to traffic congestion on SR-16 which crosses the Narrows Bridge.*

**2. The methodology for calculating the 'planning' level of service established by the Thurston Regional Planning Council and the 'concurrency' level of service established by the City of Yelm is not the same.**

The Wal-Mart Traffic Impact Analysis (TIA) does not show that certain intersections do not pass concurrency when tested against the level of service standard established by the Thurston Regional Planning Council. As noted by Perry Shea, the level of service standards listed in the TIA are not equivalent to the level of service standards adopted by the Thurston Regional Planning Council for planning purposes, as each of these level of service standards are based on a different peak hour.

The City's methodology for concurrency 'grades' the worst 15 minutes of the peak hour in the afternoon while the methodology used by the Thurston Regional Planning Council for planning purposes 'grades' only the peak two hours of afternoon traffic. Mr. Shea indicated that the methodology used by the Thurston Regional Planning Council would show a rosier traffic picture than the City's concurrency methodology.

It is not possible to determine, therefore, that the project would fail the level of service as established for planning purposes by the Thurston Regional Planning Council.

Partial Transcript from Day 3, Tape 2B starting at 35:48 -

**David Bricklin:** Now you said that the City has set a level of services D except in the core where it's F.

**Perry Shea:** That's correct.

**David Bricklin:** Now you're aware, aren't you, that the level of service for State Routes is established by the Thurston Regional Planning Council and not by the City, are you aware of that?

**Perry Shea:** They establish regional level of service for corridors, and...

**David Bricklin:** Excuse me, are you aware that the state law provides that...

**Perry Shea:** for statewide significance for highways of statewide significance, and then, go ahead, finish your question.

**David Bricklin:** Well, the LOS for highways, state highways of state significance are set by WSDOT, right?

**Perry Shea:** Correct.

**David Bricklin:** And the LOS for State highways which are not classified as statewide significance are set by the Regional Transportation Planning Organization, right?

**Perry Shea:** And they adopt a level of service D.

**David Bricklin:** And they what?

**Perry Shea:** The level of service D for the urban City limit areas, except in what they call urban core areas in downtown Olympia or along Martin Way, which is E.

**David Bricklin:** Right, just so we are clear, TRPC sets the level of service standard for SR 507 and 510 in Yelm, right?

**Perry Shea:** In conjunction with the City. It's a collaborative process, the Comprehensive Plan for the City is melded in to the Comprehensive Plan for the region which is then adopted and the level of service they are citing in their regional plan relates to level of service standards for facilities for what I would view as for planning and design. The City establishes their own concurrency standard, in this case level of service F for the downtown core, very similar to what the City of Olympia does...

**David Bricklin:** Let me interrupt you, I don't care about Olympia right now. So it's your testimony that even if TRPC establishes a level of service standard for 507 and 510 at LOS D that Yelm has the right to establish it at LOS F.

**Perry Shea:** They're establishing a concurrency standard of LOS F, they're establishing a corridor of D, in the City, except at this intersection, which is for concurrency purposes.

**David Bricklin:** So it's your testimony that for the purpose of concurrency under the Growth Management Act that Yelm has the right to establish it's own level of service on State Route 507 and 510, that's your testimony?

**Perry Shea:** Yes, because its their City arterial and their right of way.

Partial Transcript from Day 3, Tape 2B starting at 47:16 -

**David Bricklin:** Use of a peak hour and a peak hour factor within the peak hour is to zero in on the worst conditions, right?

**Perry Shea:** We don't like to look at that, we aren't required to look at that. The regional policy is two hour average, PM peak average, which then dilutes that so if you wanted to use the regional policy, that you stated earlier, we could apply the two hour average to conditions in Yelm, which would then show that things are much better than they are. We actually like to look at a higher scenario of traffic impacts, so we use the peak hour factor to look at that peaking or that spiking during that hour.

**David Bricklin:** First of all, do you think I said that I was proposing using a regional policy for the peak hour determination?

**Perry Shea:** No, that's how they develop their level of service standard... two hour average.

**David Bricklin:** Ok, so with regard to the peak hour, you said that's a City call and the City, you said, is focused on, actually, the worst 15 minutes of the peak hour, right? That's what the peak hour factor accomplishes.

**Perry Shea:** That's what it does.

**3. *Consistently using the average intersection level of service methodology for concurrency purposes is fair and appropriate.***

The Examiner was correct in finding that the City's methodology for calculating level of service standards for concurrency management purposes was appropriate, as was the City's review of worst case turning movements as part of the environmental review process.

Perry Shea testified that it is the City's consistent practice to calculate the level of service gauging intersection performance based on the average movements and that this methodology is accepted engineering practice and is used in other Thurston County jurisdictions.

