

RESOLUTION NO. 5937-25

A RESOLUTION AFFIRMING THE SEPTEMBER 10, 2025, ARCHITECTURAL REVIEW BOARD DECISION APPROVING LAM RESEARCH CAMPUS EXPANSION (AR24-0002) LOCATED AT 11155-11361 SW LEVETON DRIVE; TAX LOTS: 2S122AA 500 and 800; 2S122AB 100; 2S122BA 100.

WHEREAS, a public hearing was held before the City Council of the City of Tualatin on November 10, 2025, upon the request for review submitted by the Brett Hamilton, Appellant, to review the September 10, 2025 Architectural Review Board (ARB) decision approving AR24-0002 Lam Research Campus Expansion (Applicant); and

WHEREAS, a notice of public hearing was given as required by the Tualatin Development Code by mailing a copy of the notice to affected property owners located within 1000 feet of the property, which is evidenced by the Affidavit of Mailing marked Exhibit D attached and incorporated by this reference; and

WHEREAS, the Council heard and considered the testimony and evidence presented by Applicant, Appellant, City staff and interested persons appearing at the de novo public hearing; and

WHEREAS, after the conclusion of the public hearing the Council vote resulted in unanimous denial of the appeal and affirmation of the Architectural Review Board's decision for AR24-0002; and

WHEREAS, in accordance with Council Rule 4B(6) and based upon the evidence and testimony heard and considered by the Council, the Council makes, enters, and adopts the findings and analysis set forth in Sections 3 and 4 below in support of its decision.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The appeal submitted by the Appellant is denied.

Section 2. The Architectural Review Board decision of September 10, 2025 is affirmed.

Section 3. For all approval criteria, the Council adopts as its own findings all of the following:

- i) *Attachment B- November 10, 2025 Supplemental Staff Memo, Supplemental Staff Memo – Architectural Review (AR) for Lam Research Corporation located at located at 11155-11361 SW Leveton Drive (Tax Lots: 2S122AA500 & 800, 2S122A00100, 2S122BA00100) in the Light*

Manufacturing Park Zone (MP), attached and incorporated by reference as Exhibit 1;

- ii) *Exhibit A- September 10, 2025 ARB Decision AR24-0002, Analysis and Findings- Lam Research Campus; Updated September 11, 2025 with Findings and Conditions of Approval which were presented at the Public hearing and adopted by the Architectural Review Board, attached and incorporated by reference as Exhibit 2;*

Section 4. In addition to the findings set out in Section 3, the Council adopts the following supplemental findings in support of the final action, which are attached and incorporated by reference as Exhibit 3.

Section 5. The Manager or Manager's designee is authorized to prepare a Notice of Adoption consistent with this decision and in accordance with TDC 32.240(6).

Section 6. This Resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 8th day of December, 2025.

CITY OF TUALATIN, OREGON

BY *[Signature]*
Mayor

APPROVED AS TO FORM:

BY *Kevin R. McConnell*
Kevin R. McConnell (Dec 9, 2025 09:28:19 PST)
City Attorney

ATTEST:

BY *Sherilyn Lombos*
Sherilyn Lombos (Dec 9, 2025 12:38:49 PST)
City Recorder












Resolution Affirming AR24-0002 ARBs Decision

Final Audit Report

2025-12-09


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ANALYSIS AND FINDINGS LAM RESEARCH CAMPUS

ARB Hearing: September 10, 2025

Updated September 11, 2025 with Findings and Conditions of Approval which were presented at the Public Hearing and adopted by the Architectural Review Board.

Case #:	AR 24-0002
Project:	Lam Research Corporation Campus
Location:	11155-11361 SW Leveton Drive; Tax Lots: 2S122AA 500 and 800; 2S122AB 100
Representative:	Mackenzie
Owner:	Lam Research Corporation

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Arrangements can be made to provide these materials in alternative formats such as large type or audio recording. Please contact the Planning Division at 503.691.3026 and allow as much lead time as possible.

I. INTRODUCTION

A. Applicable Criteria

The following Chapters of the Tualatin Development Code (TDC) are applicable to the subject project:

- TDC 33.020: Architectural Review
- TDC 33.050: Industrial Master Plan
- TDC 33.110: Tree Removal Permit/Review
- TDC 62: Manufacturing Park (MP) Zone
- TDC 73A: Site Design Standards
- TDC 73B: Landscaping Standards
- TDC 73C: Parking Standards
- TDC 73D: Waste and Recyclables Management Standards
- TDC 74: Public Improvements
- TDC 75: Access

The remaining The Architectural Review approval criteria (33.020 (5)) require compliance with the following chapters of the TDC:

- TDC 73A: Site Design Standards
- TDC 73B: Landscaping Standards
- TDC 73C: Parking Standards
- TDC 73D: Waste and Recyclables Management Standards

The remaining chapters, 33.020 , 33.050, 33.110, 62, 74 and 75, have been reviewed to ensure compliance with the Tualatin Development Code and in some cases conditions of approval were added where needed as allowed per TDC 33.020 (6).

B. Site Description

The Lam Research campus site consists of a 75.96-acre campus on four lots located at 11155 SW Leveton Drive (Washington County Tax Lots: 2S122AA 500 and 800; 2S122AB 100; 2S122BA 100). The general location of the site is south of SW Tualatin Road, west of SW 108th Avenue and north of SW Leveton Drive. Lam Research also has facilities south of Leveton Road and one building east of SW 108th Avenue. The four lots are zoned Manufacturing Park (MP).

The site contains several existing buildings and improvements, parking areas and drive aisles, stormwater facilities, walkways, landscaping, and hardscaping. The site is accessed by three driveways from SW 108th Avenue and three accesses from SW Leveton Drive. There is an access on SW Tualatin Road for JAE for deliveries and JAE employees and shared with Lam for emergency access only. This site is in the former Leveton Urban Renewal District. Currently, Lam Building “G”, approved with IMP22-0001/AR22-0006, is under construction in the southeast portion of the site but not depicted in Figure 1. The site slopes gradually from high elevations of 180 to 190 feet along SW Tualatin Road to low elevations of 140 to 160 feet along SW Leveton Drive, approximately a 40 feet elevation change from

north to south.



Figure 1: Aerial view of subject site (highlighted)

C. Proposed Project

The original Architectural Review (AR) application was submitted on July 8, 2024. After the application was deemed complete by the City on December 16, 2024, the applicant provided revised materials altering the original project design, as allowed under TDC 32.170 (Revised Applications). The final application materials were provided by the applicant on July 29, 2025. The most significant changes from the July 8, 2024 submittal that are proposed in the current application include the elimination of a previously proposed employee access to SW Tualatin Road (the existing access for JAE and emergency access for Lam would remain) and the size of the proposed building development being reduced from 423,470 square feet to 241,230 square feet. Public improvements associated with the proposed development include half-street right-of-way dedication with street improvements along SW Leveton Drive and SW Tualatin Road. Necessary public utility easements will be dedicated along SW 108th Avenue, SW Leveton Drive and SW Tualatin Road to accommodate water system meters and vaults and onsite water laterals. Sidewalk will be constructed along the northernmost access to SW 108th Avenue to the main campus and other sidewalks will be reviewed and improved where needed to meet ADA specifications. Traffic signals will be coordinated to better facilitate left turn movement from OR 99W to SW Tualatin Road at their intersection with SW 124th Avenue. Street lighting will be evaluated and required to meet City standards. Street trees will be planted as illustrated within approved permit plans. Rerouting of an existing public water main serving the JAE Oregon site will result in conversion of the entire line outside of the public right-of-way to a private water main owned and maintained by JAE. Modification to existing and construction of new stormwater facilities to provide treatment, hydromodification, and detention for all private impervious surfaces will be required. The proposed site plan is shown below in Figure 2 and in greater detail in the application Plan Set (Exhibit A2).

The current proposal includes construction of a new office building (120,000 square feet), lab (90,000 square feet), central utilities building (29,000 square feet), and storage building (2,230 square feet) on the southern portion of the campus adjacent to SW Leveton Drive. There will be parking areas located on the northern portion of the site with all employee traffic being directed to three existing driveways

on SW 108th Avenue and three existing driveways; one new driveway on SW Leveton Drive is proposed for truck-only traffic. Along SW Tualatin Road, the existing landscape berm is proposed to be extended to the west to provide additional voluntary buffering of the site. The applicant proposes a net increase of 544 parking spaces. This consists of demolishing 468 existing spaces to accommodate the proposed new buildings and constructing 1,012 new or replaced parking spaces. Included in the 544 new spaces are 127 spaces that were previously approved for Building “G” through AR 22-0006 but not constructed (later removed through an approved modification). In addition, associated landscaped and hardscaped areas as well as new stormwater detention ponds are proposed.

The development proposal concentrates construction location in the southern and western portion of the site (Exhibit A2). The lab and office buildings proposed designs include insulated metal panels that are smooth and ribbed in texture and colored gray and silver. There will also be a limited number of windows on the lab building due to the function of the lab facility. Architectural features of the storage building include gray, light gray, and dark gray painted concrete panels. The office building is similarly designed and colored to match Building G, which is the building that is currently being constructed under the approval of IMP 22-0001 and AR 22-0006. The storage building will be unoccupied and designed with no windows corrugated metal siding and roof panels.

The applicant’s Architectural Review narrative states that three construction phases are planned. Phase 1 would construct the office building and northern parking lot within the initial 2-years of construction after the approval of AR 24-0002. Phase 2 would construct the lab, utility building, storage building within the first four years. Phase 3 would expand the bulk gas yard in the northerly area and parking in the southwestern area of the site with construction starting within 6 -years. The extended landscaped berm includes will be constructed using fill from excavations of that will occur during Phase 2 and would be finished in Phase 3.

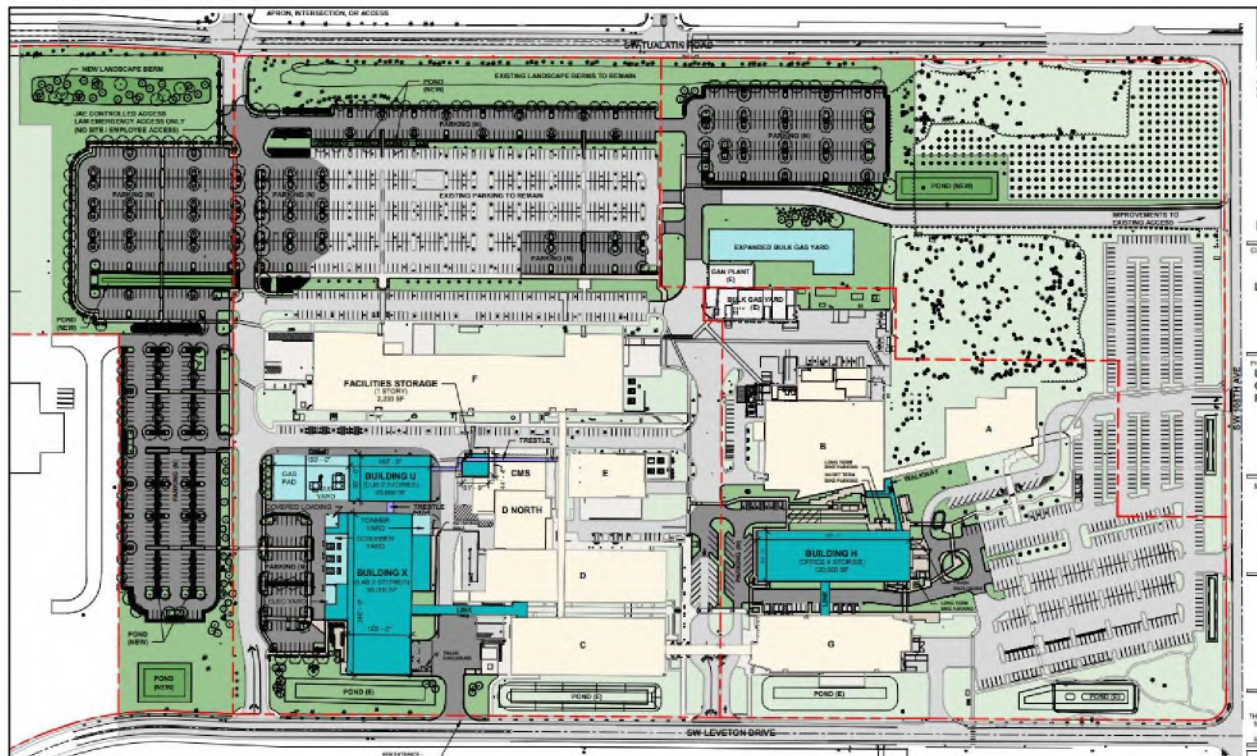


Figure 2: Site Plan (overview, dark gray and blue areas are locations where new development is proposed)

D. Previous Land Use Actions

- IMP24-0001- modification to building setbacks, parking and circulation, building height and parking lot landscaping.
- PLA 23-0004– Property Line Adjustment between Tax Map/Lots 2S122BA00200 and 2S122AB00100
- AR 22-0006 – Lam Building G
- IMP 22-0001 – Lam Building G
- AR 20-0001 – Lam Building D Addition
- AR 16-0010 – Lam Campus Parking Master Plan
- PLA 16-006 – Property Line Adjustment
- AR 15-0029 – Building D Expansion
- PAR 00-04 – Partition
- AR 00-03 – Novellus Phase 1
- IMP 00-01 – Novellus
- AR 89-24 – Oki Semiconductor

E. Surrounding Uses

Surrounding areas indicate a transitional area including industrial and residential use. Adjacent land uses include:

North: Residential Medium-Low Density (RML)

- SW Tualatin Road
- Fox Run Subdivision

South: Manufacturing Park (MP)

- SW Leveton Drive
- Fujimi Corporation

West: Manufacturing Park (MP)

- JAE Corporation

East: Light Manufacturing (ML)

- SW 108th Avenue
- Ascentec Engineering LLC
- Lam Research

F. Exhibit List

Attachment A – Presentation

Attachment B – Analysis and Findings

Attachment C – Written Order

Exhibit A1 - Narrative

Exhibit A2 – Plan Set and Elevations

Exhibit A3 – Tree Assessment Report

Exhibit A4 – Transportation Impact Analysis

Exhibit A5 – Preliminary Stormwater Report

Exhibit A6 – Supporting Documents

Exhibit B – Public Noticing Requirements

Exhibit C – Clean Water Services Memorandum

Exhibit D – IMP 24-0001 Written Order

Exhibit E – Water System Capacity Analysis

Exhibit F – Public Comment

Exhibit G – Map 8-5 Transit Plan

Exhibit H – TDC Figure 73-1 Parking Space Design Standards

Exhibit I – TDC Figure 73-2 Vision Clearance Area

Exhibit J – Map 8-1 Functional Classification and Traffic Signal Plan

Exhibit K – ODOT Lam Review (email dated 7/29/25)

II. FINDINGS

These findings reference the Tualatin Development Code (TDC), unless otherwise noted.

Chapter 32: Procedures

Section 32.010 – Purpose and Applicability.

[...]

(2) **Applicability of Review Procedures.** All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below.

Table 32-1 lists the City’s land use and development applications and corresponding review procedure(s).

[...]

(c) **Type III Procedure (Quasi-Judicial Review – Public Hearing).** Type III procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment. Quasi-Judicial decisions involve discretion but implement established policy. Type III decisions are made by the Planning Commission or Architectural Review Board and require public notice and a public hearing, with an opportunity for appeal to the City Council.

[...]

(3) **Determination of Review Type.** Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

Table 32-1 – Applications Types and Review Procedures

Application / Action	Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood /Developer Mtg Required	Applicable Code Chapter
Architectural Review						
Commercial Buildings 50,000 square feet and larger	III	ARB	CC	Yes	Yes	TDC 33.020
[...]						
* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).						

Finding:

The proposal is to construct new commercial buildings with the MP zone that are greater than 50,000 square feet. According to Table 32-1, Large Commercial, Industrial, and Multifamily Developments require a Type III review procedure with the Architectural Review Board serving as the Decision Body. The application has been processed according to the applicable code for Type III procedures. This standard is met.

Section 32.030 – Time to Process Applications.

(1) Time Limit - 120-day Rule. The City must take final action on all Type II, Type III, and Type IV-A land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under TDC 32.160, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-B (Legislative Land Use) decisions.)

[...]

Finding:

The subject application was submitted on July 8, 2024. The application was deemed incomplete on July 24, 2024. On December 4, 2024, the applicant submitted additional items, and requested the application be deemed complete. The application was deemed complete on December 16, 2024. The applicant has cumulatively requested a 245-day waiver to the 120-day rule, the maximum allowed under ORS 227.178, making December 16, 2025, the final day by which the City must make a final decision on the application, including all local appeals. No additional extensions are allowed. The Architectural Review Board hearing for AR 24-0002 is scheduled for September 10, 2025. This standard is met.

Section 32.110 – Pre-Application Conference.

(1) Purpose of Pre-Application Conferences. Pre-application conferences are intended to familiarize applicants with the requirements of the TDC; to provide applicants with an opportunity discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

(2) When Mandatory. Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 32-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.

(3) Timing of Pre-Application Conference. A pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood/Developer meeting.

(4) Application Requirements for Pre-Application Conference.

(a) Application Form. Pre-application conference requests must be made on forms provided by the City Manager.

(b) Submittal Requirements. Pre-application conference requests must include:

(i) A completed application form;

(ii) Payment of the application fee;

(iii) The information required, if any, for the specific pre-application conference sought; and

(iv) Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.

(5) Scheduling of Pre-Application Conference. Upon receipt of a complete application, the City Manager will schedule the pre-application conference. The City Manager will coordinate the involvement of city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

(6) Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences. A follow-up conference is required for those mandatory pre-application conferences that have previously been held when:

- (a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within six (6) months of the pre-application conference;
- (b) The proposed use, layout, and/or design of the proposal have significantly changed; or
- (c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.

Finding:

The subject land use action is identified as requiring a pre-application conference in Table 32-1. The applicant participated in a pre-application meeting on June 5, 2024, approximately one month prior to submitting the Architectural Review application. These standards are met.

Section 32.120 – Neighborhood/Developer Meetings.

(1) Purpose. The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

(2) When Mandatory. Neighborhood/developer meetings are mandatory for all land use actions identified in Table 32-1 as requiring a neighborhood/developer meeting. An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.

(3) Timing. A neighborhood/developer meeting must be held after a pre-application meeting with City staff, but before submittal of an application.

(4) Time and Location. Required neighborhood/developer meetings must be held within the city limits of the City of Tualatin at the following times:

- (a) If scheduled on a weekday, the meeting must begin no earlier than 6:00 p.m.
- (b) If scheduled on a weekend, the meeting must begin between 10:00 a.m. and 6:00 p.m.

(5) Notice Requirements.

(a) The applicant must provide notice of the meeting at least 14 calendar days and no more than 28 calendar days before the meeting. The notice must be by first class mail providing the date, time, and location of the meeting, as well as a brief description of the proposal and its location. The applicant must keep a copy of the notice to be submitted with their land use application.

(b) The applicant must mail notice of a neighborhood/developer meeting to the following persons:

- (i) All property owners within 1,000 feet measured from the boundaries of the subject property;
- (ii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases; and

(iii) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9.

(c) The City will provide the applicant with labels for mailing for a fee.

(d) Failure of a property owner to receive notice does not invalidate the neighborhood/developer meeting proceedings.

(6) Neighborhood/Developer Sign Posting Requirements. The applicant must provide and post on the subject property, at least 14 calendar days before the meeting. The sign must conform to the design and placement standards established by the City for signs notifying the public of land use actions in TDC 32.150.

(7) Neighborhood/Developer Meeting Requirements. The applicant must have a sign-in sheet for all attendees to provide their name, address, telephone number, and email address and keep a copy of the sign-in sheet to provide with their land use application. The applicant must prepare meeting notes identifying the persons attending, those commenting and the substance of the comments expressed, and the major points that were discussed. The applicant must keep a copy of the meeting notes for submittal with their land use application.

Finding:

The applicant has provided evidence within Exhibit A6 that a Neighborhood/Developer meeting was held on June 5, 2024, after the applicant conducted a Preapplication Conference. The applicant has provided documentation of mailed notification and sign posting as required by this section. The City did receive a comment that pertained to the CIOs not being informed of the Neighborhood/Developer meeting. The applicant's narrative addresses this issue stating "A board member of the Riverpark CIO, Janine Wilson, attended the Neighborhood/Developer Meeting. Ms. Wilson was concerned that residents of the apartment buildings near the Lam campus did not receive notice of the neighborhood meeting and expressed interest in assisting the project team contact those residents for future meetings and public hearings on the proposal. She provided her name and email address to the project team for this purpose. The project team sent emails to Ms. Wilson on June 10 and June 12, 2024, to request coordination but did not receive any response or further communication". A sign-in sheet and notes from the meeting are also included in Exhibit A6. These standards are met.

Section 32.130 – Initiation of Applications.

(1) Type I, Type II, Type III, and Type IV-A Applications. Type I, Type II, Type III, and Type IV-A applications may be submitted by one or more of the following persons:

(a) The owner of the subject property;

(b) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;

(c) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or

(d) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by paragraphs (a), (b) or (c) of this subsection, and accompanied by proof of the agent's authority.

[...]

Finding:

The application has been signed by a representative of Lam Research Corporation, the owner of the subject site (Exhibit A6). This standard is met.

Section 32.140 – Application Submittal.

(1) Submittal Requirements. Land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under TDC 32.160:

(a) A completed application form. The application form must contain, at a minimum, the following information:

- (i) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;**
- (ii) The address or location of the subject property and its assessor's map and tax lot number;**
- (iii) The size of the subject property;**
- (iv) The comprehensive plan designation and zoning of the subject property;**
- (v) The type of application(s);**
- (vi) A brief description of the proposal; and**
- (vii) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).**

(b) A written statement addressing each applicable approval criterion and standard;

(c) Any additional information required under the TDC for the specific land use action sought;

(d) Payment of the applicable application fee(s) pursuant to the most recently adopted fee schedule;

(e) Recorded deed/land sales contract with legal description.

(f) A preliminary title report or other proof of ownership.

(g) For those applications requiring a neighborhood/developer meeting:

- (i) The mailing list for the notice;**
- (ii) A copy of the notice;**
- (iii) An affidavit of the mailing and posting;**
- (iv) The original sign-in sheet of participants; and**
- (v) The meeting notes described in TDC 32.120(7).**

(h) A statement as to whether any City-recognized Citizen Involvement Organizations (CIOs) whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary must include the date when contact was made, the form of the contact and who it was with (e.g. phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;

(i) Any additional information, as determined by the City Manager, that may be required by another provision, or for any other permit elsewhere, in the TDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;

(2) Application Intake. Each application, when received, must be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.

(3) Administrative Standards for Applications. The City Manager is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

Finding:

The applicant provided certification within Exhibit A6 that signs were placed on site along SW Tualatin Road, SW 108th Road and SW Leveton Drive, in accordance with the requirements of this section. This standard is met.

Section 32.150 - Sign Posting.

- (1) When Signs Posted.** Signs in conformance with these standards must be posted as follows:
 - (a)** Signs providing notice of an upcoming neighborhood/developer meeting must be posted prior to a required neighborhood/developer meeting in accordance with Section 32.120(6); and
 - (b)** Signs providing notice of a pending land use application must be posted after land use application has been submitted for Type II, III and IV-A applications.
- (2) Sign Design Requirements.** The applicant must provide and post a sign(s) that conforms to the following standards:
 - (a)** Waterproof sign materials;
 - (b)** Sign face must be no less than eighteen (18) inches by twenty-four (24) inches (18" x 24"); and
 - (c)** Sign text must be at least two (2) inch font.
- (3) On-site Placement.** The applicant must place one sign on their property along each public street frontage of the subject property. (Example: If a property adjoins four public streets, the applicant must place a sign at each of those public street frontages for a total of four signs). The applicant cannot place the sign within public right of way.
- (4) Removal.** If a sign providing notice of a pending land use application disappears prior to the final decision date of the subject land use application, the applicant must replace the sign within forty-eight (48) hours of discovery of the disappearance or of receipt of notice from the City of its disappearance, whichever occurs first. The applicant must remove the sign no later than fourteen (14) days after:
 - (a)** The meeting date, in the case of signs providing notice of an upcoming neighborhood/developer meeting; or
 - (b)** The City makes a final decision on the subject land use application, in the case of signs providing notice of a pending land use application.

Finding:

The applicant provided certification within Exhibit A6 that signs in conformance with this section were placed on site in accordance with this section. This standard is met.

Section 32.160 – Completeness Review.

- (1) Duration.** Except as otherwise provided under ORS 227.178, the City Manager must review an application for completeness within 30 days of its receipt.
- (2) Considerations.** Determination of completeness will be based upon receipt of the information required under TDC 32.140 and will not be based on opinions as to quality or accuracy. Applications that do not respond to relevant code requirements or standards can be deemed incomplete. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.
- (3) Complete Applications.** If an application is determined to be complete, review of the application will commence.
- (4) Incomplete Applications.** If an application is determined to be incomplete, the City Manager must provide written notice to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has

been determined to be incomplete must be deemed complete for purposes of this section upon receipt of:

- (a) All of the missing information;
 - (b) Some of the missing information and written notice from the applicant that no other information will be provided; or
 - (c) Written notice from the applicant that none of the missing information will be provided.
- (5) Vesting. If an application was complete at the time it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application must be based upon the standards and criteria that were in effect at the time the application was first submitted.
- (6) Void Applications. An application is void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (4) of this section.
- [...]

Finding:

The applicant submitted the subject application on July 8, 2024, which was deemed incomplete on July 24, 2024. On December 4, 2024, the applicant submitted additional materials and requested that the application be deemed complete. The application was formally deemed complete by the City on December 16, 2024. These standards are met.

Section 32.230 – Type III Procedure (Quasi-Judicial Review – Public Hearing).

Type III decisions involve the use of discretion and judgment and are made by the Planning Commission or Architectural Review Board after a public hearing with an opportunity for appeal to the City Council. The decision body for each application type is specified in Table 32-1. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons.

- (1) Submittal Requirements. Type III applications must include the submittal information required by TDC 32.140(1).
- (2) Determination of Completeness. After receiving an application for filing, the City Manager will review the application will for completeness in accordance with TDC 32.160.
- (3) Written Notice of Public Hearing – Type III. Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.

(a) Recipients:

- (i) The applicant and, the owners of the subject property;
- (ii) All property owners within 1,000 feet measured from the boundaries of the subject property;
- (iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;
- (iv) All recognized neighborhood associations within 1,000 feet from the boundaries of the subject property;
- (v) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;

- (vi) Any person who submits a written request to receive a notice;
 - (vii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation; and where the project site would access a County road or otherwise be subject to review by the County, then the County; and Clean Water Services; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code;
 - (viii) Utility companies (as applicable); and,
 - (ix) Members of the decision body identified in Table 32-1.
- (b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:
- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
 - (ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;
 - (iii) The type of application and a concise description of the nature of the land use action;
 - (iv) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;
 - (v) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
 - (vi) The date, time and location of the hearing;
 - (vii) Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
 - (viii) The name of a City representative to contact and the telephone number where additional information may be obtained; and
 - (ix) Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and
 - (x) Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.
- (c) Failure of a person or agency to receive a notice, does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

Finding:

After submittal and completeness review as required by this section, notice for the Type III public hearing concerning AR 24-0002 was initially mailed by city staff on December 16, 2024, with the Architectural Review Board hearing scheduled on April 2, 2025. Subsequently, the applicant requested additional time to revise their application, and a second hearing notice was sent on March 12, 2025, which rescheduled the Architectural Review Board hearing until June 11, 2025. The applicant made a third and final request to postpone the hearing, and a third public notice was sent on May 16, 2025, which rescheduled the

Architectural Review Board hearing until September 10, 2025 (Exhibit B). Each of the three mailed notices contained the information required by this section. These standards are met.

(4) Conduct of the Hearing - Type III.

The person chairing the hearing must follow the order of proceedings set forth below. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the body. Questions concerning the propriety or the conduct of a hearing will be addressed to the chair with a request for a ruling. Rulings from the chair must, to the extent possible, carry out the stated intention of these procedures. A ruling given by the chair on such question may be modified or reversed by a majority of those members of the decision body present and eligible to vote on the application before the body. The procedures to be followed by the chair in the conduct of the hearing are as follows:

- (a) At the commencement of the hearing, the person chairing the hearing must state to those in attendance all of the following information and instructions:
 - (i) The applicable substantive criteria;
 - (ii) That testimony, arguments and evidence must be directed toward the criteria described in paragraph (i) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision;
 - (iii) That failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue;
 - (iv) At the conclusion of the initial evidentiary hearing, the decision body must deliberate and make a decision based on the facts and arguments in the public record; and
 - (v) Any participant may ask the decision body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the decision body grants the request, it will schedule a date to continue the hearing as provided in TDC 32.230(4)(e), or leave the record open for additional written evidence or testimony as provided TDC 32.230(4)(f).
- (b) The public is entitled to an impartial decision body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the decision body must follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the decision body must not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the decision body must individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they must be excused from the proceedings.
- (c) Presenting and receiving evidence.
 - (i) The decision body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;
 - (ii) No oral testimony will be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and
 - (iii) Members of the decision body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information

relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

(d) The decision body, in making its decision, must consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.

(e) If the decision body decides to continue the hearing, the hearing must be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity must be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the decision body may limit additional testimony to arguments and not accept additional evidence.

(f) If the decision body leaves the record open for additional written testimony, the record must be left open for at least seven days after the hearing. Any participant may ask the decision body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the decision body must reopen the record, as follows:

- (i) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
- (ii) An extension of the hearing or record granted pursuant to this section is subject to the limitations of TDC 32.030, unless the applicant waives his or her right to a final decision being made within the required timeframe; and
- (iii) If requested by the applicant, the decision body must grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

Finding:

The Architectural Review Board will follow the hearing requirements set forth by this section. These standards will be met.

(5) Notice of Adoption of a Type III Decision.

Notice of Adoption must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type III Notice of Adoption must contain all of the following information:

- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
- (c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
- (d) The date the decision becomes final, unless a request for appeal is submitted; and

(e) The notice must include an explanation of rights to appeal the decision to the City Council in accordance with TDC 32.310.

(6) Appeal of a Type III Decision. Appeal of an Architectural Review Board or Planning Commission Type III Decision to the City Council may be made in accordance with TDC 32.310.

