

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 29th, 30th, and September 1st, 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.

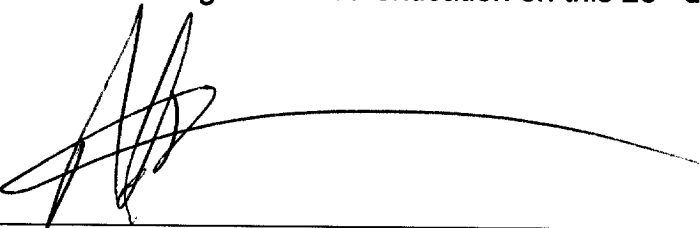
12. Utilizing average intersection level of service for signalized and unsignalized intersections is an appropriate methodology for evaluating concurrency with the established levels of service for the transportation system.

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 28th day of December, 2005



Adam Rivas, Mayor

Attest:



Agnes P. Bennick, City Clerk