To change the level of service methodology at this point would hold Wal-Mart to a different standard than has been consistently applied to all developments in Yelm in the past.

Partial Transcript from Day 3, Tape 2B starting at 27:10 -

**Jack McCullough:** Picking up where you left off on level of service, there was some discussion you heard earlier, I presume, about the difference between the average for an intersection and a level of service for individual legs. I'd like to clarify what approach does the City use in evaluating level of service?

**Perry Shea:** We use the average intersection level of service for both signalized and unsignalized, and we request for unsignalized that the worst movement be cited in the report so we can then evaluate degrees of impact and in case in point that's why we looked at the 103<sup>rd</sup> Avenue extension as a requirement to help mitigate that, but it does meet the concurrency test that we have applied to projects in Yelm and it's also very similar to what Lacey and Olympia apply to their projects.

I just want to say something real quick about the regional context. There are specific tri-city guidelines that we require developers to use, and the reason I know that is because I prepared those guidelines in 1990 for the City of Olympia, which then have been adopted by most of the jurisdictions within this County, including Yelm and they've seen some changes throughout and within those guidelines it does talk about, the most recent one from Lacey that we currently model ours, or Yelm's after is looking at the average intersection delay for both signalized and unsignalized intersections, and that's what we do.

**4. *The correct level of service at the intersection of Yelm Avenue and 1<sup>st</sup> Street is 'F'.***

The Examiner correctly found that the language of the Yelm Comprehensive Transportation Plan was clear regarding level of service standards. Specifically, the plan states:

In the urban core, LOS F is recognized as an acceptable level of service where mitigation to create traffic diversions, bypasses, and alternate routes and modes of transportation are authorized and being planned, funded, and implemented.

The only correct manner in which to read this sentence is that LOS F is recognized as an acceptable level of service where mitigation measures are authorized and being planned, being funded, and being implemented. According to Merriam-Webster Online, the primary definition of implement means to:

*CARRY OUT, ACCOMPLISH; especially: to give practical effect to and ensure of actual fulfillment by concrete measures*

The City's traffic consultant, Perry Shea, testified that he is also the designer working on the Loop and that the project has progressed to the point of right-of-way acquisition. There is no doubt that this effort is a concrete measure that is going to ensure the actual fulfillment of the SR 510 Yelm Loop.

Partial Transcript from Day 3, Tape 2B starting at 03:18 -

**Mike Phillips:** Can you please state your name and spell your last name?

**Perry Shea:** My name is Perry Shea, S-H-E-A, and I'm a principal engineer with Parametrix. I manage the office in Lacey, Washington. Our address is 8870 Tallon Lane, Lacey, WA 98516.

**Mike Phillips:** And for the record, I'm Mick Phillips of Owens Davies, Counsel for the City. Perry, can you give us your educational background?

**Perry Shea:** I received a Bachelor of Science Engineering at St. Martin's College in 1984. I'm a professional engineer in the states of Washington, Oregon, Idaho and Alaska. And I've been practicing traffic engineering and planning for over 20 years. Most of my experience and work has been in the south puget sound/Thurston County area. I do work for all the jurisdictions in the County doing long range planning, subarea planning, corridor planning, comprehensive planning and also arterial, street, intersection and highway design. So I have a pretty good knowledge base of the issues and traffic characteristics in Thurston County, particularly Yelm.

**Mick Phillips:** And you've been a consultant for the City of Yelm for a while?

**Perry Shea:** I have been working with the City of Yelm since 1989, primarily as their traffic consultant and expert as it relates to long term planning and growth, and building their infrastructure.

**Mick Phillips:** Can you provide the Examiner with some of the history and background on the Yelm traffic issues?

**Perry Shea:** Yes. Before we get into the specifics of the traffic study, I think it's important to give an overview, kind of a regional context with Yelm.

In the late 1980's and early 1990's, the City Council, and residents that have been living here since that time, there's traffic issues, traffic problems in Yelm. There's only one main corridor going through the City. And a lot of that traffic is through traffic/background traffic. At the time, in the early 1990's, when the Council determined that there was a significant issue, we were asked to evaluate that, and to go through about a year, year and a half long process to develop their long range transportation plan, to meet the Growth Management Act in particular. And this study was actually one of the first transportation plans to be adopted to meet the GMA requirements in the State of Washington.