(7) Effective Date of a Type III Decision.

(a) The written order is the final decision on the application.

(b) The mailing date is the date of the order certifying its approval by the decision body.

(c) A decision of the Architectural Review Board or Planning Commission is final unless:

(i) a written appeal is received at the City offices within 14 calendar days of the date notice of the final decision is mailed; or

(ii) The City Manager or a member of the City Council requests a review of the decision within 14 calendar days of the date notice of the final decision is mailed.

Finding:

A final decision and any appeal will follow the requirements of this section. These standards will be met.

Chapter 33: Applications and Approval Criteria

[...]

TDC 33.020 Architectural Review

[...]

(5) Approval Criteria.

(d) *Large Commercial, Industrial, and Multifamily Development.* Applications for Large Commercial, Industrial, and Multifamily Development must comply with the applicable standards and objectives in TDC Chapter 73A through 73G.

[...]

Finding:

The subject application, which is for a large commercial development that must comply with the standards and objectives in TDC 73A through 73G. These standards are met by findings and conditions of approval for the subject application.

(9) Permit Expiration.

Architectural Review decisions (including Minor Architectural Review decisions) expire two (2) years from the effective date unless the applicant has received a building, or grading permit submitted in conjunction with a building permit application, substantial construction has occurred pursuant to the building permit, and an inspection has been performed by a member of the Building Division.

(10) Extension of Permit Expiration.

(a) An Architectural Review approval may be extended if the applicant, or successor interest, submits a written request for an extension of time within two (2) years of the effective date.

[...]

(c) Upon receipt of a request for an extension of time, the City will process the extension request as follows:

(i) If the City Manager approved the Architectural Review, then the City Manager will decide the extension request under the Type II procedures in TDC 32.220.

(ii) If the Architectural Review Board (ARB) approved the Architectural Review, then the ARB will decide the extension request under the Type III quasi-judicial procedures in TDC 32.230.

(d) The City must provide notice of the extension request to past recipients of the Architectural Review notice of decision and the applicant must post a sign pursuant to TDC 32.150.

(e) The City Manager or Architectural Review Board, as applicable, may grant the extension of time upon finding the following:

- (i) The applicant submitted a written extension request prior to the expiration date;**
- (ii) There have been no significant changes in any conditions, ordinances, regulations or standards of the City or applicable agencies that affect the previously approved project so as to warrant its resubmittal for Architectural Review;**
- (iii) If the previously approved application included a special study, the applicant provided a status report includes a letter from a recognized professional that states that conditions have not changed after the original approval and that no new study is warranted; and**
- (iv) If the site has been neglected so as to allow the site to become blighted, the deciding party must factor this into its decision.**

(f) The City Manager or Architectural Review Board, as applicable, may grant or deny the extension request. The decision must be in writing and must be made within sixty (60) days of receipt of the request for extension. If the decision is to grant the extension, the extension can be no more than a single one-year extension.

(g) Upon making the decision, the City must provide notice of the extension decision as provided in TDC 32.220 for Type II decisions made by the City Manager and TDC 32.230 for Type III decisions made by the Architectural Review Board.

Finding:

The proposed application is approved subject to compliance with the above criteria. With recommended Condition of Approval A1, these standards are met.

TDC 33.030. - Permit for New Driveway Approach and Closure Decisions.

All requests for driveway approaches and closures are as provided in TDC 75.020 and TDC 75.030.

Finding:

The standards concerned TDC 75.020 and 75.030 are addressed under TDC 75.

TDC 33.050. - Industrial Master Plans.

(1) Purpose. The Industrial Master Plan sets particular standards for development within the Industrial Master Plan Area (defined by such plan), in accordance with the Tualatin Comprehensive Plan, the Southwest Tualatin Concept Plan (SWCP) and the Leveton Tax Increment Plan. Such approved plans are intended to achieve a campus-like setting within an Industrial Master Plan Area, while allowing development to occur independently on a number of smaller parcels within that area. It is the intent of this chapter to provide procedures and criteria for the submission and review of such Industrial Master Plan applications. Development standards approved through a Master Plan process establishes alternative development standards that supersede conflicting provisions in the Tualatin Development Code.

(2) Applicability.

- (a) An Industrial Master Plan is required for any development in the Manufacturing Business Park (MBP) Zone in a Regionally Significant Industrial Area (RSIA).**

For properties in the Regionally Significant Industrial Area (RSIA) of the MBP Zone, lots or parcels may be divided into smaller lots or parcels of 20,000 sq. ft or larger when the Industrial Master Plan identifies at least one lot or parcel of 100 acres in size or larger and one lot or parcel 50 acres in size or larger.

(b) An Industrial Master Plan is optional for any development in the Manufacturing Park (MP) Zone or Manufacturing Business Park (MBP) Zone. An Industrial Master Plan is required to do any of the following:

(i) Modify the requirements for internal circulation, building location and orientation, street frontage, setbacks, building height, or lot size as provided in TDC Chapter 62 for the Manufacturing Park (MP) Zone and TDC Chapter 64 for the Manufacturing Business Park (MBP) Zone; and

(ii) Provide for individual parcels of less than 40 acres in the Manufacturing Park Zone. However, the parcels must not be less than 15 acres north of SW Leveton Drive and five acres south of SW Leveton Drive, unless otherwise provided under TDC 62.050(1).

(c) An Industrial Master Plan must be submitted for the entire Industrial Master Plan Area and include all owners of property within the area.

(3) Procedure Type. Industrial Master Plans must be processed in accordance with the Type III review procedures as specified in Chapter 32.

Finding:

The applicant proposed an Industrial Master Plan modification (IMP 24-0001), which was reviewed and approved by the Planning Commission on August 20, 2025. The Conditions of Approval of IMP 24-0001 will apply to the subject Architectural Review approval, and as excerpted below supersede development standards within the MP zone. These criteria are satisfied.

(6) Conditions of Approval.

(a) The Planning Commission may impose, in addition to the regulations and standards expressly specified in this chapter, other conditions found necessary to protect the best interests of the surrounding property or neighborhood or the City as a whole and for compliance with the Metro UGMFP Title IV policies and requirements.

(b) An Industrial Master Plan may be approved based on proposed parcel boundaries; in this case development under the Industrial Master Plan must be conditioned on creation of the proposed parcels through the subdivision or partition process or may be the subject of a concurrent land division application. Partition applications associated with an Industrial Master Plan may be approved by City Council in accordance with TDC 36.230(8).

Finding:

On August 20, 2025, the Planning Commission conducted a Type III quasi-judicial hearing in compliance with the requirements of TDC 32.230 to consider approval of Industrial Master Plan IMP 24-0001 for constructing the improvements requested in AR 24-0002. The Planning Commission unanimously approved IMP 24-0001 with the following conditions.

GENERAL:

1. If future modifications to this Industrial Master Plan are necessary, a new Industrial Master Plan application must be submitted to the City for review.

PUBLIC FACILITIES:

2. Through the Architectural Review Process:
 - a. Private Easement declarations must be recorded and/or maintained for cross-access, parking, and utilities (including but not limited to: water, sanitary sewer, storm drainage) that extend across parcels shared under common ownership within the campus, when deemed necessary in accordance with TDC 74.330, and TDC 75.040 (2 & 3).
 - b. Utilities must serve individual parcels within the campus, in accordance with the Public Works Construction Code and TDC 74.610, 74.620, and 74.630.

LOCATION, DESIGN, COLOR AND MATERIALS

3. Development proposed through the Architectural Review process must:
 - a. Include building material elements consisting of, or complimentary to: masonry, sandstone, architectural metal siding, and window glazing. Color palettes must remain complimentary to earth toned shades.
 - b. Meet the modified development standards listed in the table below:

<u>STANDARD</u>	<u>MODIFIED DEVELOPMENT STANDARDS UNDER IMP 24-0001</u>
LOT SIZE	
Minimum Lot Size	15 acres
MINIMUM SETBACKS	
Minimum Building Setback for Yards Adjacent to SW Leveton Drive	68 feet
Minimum Building Setback for Yards Adjacent to SW 108th Drive	98 feet
Minimum Building Setback for Yards Adjacent to SW Tualatin Road	Subject to Table 62-2 Development Standards in the MP Zone
Minimum Setback for Side and Rear Yards not Adjacent to Streets or Alleys	0 feet from side and rear yards under common ownership From other lots: Subject to Table 62-2 Development Standards in the MP Zone
Parking and Circulation Areas Adjacent to SW Leveton Drive	50 feet
Parking and Circulation Areas Adjacent to SW 108th Avenue	43 feet
Parking and Circulation Areas Adjacent to SW Tualatin Road	35 feet
Parking and Circulation Areas Adjacent to Private Property Line	0 feet from property lines under common ownership 10 feet from other lots
Fences	Subject to Table 62-2 Development Standards in the MP Zone
STRUCTURE HEIGHT	
Maximum Height	85 feet
Maximum Height Adjacent to Residential District	Subject to Table 62-2 Development Standards in the MP Zone

- c. Maintain the earthen berm and landscaping consisting of deciduous street trees, evergreen trees, and shrubs along the northeast frontage of SW Tualatin Road to the driveway adjacent to 115th Avenue.
- d. Retain the existing stand of trees behind Building A, or integrate into the parking lot design as deemed appropriate.
- e. The version of TDC 73C Parking Standards effective on July 8, 2024 will apply.

Finding:

AR 24-0002 meets the general, public facilities, location, design, color and materials, Landscaping and Chapter 62 standards. Through the recommended Conditions of Approval, these standards will be met.

Section 33.110 Tree Removal Permit/Review

(1) Purpose. To regulate the removal of trees within the City limits other than trees within the public right-of-way which are subject to TDC Chapter 74.

(2) Applicability. No person may remove a tree on private property within the City limits, unless the City grants a tree removal permit, consistent with the provisions of this Section.

[...]

(4) Procedure Type. Tree Removal Permit applications are subject to Type II Review in accordance with TDC Chapter 32. Tree Removal Permit applications submitted with an Architectural Review, Subdivision, or Partition application will be processed in conjunction with the Architectural Review, Subdivision, or Partition decision.

Finding:

The applicant has submitted for tree removal in conjunction with the Architectural Review application. The criteria in TDC 33.110, addressed below, are the basis for approval or denial for tree removal as part of this Architectural Review. These standards are met.

(6) Approval Criteria.

(a) An applicant must satisfactorily demonstrate that at least one of the following criteria are met:

(i) The tree is diseased and:

- (A) The disease threatens the structural integrity of the tree; or**
- (B) The disease permanently and severely diminishes the esthetic value of the tree; or**
- (C) The continued retention of the tree could result in other trees being infected with a disease that threatens either their structural integrity or esthetic value.**

(ii) The tree represents a hazard which may include but not be limited to:

- (A) The tree is in danger of falling; or**
- (B) Substantial portions of the tree are in danger of falling.**

(iii) It is necessary to remove the tree to construct proposed improvements based on Architectural Review approval, building permit, or approval of a Subdivision or Partition Review.

(b) If none of the conditions in TDC 33.110(5)(a) are met, the certified arborist must evaluate the condition of each tree.

[...]

Finding:

The applicant's arborist surveyed trees on-site and adjacent to the site. The memorandum, Exhibit A3, describes tree protection, tree removal for the Lam development. Seven hundred and ninety-two (792) trees over 8-inch diameter (DBH) have been inventoried over the last several years. One hundred and

eighty-four (184) trees over 8-inch diameter (DBH) are proposed for removal and 197 trees less than 8-inch DBH are proposed for removal. Two hundred and thirty-nine (239) trees over 8-inch diameter will be retained and protected. Tree protection fencing and limits of construction fencing are recommended to protect existing parking lot and landscape trees from construction impacts. Tree protection measures are identified in the Arborist’s memorandum located in Exhibit A3. With recommended Conditions of Approval A14.a. and A15 related to tree removal as well as tree protection, these standards are met.

Chapter 62: Manufacturing Park Zone (MP)

[...]

TDC 62.200. - Use Categories.

(1) Use Categories. Table 62-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the MP zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 62-1 and restrictions identified in TDC 62.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) Overlay Zones. Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

Table 62-1
Use Categories in the MP Zone

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
COMMERCIAL USE CATEGORIES		
Office	P (L)	Permitted uses limited, see TDC 62.210(2).
INDUSTRIAL USE CATEGORIES		
Light Industrial	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> • Manufacture or assembly of electronic or optical instruments, equipment, devices [...] <ul style="list-style-type: none"> • Research and development laboratories. [...]
INFRASTRUCTURE AND UTILITIES CATEGORIES		
Basic Utilities	P	—

[...]

Finding:

The project area is within the Manufacturing Park (MP) Planning District. Lam designs and manufactures equipment used in the fabrication of semiconductor products. The proposed office building is an accessory use to the permitted Light Manufacturing use subject to limitations found in 62.210(2). As a result, the use limitations found in TDC 62.210(4) do not apply to the accessory uses. Additionally, storage, utility and laboratory buildings are proposed, which are all permitted uses related to Lam Research operations. Lastly, expansion of an existing gas storage yard, which is also an accessory use, is proposed. This standard is met.

TDC 62.210. - Additional Limitations on Uses.

[...]

(2) Offices. Office uses are permitted as specified below.

(a) Permitted Uses. The following are permitted uses:

- (i)** Offices for chemical and physical sciences, engineering, cartography, or other research functions;
- (ii)** Shared service facilities (as defined by TDC 31.060); and
- (iii)** Corporate, regional, or district headquarter offices if:
 - (A)** The headquarters is for a permitted use in this Code;
 - (B)** The offices occupy at least 20,000 square feet; and
 - (C)** Manufacturing is not conducted, unless the manufacturing is a permitted use in the MP zone.

(b) Accessory Uses to an Industrial Use. Office uses accessory to a permitted industrial use are permitted.

(c) Limited Uses. Offices located on the same site as a permitted industrial use may be permitted, subject to TDC 62.210(4).

[...]

(5) Outdoor Uses. All uses must be conducted wholly within a completely enclosed building, except as provided by this section.

(a) Permitted Uses. Off-street parking and loading, utility facilities, wireless communication facilities, and outdoor storage occupying less than ten (10) percent of the total site area, are permitted outright as outdoor uses.

[...]

Finding:

The proposed office building will be used for offices and accessory uses associated with the permitted light industrial uses including the manufacturing of electronic instruments or equipment and research and development laboratories. The existing bulk gas storage yard, which is an outdoor storage area, will be expanded less than 10% of the total site. The applicant has not proposed outdoor uses besides off-street parking, loading, and utilities. With recommended Condition of Approval A24 and A14.m., this standard is met.

TDC 62.300. - Development Standards.

Development standards in the MP zone are listed in Table 62-2. Additional standards may apply to some uses and situations, see TDC 62.310.

Finding:

The development standards in Table 62-2 have been modified by the recently approved Industrial Master Plan (IMP 24-0001) and have been illustrated below. These standards are met.

Table 62-2: Development Standards in the MP Zone				
Current MP District Standards			IMP Modifications	Proposed Development
Minimum Setbacks				
Minimum Building setback for Yards Adjacent to Streets or Alleys,	100 feet		No change to current IMP condition of 68 feet from SW Leveton Drive	Approximately 77 feet from SW Leveton Drive and over 500 feet

North of SW Leveton Drive			and 98 feet from SW 108th Avenue	from SW 108th Avenue.
Minimum Setback for Side and Rear Yards not Adjacent to Streets or Alleys, north of SW Leveton Drive	50 feet	No minimum setback if adjacent to railroad right-of-way or spur track	0 feet from side and rear yards under common ownership. From other lots: Subject to Table 62-2 Development Standards in the MP Zone	Over 300 feet from west side yard. Over 500 feet from rear yard.
Parking and Circulation Areas Adjacent to Public Right-of-Way	50 feet	No minimum setback required adjacent to joint access approach in accordance with TDC 73C.	No change to current IMP condition of 108 feet from SW Leveton Drive and 43 feet from SW 108th Avenue.	59 feet to SW Tualatin Road. 120 feet to SW Leveton Drive.
Parking and Circulation Areas Adjacent to Private Property Line	5 - 25 feet	Determined through Architectural Review Process. No minimum setback required adjacent to joint access approach in accordance with TDC 73C.	0 feet from property lines under common ownership. 10 feet from other lots.	10 feet to west property line.
Fences	50 feet	From public right-of-way.	No change.	No fencing proposed.
Structure Height				
Maximum Height	70 feet	May be increased to 85 feet if yards adjacent to structure are not less than a distance equal to one and one-half times the height of the structure. Flagpoles may extend to 100 feet.	85 feet	The proposed lab building will be 70'9" with a setback of 108' to SW Leveton Drive. The proposed office building will have a height of 60' and the CUB will be 54'9".
Maximum Height Adjacent to Residential District	28 feet	Measured at the required 50-foot or 100-foot setback line, includes flagpoles. The building height	No change	No structures are proposed within 100' of a property line adjacent to a

		may extend above 28 feet on a plane beginning at the 50-foot or 100-foot setback line at a slope of 45 degrees extending away from the setback line.		residential district.
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[...]

Finding:

As noted, above, the Lam campus has an approved Industrial Master Plan (IMP 24-0001), included as Exhibit D, which modified setbacks and maximum building heights as reflected in the table above. These standards are met.

TDC 62.310. - Additional Development Standards.

(1) Industrial Master Plan. Minimum lot size, setbacks, maximum height, and other development standards may be modified by submittal of an Industrial Master Plan application. See TDC 33.050.

[...]

Finding:

As mentioned in the previous finding, the standards in the MP zone, as modified by IMP 24-0001, have been addressed through the applicant’s proposal. This standard is met.

Chapter 63: Industrial Uses and Utilities and Manufacturing Zones – Environmental Regulations

Section 63.020 – Applicability.

The regulations of this Chapter apply to:

- (1) All industrial uses and utilities, regardless of the Planning District in which they are located, and**
- (2) All Manufacturing Planning Districts, regardless of the use category**

[...]

Finding:

The site is located in the Manufacturing Park (MP) District and the proposal includes industrial uses. Therefore, the noise, vibration, air quality, odor, heat and glare, materials storage, waste disposal, and dangerous substances regulations of this Chapter apply. With recommended Condition of Approval A25, these standards are met.

TDC 63.051. - Noise.

All uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in, TMC 6-14.

Finding:

The applicant has stated in their narrative that all noise restrictions of the DEQ and City of Tualatin will be abided by. There were a number of public comments that indicated that the Lam campus is causing noise issues. These issues are currently under investigation by the City. With recommended Condition of Approval A25, this standard is met.

TDC 63.052. - Vibration.

(1) Restrictions. All uses and development must not cause or permit ground vibration into the property of another person that exceeds the limits set forth below in this section.

(a) Ground vibration as measured at the boundary of a residential planning district and an industrial planning district must not exceed 0.01 inches per second (0.00025 meters per second) RMS velocity.

(b) Ground vibration as measured at a common property boundary of any two properties within any industrial planning district must not exceed 0.1 inches per second (0.0025 meters per second) RMS velocity.

(2) Method of Measurement. Vibration measurement procedures must conform to the methods described in this section and to procedures approved by the Oregon Department of Environmental Quality.

(a) Instrumentation must be capable of measuring RMS value of the vibration velocity over the frequency range of ten to 1,000 hertz.

(b) Measurement values must be recorded for a sufficient period of observation to provide a representative sample.

(c) Attachment of the vibration transducer to the ground must be by magnetic or screw attachment to a steel bar of a minimum of nine inches (22.9 cm.) in length, driven flush with the ground surface.

(3) Exemptions. The requirements of TDC 63.052(1) do not apply to:

(a) Vibration resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad;

(b) Vibration resulting from the operation of any road vehicle;

(c) Vibration resulting from construction activities and use of construction equipment; and

(d) Vibration resulting from roadway maintenance and repair equipment.

Finding:

The applicant has stated in their narrative (Exhibit A1), that no uses will cause or permit ground vibration. With recommended Condition of Approval A25, these standards are met.

TDC 63.053 - Air Quality.

(1) Restrictions. All uses and development must comply with the most recent air quality standards adopted by the Oregon Department of Environmental Quality. Plans of construction and operations must comply with the recommendations and regulations of the State Department of Environmental Quality.

(2) Method of Measurement. All measurements of air pollution must be by the procedures and with equipment approved by the State Department of Environmental Quality or equivalent and acceptable methods or measurement approved by the City. Upon request of the City, persons responsible for a suspected source of air pollution must provide quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions.

Finding:

The applicant has stated in their narrative (Exhibit A1), that the proposed development will comply with the most recent air quality standards adopted by the DEQ. With recommended Condition of Approval A25, these standards are met.

TDC 63.054. - Odors.

All uses and development must not emit odors in such quantities as to create a nuisance condition at any point beyond the subject property line of the emitting use.

Finding:

The applicant has stated in their narrative (Exhibit A1), that the proposed development will comply with odor restrictions as to not create a nuisance condition at any point beyond the Lam campus. With recommended Condition of Approval A25, this standard will be met.

TDC 63.055. - Heat and Glare.

(1) All uses and development must conduct all operations producing heat or glare entirely within an enclosed building.

(2) All uses and development may utilize exterior lighting, but the exterior lighting must be screened, baffled or directed away from residential planning districts.

Finding:

The applicant has stated in their narrative (Exhibit A1) that all operations producing heat and glare will be conducted within a fully enclosed building, and all exterior lighting will be directed away from residential planning districts. With recommended Condition of Approval A25, these standards are met.

TDC 63.056. - Storage and Stored Materials.

(1) All uses and development must store all materials, including wastes, in a manner that will not attract or aid the propagation of insects or rodents, or in any other way create a health or safety hazard.

(2) All uses and development that utilize open storage that would otherwise be visible at the property line must conceal it from view at the abutting property line by a sight obscuring fence not less than six feet high and not accessible to the general public to protect public safety.

Finding:

The applicant has stated in their narrative (Exhibit A1) that all materials, including wastes, will be stored appropriately and will be screened from public view. With recommended Condition of Approval A25, these standards are met.

TDC 63.057. - Liquid or Solid Waste Materials.

All uses and development are prohibited from disposing waste onto the site or into adjacent drainage ditches, creeks or other natural waterways in violation of State of Oregon DEQ standards, Clean Water Services Standards, City Standards, or in a manner that causes harm to wildlife.

Finding:

The applicant has stated in their narrative (Exhibit A1) that no waste will be disposed of onto or within the site or in any way that violates local, state, or federal regulations. With recommended Condition of Approval A25, these standards are met.

TDC 63.058. - Dangerous Substances.

All uses and development are prohibited from the storage, transfer, or processing of hazardous, toxic, or radioactive waste.

Finding:

The applicant has stated in their narrative (Exhibit A1) that no storage, transfer, or processing of hazardous, toxic, or radioactive waste is proposed as part of this development. With recommended Condition of Approval A25, these standards are met.

Chapter 73A: Site Design

TDC 73A.300. - Commercial Design Standards.

The following standards are minimum requirements for commercial development in all zones, except the Mixed-Use Commercial (MCU) zone, which has its own standards:

(1) Walkways. Commercial development must provide walkways as follows:

- (a) Walkways must be a minimum of six feet in width;**
- (b) Walkways must be constructed of asphalt, concrete, pervious concrete, pavers, or grasscrete. Gravel or bark chips are not acceptable;**
- (c) Walkways must meet ADA standards applicable at time of construction or alteration;**
- (d) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;**
- (e) Walkways through parking areas, drive aisles, and loading areas must be visibly raised and of a different appearance than the adjacent paved vehicular areas;**
- (f) Bikeways must be provided that link building entrances and bike facilities on the site with adjoining public right-of-way and accessways; and**
- (g) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.**

Finding:

As stated in Exhibit A1 and illustrated in Exhibit A2, walkways throughout the site are a minimum of 6-feet wide and constructed of concrete. The applicant has stated that all new walkways will meet ADA requirements, which will be confirmed during the site plan review phase of the project. Walkways are proposed to go through parking areas and will be constructed of concrete with the parking lot drive aisles and off-street parking spaces being constructed with asphalt. Walkways are located at primary building entrances and connect to the campus walkway system, accessways and sidewalks. Bicycle parking facilities are provided near the entrances to the proposed office building, near sidewalks and drive aisles providing access to the surrounding public rights-of-way. There are no outdoor recreation access routes required for this site. With recommended Condition of Approval A14.b., these standards are met.

[...]

(4) Safety and Security. Commercial development must provide safety and security features as follows:

- (a) Locate windows and provide lighting in a manner that enables tenants, employees, and police to watch over pedestrian, parking, and loading areas;**
- (b) Locate windows and interior lighting to enable surveillance of interior activity from the public right-of-way;**
- (c) Locate, orient, and select exterior lighting to facilitate surveillance of on-site activities from the public right-of-way without shining into public rights-of-way or fish and wildlife habitat areas;**
- (d) Provide an identification system which clearly locates buildings and their entries for patrons and emergency services; and**

(e) Above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, and above ground natural gas pumping stations must provide a minimum six foot tall security fence or wall.

Finding:

As shown in Exhibit A2, the proposed office building has windows along all sides and all floors. The laboratory building will have limited windows due to its function. The storage and utility buildings will not be occupied, and windows are not warranted for safety and security purposes. Where pedestrian, parking, and loading areas are not visible from windows the applicant will utilize closed circuit cameras for ensuring safety and security (Exhibit A1).

Photometric plans demonstrate full cutoff light fixtures have been selected to reduce light pollution from shining into public rights-of-way. No new above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, or above ground natural gas pumping stations are proposed. With recommended Condition of Approval A17 to address (d), these standards are met.

(5) Service, Delivery and Screening. Commercial development must provide service, delivery, and screening features as follows:

- (a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;**
- (b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and**
- (c) Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.**

Finding:

As shown in Exhibit A2, the rooftop mechanical equipment will be located behind screening walls. The narrative included as Exhibit A1 states “all above grade and roof-mounted mechanical and electrical equipment will be screened with sight obscuring screening”. Outdoor storage will consist of two new waste and recycling enclosures that will be screened with an 8-foot wall (Exhibit A2). The existing gas yard will be expanded and screened from public view by dense evergreen landscaping, topography and distance from abutting properties. With recommended Condition of Approval A26, these standards are met.

(6) Adjacent to Transit. Commercial development adjacent to transit must comply with the following:

- (a) Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street.**

[...]

Finding:

As shown on Comprehensive Plan Map 8-5 (Exhibit G), the subject site is located along the Blue Line shuttle route with a stop located near the main driveway entrance on SW Leveton Drive. Public sidewalks along SW Leveton Drive and SW 108th Avenue connect the campus to this stop. There is no other plan in place for additional transit along either frontage. This standard is met.

Chapter 73B: Landscaping Standards

Section 73B.020 – Landscape Area Standards Minimum Areas by Use and Zone.

Zone	Minimum Area Requirement*	Minimum Area Requirement with dedication for a fish and wildlife habitat*
(5) IN, CN, CO/MR, MC and MP zones—All uses	25% of the total area to be developed	22.5% of the total area to be developed
* For properties within the Hedges Creek Wetland Protection District which have signed the "Wetlands Mitigation Agreement," the improved or unimproved wetland buffer area may reduce the required landscaping to 12.5 percent as long as all other landscape requirements are met.		

[...]

Finding:

The site is not located within the Hedges Creek Wetland Protection District. As shown in Exhibit A2 the proposal will include 279,500 square feet or 45% of the development area being landscaped. This standard is met.

TDC 73B.040. - Additional Minimum Landscaping Requirements for Commercial Uses.

(1) General. In addition to requirements in TDC 73B.020, commercial uses, except those located in the Mixed-Use Commercial (MUC) zone, must comply with the following:

(a) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped.

(i) This standard does not apply to areas subject to the Hedges Creek Wetlands Mitigation Agreement.

(b) Minimum 5-foot-wide landscaped area must be located along all building perimeters viewable by the general public from parking lots or the public right-of-way, but the following may be used instead of the 5-foot-wide landscaped area requirement:

(i) Pedestrian amenities such as landscaped plazas and arcades; and

(ii) Areas developed with pavers, bricks, or other surfaces, for exclusive pedestrian use and contain pedestrian amenities, such as benches, tables with umbrellas, children's play areas, shade trees, canopies.

(c) Five-foot wide landscaped area requirement does not apply to:

(i) Loading areas;

(ii) Bicycle parking areas;

(iii) Pedestrian egress/ingress locations; and

(iv) Where the distance along a wall between two vehicle or pedestrian access openings (such as entry doors, garage doors, carports and pedestrian corridors) is less than eight feet.

Finding:

Landscaping is provided in all practicable areas not otherwise occupied by buildings, vehicle areas, or pedestrian amenity areas (Exhibit A1 and A2). The office building will have a 5-foot-wide landscape strip around the perimeter of the building except for loading areas, bicycle parking areas and pedestrian ingress/egress areas of the building. The applicant has stated that the lab building will have landscaping in all areas viewable from the public right-of-way, except pedestrian ingress/egress areas and loading areas. There is an employee parking area west of the lab building that will not be used by the public

therefore the 5-foot-wide building landscaping would not be required. Neither the storage or utility construction will be visible by the public or from the public rights-of-way. As part of the Building “G” office construction permitted under AR 22-0006, a public plaza is constructed east of these buildings and will be utilized by employees. With recommended Conditions of Approval A14.c-d. and A18, this standard is met.

(d) Development that abuts an RL or MP Zone must have landscaping approved through Architectural Review and must provide and perpetually maintain dense, evergreen landscaped buffers between allowed uses and the adjacent RL and MP zones.

Finding:

The subject property is adjacent to the MP zone to the east, west and south. There is RL-zoned property to the north of the Lam property, on the opposite side of SW Tualatin Road, so the RL-zoned property is adjacent to the site (Exhibit A2). In addition, there will be a new parking lot in the northwest portion of the site, which will have a new landscaping berm added. There is a large existing berm along the site’s SW Tualatin Road frontage that will be retained and extended to further screen parking areas located in the northerly portion of the site (Exhibit A2). In addition, there will be a new parking lot in the northwest portion of the site, which will have new evergreen perimeter landscaping that will provide additional screening. With recommended Condition of Approval A14.d., this standard will be met.

(2) Manufacturing Park (MP)—Wetland Buffer. Wetland buffer areas up to 50 feet in width may be counted toward the required percentage of site landscaping, subject to the following:

[...]

Finding:

There are no wetlands within the development areas. This section of the TDC is not applicable.

Section 73B.080 – Minimum Landscaping Standards for All Zones.

The following are minimum standards for landscaping for all zones.

(1) Required Landscape Areas	<ul style="list-style-type: none">• Must be designed, constructed, installed, and maintained so that within three years the ground must be covered by living grass or other plant materials.• The foliage crown of trees cannot be used to meet this requirement.• A maximum of 10% of the landscaped area may be covered with un-vegetated areas of bark chips, rock or stone.• Must be installed in accordance with the provisions of the American National Standards Institute ANSI A300 (Part 1) (Latest Edition).• Must be controlled by pruning, trimming, or otherwise so that:• It will not interfere with designated pedestrian or vehicular access; and• It will not constitute a traffic hazard because of reduced visibility.
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Finding:

The density of plantings as shown on Landscape Plans (Exhibit A2) is sufficient to provide full coverage of landscaping within three years. No more than 10% of the landscaped areas will utilize bark chips, rock or stone. All landscaped areas will be installed in accordance with ANSI A300 Part 1 latest addition. These standards are met.

(2) Fences	Landscape plans that include fences must integrate any fencing into the plan to guide wild animals toward animal crossings under, over, or around transportation corridors.
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Finding:

No fencing is proposed, and there are no established wildlife crossings in the vicinity. This standard is not applicable.

(3) Tree Preservation	<ul style="list-style-type: none"> • Trees and other plant materials to be retained must be identified on the landscape plan and grading plan. <p>During construction:</p> <ul style="list-style-type: none"> ○ Must provide above and below ground protection for existing trees and plant materials identified to remain; ○ Trees and plant materials identified for preservation must be protected by chain link or other sturdy fencing placed around the tree at the drip line; ○ If it is necessary to fence within the drip line, such fencing must be specified by a qualified arborist; ○ Top soil storage and construction material storage must not be located within the drip line of trees designated to be preserved; ○ Where site conditions make necessary a grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip-line area, such grading, paving, trenching, boring, digging, or similar encroachment must only be permitted under the direction of a qualified arborist. Such direction must assure that the health needs of trees within the preserved area can be met; and ○ Tree root ends must not remain exposed. <ul style="list-style-type: none"> • Landscaping under preserved trees must be compatible with the retention and health of the preserved tree. • When it is necessary for a preserved tree to be removed in accordance with TDC 33.110 (Tree Removal Permit) the landscaped area surrounding the tree or trees must be maintained and replanted with trees that relate to the present landscape plan, or if there is no landscape plan, then trees that are complementary with existing, landscape materials. Native trees are encouraged • 100% of the area preserved under any tree or group of trees (Except for impervious surface areas) retained in the landscape plan must apply directly to the percentage of landscaping required for a development
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Finding:

The Arborist Report (Exhibit A3) calls for preserving 373 on-site trees. With recommended Conditions of Approval A14.a. and A15, these standards are met.

(4) Grading	<ul style="list-style-type: none">• After completion of site grading, top-soil is to be restored to exposed cut and fill areas to provide a suitable base for seeding and planting.• All planting areas must be graded to provide positive drainage.• Soil, water, plant materials, mulch, or other materials must not be allowed to wash across roadways or walkways.• Impervious surface drainage must be directed away from pedestrian walkways, dwelling units, buildings, outdoor private and shared areas and landscape areas except where the landscape area is a water quality facility.
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Finding:

The applicant is required to obtain erosion control and grading permit with the city. With recommended Conditions of Approval A2 and A8, these standards are met.

(5) Irrigation	<ul style="list-style-type: none">• Landscaped areas must be irrigated with an automatic underground or drip irrigation system• Exceptions: Irrigation requirement does not apply to duplexes and townhouses.
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Finding:

Irrigation is proposed in new landscaping areas as detailed in the Notes on the Landscape Plan (Exhibit A2). This standard is met.

(6) Re-vegetation in Un-landscaped Areas	<ul style="list-style-type: none">• Vegetation must be replanted in all areas where vegetation has been removed or damaged in areas not affected by the landscaping requirements and that are not to be occupied by structures or other improvements,.• Plant materials must be watered at intervals sufficient to ensure survival and growth for a minimum of two growing seasons.• The use of native plant materials is encouraged to reduce irrigation and maintenance demands.• Disturbed soils should be amended to an original or higher level of porosity to regain infiltration and stormwater storage capacity.
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Finding:

The applicant proposes to landscape all areas not otherwise proposed for development. The applicant has stated that plant materials will be watered to ensure growth during at least two growth cycles.

Areas disturbed by construction will have soils amended to original state or increased porosity to improve water infiltration and increase stormwater storage capacity. With recommended Condition of Approval A18, these standards are met.

Section 73B.090 – Minimum Standards Trees and Plants.

The following minimum standards apply to the types of landscaping required to be installed for all zones.

(1) Deciduous Shade Trees	<ul style="list-style-type: none"> • One and on-half inch caliper measured six inches above ground; • Balled and burlapped; bare root trees will be acceptable to plant during their dormant season; • Reach a mature height of 30 feet or more; • Cast moderate to dense shade in summer; • Live over 60 years; • Do well in urban environments, tolerant of pollution and heat, and resistant to drought; • Require little maintenance and mechanically strong; • Insect- and disease-resistant; • Require little pruning; and • Barren of fruit production.
(2) Deciduous Ornamental Trees	<ul style="list-style-type: none"> • One and on-half inch caliper measured six inches above ground; • balled and burlapped; bare root trees will be acceptable to plant during their dormant season; and • Healthy, disease-free, damage-free, well-branched stock, characteristic of the species
(3) Coniferous Trees	<ul style="list-style-type: none"> • 5 feet in height above ground; • balled and burlapped; bare root trees will be acceptable to plant during their dormant season; and • Healthy, disease-free, damage-free, well-branched stock, characteristic of the species.
(4) Evergreen and Deciduous Shrubs	<ul style="list-style-type: none"> • One to five gallon size; • Healthy, disease-free, damage-free, well-branched stock, characteristic of the species; and • Side of shrub with best foliage must be oriented to public view.
(5) Groundcovers	<ul style="list-style-type: none"> • Fully rooted; • Well branched or leafed; • Healthy, disease-free, damage-free, well-branched stock, characteristic of the species; and • English ivy (<i>Hedera helix</i>) is prohibited.
(6) Lawns	<ul style="list-style-type: none"> • Consist of grasses, including sod, or seeds of acceptable mix within the local landscape industry; • 100 percent coverage and weed free; and • Healthy, disease-free, damage-free, characteristic of the species.

Finding:

Per the Plant Schedule provided on the Landscape Plan included in Exhibit A2, the standards for groundcover, shrubs, and trees to be planted are met.

Chapter 73C: Parking Standards

The IMP 24-0001 was vested on July 8, 2024 and the parking lot standards in effect on this date will apply to this application.

TDC 73C.010. - Off-Street Parking and Loading Applicability and General Requirements.

[...]

(2) General Requirements. Off-street parking spaces, off-street vanpool and carpool parking spaces, off-street bicycle parking, and off-street loading berths must be as provided as set forth in TDC 73C.100, unless greater requirements are otherwise established by the conditional use permit or the Architectural Review process.

(a) The following apply to property and/or use with respect to the provisions of TDC 73C.100:

(i) The requirements apply to both the existing structure and use, and enlarging a structure or use;

(ii) The floor area is measured by gross floor area of the building primary to the function of the particular use of the property other than space devoted to off-street parking or loading;

[...]

(iv) Calculations to determine the number of required parking spaces and loading berths must be rounded to the nearest whole number;

(v) If the use of a property changes, thereby increasing off-street parking or loading requirements, the increased parking/loading area must be provided prior to commencement of the new use;

(vi) Parking and loading requirements for structures not specifically listed herein must be determined by the City Manager, based upon requirements of comparable uses listed

(vii) When several uses occupy a single structure, the total requirements for off-street parking may be the sum of the requirements of the several uses computed separately or be computed in accordance with TDC 73.370(1)(m), Joint Use Parking;

[...]

(ix) Required parking spaces must be available for the parking of operable passenger automobiles of residents, customers, patrons and employees and must not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business;

(x) Institution of on-street parking, where none is previously provided, must not be done solely for the purpose of relieving crowded parking lots in commercial or industrial zones;

(xi) Required vanpool and carpool parking must meet the 9-foot parking stall standards in Figure 73-1 and be identified with appropriate signage;

[...]

(xiii) If the applicant demonstrates that too many or too few parking spaces are required, applicant may seek a variance from the minimum or maximum by providing evidence that the particular use needs more or less than the amount specified in this Code.

Finding:

The applicant has proposed off-street parking spaces, off-street vanpool and carpool parking spaces, off-street bicycle parking, and off-street loading berths that will comply with TDC 73C.100. With recommended Conditions of Approval A14.e and A 19, these standards are met.

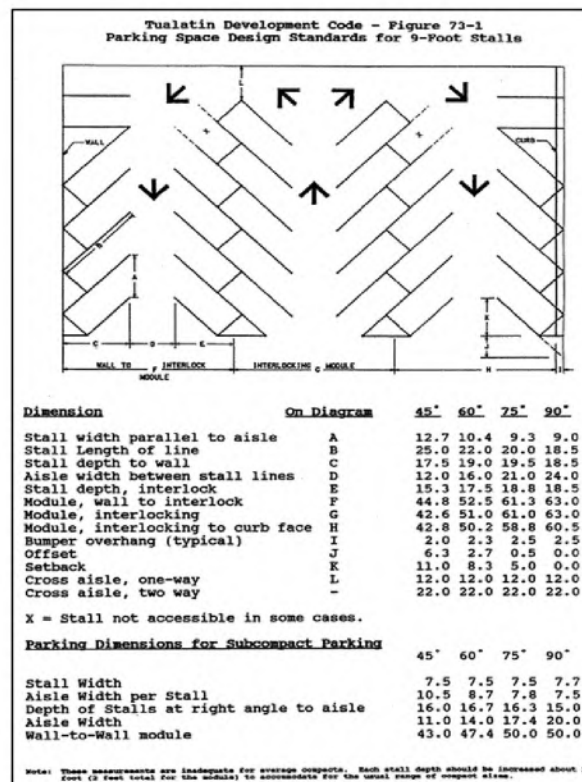
Section 73C.020 – Parking Lot Design Standards.

A parking lot, whether an accessory or principal use, intended for the parking of automobiles or trucks, must comply with the following:

- (1) Off-street parking lot design must comply with the dimensional standards set forth in Figure 73-1; [...]
- (2) Parking lot drive aisles must be constructed of asphalt, concrete, or pervious concrete;
- (3) Parking stalls must be constructed of asphalt, concrete, previous concrete, or a pervious surface such as pavers or grasscrete, but not gravel or woody material. Pervious surfaces, are encouraged for parking stalls in or abutting the Natural Resource Protection Overlay District, Other Natural Areas, or in a Clean Water Services Vegetated Corridor;
- (4) Parking lots must be maintained adequately for all-weather use and drained to avoid water flow across sidewalks;
- (5) Parking bumpers or wheel stops or curbing must be provided to prevent cars from encroaching on adjacent landscaped areas, or adjacent pedestrian walkways.

Finding:

As shown on the Site Plan (Exhibit A2), the applicant's proposed off-street parking lot design complies with the dimensional standards set forth in Figure 73-1 (shown below). Most stalls are proposed at 9 feet wide and are either 16 feet long, with landscape overhang spaces will be 18.5 feet long. Drive aisles are proposed between 24 to 30 feet. Both aisles and stalls are proposed to be composed of asphalt. Concrete curbs are also proposed. Wheel stops are proposed for parking stalls adjacent to pedestrian walkways to prevent encroachment. The applicant has proposed new stormwater facilities that will be located near new parking areas. Proposed stormwater drainage will avoid water flow over sidewalks. With recommended Condition of Approval A28, these standards are met.



(6) Disability parking spaces and accessibility must meet ADA standards applicable at time of construction or alteration;

(7) Parking stalls for sub-compact vehicles must not exceed 35 percent of the total parking stalls required by TDC 73C.100. Stalls in excess of the number required by TDC 73C.100 can be sub-compact stalls;

Finding:

The Site Plan (Exhibit A2) illustrates 4 accessible parking spaces will be removed due to construction with 8 new accessible parking spaces being provided. ADA standards will be reviewed in greater detail during building permit review. No compact stalls are included in the proposal. These standards are met.

(8) Groups of more than 4 parking spaces must be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley;

(9) Drives to off-street parking areas must be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site;

(10) On-site drive aisles without parking spaces, which provide access to parking areas with regular spaces or with a mix of regular and sub-compact spaces, must have a minimum width of 22 feet for two-way traffic and 12 feet for one-way traffic; When 90 degree stalls are located on both sides of a drive aisle, a minimum of 24 feet of aisle is required. On-site drive aisles without parking spaces, which provide access to parking areas with only sub-compact spaces, must have a minimum width of 20 feet for two-way traffic and 12 feet for one-way traffic;

Finding:

The design of the parking lot will not require movement on the public street. Drive aisles with parking are proposed to be a minimum of 24 feet wide. These standards are met.

(11) Artificial lighting, must be deflected to not shine or create glare in a residential zones, street right-of-way, a Natural Resource Protection Overlay District, Other Natural Areas, or a Clean Water Services Vegetated Corridor;

(12) Parking lot landscaping must be provided pursuant to the requirements of TDC 73C.200; and

(13) Except for parking to serve residential uses, parking areas adjacent to or within residential zones or adjacent to residential uses must be designed to minimize disturbance of residents.

Finding:

As shown on the Site Lighting Plans (Exhibit A2), lighting will primarily be focused on the building entrances, loading, and interior parking areas. There are no areas of Natural Resources Protection Overlay District, other Natural Areas, or a Clean Water Services Vegetated Corridor within the development area. These standards are met.

Section 73C.050 – Bicycle Parking Requirements and Standards.

(1) Requirements. Bicycle parking facilities must include:

(a) Long-term parking that consists of covered, secure stationary racks, lockable enclosures, or rooms in which the bicycle is stored;

- (i) Long-term bicycle parking facilities may be provided inside a building in suitable secure and accessible locations.
 - (b) Short-term parking provided by secure stationary racks (covered or not covered), which accommodate a bicyclist's lock securing the frame and both wheels.
- (2) Standards. Bicycle parking must comply with the following:
- (a) Each bicycle parking space must be at least six feet long and two feet wide, with overhead clearance in covered areas must be at least seven feet;
 - (b) A five (5) foot-wide bicycle maneuvering area must be provided beside or between each row of bicycle parking. It must be constructed of concrete, asphalt, or a pervious hard surface such as pavers or grasscrete, and be maintained;
 - (c) Access to bicycle parking must be provided by an area at least three feet in width. It must be constructed of concrete, asphalt, or a pervious hard surface such as pavers or grasscrete, and be maintained;
 - (d) Bicycle parking areas and facilities must be identified with appropriate signing as specified in the Manual on Uniform Traffic Control Devices (MUTCD) (latest edition). At a minimum, bicycle parking signs must be located at the main entrance and at the location of the bicycle parking facilities;
 - (e) Bicycle parking must be located in convenient, secure, and well-lighted locations approved through the Architectural Review process. Lighting, which may be provided, must be deflected to not shine or create glare into street rights-of-way or fish and wildlife habitat areas;
 - (f) Required bicycle parking spaces must be provided at no cost to the bicyclist, or with only a nominal charge for key deposits, etc. This does not preclude the operation of private for-profit bicycle parking businesses;
 - [...]
 - (h) The City Manager or the Architectural Review Board may approve a form of bicycle parking not specified in these provisions but that meets the needs of long-term and/or short-term parking pursuant to Architectural Review.

Finding:

With the proposed additional building square footage, the Lam campus will be approximately 807,730 square feet. Currently, the Lam campus provides 64 short-term and 65 long-term bicycle parking spaces. As shown in Exhibit A2, the applicant proposes a combination of short-term and long-term bike parking areas; however dimensioned details of the bike parking furnishings were not included in the application materials. An additional 18 short-term and 35 long-term bicycle parking spaces will be added to the Lam site. A total of 82 short-term and 100 long-term bicycle parking spaces will be provided for the campus. With recommended Conditions of Approval A14.f. and A19 which will show compliance with standards (a), (b), (c), and (d), these standards are met.

Section 73C.100 – Off-Street Parking Minimum/Maximum Requirements.

USE	MINIMUM MOTOR VEHICLE PARKING	MAXIMUM MOTOR VEHICLE PARKING	BICYCLE PARKING	PERCENTAGE OF BICYCLE PARKING TO BE COVERED
(f) Industrial				
(i) Manufacturing	1.60 spaces per 1,000 square feet of gross floor area	None	2 spaces, or 0.10 spaces per 1,000 gross square feet,	First five spaces or 30 percent,

			whichever is greater	whichever is greater
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Finding:

As previously mentioned under TDC 73C.010, staff finds that the manufacturing rate of 1.6 spaces per 1,000 square feet of gross floor area is acceptable for determining parking requirements for the proposed buildings that support a research and development campus that is primarily dedicated to specialized manufacturing. Exhibit A1 and A2 indicate that 1,012 spaces will be constructed. More specifically, there will be 468 existing spaces removed for construction purposes and reconstructed, and 544 net new spaces will be constructed for a total of 1,012 parking spaces. Included in the 544 new spaces are 127 spaces that were previously approved for Building “G” through AR 22-0006 but not constructed. An analysis of required parking for the proposed use is provided in the table below.

Table 1: Minimum and Proposed Parking by Use

Use	GFA	Minimum Required Parking	Proposed Parking	Required Bike Parking	Required Covered Bike Parking
Office to support specialized manufacturing	241,230	386	1,012	24	7

Based on the required parking ratio, 386 parking spaces are required for building construction of 241,230 square feet. The applicant is proposing 35 long-term bicycle parking spaces (covered) and 18 short-term bicycle parking spaces. With recommended Conditions of Approval A 14.e-f, these standards are met.

(2) In addition to the general parking requirements in subsection (1), the following are the minimum number of off-street vanpool and carpool parking for commercial, institutional, and industrial uses.

Number of Required Parking Spaces	Number of Vanpool or Carpool Spaces
26 and greater	1 for each 25 spaces

Finding:

The proposal is for commercial use which will require a minimum of fifteen vanpool and carpool spaces. As shown in Exhibit A2, 5 carpool spaces will be removed for construction purposes leaving 7 vanpool/carpool spaces for the campus. The 5 spaces will be replaced, and an additional 15 required vanpool/carpool spaces will be provided meeting TDC standards. The new vanpool/carpool parking spaces will be constructed as part of Phase 1. Final design and location of the vanpool/carpool spaces will be reviewed during the building permit review process. With recommended Condition of Approval A14.g., this standard is met.

Section 73C.120 – Off-Street Loading Facilities Minimum Requirements.

(1) The minimum number of off-street loading berths for commercial, industrial, and institutional uses is as follows:

Use	Square Feet of Floor Area	Number of Berths	Dimensions of Berth	Unobstructed Clearance of Berth
Commercial	60,000 and over	3	12 feet x 35 feet	14 feet

(2) Loading berths must not use the public right-of-way as part of the required off-street loading area.
(3) Required loading areas must be screened from public view, public streets, and adjacent properties by means of sight-obscuring landscaping, walls or other means, as approved through the Architectural Review process.

(4) Required loading facilities must be installed prior to final building inspection and must be permanently maintained as a condition of use.

(5) The off-street loading facilities must in all cases be on the same lot or parcel as the structure they are intended to serve. In no case must the required off-street loading spaces be part of the area used to satisfy the off-street parking requirements.

(6) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children must be located on the site of a school or child day care center having a capacity greater than 25 students.

Finding:

The campus site includes several existing buildings and 13 loading dock facilities. As shown in Exhibit A2, the total square footage for this project is 241,230 square feet, which requires 3 loading docks. The applicant is proposing one loading dock for the office building, two for the utility building and one for the lab building for a total of four new loading docks. The proposed loading docks will be approximately 12 feet x 60 feet with 14 feet of vertical clearance. With recommended Condition of Approval A14.g., these standards are met.

Section 73C.130 – Parking Lot Driveway and Walkway Minimum Requirements.

Parking lot driveways and walkways must comply with the following requirements:

[...]

(2)**Commercial Uses.** Ingress and egress for commercial and institutional uses must not be less than the following:

Required Parking Spaces	Minimum Number Required	Minimum Pavement Width	Minimum Pavement Walkways, etc.
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

[...]

Finding:

The Lam Research campus is currently served by three driveways from SW Leveton Drive, three driveways from SW 108th Avenue, and an existing emergency vehicle access from Tualatin Road at 115th. As shown in Exhibit A2, the proposal includes one new driveway located off SW Leveton Drive intended for only trucks. The new driveway will be 36' wide for the first 50' from right-of-way and more than 24' wide (Exhibit A1). No sidewalk is provided near the new truck-only driveway as it is intended use is for truck traffic only. Additional findings are provided in Chapter 75.

(6) Maximum Driveway Widths and Other Requirements.

[...]

(d) There must be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Manager.

(e) Must comply with the distance requirements for access as provided in TDC 75.

(f) Must comply with vision clearance requirements in TDC 75.

Finding:

The proposed SW Leveton Drive truck driveway is located approximately 328 feet east of the existing driveway to the west and 447 feet from the existing driveway to the east. With recommended Condition of Approval A3 standard (e) is met and recommended Condition of Approval A30 standard (f) is met.

TDC 73C.220. - Commercial Parking Lot Landscaping Requirements.

Commercial uses must comply with the following landscaping requirements for parking lots in all zones:

(1) General. Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering.

Finding:

The parking lot contains landscaping in areas not used for vehicle and pedestrian movement. This standard is met.

(2) Clear Zone. Clear zone must be provided for the driver at ends of on-site drive aisles and at driveway entrances, vertically between a maximum of 30 inches and a minimum of eight feet as measured from the ground level.

[...]

Finding:

As shown in the Landscape Plans (Exhibit A2), the proposed plantings will provide for visual clearance at the end of drive aisles and drive entrances. With recommended Condition of Approval A30 related to maintenance, this standard is met.

(3) Perimeter. Minimum five feet in width in all off-street parking and vehicular circulation areas, including loading areas and must comply with the following.

(a) Deciduous trees located not more than 30 feet apart on average as measured on center;

(b) Shrubs or ground cover, planted so as to achieve 90 percent coverage within three years;

(c) Plantings which reach a mature height of 30 inches in three years which provide screening of vehicular headlights year round;

(d) Native trees and shrubs are encouraged; and

(e) Exception: Not required where off-street parking areas on separate lots are adjacent to one another and connected by vehicular access.

Finding:

As shown in the Landscape Plans (Exhibit A2), perimeter landscaping is proposed around all parking, circulation, and loading areas. The narrative, Exhibit A1, states that trees are located less than 30 feet on-center. Confirmation of deciduous trees located not more than 30 feet apart could not be confirmed on the south side of the northernmost SW 108th Avenue. This driveway will be utilized for access to

parking areas to the west, therefore, deciduous trees 30 feet on center are required. With recommended Condition of Approval A14.k., these standards are met.

(4) Landscape Island. Minimum 25 square feet per parking stall must be improved with landscape island areas and must comply with the following:

- (a) May be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping;
- (b) Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;
- (c) Islands must be utilized at aisle ends to protect parked vehicles from moving vehicles and emphasize vehicular circulation patterns;
- (d) Landscape separation required for every eight continuous spaces in a row.
- (e) Must be planted with one deciduous shade trees for every four parking spaces; Required trees must be evenly dispersed throughout the parking lot;
- (f) Must be planted with groundcover or shrubs;
- (g) Native plant materials are encouraged;
- (h) Landscape island areas with trees must be a minimum of five feet in width (from inside of curb to curb);
- (i) Required plant material in landscape islands must achieve 90 percent coverage within three years; and
- (i) Exceptions: [...]

Finding:

No below grade landscape islands are proposed. Landscape islands will be constructed with curbs and stormwater drainage will not being affected. Given that a minimum of 386 parking spaces are required for the proposed use, 9,650 square feet of parking lot landscape island area and 97 trees are required. The applicant has proposed 1,012 total parking spaces, which requires 25,300 square feet of improved landscaped islands. While the application materials are silent on the square footage of parking lot landscaping included in the proposal, there are 399 trees proposed throughout the parking areas. With recommended Condition of Approval A14.j., these standards are met.

(5) Driveway Access. For lots with 12 or more parking spaces, site access from the public street must be defined by:

- (a) Landscape area at least five feet in width on each side of the site access;
- (b) Landscape area must extend 25 feet from the right-of-way line; and
- (c) Exceptions: [...]

Finding:

As shown in Exhibit A2, it is unclear if the proposed SW Leveton Drive driveway is flanked by the required five-foot-wide landscape area on each side of the new driveway and extending more than 25 feet from the right-of-way line. With recommended Condition of Approval A14.k., these standards are met.

Chapter 73D: Waste and Recyclables Management Standards

Section 73D.010 – Applicability and Objectives.

(1) Applicability. The requirements of this Chapter apply to all new or expanded:

- (a) Common wall residential developments containing five or more units;

[...]

Section 73D.020 - Design Methods.

An applicant required to provide mixed solid waste and source separated recyclables storage areas must comply with one of following methods:

- (1) The minimum standards method in TDC 73D.030;
- (2) The waste assessment method in TDC 73D.040;
- (3) The comprehensive recycling plan method in TDC 73D.050; or
- (4) The franchised hauler review method in TDC 73D.060.

Finding:

The applicant proposes to use the Waste Assessment Method (TDC 73D.030) and has verified that the location and configuration of the proposed waste facility and access will satisfy Republic Services in Exhibit A6. As discussed below, these standards are met.

TDC 73D.040. - Waste Assessment Method.

This method tailors the storage area size to a waste assessment and management program for the specific user of a new or expanded building. It is most appropriate when the specific use of a building is known and the type and volume of mixed solid waste to be generated can be estimated.

- (1) A waste assessment form must be obtained from the City Manager. The form must be used to estimate the volumes of both mixed solid waste and source separated recyclables generated.
- (2) Techniques such as a compactor or cardboard baler may be implemented to minimize the square footage of the storage area.
- (3) The plans must identify the size and location of interior, or exterior storage area(s) or both, specialized equipment to be used, and collection schedule required to accommodate the volumes of waste projected in the waste assessment.
- (4) The application must demonstrate that the mixed solid waste and source separated recyclable volumes expected to be generated can be stored in less space than required by the Minimum Standards Method. If the application does not demonstrate that the waste assessment method requires less space, the minimum standards method will be required.

Finding:

The applicant has stated that the Waste Assessment Method is appropriate because the proposed development is an expansion of the existing development for a specific user and specific building uses (Exhibit A1). The applicant provided a Service Provider Letter from Republic Services that states the ingress and egress is adequate for container placement and access for trucks (Exhibit A6). The lab will have a waste enclosure located at the southeast corner of the building and a second enclosure will be provided at the northeast corner of the office building (Exhibit A1 and A2). With recommended Condition of Approval A14.I. demonstrating that the development includes an acceptable waste and recyclables management solution, these standards are met.

Section 73D.070 – Location, Design and Access Standards.

The following location, design, and access standards are applicable to all storage areas:

(1) Location Standards.

- (a) The storage area for source separated recyclables may be collocated with the storage area for mixed solid waste.
- (b) Storage area space requirements can be satisfied with a single location or multiple locations, and can combine both interior and exterior locations.

(c) Exterior storage areas must:

- (i) Be located in central and visible locations on the site to enhance security for users;**
- (ii) Be located in a parking area; and**
- (iii) Not be located within a required front yard setback or in a yard adjacent to a public or private street.**

(2) Design Standards.

- (a) The dimensions of the storage area must accommodate containers consistent with current methods of local collection at time of construction or alteration.**
- (b) Indoor and outdoor storage areas must comply with Oregon Building and Fire Code requirements.**
- (c) Exterior storage areas must be enclosed by a sight obscuring fence or wall at least 6 feet in height.**
- (d) Evergreen plants must be placed around the enclosure walls, excluding the gate or entrance openings for common wall, commercial, and institutional developments.**
- (e) Gate openings for haulers must be a minimum of 10 feet wide and must be capable of being secured in a closed and open position.**
- (f) Horizontal clearance must be a minimum of 10 feet and a vertical clearance of 8 feet is required if the storage area is covered.**
- (g) A separate pedestrian access must also be provided in common wall, commercial, and institutional developments.**
- (h) Exterior storage areas must have either a concrete or asphalt floor surface.**
- (i) Storage areas and containers must be clearly labeled to indicate the type of material accepted.**

Finding:

The applicant has stated that both enclosures will include space for recyclables and mixed solid waste. One of the enclosures will serve and be located on the northeast exterior of the office building and the other enclosure will serve and be located on the southeast exterior of the lab building. According to Exhibit A2, the office building will provide a 13'-6 1/4" by 20 feet enclosure containing two 8 cubic yard receptacles and a 11' by 25' area for a trash compactor. Exhibit A2 illustrates two 8 cubic yards receptacles and an additional 3 cubic yards waste collection and 6 yards of recycling collection being provided for the lab building. An 8' high screening wall matching each building will be provided. Republic Services has reviewed the development proposal and have indicated the plans are sufficient and stated requirements for each enclosure (Exhibit A6). The design of the enclosures will accommodate the containers consistent with the Waste Assessment Method. The Building Division will confirm during the building permit review stage that the Oregon Building and Fire Code requirements are met. The applicant is not planning to utilize evergreen plants for screening due to the industrial nature of the use. Access and gate openings were reviewed by Republic Services and the applicant has stated that the gate openings will be at least 10 feet wide with a minimum horizontal clearance of 10 feet. Because the use is industrial, the applicant is not proposing separate pedestrian access. The storage area will have a surface of either concrete or asphalt and will be reviewed by the Building Division. The applicant has indicated that the storage area and containers will be clearly labeled. With recommended Condition of Approval A14.I., these standards are met.

(3) Access Standards.