Since then, it's gone through several updates. Some of the findings of that work was that, because of the limited amount of facilities going through the City, we needed to look at alternate routes. And that's where the Y3, the Y2 and other corridors like that were developed. The Y designation represents basically Y stands for Yelm and the number is the project number that was developed in a list of projects in the plan. So when you hear the term Y3, Y2, Y6, it just represents a project that's identified as a needed facility over time. The outer loop, the loop highway system, has been a primary project that the City, and other stake holders, such as DOT, Federal Highways, Intercity Transit, Thurston Regional Planning Council, Thurston County, a whole host of folks, have been working hard and diligently to get that project to fruition, get constructed.

Since its inception in 1991, a lot of things have happened, an environmental document, an EA was approved, a FONSI, which is a Finding of No Significant Impact was issued in 2001 by the Federal Highway Administration, which basically sited the approved route of the Y3 Y2 corridor, which is now called the 510 loop and the 507 loop. That allowed the City and DOT to begin partnering to leverage future funding dollars to build the corridor. And that has happened. When the gas tax went into effect, \$33 million allocated to this corridor for finishing design at the access hearing and right of way acquisition. Right now, the project is currently in design, going through design documentation, developing preliminary design drawings and additional environmental work for the corridor as it leads up to the access process and right of way acquisition procedures.

Because of the uncertainty in the gas tax, the project is not on hold, it's just on basically a slow burner right now in what we're doing. I'm actually the project manager for DOT on that corridor. Depending on what happens, the project will still move forward through design. I can't speculate exactly what will happen with the dollars for right of way and construction. But we have been anticipating and programming that this

corridor could be in place in the next 5, 6, 7 years. And that's been pretty accurate. We've actually, in 1991, we looked out over 20 years and said can we, you know, this will take a 20-year plan. Well, you know what? We're pretty much on target for that. The 510 Loop is the project that is currently in that cycle. The other loop highways are further out because they don't provide the emergent benefit that the 510 Loop does by allowing traffic to circulate around town that really doesn't have a destination to the City.

It's a lot of the through traffic that goes to Pierce County, to and from Lacey as commute trips primarily. It also allows for some of the freight mobility traffic to route around town. And it provides access and circulation improvements to that quadrant of the City which it currently does not have. Currently, if you're in that part of town, you have to access Yelm Avenue to get anywhere. And that's the limitation of the grid system that the City currently has in place. An important part of the Transportation Plan that was developed was making street connections, providing alternate routes to Yelm Avenue. That was a fundamental policy and it's been a significant goal of the Council, as well as staff, to implement that, those goals. They do that when developments are developed. A recent arterial extension was completed and is open that has provided significant benefits. Stevens Avenue was extended to West Road which now provides another route to get over to the commercial area in town, versus using Yelm Avenue. There is testimony about the extension of 103<sup>rd</sup> to the north. Again, that is in complete alignment with the Comprehensive Plan to make street connections to provide alternate routes for traffic to disperse along the system.

So, over the last, since 1991, significant strides have been made. The City Council was actually very progressive back then and has been very diligent in using their dollars and leveraging their efforts to get additional funding monies to build these street improvement projects. The 510 corridor and the 507 loops, those are significant regional projects that take a lot of time to develop.

So, as that was unfolding in 1995, the City in the Comprehensive Plan, looked at the Level of Service policy of the City and developed Level of Service D for their commercial areas, with the exception of the core area which is Level of Service F, until, basically, Level of Service F, until other features, these planned loop facilities are in place, to alleviate the traffic burden that is currently on the existing Yelm Avenue. That was the policy, that's been the direction, that's currently what is in place now when reviewing concurrency. On a corridor level, we look at Level of Service D for proper planning and design of facilities.

For concurrency, in the downtown corridor, we look at Level of Service F because we do not want to widen downtown to six lanes. That was an underlying goal and a significant reason why the loop highways are being planned – to keep the Yelm Avenue corridor to a three lane urban arterial that will basically travel through the City. The loop highways are meant to divert that traffic, take that additional traffic burden away so that we don't have the Spanaway's, we don't have the Pacific Avenues, we don't have the Martin Ways going down through the middle of town, which would really tear up the entire city. That was a fundamental reason why that policy was made and the loop highways are now being implemented. So I just wanted to give some clarity on that, some background.

I think it's important so you folks that are here that live in town. The City's been working diligently on this for a long time, and have made significant strides and have made several transportation improvement projects to help circulate traffic around town. And I understand. I drive down here all the time and I probably know, I have a significant amount of history and knowledge of the traffic situation here. And why I've been working hard with the City to make sure these systems are in place as time goes on.

**5. *The SR 510 Yelm Loop is not required for a finding of concurrency.***

Perry Shea was also very clear during his testimony that the SR 510 Yelm Loop is not part of any concurrency requirement. It was Mr. Shea's testimony that the analysis of the Loop completed as part of the Traffic Impact Analysis was for environmental impact purposes and not as part of the concurrency analysis.