- (a) Storage areas must be accessible to users at convenient times of the day, and to hauler personnel on the day and approximate time they are scheduled to provide hauler service.**

- (b) Storage areas must be designed to be easily accessible to hauler trucks and equipment, considering paving, grade, gate clearance and vehicle access.
- (c) Storage areas must be accessible to hauler trucks without requiring backing out of a driveway onto a public street. If only a single access point is available to the storage area, adequate turning radius must be provided to allow hauler trucks to safely exit the site in a forward motion.
- (d) Storage areas must be located so that pedestrian and vehicular traffic movement are not obstructed on site or on public streets adjacent to the site.
- (e) The following is an exception to the access standard:
 - (i) Access may be limited for security reasons.

Finding:

As shown in the applicant's submittal, Republic Services, the applicable waste hauler, has indicated that the dimensions and accessibility of the enclosures meet their service needs (Exhibit A6). These standards are met.

Chapter 74: Public Improvement Requirements

[...]

TDC 74.110. - Phasing of Improvements.

The applicant may build the development in phases. If the development is to be phased the applicant must submit a phasing plan to the City Manager for approval with the development application. The timing and extent or scope of public improvements and the conditions of development must be determined by the City Council on subdivision applications and by the City Manager on other development applications.

Finding:

The applicant's Architectural Review narrative states that three construction phases are planned. Phase 1 will construct the office building and northern parking lot within the initial 2-years of construction after approval of AR 24-0002. Phase 2 will construct the lab, utility building, storage building within the first four years. Phase 3 will expand the bulk gas yard and parking area in the southwestern area of the site with construction starting within 6-years. Staff recommended Condition of Approval A1 will memorialize timing of the phased construction proposed by the applicant.

TDC 74.120 Public Improvements.

(1) Except as specially provided, all public improvements must be installed at the expense of the applicant. All public improvements installed by the applicant must be constructed and guaranteed as to workmanship and material as required by the Public Works Construction Code prior to acceptance by the City. Work must not be undertaken on any public improvement until after the construction plans have been approved by the City Manager and a Public Works Permit issued and the required fees paid.

Finding:

All public improvements will be installed by the applicant at their expense after approval of plans and issued Erosion Control, Water Quality, and Public Works Permits. With recommended Conditions of Approval A11, A12, and A16 this standard is met.

TDC 74.130 Private Improvements.

All private improvements must be installed at the expense of the applicant. The property owner must retain maintenance responsibilities over all private improvements.

Finding:

All private improvements will be installed by the applicant at their expense and will require prior approval of plans and building permits. With recommended Conditions of Approval A11, A12, and A16 this standard is met.

TDC 74.140 Construction Timing.

(1) All the public improvements required under this chapter must be completed and accepted by the City prior to the issuance of a Certificate of Occupancy.

(2) All private improvements required under this Chapter must be approved by the City prior to the issuance of a Certificate of Occupancy.

Finding:

The applicant will need to complete and obtain City acceptance of all public and private improvements proposed and modified by conditions of approval prior to receiving a Certificate of Occupancy. With recommended Condition of Approval A16 this standard is met.

[...]

TDC 74.210 Minimum Street Right-of-Way Widths.

The width of streets in feet shall not be less than the width required to accommodate a street improvement needed to mitigate the impact of a proposed development. In cases where a street is required to be improved according to the standards of the TDC, the width of the right-of-way shall not be less than the minimums indicated in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G.

(2) For development applications other than subdivisions and partitions, wherever existing or future streets adjacent to property proposed for development are of inadequate right-of-way width, the additional right-of-way necessary to comply with TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G of the Tualatin Community Plan must be dedicated to the City for use by the public prior to issuance of any building permit for the proposed development. This right-of-way dedication must be for the full width of the property abutting the roadway and, if required by the City Manager, additional dedications must be provided for slope and utility easements if deemed necessary.

Finding:

The proposal is adjacent to SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road. Required dedication of right-of-way and construction of public street surface infrastructure will benefit this development's expected addition of bicycle, pedestrian, and vehicular trips utilizing streets and sidewalks. Final plans will include a minimum of half-street right-of-way dedications to preferred cross-sections along with improvements within SW Leveton Drive and SW Tualatin Road meeting the requirements of the City of Tualatin. With recommended Conditions of Approval A3, A11, and A16 this standard is met.

TDC 74.320. - Slope Easements.

(1) The applicant must obtain and convey to the City any slope easements determined by the City Manager to be necessary adjacent to the proposed development site to support the street

improvements in the public right-of-way or accessway or utility improvements required to be constructed by the applicant.

[...]

(3) For all other development applications, a slope easement dedication must be submitted to the City Manager; building permits must not be issued for the development prior to acceptance of the easement by the City.

Finding:

Any required slope easements necessary to support SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road will be granted to the City. With recommended Conditions of Approval A3, A11, and A16 this standard is met.

TDC 74.330. - Utility Easements.

(1) Utility easements for water, sanitary sewer and storm drainage facilities, telephone, television cable, gas, electric lines and other public utilities must be granted to the City.

[...]

(4) For development applications other than subdivisions and partitions, and for both on-site and off-site easement areas, a utility easement must be granted to the City; building permits must not be issued for the development prior to acceptance of the easement by the City. The City may elect to exercise eminent domain and condemn necessary off-site public utility easements at the applicant's request and expense. The City Council must determine when condemnation proceedings are to be used.

(5) The width of the public utility easement must meet the requirements of the Public Works Construction Code. All subdivisions and partitions must have a 6-foot public utility easement adjacent to the street and a 5-foot public utility easement adjacent to all side and rear lot lines. Other easements may be required as determined by the City Manager.

Finding:

Any required public slope and/or utility easements will be granted to the City. The public utility easement width will be 8-feet-wide adjacent to the final dedicated rights-of-way of SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road. Additional width of public utility easement will include accommodation of the water system meters and vaults and onsite water laterals to meet the Public Works Construction Code. With recommended Conditions of Approval A3, A4, A5, A6, and A11 these standards are met.

TDC 74.420 Street Improvements.

When an applicant proposes to develop land adjacent to an existing or proposed street, including land which has been excluded under TDC 74.220, the applicant should be responsible for the improvements to the adjacent existing or proposed street that will bring the improvement of the street into conformance with the Transportation Plan (TDC Chapter 11), TDC 74.425 (Street Design Standards), and the City's Public Works Construction Code, subject to the following provisions:

(1) For any development proposed within the City, roadway facilities within the right-of-way described in TDC 74.210 must be improved to standards as set out in the Public Works Construction Code.

(2) The required improvements may include the rebuilding or the reconstruction of any existing facilities located within the right-of-way adjacent to the proposed development to bring the facilities into compliance with the Public Works Construction Code.

(3) The required improvements may include the construction or rebuilding of off-site improvements which are identified to mitigate the impact of the development.

(4) Where development abuts an existing street, the improvement required must apply only to that portion of the street right-of-way located between the property line of the parcel proposed for development and the centerline of the right-of-way, plus any additional pavement beyond the centerline deemed necessary by the City Manager to ensure a smooth transition between a new improvement and the existing roadway (half-street improvement). Additional right-of-way and street improvements and off-site right-of-way and street improvements may be required by the City to mitigate the impact of the development. The new pavement must connect to the existing pavement at the ends of the section being improved by tapering in accordance with the Public Works Construction Code.

(5) If additional improvements are required as part of the Access Management Plan of the City, TDC Chapter 75, the improvements must be required in the same manner as the half-street improvement requirements.

(6) All required street improvements must include curbs, sidewalks with appropriate buffering, storm drainage, street lights, street signs, street trees, and, where designated, bikeways and transit facilities.

[...]

(8) For development applications other than subdivisions and partitions, all street improvements required by this section must be completed and accepted by the City prior to the issuance of a Certificate of Occupancy.

[...]

(10) Streets within, or partially within, a proposed development site must be graded for the entire right-of-way width and constructed and surfaced in accordance with the Public Works Construction Code.

(11) Existing streets which abut the proposed development site must be graded, constructed, reconstructed, surfaced or repaired as necessary in accordance with the Public Works Construction Code and TDC Chapter 11, Transportation Plan, and TDC 74.425 (Street Design Standards).

[...]

(14) The applicant must construct any required street improvements adjacent to parcels excluded from development, as set forth in TDC 74.220 of this chapter.

[...]

(17) Intersections should be improved to operate at a level of service of at least D and E for signalized and unsignalized intersections, respectively.

[...]

Finding:

A Transportation Impact Analysis from Mackenzie was submitted. The City Engineer and an independent consultant have reviewed this traffic analysis, found it to be in substantial conformance with Tualatin's Traffic Study Requirements, and agree with its conclusions. The applicant will construct a new access approximately 400 feet to the east of westernmost access to SW Leveton Drive. Sidewalk will be added along the northernmost access to SW 108th Avenue to the main campus. Sidewalks along SW Leveton Drive, SW 108th Ave, and SW Tualatin Road will be reviewed and improved where needed to bring them into compliance with ADA (PROWAG) specifications. Additionally, the City Engineer has reviewed the proposal against the above requirements. Required dedication of right-of-way and construction of public street surface infrastructure will mitigate this development's expected addition of bicycle, pedestrian,

and vehicular trips utilizing streets and sidewalks. With recommended Conditions of Approval A3, A11, and A16 these standards are met.

TDC 74.425 Street Design Standards.

(1) Street design standards are based on the functional and operational characteristics of streets such as travel volume, capacity, operating speed, and safety. They are necessary to ensure that the system of streets, as it develops, will be capable of safely and efficiently serving the traveling public while also accommodating the orderly development of adjacent lands.

(2) The proposed street design standards are shown in Figures 72A through 72G. The typical roadway cross sections comprise the following elements: right-of-way, number of travel lanes, bicycle and pedestrian facilities, and other amenities such as landscape strips. These figures are intended for planning purposes for new road construction, as well as for those locations where it is physically and economically feasible to improve existing streets.

[...]

(4) All streets must be designed and constructed according to the preferred standard. The City Manager may reduce the requirements of the preferred standard based on specific site conditions, but in no event will the requirement be less than the minimum standard. The City Manager must take into consideration the following factors when deciding whether the site conditions warrant a reduction of the preferred standard:

(a) Arterials:

- (i) Whether adequate right-of-way exists;**
- (ii) Impacts to properties adjacent to right-of-way;**
- (iii) Current and future vehicle traffic at the location; and**
- (iv) Amount of heavy vehicles (buses and trucks).**

(b) Collectors:

- (i) Whether adequate right-of-way exists;**
- (ii) Impacts to properties adjacent to right-of-way;**
- (iii) Amount of heavy vehicles (buses and trucks); and**
- (iv) Proximity to property zoned manufacturing or industrial.**

[...]

Finding:

The proposal is adjacent to SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road. These roads are designated as a Minor Collector, Minor Arterial, and Major Collector, respectively, on Tualatin Comprehensive Plan Map 8-1: Tualatin Functional Classification Plan and Traffic Signal Plan. A Transportation Impact Analysis from Mackenzie did not recommend additional improvements greater than the planned cross-sections. Prior to occupancy these streets will meet or will be improved to meet City Standards as determined by the City Engineer. With recommended Conditions of Approval A3, A11, and A16 these standards are met.

TDC 74.440 Streets, Traffic Study Required.

(1) The City Manager may require a traffic study to be provided by the applicant and furnished to the City as part of the development approval process as provided by this Code, when the City Manager determines that such a study is necessary in connection with a proposed development project in order to:

- (a) Assure that the existing or proposed transportation facilities in the vicinity of the proposed development are capable of accommodating the amount of traffic that is expected to be generated by the proposed development, and/or
 - (b) Assure that the internal traffic circulation of the proposed development will not result in conflicts between on-site parking movements and/or on-site loading movements and/or on-site traffic movements, or impact traffic on the adjacent streets.
- (2) The required traffic study must be completed prior to the approval of the development application.
- (3) The traffic study must include, at a minimum:
 - (a) an analysis of the existing situation, including the level of service on adjacent and impacted facilities.
 - (b) an analysis of any existing safety deficiencies.
 - (c) proposed trip generation and distribution for the proposed development.
 - (d) projected levels of service on adjacent and impacted facilities.
 - (e) recommendation of necessary improvements to ensure an acceptable level of service for roadways and a level of service of at least D and E for signalized and unsignalized intersections respectively, after the future traffic impacts are considered.
 - (f) The City Manager will determine which facilities are impacted and need to be included in the study.
 - (g) The study must be conducted by a registered engineer.
- (4) The applicant must implement all or a portion of the improvements called for in the traffic study as determined by the City Manager.

Finding:

A Transportation Impact Analysis and TIA Supplemental Letter from Mackenzie evaluated the following:

- 1. Three new buildings are proposed in both the southeast and at the southwest portions of the Lam campus in Tualatin, Oregon.*
- 2. This project includes a four-story office building with an area of up to 120,000 square feet (SF) in the southeast portion of the campus and a two-story utility building with approximately 29,000 SF and a laboratory building with approximately 85,000 SF in the southwest portion of the campus.*
- 3. At full occupancy, the proposed campus expansion is estimated to generate an additional 244 AM peak hour, 233 PM peak hour, and 2036 daily trips.*
- 4. A safety review, capacity analysis, and queuing analysis was conducted for intersections meeting City thresholds for traffic study - all City intersections within a 1/4-mile of the project site, all ODOT facilities anticipated to be impacted by 50 or more peak hour trips, and intersections of concern as noted by ODOT or the City.*
- 5. No study area intersections were found to have a crash rate higher than 1.0 for the five-year crash data from 2019 through 2023, nor were significant patterns found that could be addressed by improvements to the intersections.*

6. All public street intersections but one are projected to meet City of Tualatin and ODOT mobility standards with the proposed project. The intersection of SW Hazelbrook Road/OR 99W experiences long delays in the PM peak hour for vehicles turning right onto OR 99W, but capacity improvements are not recommended at this location.

7. Queuing for study area intersections is currently estimated to be accommodated by existing storage areas.

Mackenzie's recommended improvements include:

- A. Coordinate traffic signals to facilitate left turn movements from OR 99W to SW Tualatin Road at their intersections with SW 124th Avenue. This will minimize the queue lengths and delays for southbound left turns on SW 124th Avenue and avoid potential spill back to OR 99W.
- B. Trim vegetation at the site access locations as needed to provide the recommended intersection sight distances

The City Engineer and an independent consultant have reviewed the traffic study provided by the applicant, found it to be in substantial conformance with Tualatin's Traffic Study Requirements, and agree with its conclusions.

ODOT's response (Exhibit K) summarizes:

- "ODOT concurs with the findings of the TIA that all ODOT intersections are projected to meet ODOT mobility standards following completion of both phases of the project in 2030.
- Given that this has not been shown to present safety or operation issues for northbound traffic on OR 99W, ODOT concurs that "mitigation is not recommended [at Hazelbrook] because it would encourage vehicles to travel this route from SW Tualatin Road instead of using SW 124th Avenue to access OR 99W northbound."
- ODOT has noted that "no further analysis of state highway facilities is required".

With recommended Conditions of Approval A3, A11, and A16 these standards are met.

[...]

TDC 74.470 Street Lights.

(1) Street light poles and luminaries must be installed in accordance with the Public Works Construction Code.

(2) The applicant must submit a street lighting plan for all interior and exterior streets on the proposed development site prior to issuance of a Public Works Permit.

Finding:

The applicant will evaluate street lighting levels in accordance with City standards. Street lights will be installed as needed to meet these standards. A maintenance fee will be paid for those installed. With recommended Conditions of Approval A3, A11, and A16, this standard is met.

[...]

TDC 74.485. - Street Trees.

[...]

(2) In nonresidential subdivisions and partitions street trees must be planted by the owners of the individual lots as development occurs.

(3) The Street Tree Ordinance specifies the species of tree which is to be planted and the spacing between trees.

Finding:

The applicant will plant street trees as shown within approved permit plans. Many large mature trees exist along the property frontage of SW Tualatin Road and will remain and serve the function of street trees. With recommended Conditions of Approval A3, A11, and A16 this standard is met.

TDC 74.610 Water Service.

(1) Water lines must be installed to serve each property in accordance with the Public Works Construction Code. Water line construction plans must be submitted to the City Manager for review and approval prior to construction.

[...]

(3) As set forth is TDC Chapter 12, Water Service, the City has three water service levels. All development applicants must be required to connect the proposed development site to the service level in which the development site is located. If the development site is located on a boundary line between two service levels the applicant must be required to connect to the service level with the higher reservoir elevation. The applicant may also be required to install or provide pressure reducing valves to supply appropriate water pressure to the properties in the proposed development site.

TMC 3-3-040 - Separate Services Required.

(1) Except as authorized by the City Engineer, a separate service and meter to supply regular water service or fire protection service shall be required for each building, residential unit or structure served. For the purposes of this section, trailer parks and multi-family residences of more than four dwelling units shall constitute a single unit unless the City Engineer determines that separate services are required.

(2) For nonresidential uses, separate meters shall be provided for each structure. Separate meters shall also be provided to each buildable lot or parcel on which water service is or will be provided.

Finding:

Lam Research Corporation's proposed rerouting of the existing public water main serving the JAE Oregon site will result in conversion of the entire line outside of public right-of-way to a private water main owned and maintained by JAE. One adequately sized private meter at SW Tualatin Road right-of way and a private domestic line will connect to existing lines on the JAE lot connecting past existing meters. The existing meters will be decommissioned.

If needed to obtain additional fire flow volumes in the future, JAE may obtain permits to loop this line over their lot with installation of a fire vault prior to connection to the public main in SW Leveton Drive.

Lam's proposed water services will be directly connected to public mains within adjacent public rights-of-way.

With recommended Conditions of Approval A5, A6, A11, and A16 standards of TMC 3-3-040 (1) and (2) and TDC 74.610 (1) and (3) are met.

TDC 74.620 Sanitary Sewer Service.

- (1) Sanitary sewer lines must be installed to serve each property in accordance with the Public Works Construction Code. Sanitary sewer construction plans and calculations must be submitted to the City Manager for review and approval prior to construction.

[...]

TMC 3-2-060 - Use of Public Sewers Required.

[...]

- (3) The owner of all buildings situated within the City and abutting on a street, sewer easement, alley or right-of-way in which there is located a public sanitary sewer of the City is required at his or her expense to connect such building directly with the proper public sewer, either by gravity or with approved pumping facilities, in accordance with this ordinance, within 90 days after the date of official notice to do so; provided that the public sewer is available to or on the property and/or at a property line of the property and the structures or buildings are within 300 feet of the public sewer.

[...]

Finding:

New and modified buildings and structures will include separate laterals connecting to public mains within SW Leveton Drive. Downstream conveyance capacity will be confirmed or upgraded. With recommended Conditions of Approval A4, A11, and A16 standards of TDC 74.620 (1) and TMC 3-2-060 (3) are met.

TDC 74.630 Storm Drainage System.

- (1) Storm drainage lines must be installed to serve each property in accordance with City standards and Clean Water Services standards. Storm drainage construction plans and calculations must be submitted to the City Manager for review and approval prior to construction.
- (2) The storm drainage calculations must confirm that adequate capacity exists to serve the site. The discharge from the development must be analyzed in accordance with the City's Storm and Surface Water Regulations and Clean Water Services standards.

[...]

TDC 74.640 Grading.

- (1) Development sites must be graded to minimize the impact of storm water runoff onto adjacent properties and to allow adjacent properties to drain as they did before the new development.
- (2) A development applicant must submit a grading plan showing that all lots in all portions of the development will be served by gravity drainage from the building crawl spaces; and that this development will not affect the drainage on adjacent properties. The City Manager may require the applicant to remove all excess material from the development site.

TDC 74.650 Water Quality, Storm Water Detention and Erosion Control.

The applicant must comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:

[...]

(2) On all other development applications, prior to issuance of any building permit, the applicant must arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be met and obtain a Stormwater Connection Permit from Clean Water Services.

(3) For on-site private and regional non-residential public facilities, the applicant must submit a stormwater facility agreement, which will include an operation and maintenance plan provided by the City, for the water quality facility for the City's review and approval. The applicant must submit an erosion control plan prior to issuance of a Public Works Permit. No construction or disturbing of the site must occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.

Finding:

The Civil Storm Drainage Overall Plan illustrates capturing stormwater runoff from the site's developed areas for each lot to private stormwater facilities on each lot with conveyance to the public stormwater system in SW 108th Avenue and SW Leveton Drive either directly or via private easements. The submitted Preliminary Stormwater Drainage Report prepared by Mackenzie includes modifying existing and construction of new stormwater facilities to provide treatment, hydromodification, and detention for all private impervious areas. Modified public impervious areas within SW 108th Avenue right-of-way continue to flow south towards a public stormwater facility on the west side of SW 108th Avenue north of the intersection with SW Leveton Drive which could be confirmed adequate or enlarged to ensure adequate capacity. Modified public impervious areas within SW Leveton Drive and SW Tualatin Road rights-of-way may require public stormwater Low Impact Development Approaches (LIDA) to provide stormwater management.

Final plans and stormwater calculations will demonstrate that the development has direct access by gravity to the public stormwater system with adequate infiltration and/or downstream capacity in accordance with City of Tualatin and Clean Water Service standards.

The site disturbance is approximately 14.4 acres. Erosion and sediment control plans and permit applications conforming to the requirements of the City of Tualatin, CWS, and Oregon Department of Environmental Quality will be provided with the construction permit submittal documents. The applicant will obtain an erosion control permit from the City of Tualatin for disturbance greater than 500 square feet. In addition, these plans must be sufficient to obtain a National Pollution Discharge Elimination System (NPDES) 1200-CN Stormwater Discharge Permit from Clean Water Services as an agent of Oregon Department of Environmental Quality if between 1 and 5 acres of disturbance or a National Pollution Discharge Elimination System (NPDES) 1200-C Construction Erosion Control permit from Oregon DEQ for over 5 acres.

A Clean Water Services' Service Provider Letter and Memorandum were received. After land use decision issuance, the applicant will submit final plans complying with the Service Provider Letter conditions and CWS Memorandum that are sufficient to obtain a Stormwater Connection Permit Authorization Letter from Clean Water Services in accordance with TDC 74.650(2) and CWS D&CS 3.01.2(d). With recommended Conditions of Approval A7, A8, A9, A10, A11, and A16 these standards are met.

TDC 74.660 Underground.

(1) All utility lines including, but not limited to, those required for gas, electric, communication, lighting and cable television services and related facilities must be placed underground. Surface-

mounted transformers, surface-mounted connection boxes and meter cabinets may be placed above ground. Temporary utility service facilities, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant must make all necessary arrangements with all utility companies to provide the underground services. The City reserves the right to approve the location of all surface-mounted transformers.

(2) Any existing overhead utilities may not be upgraded to serve any proposed development. If existing overhead utilities are not adequate to serve the proposed development, the applicant must, at their own expense, provide an underground system. The applicant must be responsible for obtaining any off-site deeds and/or easements necessary to provide utility service to this site; the deeds and/or easements must be submitted to the City Manager for acceptance by the City prior to issuance of the Public Works Permit.

TDC 74.670. - Existing Structures.

(1) Any existing structures requested to be retained by the applicant on a proposed development site must be connected to all available City utilities at the expense of the applicant.

(2) The applicant must convert any existing overhead utilities serving existing structures to underground utilities, at the expense of the applicant.

(3) The applicant must be responsible for continuing all required street improvements adjacent to the existing structure, within the boundaries of the proposed development site.

[...]

Finding:

The applicant will construct a new access approximately 400 feet to the east of the westernmost access to SW Leveton Drive. The northernmost access to SW 108th Avenue will be widened with private sidewalk on the north side to the main campus. The improvements will extend adjacent to all legal lots associated with this project along SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road including compliance with ADA/PROWAG driveways, ramps and sidewalks and undergrounding of overhead utilities as approved by the City Engineer. With recommended Conditions of Approval A3, A11, A13, and A16 these standards are met.

Chapter 75 Access Management

[...]

TDC 75.020. - Permit for New Driveway Approach

(1) **Applicability.** A driveway approach permit must be obtained prior to constructing, relocating, reconstructing, enlarging, or altering any driveway approach.

(2) **Exceptions.** A driveway approach permit is not required for:

(a) The construction, relocation, reconstruction, enlargement, or alteration of any driveway approach that requires a state highway access permit; or

(b) The construction, relocation, reconstruction, enlargement or alteration of any driveway approach that is part of the construction of a publicly or privately engineered public improvement project.

(3) **Procedure Type.** A Driveway Approach Permit is processed as a Type II procedure under TDC 32.220 (Type II).

(4) **Submittal Requirements.** In addition to the application materials required by TDC 32.140 (Application Submittal), the following application materials are also required:

- (a) A site plan, of a size and form and in the number of copies meeting the standards established by the City Manager, containing the following information:**
 - (i)The location and dimensions of the proposed driveway approach;**
 - (ii)The relationship to nearest street intersection and adjacent driveway approaches;**
 - (iii)Topographic conditions;**
 - (iv)The location of all utilities;**
 - (v)The location of any existing or proposed buildings, structures, or vehicular use areas;**
 - (vi)The location of any trees and vegetation adjacent to the location of the proposed driveway approach that are required to be protected pursuant to TDC Chapter 73B or 73C; and**
 - (vii)The location of any street trees adjacent to the location of the proposed driveway approach.**
 - (b) Identification of the uses or activities served, or proposed to be served, by the driveway approach; and**
 - (c) Any other information, as determined by the City Manager, which may be required to adequately review and analyze the proposed driveway approach for conformance with the applicable criteria.**
 - (5) Criteria. A Driveway Approach Permit must be granted if:**
 - (a) The proposed driveway approach meets the standards of this Chapter and the Public Works Construction Code;**
 - (b) No site conditions prevent placing the driveway approach in the required location;**
 - (c) The number of driveway approaches onto an arterial are minimized;**
 - (d) The proposed driveway approach, where possible:**
 - (i) Is shared with an adjacent property; or**
 - (ii) Takes access from the lowest classification of street abutting the property;**
 - (e) The proposed driveway approach meets vision clearance standards;**
 - (f) The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access;**
 - (g) The proposed driveway approach does not result in significant adverse impacts to the vicinity;**
 - (g) The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections; and**
 - (i)The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.**
 - (6) Effective Date. The effective date of a Driveway Approach Permit approval is the date the notice of decision is mailed.**
 - (7) Permit Expiration. A Driveway Approach Permit approval expires one year from the effective date, unless the driveway approach is constructed within the one-year period in accordance with the approval decision and City standards.**
- [...]

TDC 75.040. - Driveway Approach Requirements

(1)The provision and maintenance of driveway approaches from private property to the public streets as stipulated in this Code are continuing requirements for the use of any structure or parcel of real property in the City of Tualatin. No building or other permit may be issued until scale plans are presented that show how the driveway approach requirement is to be fulfilled. If the owner or

occupant of a lot or building changes the use to which the lot or building is put, thereby increasing driveway approach requirements, it is unlawful and a violation of this code to begin or maintain such altered use until the required increase in driveway approach is authorized by the City.

(2) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same driveway approach when the combined driveway approach of both uses, structures, or parcels of land satisfies their combined requirements as designated in this code; provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts to establish joint use. Copies of said deeds, easements, leases or contracts must be placed on permanent file with the City Recorder.

(3) Joint and Cross Access.

(a) Adjacent commercial uses may be required to provide cross access drive and pedestrian access to allow circulation between sites.

(b) A system of joint use driveways and cross access easements may be required and may incorporate the following:

(i) A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards;

(ii) A design speed of ten mph and a maximum width of 24 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;

(iii) Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive; and

(iv) An unified access and circulation system plan for coordinated or shared parking areas.

(c) Pursuant to this section, property owners may be required to:

(i) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;

(ii) Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the city and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

(iii) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners; and (iv) If subsection (i) through (iii) above involve access to the state highway system or county road system, ODOT or the county must be contacted and must approve changes to subsection (i) through (iii) above prior to any changes.

(iv) If subsection (i) through (iii) above involve access to the state highway system or county road system, ODOT or the county must be contacted and must approve changes to subsection (i) through (iii) above prior to any changes.

(4) Requirements for Development on Less than the Entire Site.

(a) To promote unified access and circulation systems, lots and parcels under the same ownership or consolidated for the purposes of development and comprised of more than one building site must be reviewed as one unit in relation to the access standards. The number of access points permitted must be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations must be met. This must also apply to phased development plans. The owner and all lessees within the affected area must comply with the access requirements.

(b) All access must be internalized using the shared circulation system of the principal commercial development or retail center. Driveways should be designed to avoid queuing across surrounding parking and driving aisles.

(5) Lots that front on more than one street may be required to locate motor vehicle accesses on the street with the lower functional classification as determined by the City Manager.

(6) Except as provided in TDC 53.100, all driveway approach must connect directly with public streets.

(7) To afford safe pedestrian access and egress for properties within the City, a sidewalk must be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section must be constructed to City standards, except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks must be constructed to a design and in a manner approved by the City Manager. Sidewalks approved by the City Manager may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks must provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction must include construction of the curb and gutter section to grades and alignment established by the City Manager.

(8) The standards set forth in this Code are minimum standards for driveway approaches, and may be increased through the Architectural Review process in any particular instance where the standards provided herein are deemed insufficient to protect the public health, safety, and general welfare.

(9) Minimum driveway approach width for uses are as provided in Table 75-1 (Driveway Approach Width):

TABLE 75-1 Driveway Approach Width		
Use	Minimum Driveway Approach Width	Maximum Driveway Approach Width
Commercial	1-99 Parking Spaces = 32 feet 100-249 Parking Spaces = two approaches each 32 feet	Over 250 Parking Spaces = As required by the City Manager, but not exceeding 40 feet.
Industrial	36 feet	Over 250 Parking Spaces = As Required by the City Manager, but not exceeding 40 feet

(10) Driveway Approach Separation. There must be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Manager.

(11) Distance between Driveways and Intersections. Except for single-family dwellings, duplexes, townhouses, triplexes, quadplexes, and cottage clusters, the minimum distance between driveways and intersections must be as provided below. Distances listed must be measured from the stop bar at the intersection.

(a) At the intersection of collector or arterial streets, driveways must be located a minimum of 150 feet from the intersection.

(b) At the intersection of two local streets, driveways must be located a minimum of 30 feet from the intersection.

(c) If the subject property is not of sufficient width to allow for the separation between driveway and intersection as provided, the driveway must be constructed as far from the intersection as possible, while still maintaining the 5-foot setback between the driveway and property line.

(d) When considering a driveway approach permit, the City Manager may approve the location of a driveway closer than 150 feet from the intersection of collector or arterial streets, based on written findings of fact in support of the decision.

(12) Vision Clearance Area.

[...]

(b) Collector Streets. A vision clearance area for all collector/arterial street intersections, collector/arterial street and local street intersections, and collector/arterial street and railroad intersections must be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 25 feet from the intersection point of the right-of-way lines, as measured along such lines. Where a driveway intersects with a collector/arterial street, the distance measured along the driveway line for the triangular area must be ten feet (see Figure 73-2 for illustration).

(c) Vertical Height Restriction. Except for items associated with utilities or publicly owned structures such as poles and signs and existing street trees, no vehicular parking, hedge, planting, fence, wall structure, or temporary or permanent physical obstruction must be permitted between 30 inches and eight feet above the established height of the curb in the clear vision area (see Figure 73-2 for illustration).

TDC 75.050. - Access Limited Roadways.

(1) This section applies to all developments, permit approvals, land use approvals, partitions, subdivisions, or any other actions taken by the City pertaining to property abutting any road or street listed in TDC 75.050(2). In addition, any property not abutted by a road or street listed in subsection **(2)**, but having access to an arterial by any easement or prescriptive right, must be treated as if the property did abut the arterial and this Chapter applies.

(2) The following Freeways and Arterials are access limited roadways:

[...]

(n) Leveton Drive from 108th Avenue to 124th Avenue;

(o) 108th Avenue from Leveton Drive to Herman Road;

[...]

(3) This Chapter takes precedence over any other TDC chapter and over any other ordinance of the City when considering any development, land use approval or other proposal for property abutting an arterial or any property having an access right to an arterial.

(4) The City may act on its own initiative to protect the public safety and control access on arterials or any street to be included by TDC 75.030, consistent with its authority as the City Road Authority.

[...]

TDC 75.140. - Existing Streets Access Standards.

The following list describes in detail the freeways and arterials as defined in TDC 75.050 with respect to access. Recommendations are made for future changes in accesses and location of future accesses. These recommendations are examples of possible solutions and shall not be construed as limiting the City's authority to change or impose different conditions if additional studies result in different recommendations from those listed below.

[...]

(15) LEVETON DRIVE.

(a) 108th Avenue to 118th Avenue.

(i) On the north side of Leveton Drive, JAE (2S122B 200) shall align a driveway across from 118th Avenue and be permitted a second driveway approximately 50 feet from their east property line. Novellus (2S122AA 500 and 2S122AB 100) shall be permitted

three driveways located approximately 25 feet and 950 feet from the west property line for Tax Lot 100 and 600 feet west of 108th Avenue for Tax Lot 500.

Finding:

The plans illustrate multiple existing accesses: three to SW 108th Avenue, three to SW Leveton Drive, and one emergency vehicle access for Lam to SW Tualatin Road opposing SW 115th Avenue. A new access is proposed approximately 400 feet to the east of the westernmost access to SW Leveton Drive. A new private sidewalk is planned connecting the northern SW 108th Avenue access to the main campus. These accesses were evaluated within the Transportation Impact Analysis prepared by Mackenzie. With recommended Conditions of Approval A3, A11, and A16 these standards are met.

III. RECOMMENDATION

Based on the application materials and analysis and findings presented above, staff finds that the applicable criteria have been met relative to AR 24-0002, and therefore recommend approval of this application with the following conditions of approval:

GENERAL:

- A1. This Architectural Review approval expires two years after the date of issuance unless a building, or grading permit submitted in conjunction with a building permit application, has been issued and substantial construction pursuant thereto has taken place and an inspection performed by a member of the Building Division, or an extension is granted under the terms of Section 33.020(10) or most current revision of the TDC. Three construction phases are planned as provided by Section 74.110. Phase 1 will construct the office building, northern parking lot and associated site improvements within the initial 2-years of construction. Phase 2 will construct the lab, utility building, storage building and associated site improvements within the first four years. Phase 3 will expand the bulk gas yard, parking area in the southwestern area of the site and associated site improvements within 6-years.

PRIOR TO ISSUANCE OF EROSION CONTROL, PUBLIC WORKS, AND WATER QUALITY PERMITS:

Submit to the Engineering Division via [eTrakit](#) for review and approval:

- A2. For Phases I, II, and III the applicant must apply for Engineering Erosion Control and applicable Public Works and Water Quality permits:
- a. Apply using [eTrakit](#). With the initial Engineering permit(s) application(s) include:
 - i. One combined set of 22"x34" plans:
 1. Using NAVD 1988; and,
 2. Attaching one plan set including all applicable Engineering permits to one Engineering permit; and,
 3. Adding notes on other Engineering permits stating which application includes the attached plan set; and,
 - ii. Per the [fee schedule](#):
 1. Fee payment for an Erosion Control permit ; and,

2. Initial deposit payments and cost estimates for each Water Quality and Public Works permit; and,
 - b. Deliver two 22"x34" hard copies of the combined Engineering permit plan sets to:
City of Tualatin
Attn: Engineering Division c/o Principal Engineer
10699 SW Herman Road
Tualatin, OR 97062
- A2.1. All conditions of approval subject to Engineering Division Review shall be interpreted and applied consistent with the principles of nexus and proportionality, and may be modified by the City Engineer so that the Engineering Division and applicant can work through design concerns at the time of engineering permit submittal.
- A3. For each Phase: The applicant must obtain City approval of Final Street Improvement Plans for SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road adjacent to all lots associated with the proposed Phase of development in accordance with applicable sections of Tualatin Development Code (TDC) 74 and 75 and Public Works Construction Code (PWCC) that show:
- a. Plan and profile of public street cross-sections and utilities 100 feet minimum beyond site frontage and further as needed to demonstrate consistent horizontal and vertical alignments or improvements as needed; and,
 - b. The boundaries and nature of private access and all public access and utility easements:
 - i. Existing with recorded document numbers; and,
 - ii. Proposed; and,
 - c. Dedication of:
 - i. Right-of-way:
 1. Totalling 37 feet from the platted centerline for SW Leveton Drive and SW Tualatin Road. The City Engineer may approve Public Access Easements to replace portions of the standard required right-of-way dedication in locations where right-of-way dedication where there is a conflict with minimum setbacks as determined within the Industrial Master Plan (IMP24-0001); and,
 2. Any additional necessary to accommodate any final accepted future public stormwater LIDA management or other public improvement; and,
 - ii. Public utility easements:
 1. A minimum of 8-feet-wide adjacent to rights-of-way of SW Leveton Drive and SW Tualatin Road; and,
 2. Required by PGE to:
 - a. Encompass poles and guy wires; and,
 - b. Surround underground vaults; and,
 - c. Access infrastructure; and,
 - d. Construction including:

- i. Full depth reconstruction to the centerline for SW Tualatin Road or as otherwise approved by the City Engineer (such as a full-width 2" grind and inlay of the existing asphalt pavement, and restriping); and,
 - ii. Retrofit or repair of any areas of sidewalk or crosswalk along the subject property frontage that do not meet PROWAG standards; and,
 - iii. Any final accepted future public stormwater LIDA management; and,
 - e. Existing remaining driveway approaches and sidewalks:
 - i. Within compliance of ADA/PROWAG standards; or,
 - ii. Proposed maintenance to bring into compliance; and,
 - f. All modified and proposed driveways with a width between 32 and 40 feet wide measured at right-of-way or as otherwise approved by the City Engineer to enable safe turning movements; and,
 - g. Turning movement diagrams proving all existing and proposed driveways operate without adverse impact to public rights-of-way as determined by the City Engineer with:
 - i. Identification of any driveways privately restricted for specific passenger vehicles or truck use, proposed private signage necessary to control movement, and a circulation plan; and,
 - ii. Onsite signage and maintenance plan for onsite signage as approved by the City Engineer; and,
 - iii. Existing and proposed curb radii able to accommodate associated vehicular movements or propose a radius allowing turning movements for the widest path design vehicle (such as a WB-67 truck), associated curb, and sidewalk ramps consisting of reinforced concrete meeting PROWAG and as approved by the City Engineer; and,
 - h. Replacement of concrete doweled panels within SW 108th Avenue and SW Leveton Drive impacted by construction as determined by the City Engineer; and,
 - i. Street illumination meeting City standards using equipment from PGE's Option A list:
 - i. Identifying standards are met; or,
 - ii. Show the location of proposed streetlight poles, fixtures, and any streetlight footings and grounding material (may include the ground rod and copper wire) for the streetlight pole and/or junction box needed to meet the standards and submit:
 - 1. City approved streetlight design layout to the PGE Lighting Design Project Manager; and,
 - 2. Payment to cover the City's cost per Street Light Rate Schedule 95, Option A; and,
 - j. Undergrounding of overhead utilities in accordance with TDC 74.660; and,
- A4. For each Phase : The applicant must obtain City approval of Final Sanitary Sewer System Plans for all lots associated with the proposed Phase of development in accordance with Tualatin Development Code (TDC) 74.620, Tualatin Municipal Code (TMC) 3-2, and Public Works Construction Code (PWCC) that show:
 - a. The boundaries of existing private and public sanitary sewer easements with recorded document numbers; and,

- b. Downstream sanitary sewer capacity calculations assuring adequacy of public mains or including upgrades; and,
 - c. If approved by the City Engineer, a deed restriction enabling future construction of a private sanitary sewer gravity service from TLID 2S122BA00100 crossing one adjacent lot to connect to the public sanitary sewer mains within SW Leveton Drive; and,
 - d. Separate laterals for each new or modified building's or structure's service in accordance with TMC 3-2-060 (3), or as approved by the City Engineer; and,
 - e. Location of the lines, grade, materials, and other details; and,
 - f. Cleanouts adjacent to right-of-way; and,
- A5. For each Phase: The applicant must obtain City approval of Final Water System Plans for all lots associated with the proposed Phase of development in accordance with Tualatin Development Code (TDC) 74.610, Tualatin Municipal Code (TMC) 3-3, and Public Works Construction Code (PWCC) that show:
 - a. The boundaries of existing public water easements with recorded document numbers; and,
 - b. Proposed ten-foot-wide public water or utility easements outside existing public easements for all portions of water laterals to and surrounding any meter, reduced pressure backflow prevention, and fire vault by five feet; and,
 - c. Separate laterals to the main with gate valves for each:
 - i. Domestic service for each building or structure served in accordance with TMC 3-3-060; and,
 - ii. Fire protection service and appropriate backflow device for each building or structure served; and,
 - d. Separate, appropriately-sized water meters per domestic lateral located within the planter strip or City Engineer approved alternate location with:
 - i. Reduced Pressure Backflow Assembly (RPBA) for all domestic laterals; and,
 - ii. Irrigation after a domestic meter and RPBA serving the planter strip adjacent to this development; and,
 - e. A separate lateral, valve, meter, and RPBA for any proposed public stormwater LIDA; and,
- A6. For Phase I obtain City approval of Plans which show:
 - a. The boundaries of existing public water easements with recorded document numbers; and,
 - b. Conversion of the existing 12-inch diameter public water main extending south from SW Tualatin Road right-of-way at the intersection with SW 115th Avenue within a public easement to a privately-owned and maintained line serving fire flow to the JAE Oregon's lot, 11555 SW Leveton Drive, TLID 2S122BA00200 with a fire vault with Double Check Detector Assembly adjacent to SW Tualatin Road right-of-way; and,
 - c. A metered private domestic water service adequately sized to serve JAE Oregon's lot from the 16-inch public water main in SW Tualatin Rd connecting to the existing private lines after JAE Oregon's existing water meters including:
 - i. A gate valve; and,

- ii. Within the public utility easement adjacent to SW Tualatin Road right-of-way and surrounded by 5-feet of public utility easement a:
 - 1. Meter; and,
 - 2. Reduced Pressure Backflow Assembly (RPBA); and,
 - d. Decommissioning of JAE's two existing 2-inch diameter water meters; and,
 - e. A private water easement over the rerouted and any existing portions of the water line to remain on Lam Research Corporation's lots:
 - i. TLID 2S122BA00100; and,
 - ii. 11355 SW Leveton Drive 2S122AB00100; and,
 - f. Lam Research Corporation's domestic and fire services directly connected to public water mains within adjacent public right-of-ways; and,
 - g. Separate water meters per domestic lateral located within the planter strip or City Engineer approved alternate location with:
 - i. Reduced Pressure Backflow Assembly (RPBA) for all domestic laterals; and,
 - ii. Irrigation after a domestic meter and RPBA serving the planter strip adjacent to this development; and,
 - h. A separate lateral, valve, meter, and RPBA for any proposed public stormwater LIDA; and,
 - i. Submit:
 - i. A copy of a private water easement for the benefit of JAE Oregon's lot, 11555 SW Leveton Drive, TLID 2S122BA00200, for the rerouted and any remaining portions of the water line to remain; and past public right-of-way over Lam Research Corporation's lots:
 - 1. TLID 2S122BA00100; and,
 - 2. 11355 SW Leveton Drive 2S122AB00100; and,
 - ii. Owner signed non-remonstrative agreements enabling the City to process a Vacation of the existing public water easement over:
 - 1. JAE Oregon's lot, 11555 SW Leveton Drive, TLID 2S122BA00200; and,
 - 2. Lam Research Corporation's lots:
 - a. TLID 2S122BA00100; and,
 - b. 11355 SW Leveton Drive 2S122AB00100; and,
- A7. For each Phase : For all lots associated with the proposed Phase of development the applicant must obtain City approval of :
 - a. Final Stormwater System Calculations and Plans in accordance with Tualatin Development Code (TDC) 74.630 and 74.650, Tualatin Municipal Code (TMC) 3-5-200 through 3-5-430, Public Works Construction Code (PWCC), and Clean Water Services' (CWS) Design & Construction Standards (D&CS) Chapter 4 stamped by an Oregon registered, professional engineer in accordance with TMC 3-5-390(1) that:
 - i. Addresses runoff from all new and modified private and public impervious areas:
 - 1. Showing:

- a. Gravity flow five feet from the outside of the established line of the building to the public stormwater system or as otherwise approved by the City Engineer in accordance with CWS D&CS 1.03.39 and 5.09.3(a) (1) and (4); and,
 - b. Private stormwater facilities per lot:
 - i. Connecting directly to public mains in accordance with CWS D&CS 5.09.3; or,
 - ii. If approved by the City Engineer, a deed restriction enabling future construction of a private stormwater gravity service from (No address) TLID 2S122BA00100 crossing one adjacent lot to connect to the public stormwater mains within SW Leveton Drive as approved by the City Engineer; and.
 - c. Public stormwater LIDA within right-of-way or within easements; and,
- 2. Confirms the capacities of stormwater facilities for quality, quantity, and hydromodification to include new and modified impervious area within:
 - a. Existing and proposed private per lot; and,
 - b. Proposed public addressing right-of-way; and,
- ii. Provides a downstream analysis and include solutions within final plans:
 - 1. For at least ¼ mile downstream from the release from the private development through the public stormwater system in accordance with CWS D&CS 2.04.2(m.3); and,
 - 2. Including but not limited to observable downstream impacts to structures; and,
- iii. In accordance with TDC 74.650(2) and CWS D&CS 3.01.2(d), complies with:
 - 1. The submitted Clean Water Services' Service Provider Letter CWS File Number dated June 16, 2024 conditions to obtain a Stormwater Connection Permit Authorization Letter, and
 - 2. Requirements stated within the Clean Water Services' Memorandum dated January 6, 2025; and,
- iv. Submit:
 - 1. Financial assurance for construction performance in accordance with TMC 3-390(3), PWCC 102.14.00, and amount per CWS D&CS 2.07 Table 2-1; and,
 - 2. A copy of the recorded private stormwater facilities agreement in accordance with TMC 3-5-390(4) and CWS D&CS 2.08.2:
 - a. Clarifying-the party responsible for maintenance of the constructed portions of stormwater systems and any existing infrastructure; and,
 - b. The agreement must provide reference to all new and existing stormwater treatment, hydromodification, and detention facilities; and,

- v. For existing private stormwater facilities, the applicant must address deficient facilities and bring them into compliance with the standard(s) under which they were approved.
- A8. For each Phase: The applicant must obtain City approval of Final Erosion Control Plans for all lots associated with the proposed Phase of development in accordance with Tualatin Development Code (TDC) 74.640, Tualatin Municipal Code (TMC) 3-5-050 and 3-5-060, Public Works Construction Code (PWCC), and Clean Water Services' (CWS) Design & Construction Standards (D&CS) Chapters 2 and 6 that minimize the impact of stormwater from the development to adjacent properties; and,
- A9. For Phase I obtain City approval of plans sufficient to:
- a. Amend the existing issued 1200-C associated with AR22-0006; or,
 - b. Obtain a National Pollution Discharge Elimination System (NPDES) 1200-C Construction Erosion Control permit from Oregon DEQ; and,
- A10. For Phases II and III obtain City approval of plans sufficient to:
- a. Amend an actively maintained National Pollution Discharge Elimination System (NPDES) 1200-C Construction Erosion Control permit previously obtained from Oregon DEQ; or,
 - b. Obtain a National Pollution Discharge Elimination System (NPDES) 1200-C Construction Erosion Control permit from Oregon DEQ if the previously obtained 1200-C permit from DEQ expired.

PRIOR TO ISSUANCE OF BUILDING PERMIT:

Submit to [eTrakit](#) for review and approval:

- A11. For each Phase : The applicant must submit copies of recorded documents for all lots associated with the proposed Phase of development in accordance with Public Works Construction Code (PWCC) and Tualatin Development Code (TDC) 74.210, 74.330, 74.350, and 75.040 which show the City Engineer approved:
- a. Dedication of right-of-way for SW Leveton Drive and SW Tualatin Road; and,
 - b. Applicable slope easements for SW Tualatin Road; and,
 - c. Public utility easements:
 - i. Adjacent to SW Leveton Drive; and,
 - ii. Any additional to:
 - 1. Encompass portions of private system from the public main to and surrounding domestic meters and fire vaults; and,
 - 2. Adequately surround and maintain PGE or other utility infrastructure; and,
 - d. Applicable private deed restrictions and access, sanitary sewer, stormwater, and utility easements.
- A12. For Phases I, II, and III: The applicant must obtain:
- a. Confirmation of approval from DEQ of an amended active 1200-C NPDES permit or a new permit; and,

- b. Erosion Control and applicable Public Works and Water Quality Permits from the City of Tualatin.
- A13. If a Public Utility with a current Franchise agreement or Rights-of-Way License (PWCC 100 definitions) from Tualatin requires an applicant to participate in the process of obtaining a Franchise (PWCC 102.1.3 and 207 Public Utility) Permit, the applicant must perform in accordance with TDC 74.660 and 670, PWCC 207, TMC 03-06.
- A14. The applicant shall provide Final Site Plan Set and Final Color Architectural Elevations (in .pdf format), meeting the TDC requirements in effect on July 8, 2024, for each of the three phases of construction that are in substantial conformance to the submitted plans for this Architectural Review and demonstrate:
- a. Trees identified in Tree Assessment Report (Exhibit A3) must be identified on the landscaping and grading plan, consistent with TDC 73B.080(3). Tree protection fencing and other Lam Research – Architectural Review preservation measures recommended by the Arborist should also be specified on the grading plan.
 - b. Walkways that are a minimum of 6 feet in width; constructed of asphalt, concrete, pervious concrete, pavers, or grasscrete; and meet ADA standards at time of construction, consistent with TDC 73A.300(1).
 - c. All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas must be landscaped in compliance with TDC 73B.040.
 - d. A final landscaping plan must demonstrate the existing and proposed berm will be maintained with dense plantings including evergreen trees and shrubs that provide a buffer between the RL and MP zoned areas in compliance with TDC 73B.040(1)(d).
 - e. A minimum of 386 parking spaces at an applied rate of 1.6 spaces per 1,000 square feet of gross floor area, consistent with TDC 73C.010(2)(a)(iv).
 - f. Details to demonstrate that proposed bicycle parking meets the standards of TDC 73C.050(2)(a)-(c), and that a minimum of 24 short-term and 7 long-term bicycle parking spaces are provided, in conformance with TDC 73C.100(1).
 - g. A minimum of 15 vanpool or carpool parking spaces, consistent with TDC 73C.100(2).
 - h. A minimum of 3 loading facilities that are a no less than 12 feet wide x 35 feet long with an unobstructed height of 14 feet, consistent with TDC 73C.120.
 - i. A final landscaping plan must demonstrate compliance with 73C.220 (3).
 - j. In accordance with TDC Chapter 73C, a minimum landscape island area of 25 square feet per parking stall is required and parking lot landscaping must comply with the following:
 - i. May be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping;
 - ii. Landscape separation that is a minimum of five feet in width is required for every eight contiguous parking spaces in a row;
 - iii. Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;
 - iv. Must be planted with one deciduous shade trees for every four parking spaces, with required trees evenly dispersed throughout the parking lot;
 - v. Must be planted with groundcover or shrubs;
 - vi. Native plant materials are encouraged; and

- k. Landscaping plan must demonstrate compliance with required driveway landscaping for the new SW Leveton Drive driveway per 73C.220(5).
- l. Demonstrate that an adequate waste and recyclables management solution is provided in compliance with TDC 73D.040 Waste Assessment Method. These facilities must comply with the location, design, and access standards in TDC 73D.070.
- m. In accordance with TDC 62.210(5)(a) demonstrates that outdoor storage occupying less than ten (10) percent of the total site area, are permitted outright as outdoor uses.

DURING CONSTRUCTION ACTIVITY:

- A15. The applicant must install tree protection fencing consistent with the Tree Assessment Report submitted as Exhibit A3 and Section 73B.080(3). Please contact the Planning Division to schedule an inspection with a minimum of 48 hours' notice. Where site conditions make grading or other similar encroachment upon a preserved tree's drip-line area, such grading or similar encroachment must only be permitted under the direction of a qualified arborist.

**PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY AND/OR CERTIFICATE OF COMPLETION
FOR EACH PHASE OF DEVELOPMENT:**

Submit to the Engineering Division via [eTrakit](#) for review and approval):

- A16. For all lots associated with the proposed Phase of development the applicant must:
- a. Complete all the private and public improvements as shown on the approved permit plans. All improvements must be constructed and guaranteed as to workmanship and material and also be accepted by the City in accordance with Tualatin Development Code (TDC) 74.120 and 74.140; and,
 - b. Submit an approved final erosion control inspection report to the Engineering division; and,
 - c. Submit pdf as-builts of the Engineering division permits along with maintenance bonds and complete any final fees for public improvements.
- A17. Provide an identification system which clearly locates buildings and their entries for patrons and emergency services, pursuant to TDC 73A.300(4)(d). Building identification approved by TVF&R must be placed in a position that is plainly legible and visible from the street fronting the property. Numbers must contrast with their background, be a minimum of 4 inches high, and have a minimum stroke width of 1/2 inch.
- A18. Areas impacted by grading and all areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped, pursuant to TDC 73B.040(1)(a).
- A19. The applicant must install required vanpool and carpool signage, pursuant to TDC 73C.010(2)(a)(xi) and bicycle parking signage per MUTCD standards, pursuant to TDC 73C.050(2)(d).
- A20. The applicant must construct proposed buildings and all site improvements as illustrated on the approved Final Site Plan and Final Color Architectural Elevations. The applicant must contact the

Planning Division for a site inspection at least 72 hours prior to requesting a certificate of occupancy. This inspection is separate from inspection(s) done by the Building Division.

- A21. The applicant must complete all the private stormwater and public improvements as shown on the approved permit plans. All improvements must also be accepted by the City in accordance with Tualatin Development Code (TDC) 74.120.
- A22. The applicant must submit paper and electronic as-builts of the Engineering permits along with maintenance bonds and any final fees for public and water quality improvements.

PRIOR TO APPLYING FOR A VACATION OF THE PUBLIC WATER EASEMENT WITHIN THIS DEVELOPMENT

- A23. The applicant must obtain a certificate of occupancy and/or completion for Phase I.

THE FOLLOWING ITEMS APPLY TO THE SITE IN AN ON-GOING MANNER:

- A24. All uses must be conducted within a completely enclosed building, except Off-street parking and loading, utility facilities, wireless communication facilities, and outdoor storage occupying less than ten (10) percent of the total site area, are permitted outright as outdoor uses.
- A25. The proposed development must comply with the Environmental Regulations of TDC 63.
- A26. All mechanical and electrical equipment must be screened in accordance with TDC 73A.300(5). Prior to approval of an electrical or mechanical permit, the applicant or property owner must submit scaled elevations illustrating that above-grade or on-grade equipment will be screened by parapet, sight-obscuring fence, landscaping, or other method.
- A27. All sign permits require separate sign permit approval per TDC Chapter 38. This approval does not constitute sign permit approval.
- A28. All site, building exterior, and landscaping improvements approved through the AR process must be continually maintained, so as to remain substantially similar to original approval through the AR process, except as permitted under TDC 33.020(7) (Modifications to Previously Approved Final Architectural Review Decisions).
- A29. All parking spaces shall be continuously maintained in compliance with the dimensional standards specified in TDC Figure 73-1 (Exhibit H).
- A30. No vehicular parking, hedge, planting, fence, wall structure, or temporary/permanent physical obstruction is permitted between 30 inches and eight feet above the established height of the curb in the vision clearance area specified in TDC Figure 73-2 (Exhibit I).



November 10, 2025

To: City Council

From: Aquilla Hurd-Ravich, Community Development Director
Keith Leonard, Associate Planner
Mike McCarthy, City Engineer

Re: Supplemental Staff Memo – Architectural Review (AR) for Lam Research Corporation located at located at 11155-11361 SW Leveton Drive (Tax Lots: 2S122AA500 & 800, 2S122A00100, 2S122BA00100) in the Light Manufacturing Park Zone (MP).

Subject: AR24-0002 Lam TUX Development - An Appeal or Request for Review of the September 10, 2025, Architectural Review Board decision approving,

I. INTRODUCTION

The city has received an Appeal of a Type III Architectural Review Board decision for AR24-0002 on September 10, 2025, approving, with conditions, the construction of four buildings totaling 241,230 square feet on four lots comprising 75.96 acres in the Manufacturing Park Zone (MP). The staff memorandum will address all stated issues in the appeal (Attachment B). The “Appellant” Brett Hamilton filed an appeal (Exhibit B) on September 25, 2025, within the allotted 14-day appeal period.

II. PROCEDURES AND LEGAL FRAMEWORK

New developments of 50,000 square feet or larger industrial and commercial use properties are subject to a Type III Architectural Review, as described in Tualatin Development Code (TDC) 32.230, following a Quasi-Judicial Review and public hearing before the Architectural Review Board as provided under TDC 33.020. The Lam development proposals has been reviewed as commercial use due to the office component of the proposal. Written notice under 32.230(3) was provided and opportunity to comment both in writing before the hearing and/or orally at the hearing under TDC 32.230 (4)(a) was described in all public notices.

The Appeal is governed by the procedure set out in TDC 32.310, subject to the following limitations:



- An appeal of a Type III decision may be made by any person who submitted written comments prior to or during the public hearing or provided testimony at the public hearing.
- A Notice of Appeal must be made within 14 calendar days of the date of mailing the written Notice of Decision or Notice of Adoption. The Notice of Appeal must be on forms provided by the City and be accompanied by the appeal fee. The notice of appeal must contain the following:
 - Identification of the decision sought to be appealed, including its assigned case number, the title or caption of the decision, and the decision date; and
 - The name and mailing address of the appellant and a statement establishing the appellant's standing to appeal the decision, including how the appellant is adversely affected by the decision.
- The timely and complete filing of the notice of appeal and payment of the appeal fee are jurisdictional. The City Manager cannot accept a notice of appeal that does not comply with this section.

When reviewing a land use application, the City must approve or deny the request considering only the “standards and criteria” adopted within the TDC and ORS 227.173(1). This means that the Council cannot deny the application for reasons that are not set forth in the relevant approval criteria, which are provided in the ARBs decision AR24-0002. Where the ARB finds that the adopted standards and criteria are satisfied, the application must be approved. TDC 33.020 (c) states “Applications General Development must comply with the applicable standards and objectives in TDC Chapters 73A through 73G. General Architectural Review decision may include conditions of approval that apply restrictions and conditions that:

- Implement identified public facilities and services needed to serve the proposed development;
- Implement identified public facilities and services needed to be altered or increased attributable to the impacts of the proposed development; and
- Implement the requirements of the Tualatin Development Code.

Types of conditions of approval that may be imposed include, but are not limited to:

- *Development Schedule.* A reasonable time schedule placed on construction activities associated with the proposed development, or portion of the development.
- *Dedications, Reservation.* Dedication or reservation of land, or the granting of an easement for park, open space, rights-of-way, bicycle or pedestrian paths, Greenway, Natural Area, Other Natural Area, riverbank, the conveyance of title or easements to the City or a non-profit conservation organization, or a homeowners' association.
- *Construction and Maintenance Guarantees.* Security from the property owners in such an amount that will assure compliance with approval granted.

- *Plan Modifications.* Changes in the design or intensity of the proposed development, or in proposed construction methods or practices, necessary to assure compliance with this chapter.
- *Other Approvals.* Evaluation, inspections or approval by other agencies, jurisdictions, public utilities, or consultants, may be required for all or any part of the proposed development.
- *Access Limitation.* The number, location and design of street accesses to a proposed development may be limited or specified where necessary to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained.

III. FACTUAL BACKGROUND

The Lam Research campus site consists of a 75.96-acre campus on four lots located at 11155-11361 SW Leveton Drive (Washington County Tax Lots: 2S122AA 500 and 800; 2S122AB 100; 2S122BA 100). The general location of the site is south of SW Tualatin Road, west of SW 108th Avenue and north of SW Leveton Drive. Lam Research also has facilities south of Leveton Road and one building east of SW 108th Avenue. The four subject lots of AR24-0002 are zoned Manufacturing Park (MP).

The site contains several existing buildings and improvements, parking areas and drive aisles, stormwater facilities, walkways, landscaping, and hardscaping. The site is accessed by three driveways from SW 108th Avenue and three accesses from SW Leveton Drive. There is an access on SW Tualatin Road for JAE for deliveries and JAE employees and shared with Lam for emergency access only. This site is in the former Leveton Urban Renewal District. Currently, Lam Building “G”, approved with IMP22-0001/AR22-0006, is under construction and nearing completion in the southeast portion of the site but not depicted in Figure 1. The site slopes gradually from high elevations of 180 to 190 feet along SW Tualatin Road to low elevations of 140 to 160 feet along SW Leveton Drive, approximately a 40 feet elevation change from north to south.