Partial Transcript from Day 3, Tape 2B starting at 13:11 -

**Mick Phillips:** Perry, what's the relationship between the loop roads that you're talking about and the Wal-Mart proposal or any other proposal?

**Perry Shea:** In the Comprehensive Planning process, and even the work that we're doing on the loop highway, to design that facility, we are looking at travel forecasts out to 20, 25 years. In fact, for the purposes of this corridor, we did what was called a 2030 forecast. So what will the traffic, what can we expect in 2030 when the loop system is implemented? And that's based on the regional traffic model. It's based on the current land use plans that are adopted within the jurisdictions. It also includes traffic background or traffic influx from Pierce County.

A lot of things go into this process to understand the relationships of, when we build these facilities, how will traffic be routed, what attractions will be made, and how much traffic will have to be on the corridor when it opens. The corridor always assumed in the analysis that we did since 1991 and

all the subsequent updates a commercial development of some sort would be in this particular area because it's zoned that way. So when you look at the traffic volume, you look at various employment and population forecasts, there is an underlying assumption of commercial development activity that goes into the model.

When you get a site specific application like the Wal-Mart proposal, then we take a really close look to see is that in alignment with, if not what do we need to do to make sure that that traffic is mitigated? And that's the exercise, part of the exercise of what we did. And it's one of the reasons why we requested the applicant to evaluate the 2010 horizon year, assuming that if the corridor was open in 2010, is the program that they're doing, the store, the traffic that they're generating, is that going to conflict or be different than what we're planning for, for the loop highway system.

**Mick Phillips:** If the loop highway system isn't built for 10 more years or 15 more years, how does that change your analysis of this particular project?

**Perry Shea:** It doesn't change the analysis for Wal-Mart, the application, because they're looking at their impact at the time of opening their store which is pretty much the requirement, the level of standard that we request them to do. And so they're required to mitigate their impact for the time of opening in 2006. We take a broader look as the City or the DOT to look at, ok, over time, is our system adequate to handle these facilities. We actually did a detailed traffic component as part of the update for the 510 loop project, which analyzed all of the core intersections downtown as well as the loop highway system for 2010 and 2030.

And with the corridor in place, we have acceptable service levels in the downtown area except Yelm Avenue. The only one that's really problematic currently right now is Yelm Avenue and First Street. When the 510 loop highway's built, that intersection performs fairly well because we're diverting such an amount of traffic around town. So we looked at the cause and effect. If you were to build that corridor, what would that mean to the existing intersections that we currently travel through right now. And it does meet that test. It meets the service levels that we would apply to those intersections.

City of Yelm  
Resolution No. 460

A RESOLUTION UPHOLDING THE HEARING EXAMINER'S APPROVAL OF THE SITE  
PLAN REVIEW FOR THE CONSTRUCTION OF A WAL-MART SUPERCENTER (SPR-  
05-0091-YL AND APL-05-0203-YL)

WHEREAS, the Yelm City Council held a closed record hearing on December 28, 2005, regarding an appeal by the Yelm Commerce Group, Valentine Fyrst, Bill Nicholls, and James Zukowski of the Hearing Examiner's approval of a site plan review for the construction of a Wal-Mart supercenter in Yelm; and

WHEREAS, the Council considered the appeal, responses to the appeal filed by the City of Yelm Community Development Department and Wal-Mart, a reply by the Yelm Commerce Group, et. al., the Hearing Examiner's decision, reconsideration requests filed by James Zukowski, Bill Nicholls, Valentine Fyrst, and Ed Wiltsie, and the Hearing Examiner's decision on reconsideration; and

WHEREAS, the Council reviewed the record before the Hearing Examiner prior to the closed record hearing, including audio from the three days of public hearing and all written materials submitted to the Hearing Examiner as part of the record, an index of which is included in the Hearing Examiner's report and decision; and

WHEREAS, the City Council adopts the following Findings of Fact and Conclusions of Law in the matter of the Yelm Commerce Group's appeal:

Findings of Fact

1. PACLAND, Inc, on behalf of Wal-Mart Stores, Inc. made application to the City of Yelm for a site plan review approval for the construction of a Wal-Mart supercenter in Yelm.
2. Grant Beck, the Yelm Community Development Director and SEPA Responsible Official issued a Mitigated Determination of Non-significance on June 7, 2005 and this determination was timely appealed by the Yelm Commerce Group.
3. Pursuant to Chapter 15.49 YMC, the Yelm Hearing Examiner held a duly advertised open record hearing on the Yelm Commerce Group's appeal of the MDNS. Pursuant to Chapter 15.49 YMC and Chapter 36.70B RCW, the open record hearing included the underlying land use permit, a site plan review approval. At the open record hearing, held on August 29<sup>th</sup>, 30<sup>th</sup>, and September 1<sup>st</sup>, 2005, the Examiner accepted oral and written testimony on the site plan review application and the appeal of the MDNS and expert testimony regarding the appeal of the MDNS.
4. The Examiner issued on November 1, 2005, a report and decision which upheld the issuance of the MDNS and approved the site plan review application, with conditions as recommended by the Community Development Department. Four requests for reconsideration were filed by James Zukowski, Valentine Fyrst, Bill Nichols, and Ed Wiltsie on November 14, 2005. The Examiner denied the reconsideration requests on November 18.

5. On November 28, 2005, the Yelm Commerce Group, Valentine Fryst, Bill Nicholls, and James Zukowski filed an appeal of the Hearing Examiner's decision to approve the site plan review application for the construction of a Wal-Mart supercenter in Yelm. The sole basis for the appeal is whether the proposed development meets concurrency requirements for the City of Yelm as they relate to transportation. The Hearing Examiner's action to uphold the Responsible Official's SEPA Determination was not appealed to the City Council pursuant to Sections 2.26.150 and 15.49.160 YMC.
6. Section 36.70A.070 (6)(b) RCW does not require the City of Yelm adopt an Ordinance relating to concurrency management which mandates the City prohibit development approval if a development causes the level of service on any state owned transportation facility to decline below the level of service standards adopted for the purpose of gauging the performance of the system pursuant to Section 36.70A.070 (6)(a)(iii)(C).
7. Section 36.70A.070 (6)(b) RCW does not prohibit the City of Yelm from establishing concurrency requirements for local project review for state owned transportation facilities, and the City of Yelm has established level of service standards for concurrency management purposes for State Routes 510 and 507 within Yelm and it's urban growth area.
8. The Yelm Comprehensive Transportation Plan establishes the following level of service standards for concurrency purposes:
  1. In all residential zones, LOS C
  2. In all commercial and light industrial zones, LOS D
  3. In the urban core LOS F is recognized as an acceptable level of service where mitigation to create traffic diversions, bypasses, and alternate routes and modes of transportation are authorized and being planned, funded, and implemented.
9. Alternate routes, in the form of the Y-2 and Y-3 transportation improvement as identified in the Yelm Comprehensive Transportation Plan are a primary project for the City, Washington State Department of Transportation, Thurston County, and the Thurston Regional Planning Council. A corridor has been established, an environmental document approved with a Finding of No Significant Impact, the SR 510 Yelm Loop (Y-3) is currently in design, including additional environmental work which will lead to the access process and right of way acquisition.

The work completed to date shows that alternate routes are being planned, being funded, and being implemented.
10. The level of service standard in the urban core of Yelm is "F" pursuant to the Yelm Comprehensive Transportation Plan.
11. The City has consistently utilized the average intersection level of service methodology for signalized and unsignalized intersections for concurrency

management purposes, which is an industry standard and consistent with other jurisdictions in Thurston County.

12. Utilizing average intersection level of service for signalized and unsignalized intersections is an appropriate methodology for evaluating concurrency with the established levels of service for the transportation system.

Conclusions of Law

- A. This matter comes before the City Council on an appeal filed by the Yelm Commerce Group, Valentine Fyrst, Bill Nicholls, and James Zukowski of the issuance of a site plan review approval by the Yelm Hearing Examiner. The Hearing Examiners action to uphold the Responsible Official's SEPA Threshold Determination was not appealed to the City Council.
- B. The Yelm Community Development Department and Yelm Hearing Examiner applied the correct level of service calculation methodology for concurrency purposes pursuant to Chapter 15.40 YMC and Section 36.70A.070 (6)(b) RCW. The proposal meets concurrency requirements, including a level of service "F" in the Yelm urban core.
- C. The Hearing Examiner's decision was supported by substantial evidence submitted through the land use hearing process, particularly by the expert testimony of the City's transportation consultant, Perry Shea of Parametrix, Inc.

NOW, THEREFORE, BY IT RESOLVED by the City Council of the City of Yelm, Washington, that the Hearing Examiner's approval of a site plan review for the construction of a Wal-Mart supercenter is upheld and the Hearing Examiner's report and decision is hereby adopted.

PASSED and signed in authentication on this 28<sup>th</sup> day of December, 2005

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Adam Rivas, Mayor

Authenticated:

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Agnes P. Bennick, City Clerk