Figure 1: Aerial view of subject site (outlined in red)

IV. PROJECT DESCRIPTION

The original Architectural Review (AR) application, AR24-0002, was submitted on July 8, 2024. The Applicant received approval of their Industrial Master Plan, IMP24-0001, from the Planning Commission on August 20, 2025, and this decision is final. The City deemed the application complete on December 16, 2024. Following that determination, the applicant submitted revised materials that modified the original project design, consistent with the provisions of TDC 32.170 (Revised Applications). The final revised submittal was received on July 29, 2025.

The current application included substantial changes from the July 2024 proposal. Notably, the applicant has eliminated a previously proposed employee access to SW Tualatin Road (the existing access serving JAE and the emergency access for Lam will remain). In addition, the total building area has been reduced from approximately 423,470 square feet to 241,230 square feet.

Public improvements associated with the proposed development include:

- Half-street right-of-way dedication and street improvements along SW Leveton Drive and SW Tualatin Road.
- Dedication of public utility easements along SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road to accommodate water meters, vaults, and onsite water laterals.
- Construction of sidewalk along the northernmost access to SW 108th Avenue and evaluation of other sidewalks for ADA compliance.
- Traffic signal coordination at the intersection of OR 99W and SW Tualatin Road to improve left-turn movements onto SW Tualatin Road.

- Evaluation and installation of street lighting to meet City standards.
- Street tree planting consistent with approved permit plans.

Modifications to existing and construction of new stormwater facilities will ensure compliance with treatment, hydromodification, and detention requirements for all private impervious surfaces.

The proposed development includes construction of:

- A 120,000-square-foot office building,
- A 90,000-square-foot laboratory building,
- A 29,000-square-foot central utilities building, and
- A 2,230-square-foot storage building,

All building construction will be concentrated in the southern and western portions of the campus. The lab and office buildings feature insulated metal panels with smooth and ribbed textures in shades of gray and silver. The lab building includes limited window openings due to its functional requirements. The storage building will utilize painted concrete panels in gray tones, while the office building matches the architectural character of Building G, currently being constructed and nearing completion pursuant to IMP 22-0001 and AR 22-0006. The unoccupied storage building will feature corrugated metal siding and roofing with no windows.

Additional employee parking will be in the northern and western part of the site. The northernmost parking lot will be accessed from the existing northernmost driveway on SW 108th Avenue and existing westernmost driveway from SW Leveton Drive. A new driveway on SW Leveton Drive will be limited to truck traffic only.

The project will result in a net increase of 544 parking spaces. This figure includes demolition of 468 existing stalls to accommodate new construction and the creation of 1,012 new or replacement spaces, including 127 spaces previously approved under AR 22-0006 but not constructed. Associated improvements include new landscaped and hardscaped areas and the installation of stormwater detention ponds.

Along SW Tualatin Road, the applicant proposes to extend the existing landscape berm westward to provide additional voluntary buffering between the site and adjacent uses. The extended landscape berm will be constructed using fill generated from Phase 2 excavations and completed during Phase 3 (see phasing description below).

The applicant proposes a three-phase construction schedule:

- Phase 1: Construction of the office building and northern parking lot within two years of AR 24-0002 approval.
- Phase 2: Construction of the lab, central utilities building, and storage building within four years.
- Phase 3: Expansion of the bulk gas yard and additional parking in the southwestern portion of the site, beginning within six years.

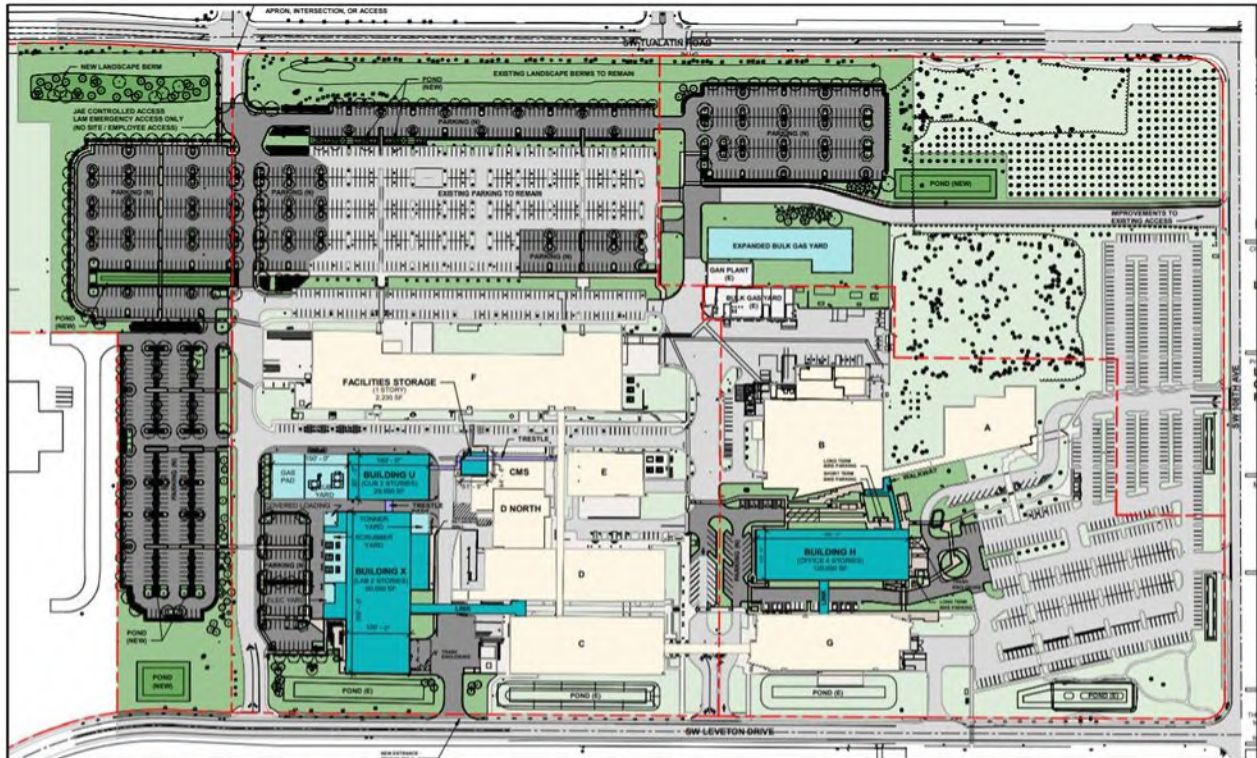


Figure 2: Site Plan (overview, dark gray and blue areas are locations where new development is proposed)

V. APPLICABLE TUALATIN DEVELOPMENT CODE AND MUNICIPAL CODE SECTIONS

The following Chapters of the Tualatin Development Code (TDC) are applicable to the subject project:

- TDC 33.020: Architectural Review
- TDC 33.050: Industrial Master Plan
- TDC 33.110: Tree Removal Permit/Review
- TDC 62: Manufacturing Park (MP) Zone
- TDC 63: Industrial Uses and Utilities and Manufacturing Zones – Environmental Regulations
- TDC 73A: Site Design Standards
- TDC 73B: Landscaping Standards
- TDC 73C: Parking Standards
- TDC 73D: Waste and Recyclables Management Standards
- TDC 74: Public Improvements
- TDC 75: Access

The Architectural Review approval criteria (33.020 (5)) require compliance with the following chapters of the TDC:

- TDC 73A: Site Design Standards
- TDC 73B: Landscaping Standards
- TDC 73C: Parking Standards
- TDC 73D: Waste and Recyclables Management Standards

The remaining chapters, 33.020 , 33.050, 33.110, 62, 74 and 75, have been reviewed to ensure compliance with the Tualatin Development Code and in some cases conditions of approval were added where needed as allowed per TDC 33.020 (6).

VI. DISCUSSION OF ISSUES RAISED BY APPELLANT

The Appellant submitted an Appeal of the ARB Decision approving AR24-0002 on September 25, 2025, within the 14-day appeals period (Exhibit B). Mr. Hamilton provided both written and oral comments in opposition to the TUX Development Proposal. He stated in his Appeal that “Without additional conditions of approval related to traffic and noise, this land use decision would negatively impact my property value and quality of life. He listed three categories of appeal including 1) Land Use Application does not meet all applicable criteria, 2) Errors by the applicant, and 3) Errors made by the City of Tualatin. These categories of appeal are discussed in more detail below.

1. Land Use Application does not meet all applicable criteria:

a. Failure to send notice to CIOs as required by TDC 32.1205 (b)(iii)

Appellants Claim:

Email Dated January 29, 2025 (Exhibit C)

“A review of project documents reveals that Mackenzie/Lam did not notify any CIO representatives prior to the June 2024 neighborhood developer meeting, as required by Tualatin Development Code 32.120.5 (b)(iii). The code requires an applicant to send notice to CIO representatives via First Class Mail at least 14 days *before* the neighborhood developer meeting. This requirement was not met at the time, nor can it be met retroactively.”

Staff Finding:

TDC 32.120(5)(b)(iii) requires applicants to mail notice of Neighborhood/Developer Meetings to all designated representatives of recognized Citizen Involvement Organizations (CIOs) established under TMC Chapter 11-9. While Chapter 11-9 defines the purpose, structure, and communication role of CIOs, it does not specify any procedures or standards related to Neighborhood/Developer Meetings.

Applicable Standards

Under TDC 32.120(5)(d), failure of a property owner to receive notice does not invalidate the Neighborhood/Developer Meeting proceedings. By extension, a failure to notify CIO representatives would likewise not invalidate the meeting. TDC 32.140(1)(h) only

requires the applicant to state whether a CIO was contacted before filing the application and summarize any such contact; it does not impose a standard that would invalidate an application due to lack of CIO notification.

Analysis

In his email from January 29, 2025, Appellant alleged that the applicant's failure to notify CIOs invalidates the LAM application and that staff should deny it. However, under TDC 32.160, staff cannot deny a land-use application on this basis. Staff must instead perform a completeness review. An application becomes void only if the applicant fails to provide missing information within 180 days. LAM's submission contained all required materials and was lawfully deemed complete after the applicant requested the application be deemed complete under ORS 227.178 in December 2024.

The record confirms that LAM held the required Neighborhood/Developer Meeting on June 5, 2024, fulfilling the purpose of TDC 32.120(1). Although notice was not mailed to CIO representatives, surrounding property owners—including the Appellant—did receive notice. The applicant's narrative (Exhibit J Applicant's AR Narrative, pp. 5–6) states that a Riverpark CIO board member, Janine Wilson, attended the meeting, provided input, and was later contacted by the project team on June 10 and 12, 2024. According to the Applicant's narrative, no further response was received from Ms. Wilson.

City Notification Practices

The City does not send out notifications for Neighborhood/Developer Meetings. The City does send out notice of applications and public hearings. For subsequent rescheduled public hearings, the City sent mailed and emailed notices on December 16, 2024 (only email notice to CIOs), March 12, 2025 (email and mailed to CIOs), and May 12, 2025 (email and mailed to CIOs), to all property owners and CIO representatives within 1,000 feet of the site. Historically, only emailed notices were sent to CIOs; in this case, the City exceeded normal practice by sending both mailed postcards and emails.

No provision in Oregon Revised Statutes requires notification of CIOs for local neighborhood meetings; such requirements are strictly local under Tualatin's Development Code.

Conclusion

Because the alleged CIO notice deficiency did not:

- 1. Affect the completeness of the LAM application under TDC 32.160;*
- 2. Invalidate the Neighborhood/Developer Meeting under TDC 32.120(5)(d); or*
- 3. Prejudice the substantial rights of any party—*

There is no basis for invalidating the Architectural Review Board's approval of AR24-0002. A CIO representative participated in the early process, and multiple mailed and emailed public hearing notices provided ample opportunity—over 268 days—for public comment prior to the ARB hearing on September 10, 2025.

Where Addressed in Analysis and Findings:

Page 7 of the Staff Analysis and Findings (Exhibit A)

b. Violations of Manufacturing Park Zoning and Tualatin Noise Ordinance

Appellants Claim:

Appellants' email dated August 12, 2025 (Exhibit C) stated/requested:

- Requested city officials address noise pollution from Lam's campus, which the Appellant stated residents say is affecting their quality of life. He stated that multiple types of noise have been identified, including high-frequency hissing from the gas plant and low rumbles that he claimed are audible across Tualatin Road at night.
- He stated that residents have reported the issue to the City Council, Police Department, and Code Enforcement, but the problem continues.
- He stated that a professional noise study measured levels of 52 dB at night, exceeding the city's 50 dB residential noise limit suggesting that Lam is violating the Tualatin Development Code and Municipal Code.
- The letter states that the noise comes not from construction or trucks but from permanently installed equipment running 24/7.
- Conditions like temperature, wind, and nighttime quiet make the noise especially noticeable, sometimes over a mile away.
- Mr. Hamilton emphasized that the Manufacturing Park zoning requires industrial uses not to conflict with nearby residential areas, and that Lam's ongoing operations currently do.
- The letter concludes by stating that Lam's operations are currently in conflict with nearby residential areas due to excessive noise. The Appellant requested that the City of Tualatin require Lam to eliminate off-site noise impacts as part of its TUX project before allowing any expansion or additional noise sources.
- He stated that restoring peace and quiet is critical to residents' quality of life and asks the city to hold Lam accountable for demonstrating its ability to comply with local noise regulations.

The Appellants email dated August 13, 2025 (Exhibit C)

- This email contained an attachment from A Acoustics that made the single statement "The sound recorded was 52 dBA and there was sound peak at 175 Hz and 350 Hz".

The Appellants email and attachment dated September 5, 2025 (Exhibit C)

- The Appellant notified City Staff that his public comment email titled “Off-Site Noise Video” included a YouTube link, which the City’s internal Mimecast system converted into a restricted link, making it inaccessible to non-Mimecast users. To fix this, he created a one-page PDF preserving the original YouTube link and requested that both the email and PDF be added to the public record and made accessible to all users.

Staff Finding:

Applicable Standards

The purpose statement of the Manufacturing Park Zone (TDC 62.100) provides that permitted uses “must not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard, or other wastes emanating from the property” and must not conflict with surrounding residential areas.

TDC 63.051 – Noise further requires that:

“All uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance, TMC Chapter 6-14.”

Accordingly, both existing and future development within the MP zone must comply with DEQ and City noise regulations.

Analysis

Lam’s narrative for AR24-0002 stated that all applicable DEQ and City noise restrictions will be met. Multiple public comments raised concerns regarding existing operational noise from the Lam campus. These existing noise issues are currently under investigation by the City’s Code Compliance Officer.

To ensure that future development under AR24-0002 also complies with applicable standards, the ARB imposed Condition of Approval A25, which states “The proposed development must comply with the Environmental Regulations of TDC Chapter 63.”

Because the proposed TUX development has not yet been constructed, it is not possible to assess noise levels generated by that development. Compliance with Condition A25 will be verified following construction, should operational noise from the TUX project result in substantiated complaints. As such, the imposition of noise related conditions- beyond Condition of Approval A25- are not needed to ensure compliance with TDC 62.100 or TDC 63.051 and would not advance a legitimate planning purpose or objective.

The City or ARB cannot enforce TDC 63.051 or TMC 6-14 for a project that is not yet operational. Existing operational noise complaints are being reviewed through the City’s standard code enforcement process; any future complaints associated with the TUX project will follow the same process once the project is built and operating.

The Appellants email and video attachment pertaining to the alleged noise issue dated September 5, 2025, was made available and provided in an updated packet to the ARB prior to the hearing on September 10, 2025.

The section of the purpose statement in TDC 62.100 which restricts uses from creating objectional noise and other nuisances is evaluated and implemented through the Environmental Regulations chapter (TDC 63). This is because there is no criteria or definition of “objectionable noise” in the Manufacturing zone or parts of the Tualatin Development Code creating the reliance on TDC 63.051- Noise to regulate the purpose statement in the Manufacturing Park Zone.

Conclusion

There is an active City code enforcement investigation addressing existing noise from Lam’s current facilities. Condition of Approval A25 ensures that any additional development under AR24-0002 will be subject to the same environmental and noise standards upon completion.

Because the alleged noise issue pertains to existing operations and not to the unbuilt TUX project, it does not constitute grounds for invalidating the September 10, 2025, Architectural Review Board approval of AR24-0002.

Where Addressed in Analysis and Findings:

Page 25 of the Staff Analysis and Findings (Attachment A). Condition of Approval A25 will be applicable to the construction and operation under the ARBs approval of AR24-0002, which states “The proposed development must comply with the Environmental Regulations of TDC 63.”

c. Expanded North 108th Entrance does not meet New Driveway Approach Criteria

Appellant’s Claim

Appellants email Dated December 9, 2024 (Exhibit C)

The appellant argued that Lam Research’s proposed Tualatin Road driveway conflicts with the Tualatin Comprehensive Plan 2040 and the Tualatin Development Code (TDC). The appellant’s public comment included the following statements:

- The project is not compatible with the TCP 2040 and violates the TDC “in spirit and letter.”
- Lam already has six access points (three on 108th Avenue and three on Leveton Drive); therefore, a new driveway on Tualatin Road is unnecessary.
- The TCP 2040 encourages use of existing access points and discourages new ones that negatively affect the community (Goal 8.7, Policy 8.10.1).
- Tualatin Road functions as an arterial and Leveton Drive as a collector, and that the City’s reclassification in the 2012–14 TSP update was an attempt to reduce traffic on Tualatin Road.
- Mr. Hamilton cited TDC 75.040(5), which directs that access should be located on the street with the lower functional classification—in this case, 108th Avenue or Leveton Drive, not Tualatin Road.

- The appellant requested that Lam update its Traffic Impact Analysis (TIA) and that no new access be allowed on Tualatin Road.

Appellants' email dated August 18, 2025 (Exhibit C)

- Appellant stated that the proposed new employee entrance on SW 108th Avenue would increase traffic volumes on Tualatin Road and worsen safety concerns.
- He noted that Lam's proposal fails three city driveway criteria from TDC 75.020(5)
 - The proposed driveway approach does not result in result in significant adverse impacts to the vicinity.
 - The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections.
 - The proposed driveway approach balances the adverse impact to residentially zoned property and the functionality of adjacent streets.
- Appellant stated that Lam's own traffic study noted that Hazelbrook Road onramp to Hwy 99W would not meet performance standards with the added traffic, and the 108th/Tualatin Road intersection already has five times the crash rate of 115th/Tualatin Road intersection.

Staff Finding:

- *Appellants' August 8, 2025, email claimed the "Expanded North 108th entrance does not meet New Driveway Approach Criteria," referencing TDC 75.020, 75.040, and 75.050.*
- *Staff notes the appellant's statement, email dated December 9, 2024, acknowledges the existence of three existing driveways on 108th Avenue, this would include the northernmost driveway that will connect to the future northern parking lot.*
- *Until Lam's July 21, 2025, redesign removed the proposed SW Tualatin Road driveway, 108th Avenue access had not been raised as an issue, in fact, the Appellants' email from December 9, 2024, encouraged the use of the three driveways that access SW 108th Avenue.*
- *The City lacks authority under the TDC to dictate driver routing or prohibit use of existing driveways.*
- *Nothing in the cited TDC sections empowers staff to disallow existing driveway use.*

Conclusion

Lam's proposal is to connect a new parking area to the existing drive aisle and driveway that currently exists on SW 108th. Consequently, connecting the north parking lot to an existing driveway does not invalidate the September 10, 2025, ARB decision approving AR24-0002. It is an assumption on the Appellants part that a large number of employees exiting the Lam Campus will only use the northernmost driveway from 108th Avenue and then turn onto SW Tualatin Road. Lam is not proposing any new driveways on SW 108th.

Where Addressed in Analysis and Findings

Pages 55–60 of the Staff Analysis and Findings (Exhibit A)

2. Errors made by the Applicant:

a. Commitments to hold a second Neighborhood Developer Meeting and then not holding it

Appellants Claim:

The Appellant did not provide a reference or evidence that Lam made this commitment and it is unclear to staff where or when this commitment was made.

Staff Finding:

TDC 32.120 – Neighborhood/Developer Meetings describes when a neighborhood/developer meeting is required, timing of the neighborhood/developer meeting after a preapplication meeting is conducted, time and location of meeting, noticing requirements and documents the applicant is required to submit as part of the Architectural Review application. There is no stated requirement for a second neighborhood/developer meeting. The neighborhood developer meeting was held on June 5, 2024, in accordance with TDC 32.120.

Where Addressed in Analysis and Findings:

Page 9 and 10 of the Staff Analysis and Findings (Exhibit A)

b. Traffic Impact Analysis did not consider additional employee work shifts

Appellants Claim:

The Appellant stated that the Traffic Impact Analysis did not consider additional employee work shifts.

Staff Finding:

The applicant's traffic study used standard Institute of Transportation Engineers (ITE) published standard rates for this type of development. Staff are unaware of any plans by Lam to have multiple shifts. In accordance with the City's traffic analysis guidelines, the applicant studied the combination of trip generation and street traffic volume with the highest probability of traffic problems developing. If other shift changes were to be made, the shift changes would be at times of the day with lower street traffic volumes, and thus lower potential for traffic problems.

Where Addressed in Analysis and Findings:

Pages 59-61 of the Staff Analysis and Findings (Exhibit A)

c. Claims that Traffic and Noise are beyond the scope of the Architectural Review

Appellants Claim:

The public testimony provided by the Appellant at the public hearing on September 10, 2025, is summarized as follows:

The Appellant requested that the Architectural Review Board add two conditions of approval to Lam Research's project:

1. **Traffic Condition:**

- Require the north 108th Avenue access gate—which is typically closed—to remain closed to employee traffic, ensuring that Leveton Drive is used to its “highest and best use” for site access.
- He stated that limiting access on 108th would help prevent worsening traffic conditions on Tualatin Road.

2. **Noise Condition:**

- Require that off-site noise be eliminated as part of the project.
- He argued that Lam's noise study was conducted under favorable summer conditions (72–76°F, between midnight and 10 p.m.) that tend to reduce noise impacts, whereas the real problems occur during cold, windy winter conditions.
- He suggested the study timing was chosen to show the lowest possible noise levels, and that the modeled post-project levels (around 50 dB) are at the threshold of the city's noise limits.

Appellant also criticized Lam's legal counsel, stating their advice to the Board reflects biased advocacy for their client, not neutral analysis. He pointed out that City hearing postcards list TDC Chapter 62 as part of the applicable approval criteria, contradicting Lam's attorney's claim that it is irrelevant.

Appellant concluded by urging the Board to use its authority to prevent further traffic and noise impacts, stating that the City can control available access points even if it cannot dictate driver routes. He likened the situation to fixing code violations during a remodel, arguing Lam should be required to address existing noise issues as part of its project improvements.

Staff Finding:

Traffic

Architectural Review process is used to review proposed, not yet constructed, development applications. The criteria for General Architectural reviews is provided for in TDC 33.020(5)(c). This section of the code states “General Development. Applications for General Development must comply with the applicable standards and objectives in TDC Chapter 73A through 73G.” TDC 33.020(6) provides for utilizing conditions of approval in order to meet the requirements of Chapters 73A through 73G. This requires that Chapters 62, 63, 74 and 75 are also applied for analyzing AR24-0002 proposed development compliance with TDC Chapters 73A through 73G.

TDC 33.020 Architectural Review

(6) Conditions of Approval.

- (a) Architectural Review decisions may include conditions of approval that apply restrictions and conditions that:

- (i) Implement identified public facilities and services needed to serve the proposed development;
- (ii) Implement identified public facilities and services needed to be altered or increased attributable to the impacts of the proposed development; and
- (iii) Implement the requirements of the Tualatin Development Code.

Traffic is assessed through a Transportation Impact Analysis (TIA). The TIA, Exhibit H, was reviewed by the City Engineer as well as DKS Associates (an outside consultant) and Oregon Department of Transportation. It was determined that the TIA met the requirements of the City and that no mitigation was required. It was noted that signal timing may improve traffic flow but the actual impact by the proposed development did not warrant any additional mitigation measures. ODOT (Exhibit I) stated the following:

1. All ODOT intersections are projected to meet ODOT mobility standards in this and previous TIA revisions
2. Concurred with the applicant's TIA conclusion that the intersection of Hazelbrook Road and OR 99 and other intersection along OR 99W "are built out to their full capacity, and little can be done to mitigate these queues" at the applicant level.
3. The TIA recommended signal retiming, but ODOT policy does not consider signal retiming.
4. ODOT notes the long delays at the SW Hazelbrook Road and OR 99 but does not recommend mitigation because it would encourage additional vehicles to travel this route by improving flow which would then discourage drivers from using SW 124th Avenue or to access OR 99.

Noise

The Applicants' narrative for AR24-0002 stated that all applicable DEQ and City noise restrictions will be met. Multiple public comments raised concerns regarding existing operational noise from the Lam campus. These existing noise issues are currently under investigation by the City's Code Compliance Officer.

To ensure that future development under AR24-0002 also complies with applicable standards, the ARB imposed Condition of Approval A25, which states "The proposed development must comply with the Environmental Regulations of TDC Chapter 63."

Because the proposed TUX development has not yet been constructed, it is not possible to assess noise levels generated by that development. Compliance with Condition A25 will be verified following construction, should operational noise from the TUX project result in substantiated complaints.

The City or ARB cannot enforce TDC 63.051 or TMC 6-14 for a project that is not yet operational. Existing operational noise complaints are being reviewed through the City's standard code enforcement process; any future complaints associated with the TUX project will follow the same process once the project is built and operating.

Conclusion

The Architectural Review (AR) process evaluates proposed, unbuilt developments for compliance with applicable standards in TDC Chapters 73A–73G, with related provisions in Chapters 62, 63, 74, and 75. Under TDC 33.020(6), conditions of approval may be applied to ensure adequate public facilities, address development impacts, and implement code requirements. For AR 24-0002, a Transportation Impact Analysis (Exhibit H) reviewed by the City Engineer, DKS Associates, and ODOT found the study met City standards and required no mitigation. ODOT concurred that all affected intersections meet mobility standards, acknowledged limited capacity for further improvements along OR 99W, and noted that while signal retiming could enhance flow, it is not considered mitigation under ODOT policy.

There is an active City code enforcement investigation addressing existing noise from Lam's current facilities. Condition of Approval A25 ensures that any additional development under AR24-0002 will be subject to the same environmental and noise standards upon completion. Because the alleged noise issue pertains to existing operations and not to the unbuilt TUX project, it does not constitute grounds for invalidating the September 10, 2025, Architectural Review Board approval of AR24-0002.

Where Addressed in Analysis and Findings:

Discussion of transportation requirements are located on pages 59-61 of the Staff Analysis and Findings (Exhibit A). Noise is discussed on Page 25 of the Staff Analysis and Findings and Conditions of Approval (Exhibit A)

Discussion of noise regulations can be found on page 25 of the Staff Analysis and Findings. Condition of Approval A25 will be applicable to the construction and operation under the ARBs approval of AR24-0002, which states "The proposed development must comply with the Environmental Regulations of TDC 63" (Exhibit A).

d. Claims that TDC Chapter 62 is not relevant AR criteria

Appellants Claim:

The Appellant disagreed with Lam's representatives' assertion that Chapter 62 Manufacturing Park Zone is not applicable to the Architectural Review criteria listed in AR 33.020(5).

Staff Finding:

Chapter 62 Manufacturing Park Zone (MP) is the zoning that is applicable to the review AR24-0002. This chapter lists permitted, conditional and limited land uses, limitations on uses and development standards such as setbacks. Chapter 62 was evaluated in the staff's Analysis and Findings (Attachment AX). City Staff evaluated the proposed development in light of Chapter 62 and it's unclear how this would be grounds for reversing the ARBs decision approving AR24-0002.

Where Addressed in Analysis and Findings:

Pages 22 - 25 of the Staff Analysis and Findings (Exhibit A)

3. Errors made by the City of Tualatin:

a. Failure to provide the last 3 pages of Lam’s noise model to the ARB at their hearing

Appellants Claim:

Staff did not provide the last 3 pages of Lam’s noise model to the ARB at their hearing.

Staff Finding:

The Lam TUX Expansion Environmental Noise Model is dated September 10, 2025. The City received this study on Wednesday, September 10, 2025, at 4:42 p.m., the day of the Architectural Review Board (ARB) public hearing. A technical printing issue initially caused the final three pages of the noise model to be omitted. It should be noted that there is no requirement in the Tualatin Development Code for a formal “noise model” in either TDC 32.140 Application Submittal of 33.020 (4) Architectural Review Submittal Materials.

Staff promptly resolved the printing issue and ensured that all pages were made available to the ARB prior to deliberation and their vote on AR24-0002. This is not a lengthy document, it is a total of 5 pages, mostly graphics and a title page. The sound model was actually in presentation form and easily read in just a few minutes (Exhibit G). This delay did not restrict public comment or limit opportunities for the appellant to raise noise concerns. The Appellant was able to submit both written and verbal testimony regarding noise impacts.

As with all public hearings where public comment is accepted, community members may provide additional written or verbal input up until and during the hearing until the close of the public comment portion of the hearing. The timing of the noise model’s submission does not constitute an error by the City, nor does it provide grounds to reverse the ARB’s approval of AR24-0002.

The applicant’s noise analysis exceeded what is required by the Architectural Review process. The approximate two-hour delay between receipt and distribution of the full report does not represent a procedural defect and is not a basis for appeal.

Where Addressed in Analysis and Findings:

The concern raised by the Appellant regarding the timeliness of providing Lam’s Noise Model is not an Architectural Review requirement, criterion or a reason to overturn the ARBs decision approving AR24-0002.

b. Unnecessary delays in releasing Public Records

Appellants Claim:

Email from September 8, 2025 (Exhibit C)

The appellants’ letter noted issues with City transparency and accuracy with regard to the TUX land use process. He noted repeated problems, without reference, where the public could not access timely or accurate information from city staff – including misinformation, unnecessary

release delays, and a recent case where staff claimed a requested document didn't exist even though the city had possessed it for 20 days.

Staff Finding:

The Appellant made two requests for public records, one on July 15th and a second request on July 21, 2025. On July 22, 2025, the applicant submitted an adjusted site plan for the plan set clarifying the gated area blocking Lam's access to the SW Tualatin Road driveway, missing pages from TVF&R Service Provider Letter, and an updated site plan matching the one provided in the applicant plan set for the TIA. The applicant team officially submitted revised application and supporting materials on July 21st and July 22, 2025, these materials were provided to the appellant on July 23, 2025. The City's policy for public records request states "The City shall respond to all requests as soon as practical and without unreasonable delay within five (5) business days or within five (5) business days will explain why more time is needed for a full response". The Deputy City recorder provided a response on July 15th that new materials had not yet been submitted.

It's unclear what additional delay's and/or errors were being alleged by the appellant in his appeal.

Where Addressed in Analysis and Findings:

The concern raised by the Appellant regarding unnecessary delays in release of public information is not a criterion that is reviewed as part of the Architectural Review process and is not a reason for reversing the approval of AR24-0002. The Appellant received all updated application materials on July 28, 2025, 13 days after the initial request and seven days after the second request received by City staff.

VII. OPTIONS

Summary of Appellants' Claims

Appellant, a nearby property owner, argues that the ARBs approval should be revisited due to negative impacts on traffic, noise, and neighborhood livability. He claims that the decision did not properly address existing nuisance and safety conditions, lacked proper public notice for the Neighborhood Developer Meeting, did not address traffic concerns, and failed to include environmental noise requirements.

Summary of Staff Response

Staff have provided responses to all the Appellants' claims which staff finds are not based on the Architectural Review Criteria and do not warrant overturning the September 10, 2025 ARB Decision for AR24-0002. An appeal is a formal process that allows an affected party-such as a nearby property owner or applicant to challenge a land use decision made by, in this case, the Architectural Review Board. The purpose of an appeal is to request a review of that decision to determine whether it was made correctly under the applicable land use regulations and procedures. Appeals typically focus on whether the decision complied with local development code standards, comprehensive plan policies, and state land use laws, rather than re-evaluation

of the project itself. In this case, it is clear that the staff report and analysis and findings from AR24-0002 demonstrated compliance with the Tualatin Development Code for applicable issues raised as well as both the major issues raised by the Appellant including noise and traffic. There are no factual grounds to reverse the decision of the ARB approving AR24-0002.

The motion options before the City Council on this Appeal include:

- 1. Deny the Appeal and affirm the Architectural Review Boards September 10, 2025, decision approving the application with Conditions.*
- 2. If the City Council identifies approval criteria that are not satisfied and is inclined to uphold the appeal, it must continue the proceedings to allow the applicant an opportunity to modify the proposal or recommend conditions of approval that would allow the application to be approved.*
- 3. Continue the hearing to a later date.*

Attachments and Exhibits

- Attachment A – Presentation
- Attachment B – Memorandum Addressing the Appeal of AR24-0002.
- Attachment C – Resolution Affirming AR24-0002 ARBs Decision
- Exhibit A – AR24-0002 Analysis and Findings
- Exhibit B – Appellants' Appeal Form and Letter Detailing Claims
- Exhibit C – Appellants Public Comments
- Exhibit D – Public Notice
- Exhibit E – Lams' Noise Survey and Model 2025
- Exhibit F – Comments provided to the ARB at the September 10, 2025 Public Hearing
- Exhibit G – Lam's technical findings in response to the Appeal filed in AR 24-0002
- Exhibit H – AR24-0002 Transportation Impact Analysis (TIA)
- Exhibit I – ODOT Review Letter (email) for AR24-0002
- Exhibit J – Pages 5-6 of Applicant's Narrative for AR24-0002

Exhibit 3 Supplemental Findings (as Revised, December 8, 2025)

The City Council adopts the following Supplemental Findings to address certain matters raised on appeal and during the Council's de novo review.

Collectively, the "Findings" detailing the application's compliance with all applicable criteria include:

- November 10, 2025 Supplemental Staff Memo, Supplemental Staff Memo – Architectural Review (AR) for Lam Research Corporation located at located at 11155-11361 SW Leveton Drive (Tax Lots: 2S122AA500 & 800, 2S122A00100, 2S122BA00100) in the Light Manufacturing Park Zone (MP) (Exhibit 1/Attachment B to Resolution No. 5937-25);
- September 10, 2025 ARB Decision AR24-0002, Analysis and Findings- Lam Research Campus; Updated September 11, 2025 with Findings and Conditions of Approval (Exhibit 2/Exhibit A to Resolution No. 5937-25) which were presented at the Public hearing and adopted by the Architectural Review Board;
- These Supplemental Findings (Exhibit 3 to Resolution No. 5937-25), which include Attachment 1 (Mackenzie's Technical "Traffic Response for Appeal of AR Decision," dated November 7, 2025).

The Supplemental Findings were prepared by the Applicant, who was the prevailing party in this Decision, and the "proponent" for the Project. Council adopts the Supplemental Findings as its own. This practice is commonplace, is supported by case law¹ and contemplated and authorized by the City Council's own rules. Council's rules expressly allow Council to "incorporate findings proposed by the proponent, the opponent, or staff in its decision." City Council Rule 4B(6). Council rejects all challenges that Council has erred in adopting the Supplemental Findings, which were drafted by Applicant, as its own.

¹ See, for example, *Rawson v. Hood River County*, 77 Or LUBA 571 (2018), which explains:

Since *Sunnyside Neighborhood [v. Clackamas Co. Comm.]*, 280 Or 3, 20-21, 569 P2d 1063 (1977)], it has become common practice in this state for local governments to close the evidentiary record at the conclusion of the evidentiary phase of quasi-judicial land use proceeding and render a tentative oral decision. Local governments then commonly request proposed findings from the prevailing party or from planning staff. And finally, at a final hearing for adopting a final decision, the local government adopts the written decision and findings prepared by the prevailing party or planning staff, with or without modifications.

While many of the findings of fact and the findings setting out a local government's final decision reasoning may therefore be supplied by the prevailing party or planning staff, the local government has all those findings before it when it acts to adopt its final written decision and can either embrace all those findings and adopt them as its own or have them removed and replaced with findings that the local government agree with. This process, or some variation on it, occurs in most quasi-judicial land use decisions. And we have explained on numerous occasions that it is the final written decision that is subject to LUBA review, not the oral statements that individual decision makers may make during the local proceedings. *Lowery v. City of Portland*, 68 Or LUBA 339, 359 (2013); *Hale v. City of Beaverton*, 21 Or LUBA 249, 258 (1991); *McCoy v. Linn County*, 16 Or LUBA 295, 306 (1987); *Citadel Corporation v. Tillamook County*, 9 Or LUBA 401, 404 (1983).

The Supplemental Findings include some findings in the alternative. To the extent that there is a conflict between any of the Findings that are not expressly or implicitly adopted in the alternative, these Supplemental Findings supersede the other Findings.

City Council's motion at the November 10, 2025 hearing expressly included instructions to adopt Supplemental Findings in the alternative. The Supplemental Findings were published in advance of Council's December 8, 2025 hearing to adopt the Findings. Some community members were concerned that some of the alternative Supplemental Findings may somehow impact the City's evaluation of potential Noise Ordinance violations. Council desires to avoid any misconceptions about the independence of Noise Ordinance enforcement. Accordingly, Council has decided to not include in these Supplemental Findings some of the alternative findings related to Noise Standards. However, should this Decision be appealed, Council anticipates voluntarily withdrawing this Decision for reconsideration so that the alternative Noise Standards Supplemental Findings may be adopted in support of the Decision.

City Council rejects several issues raised by Appellant for reasons in common. For example, the City Council rejects several points for not being related to a mandatory approval standard, or because an alleged procedural error does not prejudice Appellant's substantial rights. To avoid redundancy on these issues, we frequently incorporate Findings by reference. Given the volume of issues raised, if Findings inadvertently fail to incorporate other supporting Findings by reference then incorporation by reference of other relevant and supportive Findings should be implied because Council's intent is to provide adequate findings.

Certain public comments were not directed at the applicable approval criteria, and some were directed at an earlier design of the Project that was modified prior to this approval (e.g., the originally proposed employee access onto SW Tualatin Road, which was eliminated and is not a part of the approved Project). Council attempts to respond to all issues raised, but issues raised in public comment and not addressed in Findings are deemed irrelevant to the mandatory approval standards that apply to the Decision or the approved version of the Project.

I. Appeal Summary

On September 10, 2025, the Tualatin Architectural Review Board ("ARB") unanimously approved application AR24-002 for Type III Architectural Review ("AR") of Lam Research Corporation's ("Lam" or "Applicant") Tux Project ("Project"). The ARB found that the Project meets the AR approval criteria specified in Tualatin Development Code ("TDC"). On September 25, 2025, Brett Hamilton ("Appellant") appealed ARB's approval of AR24-0002 (the "Appeal"). On November 10, 2025, the Tualatin City Council ("City Council" or "Council") conducted a de novo public hearing to consider the Appeal and AR for the Project. The Council unanimously denied the Appeal and approved AR for the Project (the "Decision"), for the reasons explained in these Findings.

Broadly, the Appeal raised issues with respect to the City's compliance with procedural requirements; the existing facility's and Project's compliance with noise limitations in Tualatin Municipal Code ("TMC"), Chapter 6-14 ("Noise Ordinance") and other Noise Standards; and the analysis of the Project's traffic impacts, particularly related to the northernmost entrance on SW

108th Avenue. Based upon Council’s interpretation of the TDC and TMC and evidence in the whole record, the City Council denied the Appeal and approved the AR. The Council determined that:

- Appellant has not alleged any procedural errors demonstrating prejudice to Appellant’s substantial rights;
- The Noise Ordinance is a performance standard, so compliance is determined once a use is operational; it is not a mandatory approval standard for AR approval;
- The Project demonstrates compliance with all applicable mandatory approval standards;
- The northernmost 108th Avenue entrance does not require a new driveway approach permit;
- The Project’s traffic impact study (the “TIA”) and Applicant’s expert transportation evidence² comply with TDC 74.440; and
- In the alternative, the Project’s compliance with the Noise Standards is feasible based upon the Applicant’s expert noise-related evidence³ and the northernmost 108th Avenue entrance complies with new driveway approach standards in TDC 75.020(5).

II. Project Background

The Project approved by the AR 24-0002 Decision includes: construction of an office building, research laboratory, central utilities building, and a small storage building, totaling 241,230 square feet; expansion of an existing bulk gas storage yard; and associated landscaping, parking, and public/site improvements on a 75.96-acre site zoned Manufacturing Park (“MP”). The Project is subject to the recently approved Industrial Master Plan IMP24-0001 (“IMP”), which is final and effective.

The original design of the Project included new employee access on SW Tualatin Road. In response to community feedback, Lam redesigned the Project and removed the new employee access on to SW Tualatin Road. As revised, and approved by City Council, the Project includes only one new driveway—a driveway for truck access on SW Leveton Drive. Employee traffic will use the existing six driveways, including three on SW 108th Avenue and three on SW Leveton. As a result, the Project is expected to add only 25 new trips to SW Tualatin Road to the west of SW 108th Avenue during the morning peak hour, and 23 new trips in the afternoon peak hour, which is a de minimis amount of traffic on a Major Collector roadway.⁴

This Project has been the subject of robust public participation at every stage. Several members of the community, including Appellant, participated in the June 5, 2024 Neighborhood Developer Meeting. The City sent out a Notice of Hearings and Opportunity to Comment on the application

² See Supplemental Findings Section III.C.ii for a list of Applicant’s transportation expert evidence.

³ See Supplemental Findings Section II.C.i for a list of Applicant’s noise-related expert evidence.

⁴ The Findings sometimes refer to the Project adding approximately 24 new trips during peak hours, which is the average of 25 new AM peak hour trips and 23 PM peak hour trips, or rely upon the higher contribution of 25 new peak hour trips.

on December 16, 2024. The City also sent two Notices of Rescheduled Hearings and Extended Opportunity to Comment on March 11, 2025 and on May 9, 2025. The Applicant posted signs on the site as notice for all of the potential and actual hearing dates. Members of the public, including Appellant, submitted myriad public comments on the Project and testified at the ARB hearing on September 10, 2025. Appellant and members of the public submitted testimony prior to and at the de novo City Council hearing on November 10, 2025 where the Appeal was considered.

III. Generally Applicable Findings⁵

In this Decision, the City Council is required to interpret and apply the TDC and TMC. From the outset, Council notes the Decision is for *Architectural Review*, an approval which has a very limited scope and purpose—it primarily evaluates the exterior appearance and design quality of proposed development, with criteria that address design standards for buildings, parking areas, and landscaping. The design-oriented nature of AR is why the body that initially reviews AR applications, the Architectural Review Board, is the only City board or commission whose membership requires professional registration, such as Registered Architect, Registered Landscape Architect or Engineer.

Architectural Review for this Project requires findings of consistency with the applicable standards and objectives at TDC Chapter 73A through 73G. TDC 33.0220(5)(d). The limited scope of Architectural Review is important because many of the issues raised in the Appeal are not relevant to the Architectural Review criteria. Evaluating the relevance of an argument typically depends upon how City Council interprets the TDC and TMC. The City Council is aware of, and takes seriously, the broad discretion the City has to interpret and apply its own code, and the deference given to City Council’s interpretation, particularly where, as here, there are no state statutes or regulations involved. Specifically, LUBA must affirm the City’s interpretation of its own land use regulations unless LUBA determines that the City’s interpretation is “inconsistent with the express language” of the regulation, the purpose of the regulation, the underlying policy that provides the basis for the regulation, or is contrary to a state statute, land use goal, or rule that the regulation implements. ORS 197.829(1). Whether the City’s interpretation is inconsistent with the express language of a comp plan or land use regulation turns on whether the city’s interpretation is “plausible.” *Siporen v. City of Medford*, 349 Or 247, 261, 243 P3d 776 (2010).

In this generally applicable Section III of the Supplemental Findings that apply to all of the issues raised, Council explains (A) how it interprets the TDC and TMC to distinguish standards and identify the applicable approval criteria; (B) the limits on Council’s authority to impose conditions of approval through Architectural Review; and (C) how Council considered and compared competing testimony and evidence to reach conclusions about the relative credibility of testimony and evidence, resulting in substantial evidence upon which City Council relies. In Supplemental Findings Section IV below, Council addresses specific issues raised on appeal.

⁵ The findings in this Supplemental Findings Section III are intended to apply to all issues raised, and while Council attempts to specifically reference and incorporate Section III, even in the absence of an express incorporation in a particular subsection of Findings, these Supplemental Findings Section III are herein incorporated by reference throughout the Findings.

Supplemental Findings Section IV also includes interpretations of specific criteria and reaches conclusions about whether they are mandatory approval criteria, whether they must be addressed through a discretionary review, and if they are a basis for imposing a condition of approval; Findings which are all incorporated herein by reference.

A. Distinguishing Mandatory Approval Standards from Performance Standards and Aspirational Purpose Statements

A quasi-judicial application, such as the Project’s AR application that is the subject of this Decision, may not be approved unless the applicant demonstrates compliance with all mandatory approval standards, or that compliance is feasible. *Meyer v. City of Portland*, 7 Or LUBA 184 (1983), *aff’d*, 67 Or App 274, *rev. denied*, 297 Or 82 (1984).

Many of Appellant’s arguments, especially related to Noise Standards (as defined in Supplemental Findings Section IV.B), are rejected by Council because the arguments (i) fail to address that not every provision in the Tualatin Development Code or Tualatin Municipal Code is a mandatory approval standard⁶ and (ii) do not demonstrate that the TDC or TMC sections that are allegedly not met (particularly the Noise Standards) are mandatory approval criteria.⁷

As relevant to this Appeal and Project, City Council interprets the TDC and TMC to include three categories of code provisions:

Category	Characteristics	When Applied	Proof Required During AR Review	Representative Code Provisions
Mandatory Approval Standard	Binding criterion for approval	Discretionary standards are applied prior to approval of discretionary land use application	Compliance or feasibility of compliance	TDC 73A through 73G
Performance Standard	Regulates how a use functions	Once a use is operational, including through enforcement if necessary	None, because they are “not necessary prerequisites to issuance of a permit”	TDC 63.051 and TMC 6-14
Aspirational Purpose Statements	Nonbinding policy or intent	Are not applied	None; may be used to guide interpretation	TDC 33.020(1)(i) and TDC 62.100

⁶ These Supplemental Findings sometimes refer to the mandatory approval standards as development standards, applicable criteria or approval criteria. We use the terms interchangeably, with the meaning being that they are standards for which compliance must be determined (or that compliance is feasible) prior to land use approval.

⁷ See also, Supplemental Findings Sections IV.B.ii, iv and IV.C.iii.b and c, which are incorporated by reference.

When interpreting a provision to determine if it is a mandatory approval standard or if it is something else, the City Council first evaluates the text of the provision, and then analyzes the relevant context. *Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991).

i. Mandatory Approval Standards

Mandatory approval standards are preconditions to granting a land use application and are expressly incorporated as an approval criterion. Here, the application is for Architectural Review, and the approval criteria are expressly listed TDC 33.020(5) (Approval Criteria), which specifies at subsection (d) that industrial development "...must comply with the applicable standards and objectives in TDC Chapter 73A through 73G." The standards and objectives in TDC Chapter 73A through 73G do **not** contain criteria related to noise; they do **not** incorporate by reference the Tualatin Municipal Code generally, or the Noise Ordinance at TMC 6-14, or other Noise Standards. Therefore, the mandatory approval standards, do not include any of the Noise Standards. Instead, the Noise Standards cited by Appellant are either performance standards or aspirational purpose statements, based upon the text and context of the cited provisions, for the reasons in Supplemental Findings Section III.A.ii and iii, which are incorporated herein, as well as Supplemental Findings Sections IV.B.ii and iv.

Architectural Review has very narrow approval criteria, with TDC 33.050(5)(d) providing a closed universe of applicable criteria. That universe expands, however, through TDC 33.020(6)(a)(iii), which authorizes an Architectural Review decision to impose conditions of approval to "implement the requirements of the Tualatin Development Code." Meaning, the scope of Architectural Review goes beyond TDC Chapter 73A through 73G.

For example, TDC Chapters 62, 63, 74 and 75 are not listed as Architectural Review criteria, but they are sections of the Tualatin Development Code, so the Project must meet the applicable standards found in those chapters that are intended to be approval criteria.⁸ Each provision must be analyzed to determine whether the standard is a mandatory approval standard (and if it is discretionary or objective), performance standard or aspirational purpose statement.

For the reasons explained in Supplemental Findings Section III.A.ii (and incorporated herein), the standards in TDC Chapter 63 are performance standards that are not applied as a prerequisite to approving Architectural Review. Nevertheless, City Council includes in the alternative the Supplemental Findings at Section IV.B.v and vi (and incorporated herein) that apply TDC Chapter 63 as mandatory approval standards. Additionally, aspirational purpose statements throughout the TDC are also not mandatory approval standards for the reasons explained in Supplemental Findings Section III.A.iii (and incorporated herein), but the City Council includes in the alternative findings that apply aspirational purpose statements as mandatory approval standards, as detailed in Supplemental Findings at Sections IV.B.v and vi (and incorporated herein).

⁸ Appellant described the City's authority to apply TDC Chapters 62, 74 and 75 in the "Appellant's Hearing Letter" dated November 10, 2025. The extent to which those chapters of the TDC are mandatory approval criteria or may be the basis of the City imposing a condition of approval is addressed throughout these Supplemental Findings.

A more nuanced issue is when considering mandatory approval standards, some are objective and others are discretionary. Many of the approval criteria in TDC 62, 74 and 75 are ministerial standards that are objective and measurable that do not require discretion, such as objective engineering standards and dimensional development standards. The ministerial standards in the TDC that do not require interpretation or the exercise of policy or legal judgement are not required to be applied as part of Architectural Review. Instead, they could be applied at the time of a subsequent ministerial process, such as a building permit or public works permit, and those ministerial decisions would not be a statutory permit (ORS 227.160(2)) or a land use decision (ORS 197.015(b)(A) and (B)). *Kerns Neighbors v. City of Portland*, 67 Or LUBA 130 (2013).

However, the standards in TDC Chapters 62, 74 and 75 are not exclusively ministerial; some are discretionary and require interpretation. Deferring compliance with discretionary land use standards to a later, non-public process is not allowed under Oregon land use law. *McKay Creek Valley Assoc. v. Washington County*, 24 Or LUBA 187 (1992) ("Conditions of approval may not defer compliance with applicable approval criteria to a later stage unless the deferred matter involves only ministerial or technical details."). In the abundance of caution to avoid inadvertently deferring compliance with a discretionary standard to a later stage without a public process (such as building permit review), the Findings address the Project's compliance (or feasibility of compliance) with TDC Chapters 62, 74 and 75. As detailed in the Supplemental Findings Section IV.D.i (and incorporated herein) the Conditions of Approval do not defer a finding of compliance with any discretionary mandatory approval standard.

ii. Performance Standards: TDC 63.051 and TMC 6-14.

Performance standards are ongoing operational or performance requirements that govern how a use functions after approval. The requirement in TDC 63.051 to comply with the Tualatin noise ordinance in TMC 6-14⁹ and applicable DEQ noise standards is a performance standard. Also see Supplemental Findings Section IV.B.ii, which is incorporated herein.

The text of TDC 63.051 and the incorporated Noise Ordinance provisions indicate that they are performance standards because they regulate the manner in which a use operates over time, rather than prescribing conditions for initial approval. The language does not require compliance "prior to issuance of a permit" or "as a prerequisite to development approval" or as required by TDC 33.020(5)(d) that "applications...must comply..."; instead, it mandates that "all uses and development must comply." This phrasing signals an obligation that attaches to the functioning of the use, not to the land use decision itself.

In contrast and as supporting context, the "Approval Criteria" section of Architectural Review for industrial development provides "*Applications* for Large Commercial, Industrial and Multifamily Development *must comply* with the applicable standards and objectives in TDC Chapter 73A through 73G." TDC 33.020(5)(d), emphasis added.

The context of TDC 63.051 (and the incorporated TMC 6-14) supports the interpretation that it is a performance standard. First, the location and heading are relevant: TDC 63.051 is housed in

⁹ The Tualatin Municipal Code (TMC) is distinct from the Tualatin Development Code ("TDC"). On its face, the TMC is not a land use regulation.

the generally applicable Chapter 63 “Environmental Regulations” portion of the TDC, not in the Architectural Review section in Chapter 33. The cross-referenced noise limitations are not located in the Tualatin *Development* Code at all; they are located in the separate Tualatin *Municipal* Code, which are not land use regulations that apply to a quasi-judicial land use application.

The purpose statement in TDC 63.010 provides context for interpreting Chapter 63, and explains, “...It is intended that the following standards provide statutory authority for the **enforcement** of regulations relating to noise...” Emphasis added. Enforcement applies after operation begins; it is not a prerequisite to approving a permit. Enforcement is conducted pursuant to procedures set out in the Tualatin *Municipal* Code (TMC 7-1), a regulatory scheme that is entirely separate from the TDC; context which supports characterizing TDC as a performance standard, not mandatory development standards. Similarly, the applicability provision in TDC 63.020 does not specify that the standards apply during Architectural Review or to new development; it applies to industrial uses and uses within a Manufacturing zone. In contrast and as supporting context, the “Applicability” section of Architectural Review does not reference uses; it describes types of development that are subject to Architectural Review and lists examples of “new” development such as new buildings, new parking lots or new utilities. TDC 33.020(2)(a) and (b)(i), (iv) and (v).

The Noise Ordinance includes a “noise disturbance” threshold that is a *qualitative* and complaint-driven standard, which is further context for concluding that the Noise Ordinance is a performance standard, not a mandatory approval standard.¹⁰ Additional context for concluding that the Noise Ordinance is a performance standard is the process for enforcing an alleged noise disturbance or decibel violation, which includes a detailed process wholly independent of a land use process. A process that has unique evidentiary standards that shift the burden of proof to the complainant and that may result in a hearing before a Municipal Court Judge that affords due process to the parties. An enforcement action related to a noise disturbance may be initiated with evidence of at least two persons from different households. TMC 6-14-110.¹¹ The complainant has the “burden of proving the alleged ordinance infraction by a preponderance of the evidence.” TMC 7-1-040(8)(f). An enforcement officer then reviews the facts, and has discretion to further an enforcement action “depending upon an assessment of the quality, quantity and sufficiency of the evidence, the seriousness of the violation and appropriateness of the remedy.” TMC 7-1-040(2). The enforcement officer may issue a Uniform Citation and Complaint, which describes the allegations of the infraction, and a summons that orders the cited violator to appear in

¹⁰ Also see Supplemental Findings Section IV.B.vi.b, which is incorporated by reference, for additional analysis of the “noise disturbance” threshold.

¹¹ TMC 6-14-110 describes the evidence to “establish a violation in an enforcement action based on sections 6-14-030.” However, evidence alleging a violation does not prove a violation. Instead, the enforcement process in TMC Chapter 7.01, the Uniform Civil Infraction Procedure, must be followed. TMC 6-14-115(3) (“the civil infraction procedures in TMC 7-1 apply to the prosecution of any violation of this Chapter.”) Considering this context, Council interprets TMC 6-14-110 to mean that the evidence described in TMC 6-14-110 (e.g., two persons from different households or a qualified decibel reading) does not, on its face, prove a noise violation. Instead, that is the evidence needed to initiate an enforcement proceeding, where the evidence is evaluated and due process is provided to all parties. Therefore, Council interprets “establish a violation” in TMC 6-14-110 to mean an enforcement action for a violation may be initiated, not that a violation is proven.

Municipal Court. TMC 7-1-040(5). A hearing is then held before a Municipal Court Judge, where the respondent has the right to present evidence and witnesses, to cross examine witnesses who testify against the respondent, and to submit rebuttal evidence. TMC 7-1-040(8). The Municipal Court Judge then enters a judgment with findings. TMC 7-1-040(8)(l).

LUBA has affirmed a local jurisdiction describing a noise standard as a performance standard, and concluded that “such performance standards are not necessarily prerequisites to issuance of a permit although they may be stated as conditions to operate under a permit” and “we do not believe the county was required by its ordinances to find the noise standard satisfied as a prerequisite to surface mining permit.” *Zusman v. Clackamas County*, 13 Or LUBA 39, 45 (1985). Also see *Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991) (quoting and relying upon *Zusman* to conclude “where a local government’s code simply imposes an ‘operational requirement’ or ‘performance standard’ to be satisfied during operation of a use, [s]uch performance standards are not necessary prerequisites to issuance of a permit.”)

In laymen’s terms, a performance standard is different than a mandatory approval standard. A performance standard must be followed once the Project is operating, but it does not have to be met in order for Architectural Review to be approved.

Because performance standards must not be met as a prerequisite to approving Architectural Review, no findings or evidence are required to address noise-related performance standards, and they cannot be a basis for denying the Architectural Review. Nevertheless, condition of approval A25 requires compliance with the noise performance standards in TDC Chapter 63 (which incorporates the Noise Ordinance) (as detailed in the Supplemental Findings Section III.B, and incorporated herein), and substantial evidence demonstrates that compliance is feasible, as detailed in the Supplemental Findings in Section IV.B.vi, which are incorporated herein.

iii. Aspirational Purpose Statements: TDC 33.020(1)(i) and TDC 62.100

Appellant cites two¹² different purpose statement provisions, TDC 33.020(1)(i) (Architectural Review Purpose) and TDC 62.100 (Manufacturing Park Zone Purpose), and alleges that they impose the Noise Standards, including TDC 62.100 and TDC 63.051 on the Project. The cited purpose statements are not included in the Architectural Review mandatory approval criteria (TDC 73A to 73G) and are not incorporated by reference by those criteria. Accordingly, Appellant argues that the purpose statements nevertheless apply as independent approval authority because they provide a relevant requirement for the uses listed as allowed in the Manufacturing Park zone.

¹² Throughout these findings, when describing purpose statements upon which Appellant’s arguments are based, we understand Appellant relies exclusively on TDC 33.020(1)(i) and TDC 62.100. We do not understand Appellant to argue that the purpose statement for Chapter 63 (Environmental Regulations) in TDC 63.010 as a basis for imposing Noise Standards. If we misunderstand Appellant, then we reject that assertion because, as explained elsewhere in these Supplemental Findings, and incorporated herein: (1) TDC Chapter 63 includes performance standards; (2) TDC 63.010 includes aspirational statements that are not approval criteria; and (3) TDC 63.010’s reference that the standards in Chapter 63 are intended to provide “statutory authority for enforcement of regulations relating to noise...” is contextual support for concluding that TDC Chapter 63 includes only performance standards.

As detailed in these Supplemental Findings, the purpose statements at TDC 33.020(1)(i) and TDC 62.100 do not contain applicable approval criteria for Architectural Review. The City interprets the specific wording of these code sections to contain “generally worded expressions of motivation” and “objectives that the [City] hopes to achieve”—but not mandatory approval standards. Also see Supplemental Findings Section IV.B.iv, which is incorporated herein.

“[A]bsent wording to the contrary, generally worded zoning purpose statements are not mandatory approval standards for permits and other site specific land use decisions.” *Mariposa Townhouses v. City of Medford*, 68 Or LUBA 479 (2013), citing *Bridge Street Partners v. City of Lafayette*, 56 Or LUBA 387, 392 (2008); *Renaissance Development v. City of Lake Oswego*, 45 Or LUBA 312, 322-23 (2003). “Whether the provisions of a zoning ordinance ‘purpose’ section are approval criteria for individual land use decisions depends on the wording of the specific provisions and their context.” *Tylka v. Clackamas County*, 22 Or LUBA 166, 173 (1991).

Purpose statements that are “generally worded expressions of the motivation for adopting the regulation, or the goals or objectives that the local government hopes to achieve by adopting the regulation” are not approval criteria. *Beck v. City of Tillamook*, 20 Or LUBA 178, 185-86 (1990), *aff’d* 105 Or App 276, 812 P2d 16 (1991), *rev’d on other grounds* 313 Or 148, 831 P2d 674 (1992).

When purpose statements are not mandatory approval standards, they may guide or provide context for the interpretation of an ambiguous mandatory approval standard.

a. TDC 33.020(1)(i) (Architectural Review Purpose Statement) Does Not Contain Approval Criteria

Appellant argues that the purpose statement at TDC 33.020(1)(i) renders TDC 62.100 and TDC 63.051 mandatory approval criteria. City Council disagrees, and interprets TDC 33.020(1)(i) as a purpose statement that articulates an aspirational and “generally worded expression[] of the motivation for adopting the regulation,” rather than an approval criteria. See *Beck v. City of Tillamook*, 20 Or LUBA 178, 185-86 (1990), *aff’d* 105 Or App 276, 812 P2d 16 (1991), *rev’d on other grounds* 313 Or 148, 831 P2d 674 (1992).

The City’s interpretation is based on the specific wording of TDC 33.020(1)(i), which does not contain any concrete indication that approval must be conditioned on findings of compliance therewith.

TDC 33.020(1)(i) provides:

- (1) *Purpose.* The City Council finds that excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of structures and the lack of proper attention to site development and landscaping, in the business, commercial, industrial, and certain residential areas of the City hinders the harmonious development of the City; impairs the desirability of residence, investment or occupation in the City; limits the opportunity to attain the optimum use and value of land and improvements; adversely affects the stability and value of property;

produces degeneration of property in such areas with attendant deterioration of conditions affecting the peace, health and welfare of the City; and destroys a proper relationship between the taxable value of property and the cost of municipal services therefore. *The purposes and objectives of community design standards* are to:

* * *

- (i) Sustain the comfort, health, safety, *tranquility and contentment* of residents and attract new residents by reason of the City's favorable environment and thus promote and *protect the peace, health and welfare* of the City.

* * *

Emphasis added.

A careful reading of TDC 33.020(1)(i) demonstrates that the provision is not a general purpose statement for Architectural Review; the general purpose statement is in TDC 33.020(1). The eleven subsections of TDC 33.020(1)(a to k), including (i), describe the “purposes and objectives of community design standards.” The “community design standards” are not defined in the TDC. TDC Chapter 69 applies to the Industrial Business Park Overlay, so although not applicable here, provides context for interpreting what “community design standards” means. TDC 69.160 is entitled “Community Design Standards” and refers to TDC Chapter 73; TDC 73A to G, the Architectural Review mandatory approval standards.

TDC 33.020(1)(i) itself is aspirational and expresses a conceptual goal, much like the purpose statement in *Mek Properties, LLC, v. Coos County*, 61 Or LUBA 360 (2010). (County reliance on “CCCP Policy 5.19(1), which provides that the city should ‘strive to promote and encourage’ a safe transportation network,” as a mandatory approval criterion was reversible error.)

The context of TDC 33.020(1)(i), which is one of 11 subparts to the lengthy Architectural Review purpose statement at TDC 33.020(1), also does not support an interpretation that Architectural Review approval may only be issued in compliance with the purpose statement, and are instead context for interpreting TDC 73A to 73G. Each of the other subparts in TDC 33.020(1) contains goal oriented and generally worded expressions. For example, TDC 33.020(1)(i) is included in the following list of purpose statements: “[e]ncourage originality, flexibility and innovation” (subpart (a)); “[d]iscourage monotonous, drab, unsightly, dreary and inharmonious development” (subpart (b)); “[a]chieve the beneficial influence of pleasant environments...” (subpart (g)). None of these could be construed as mandatory approval criteria, and all are aspirational—they do not suggest an interpretation of TDC 33.020(1)(i) that would render it a mandatory approval criterion. Instead, the mandatory approval criteria are those listed in TDC 33.020(5) “Approval Criteria,” which here are TDC 73A through 73G.

b. TDC 62.100 (Manufacturing Park Zone Purpose Statement) Does Not Contain Approval Criteria

Appellant argues that the City has the discretion to interpret the purpose statement at TDC 62.100 as an approval criterion for Architectural Review, citing *Mariposa* and *Tylka*. Appellant

frames the purpose statement as characterizing the uses allowed in the MP zone are allowed “provided that” or “on condition that,” meaning that even if a proposed use is listed as allowed in the zone, it still must demonstrate compliance with the zone’s purpose statement in order to be approved. Appellant’s interpretation inserts words that are not included in TDC 62.100, and City Council disagrees with Appellant’s interpretation of TDC 62.100. The specific wording and context of TDC 62.100 support the City Council’s interpretation that it is a generally worded purpose statement that is not applicable approval standard for Architectural Review.

The specific wording of TDC 62.100 does not contain any indication that Architectural Review approval must be conditioned on findings of compliance. The sentence extracted from this code section by Appellant reads: “... [s]uch permitted uses must not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property...” First, to the extent that this sentence in the Chapter purpose statement contains a limitation based upon noise, the limitation applies generally to “such permitted uses” (e.g., uses once they are operational), rather than development, approval, or review of “such permitted uses.” See *Mek Properties, LLC, v. Coos County*, 61 Or LUBA 360, fn 10 (2010) (a policy “direct[ing] the county to incorporate cost-effective road design standards into the CCZLDO” could not “possibly be viewed as an approval criterion for land divisions”). Second, there are no articulable objective standards in the extracted sentence—it merely protests “objectionable noise, smoke,” etc. The obliqueness of the statement supports the City’s position that it is aspirational, rather than a criterion. Additionally, imposing a noise standard in the purpose section is unnecessary, because TDC 63.051 includes a performance standard that requires uses, once operational, to comply with the Noise Ordinance. See also Supplemental Finding Section III.A.ii, incorporated herein. Therefore, the City interprets this sentence to *reference* the performance standards in TDC 63.051 that apply to operating uses, but the language does not require the City to consider “objectionable noise” as a gatekeeping consideration for allowed uses that requires compliance as a part of Architectural Review.

In its regulatory context, the sentence that Appellant has extracted need not be interpreted by the City to impose an approval criterion. The remainder of the code section from which the sentence is excerpted communicates generalized goal statements and aspirations, supporting the City’s reading. The code section provides in its entirety:

The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities. Such permitted uses must not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property. The district is to provide for an aesthetically attractive working environment with park or campus like grounds, attractive buildings and other amenities appropriate to an employee oriented activity. The purpose is also to protect existing and future sites for such uses by maintaining large lot configurations or a cohesive planned development design and limiting uses to those that are of a nature so as to not conflict with other industrial uses or surrounding residential areas. The purpose is also to allow a limited amount of commercial uses and services and other support uses.

Italics added.

Given the text of the sentence itself and its context within this mass of other generalized aspirational statements about the zone, the City does not interpret the sentence to impose approval criteria for Architectural Review.

B. Authority to Impose Conditions of Approval

Appellant requests conditions (1) requiring the closure of the northernmost access on SW 108th Avenue to employees; (2) requiring Applicant to comply with TDC 62.001 and TDC 63.051; and (3) unspecified noise-related conditions to “ensure that the sounds generated by [Lam’s] equipment could or would be dampened or canceled out.” November 3, 2025 Pre-Hearing Comment Letter, 3 (Appeal Exhibit K).

Conditions must be tied to an applicable, mandatory approval standard. *King v. Washington County*, 60 Or LUBA 253 (2009). Substantial evidence also must support the conclusion that the condition is necessary. *Id.* LUBA has repeatedly held that, when the evidentiary basis for a condition is challenged, the reviewing authority must find that “*evidence in the record could lead a reasonable person to conclude that considering the impacts of the proposed development there is a need for the condition to further a legitimate planning purpose.*” (emphasis added) *E.g.*, *Sherwood Baptist Church v. City of Sherwood*, 24 Or LUBA 502, 505 (1993); *see also Williamson v. City of Arlington*, 35 Or LUBA 90, 96 (1998).

The only condition requested by the Appellant that is lawful and supportable is requiring the Applicant to comply with TDC 63.051, which the City has required through the imposition of Condition of Approval A25.

City Council interprets and applies the TDC such that it does not authorize City Council to impose the other conditions requested by Appellant because they are not required to implement any mandatory approval standards in the TDC, substantial evidence (including Applicant’s traffic and acoustic expert testimony) does not support the conclusion that additional conditions are necessary, and additional conditions would not further a legitimate planning purpose. Also see Supplemental Findings Sections IV.B.vi and IV.C.iii, incorporated herein.

i. AR Conditions Generally

TDC 33.020(6)(a)(iii) provides authority for an Architectural Review approval to impose conditions implementing any approval criteria within of the Development Code, such as Chapters 62, 74 and 75:

(6) Conditions of Approval.

(a) Architectural Review decisions may include conditions of approval that apply restrictions and conditions that:

- (i) Implement identified public facilities and services needed to serve the proposed development;
- (ii) Implement identified public facilities and services needed to be altered or increased attributable to the impacts of the proposed development; and
- (iii) Implement the requirements of the Tualatin Development Code.*

Italics added.

Aspirational statements in TDC 33.020(1)(i) and TDC 62.100 cannot serve as a basis for imposing conditions because they are aspirational purpose statements, not mandatory approval criteria, as detailed in Supplemental Findings Section III.A.iii, incorporated herein.

ii. Condition of Approval A25 is Warranted.

TDC Chapter 63 (Industrial Uses and Utilities and Manufacturing Zones – Environmental Regulations) is a requirement of the Tualatin Development Code, so TDC 33.020(6)(a)(iii) authorizes conditions of approval that require compliance with TDC Chapter 63. As explained in Supplemental Findings Section III.A.ii, and incorporated herein, TDC Chapter 63 includes performance standards. Accordingly, Condition of Approval A25 will be applicable to the Project approved by this Decision once it is operational, and requires “in an on-going manner” that “the proposed development must comply with the Environmental Regulations of TDC 63.” For the reasons explained in Supplemental Findings Section IV.B.vi and incorporated herein, Applicant’s expert evidence demonstrates that it is feasible that the cumulative noise impacts from the existing facility and Project will comply with the TDC 63.051 (noise) and the incorporated Noise Ordinance.

The only lawful and supportable condition related to noise is Condition of Approval A25, because it which requires compliance with TDC Chapter 63 (Industrial Uses and Environmental Regulations) and is supported by substantial evidence. Also see Supplemental Findings Section IV.B.iii, which is incorporated herein.

iii. The City May Not Impose Additional Conditions of Approval Regarding Noise.

The City finds no authority to impose additional conditions of approval regarding noise, either to mitigate noise or to generally eliminate offsite noise.

First, as described above and incorporated herein, there are no mandatory approval criteria regarding noise to justify imposition of conditions in addition to Condition of Approval A25. The City is authorized to impose conditions of approval that implement the Tualatin

Development Code, per TDC 33.020(6)(a)(iii). The Tualatin Noise Ordinance, however, resides in the Tualatin *Municipal Code*, not the Tualatin *Development Code*, and imposing a condition that directly requires compliance with the TMC falls outside the scope of allowable AR conditions. Aspirational purpose statements in TDC 33.020(1)(i), TDC 62.100 and TDC 63.020 cannot serve as a basis for imposing conditions because they are not mandatory approval criteria, for the reasons explained in Supplemental Findings Section III.A.iii. and incorporated herein.

Second, there is no substantial evidence that the Project will have noise impacts that would justify additional conditions of approval. As explained in the incorporated Supplemental Findings Sections III.C and IV.B.vi, the Applicant's expert acoustic evidence in the record demonstrates that compliance with the Noise Ordinance is feasible, and condition of approval A25 requires compliance. There is no evidentiary basis for additional conditions of approval.

Finally, the City finds that there is no legitimate planning purpose for additional noise conditions because the Project has not yet been constructed, and it is not possible to assess the actual noise levels generated by the Project. Compliance with condition A25 will be verified following construction, should operational noise from the Project result in substantiated complaints. As such, the imposition of noise related conditions beyond Condition of Approval A25 are not needed to ensure compliance with TDC 63.051 and would not advance a legitimate planning purpose or objective.

If, in the alternative TDC 33.020(1)(i), TDC 62.100 and TDC 63.020 or any of the Noise Standards referenced by Appellant impose mandatory approval criteria, for the same reasons described above and in Supplemental Findings Section IV.B.vi, additional noise-related conditions of approval are not needed or allowed.

iv. The City May Not Impose a Condition of Approval Requiring Closure of Northernmost Access on SW 108th.

City Council declines to impose a condition of approval prohibiting employee access to the northernmost driveway on SW 108th.

There are no applicable TDC requirements that necessitate this condition. TDC 33.020(5)(c) requires that the approval criteria for AR are limited to TDC 73A to 73G. None of those criteria require the evaluation of traffic impacts. Instead, TDC Chapters 74 and 75 evaluate public improvements and access management, which is where traffic impacts are relevant. Although transportation issues are not directly applicable, as explained in Sections III.A, III.A.i, and IV.C.i, TDC 33.020(6)(a)(iii) authorizes the City to impose conditions of approval that implement the Tualatin Development Code, including TDC Chapters 74 and 75. Accordingly, the Applicant thoroughly addressed TDC 74 and 75 with analysis and expert evidence, which Council agrees with and relies upon to find compliance with those standards, as detailed in these Findings, including Supplemental Findings Section IV.C.ii, and in the alternative, IV.C.iii.

As detailed in Supplemental Findings Section IV.C.iii.c (and incorporated herein), substantial evidence in the TIA demonstrates that a condition of approval mitigating traffic impacts by eliminating employee access from the northernmost driveway SW 108th Avenue is not

warranted. The TIA, which the City Engineer, a third-party consultant, and the Oregon Department of Transportation reviewed and agreed with, did not require any mitigation of any impacts and did not raise concerns with the driveways on SW 108th Avenue. Accordingly, substantial evidence does not support an additional condition of approval that would limit driveway access at the northernmost access point on 108th Avenue. Also see Supplemental Findings Section III.C, which is incorporated herein.

C. Credibility of Expert Testimony and Relying Upon Substantial Evidence in the Whole Record¹³ to Support the Decision

The Appeal raises issues related to the cumulative noise impacts¹⁴ of the Project and existing facility, and the transportation impacts of the northernmost driveway on SW 108th Avenue. Evaluating existing noise sources and acoustic modeling, as well as evaluating and modeling transportation impacts are highly technical issues, which makes it imperative that the City Council rely on the testimony of qualified experts when evaluating the evidence in this matter.

Legally speaking, the City Council must rely on “substantial evidence” in the whole record when making decisions. This is evidence that a reasonable person would rely on to make a Decision. *Younger v. City of Portland*, 305 Or 346, 360, 752 P2d 262 (1988). When an application involves technical issues, such as those at issue in this Decision, Oregon law will almost always deem expert testimony on the subject to prevail over layperson testimony. Put another way, absent unique facts, appellate bodies would consider it unreasonable for a decision maker to rely on the testimony of a layperson when contrary expert testimony on the same subject exists in the record.

When confronted with competing expert testimony, as is the case here, Oregon law requires the City Council to evaluate and weigh the credentials of the experts and determine which expert is more credible. In other words, based on the information in the record regarding the experts’ background, work history, education, project history, and methodologies used by the experts, the City Council must determine which expert’s testimony is “most substantial” or most reliable.

¹³ The record is structured in reverse chronological order. The entire record was before the City Council. Items labeled “Exhibit” were before the Architectural Review Board (i.e., Exhibit F is Public Comments presented to the ARB). Items labeled “Appeal Exhibit” are items presented to Council as a part of the de novo appeal hearing (i.e., Appeal Exhibit G is Lam’s Technical Findings in Response to the Appeal Filed in AR24-0002). Some items from the ARB phase of the proceeding were re-entered into the record before Council on appeal, in which case the same information has two record citations. For example, CGA’s 2025 Site Noise Survey, September 9, 2025 is included in the record as Appeal Exhibit E and Exhibit A7 (formerly Exhibit L). Council attempts to be comprehensive and accurately cite to materials that appear in the record more than once, and any failure to refer to items consistently is a scrivener’s error.

¹⁴ Appellants arguments and the acoustic study focused exclusively on noise impacts. However, Appellant’s testimony in Appeal Exhibit K includes a few passing references to vibrations. Appellant’s vibrations argument is completely undeveloped and no evidence is provided. As described in verbal testimony at the City Council hearing, Lam’s manufacturing and labs use highly sensitive equipment which cannot tolerate vibration. Based upon the unique sensitivity of Lam’s activities to vibration, speculation about off-site vibrations are unsubstantiated and unreasonable. Further, the vibration standard in TDC 63.052 is a performance standard, so it is irrelevant to the Architectural Review for the same (and incorporated) reasons the performance standards regarding noise in TDC 63.051 are irrelevant during Architectural Review.

For the reasons explained below and in the Supplemental Findings in Section III.C.i and ii (which are incorporated herein), the City Council finds that the Applicant's expert testimony related to noise impacts and transportation impacts is more reliable evidence than the Appellant's expert and lay person testimony. Council applies this credibility and reliability conclusion when it addresses the substantive issues, including in Supplemental Findings Sections IV.B. and C.

i. Acoustics Expertise

With respect to issues regarding noise, the Applicant offered expert testimony from an engineer with expertise in noise from high technology facilities, like Lam, and provided a detailed explanation of their methodology. *See* the Colin Gordon Associates ("CGA") materials dated September 3, 2025 (Lam Research Tualatin Site – Comments on A Acoustics Noise Survey Report), September 9, 2025 (Lam Research 2025 Site Noise Survey), which includes the expert's qualifications in Appendix B, and September 10, 2025 (Lam TUX Expansion Environmental Noise Model). Exhibit F, Appeal Exhibit E, Exhibit A7, Exhibit A8.¹⁵ Appellant offered an acoustic survey authored by an engineer, the A Acoustics Survey dated August 13, 2025. Exhibit F. Other than the "P.E." professional engineering stamp on the A Acoustics Survey and that "acoustics" is in the company's name, no evidence of the engineer's expertise in acoustics was offered. Appellant and community members offered personal testimony about noise, offered simulations of noise frequencies that were alleged to be emitted from the existing facility, and Appellant's attorney criticized some methodological practices of the Applicant's acoustic expert.¹⁶ Exhibit F and Appeal Exhibit K.¹⁷ No evidence of Appellant's, Appellant's counsel's or community members' expertise in acoustics is included in the record.

Appellant's speculation about the noise impacts of the Project is not based upon the specifics of the Project. First, Appellant describes the impacts of the "additional research laboratory and manufacturing facilities...". The Project does not include new manufacturing facilities. Appellant acknowledges, "Lam has the knowledge about the equipment its facilities will use and the noises that the equipment will produce." Appellant Pre-hearing Comment Letter (November 3, 2025), 3. Appellant is correct about Applicant's level of knowledge; CGA's environmental noise model noted that "the noise impacts were evaluated using a computer noise model of the Lam campus, based on layout and information on proposed new major exterior mechanical

¹⁵ Throughout the Findings, when City Council refers to relying upon CGA, Applicant's expert testimony or CGA's modeling for noise-related issues, we are describing and relying upon these three CGA documents, including all attachments.

¹⁶ Appellant's counsel's verbal testimony at the November 10 City Council hearing criticized that CGA's noise readings were taken at ground level, and not from the source of the sound (e.g., rooftop equipment). The City Council rejects this criticism because it is inconsistent with the requirements of the Noise Ordinance, which requires decibel levels to be "measured from the property line of the recipient property" (TMC 6-14-050) and describes specific noise disturbances as those "within a noise sensitive property" (TMC 6-14-040).

¹⁷ Throughout the Findings, when City Council refers to Appellant's noise-related testimony, when describing Appellant's expert testimony, we are describing the A Acoustics Study. When we reference Appellant's lay person testimony, we are describing personal testimony from the Appellant and lay person community members and counsel.

equipment provided by the design team...” CGA Environmental Noise Model, September 10, 2025 (Appeal Exhibit E). This modeling was then added to the measured current noise levels to predict the total overall noise levels. *Id.* This relative understanding of the actual noise sources contributes to the accuracy and reliability of expert evidence from CGA, and is another reason City Council relies upon Applicant’s expert evidence in support of this Decision instead of Appellant’s expert or layperson testimony.

Apart from credentials and analysis of the specifics of the Project, the Applicant’s expert testimony is not rebutted by any expert. The record includes only an August 13 survey of the existing facility by the Appellant’s engineer. The Appellant’s engineer did not review, comment or refute the subsequent acoustic evidence submitted by the Applicant on September 3, 9 and 10, which countered the A Acoustic Survey’s conclusions with differing noise measurements, questioned A Acoustic’s methodology, and modeled the Project’s expected compliance with Noise Standards. Specifically, CGA’s expert report details the sound measurement methodology and measurement results and demonstrates that the existing facility operations do not exceed the City Noise Ordinance limit of 50 dBA from 10 PM to 7 AM.¹⁸ Appeal Exhibit E. The CGA report is authored by an engineer that specializes in noise measurements for high-technology facilities, HVAC noise analysis, and environmental noise modeling. *Id.* Furthermore, CGA also analyzed the acoustic survey submitted by Appellant (the “A Acoustics Survey”) and concluded that its methodology is deficient.¹⁹ While the A Acoustics Survey reported a measurement of 52 dBA after 10 PM at a home near Lam’s campus, CGA identified the following deficiencies in the methodology, which render this measurement an unreliable indicator of ambient noise near the campus:

- The survey does not specify the noise metric used (e.g., L50, L10, L1, Leq), which is essential for interpreting compliance with applicable standards.
- There is no documentation of the measurement duration, location, or integration time.
- The survey lacks frequency analysis and fails to isolate noise sources attributable to Lam Research.
- The measured level of 52 dBA is presented without sufficient context to determine its source or relevance to regulatory thresholds.

The methodological deficiencies in the A Acoustics Survey are relative to not only the probative value of the expert evidence, but also to the credibility and persuasiveness of the expert offering the testimony. When experts offer opinions that differ, a significant factor in determining the credibility of the evidence is the credentials of the individual offering testimony.²⁰ The City Council finds the Applicant’s expert testimony throughout the record to be more reliable than the Appellant’s expert and layperson testimony. The City Council therefore relies on the Applicant’s expert testimony in making this Decision.

¹⁸ Staff Report AR24-0002, Exhibit L, pp. 7-8.

¹⁹ Staff Report AR24-0002, Exhibit F: Supplemental Public Comments, pp. 7-15.

²⁰ *Department of Land Conservation and Development v. Curry County*, LUBA No. 96-073, 31 Or LUBA 503, 505–506 (1996) (when résumé of soil scientist did not establish his credentials to determine forest productivity and the only scientific data in the record was results of soil tests, soil scientist’s conclusions with respect to forest productivity were not substantial evidence).

ii. Traffic Expertise

With respect to issues regarding traffic impacts, the Applicant offered a transportation impact analysis (“TIA” at Appeal Exhibit H) and related testimony and analysis (Appeal Exhibit M, Exhibit A4) that was conducted and stamped by a registered professional engineer.²¹ The Applicant’s transportation materials were scoped and peer reviewed by the City’s outside transportation engineer and the City Engineer. Engineers at ODOT also reviewed the Applicant’s transportation materials. The engineers on behalf of the Applicant, City (Attachment B to Exhibit A4 and verbal testimony at the public hearings before the ARB and City Council), City’s outside transportation engineer and ODOT (Appeal Exhibit I and Exhibit K) all agree with the scope, methodology, analysis and conclusions of the transportation impacts of the Project. The Appellant and neighbors offered anecdotal information about their experiences driving in the area, and conducted their own calculations based upon data in the record to draw conclusions that differed from those of all of the engineers. For example, opposition testimony in Exhibit F. No evidence of the Appellant’s or other community members’ expertise in transportation engineering is included in the record. The Applicant’s expert testimony is not rebutted by any expert. Also see Supplemental Findings Sections IV.C.iii, iv and v, which are incorporated herein.

iii. Expert Substantial Evidence Conclusion

For these reasons in this Section III.C and those included in Sections IV.B and C (and incorporated herein), the City Council finds the Applicant’s expert testimony throughout the record to be more reliable in addressing the technical noise and transportation-related issues than the Appellant’s expert and lay testimony. The City Council therefore relies on the Applicant’s expert testimony in making this Decision.

IV. Analysis of Issues Raised in Appeal

A. Procedural and Public Participation Issues

Four of Appellant’s grounds for the Appeal implicate procedural issues. None are grounds for denial of AR.

²¹ Throughout the Findings, when City Council refers to relying upon Applicant’s expert testimony for traffic-related issues, we are describing and relying upon these technical documents authored by the engineer at Mackenzie listed here, as well as Mackenzie’s verbal testimony at the public hearings before the ARB and City Council.

To justify reversal of a land use decision for procedural error, the Appellant “must demonstrate both procedural error and prejudice to its substantial rights.”²² “Under ORS 197.835(9)(a)(B), the ‘substantial rights’ of parties that may be prejudiced by failure to follow required procedures are ‘the rights to an adequate opportunity to prepare and submit their case and a full and fair hearing.’”²³ This standard is sometimes referred to as the “no harm, no foul” rule.

In written testimony submitted over two weeks before the City Council hearing, the Applicant provided written testimony addressing the procedural errors alleged by Appellant, and detailed why Appellant’s substantial rights were not prejudiced. Appellant did not respond, and has not alleged that his substantial rights were prejudiced. Nor could Appellant support such an allegation, because based upon the evidence in the record, Appellant could not demonstrate that any of the purported procedural errors prejudiced his substantial rights, as he was afforded ample opportunity to prepare and present this Appeal for a full and fair hearing.

The adequacy of Appellant’s opportunity to prepare for and participate in the process is evidenced by the extent and frequency of his engagement with the Project at every stage, culminating in this Decision on Appeal, for which the Appellant was provided a de novo hearing. For example, the record shows that:

- Appellant received mailed notice of and participated at the neighborhood developer meeting.²⁴
- Appellant received mailed notice of and participated in the ARB hearing.²⁵
- Appellant submitted several public comments in advance of the ARB hearing on the application.²⁶
- Appellant filed an Appeal.²⁷
- Appellant participated in the City Council hearing in writing and verbally, both individually and through counsel.²⁸

Council addresses each of Appellant’s procedural grounds for denial in detail below.

i. TDC 32.120.5(b)(iii) Does Not Provide Grounds for Denial.

²² See e.g., *Mason v. Linn County*, 13 Or LUBA 1, 4 (1984), *aff’d in part, rev’d and rem’d on other grounds*, *Mason v. Mountain River Estates*, 73 Or App 334, 698 P2d 529 (1985); see also ORS 197.835(9)(a)(B); OAR 661-010-0071.

²³ *Families for a Quarry Free Neighborhood v. Lane County*, 64 Or LUBA 297, 302 (2011), citing *Muller v. Polk County*, 16 Or LUBA 771, 775 (1988).

²⁴ Staff Report AR24-0002, Exhibit A6: Supplemental Information, pp. 39, 53.

²⁵ Staff Report AR24-0002, Exhibit B: Public Noticing.

²⁶ Staff Report AR24-0002, Exhibit F: Public Comments, pp. 35-38, 39, 256-57, 258, 259-60, 262, 263-74, 512-17, 559-60, 744-46, 748-51; and Appeal Exhibit C.

²⁷ Appeal Form and Appeal Letter from Appellant Brett Hamilton, Appeal Exhibit B.

²⁸ Appeal Exhibit K.

Appellant alleges a “[f]ailure to send notice to CIOs as required by TDC 32.120.5(b)(iii).” This code section requires that, for *neighborhood/developer meetings*, not the public hearing where the application is considered, the Applicant provide timely written notice via first class mail to “[a]ll designated representatives of recognized Citizen Involvement Organizations.” Assuming that the Applicant failed to meet TDC 32.120.5(b)(iii)’s neighborhood meeting notice requirements, it does not justify denial of the AR.

While the Appellant has not alleged prejudice, there are several reasons that there is no basis to find that the Appellant has been prejudiced.²⁹ Appellant’s error relates to notice for a neighborhood/developer meeting, which occurred prior to application submittal—this noticing does not impact the actual opportunity to participate in the AR hearing. Appellant did not allege that he failed to receive any required notice. Appellant participated in the AR public hearing and participated in writing and verbally (as an individual and through counsel) at the de novo City Council public hearing where the Appeal was considered. The volume and specificity of Appellant’s written, video and verbal testimony demonstrates that he had an opportunity to prepare for and participate in all hearings. Since Appellant received notice of and had ample opportunity to prepare for all hearings in this matter, there is no prejudice.

As noted above, Appellant did not allege that he personally did not receive a required notice. Appellant may not raise this issue on behalf of the CIOs because only the person or entity that is directly harmed by a procedural error (e.g. was supposed to receive notice and did not) may raise this issue; a party that did not itself experience the notice error cannot raise it on behalf of another.³⁰

Even assuming that the CIOs take issue with the lack of mailed notice, there is no substantial prejudice to the CIOs. The CIOs received mailed notice of the actual land use process. The lack of mailed notice for the preliminary neighborhood developer meeting is harmless error—attendance at the neighbor meeting has no bearing on the rights of a party to participate in the actual land use approval process via the public hearing.

ii. No Second Neighborhood/Developer Meeting Was Required.

Appellant alleges a procedural error because the Applicant made “[c]ommitments to hold a second Neighborhood Developer Meeting,” but the Applicant did not hold a second meeting. This is not a procedural error because there is no applicable local or state requirement for such

²⁹ *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995)(failure to provide notice of hearings to persons other than petitioners does not prejudice petitioners’ substantial rights if petitioners received notice of the local government hearings and participated in them), *Thomas v. Wasco County*, 30 Or LUBA 142 (1995)(failure to comply with applicable notice requirements is reversible only if the defect prejudices a petitioner’s substantial rights); *Bauer v. City of Portland*, 38 Or LUBA 432, 436 (2000)(), *Cape v. City of Beaverton*, 40 Or LUBA 78, 85 (failure to provide notice was not prejudicial where petitioner nonetheless appeared at the approval hearing and present comments).

³⁰ See *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995).

second meeting.³¹ Rather, holding a second meeting is entirely at the discretion of the Applicant: “An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.” TDC 32.120 (2). Even if holding a second neighbor meeting were a requirement of the code, Appellant does not indicate how it could have prejudiced his substantial rights—Appellant still participated in the public hearing process.

iii. The Missing Noise Model Pages Do Not Prejudice Appellant and Are Irrelevant to AR Approval Criteria.

Appellant alleges that the City’s “[f]ailure to provide the last 3 pages of Lam’s noise model to the ARB at their hearing” is a procedural error. The inadvertent omission of three pages of the noise model at the ARB approval stage does not prejudice Appellant’s substantial rights and therefore does not justify denying the AR.

First, as detailed elsewhere in these Supplemental Findings, the noise generated by the existing facility is not relevant to any of the applicable AR approval criteria. Omission of pages of noise-related evidence does not prejudice Appellant’s substantial rights because the right to a full and fair hearing does not extend to the right to raise or rebut irrelevant issues.

Second, the inadvertently omitted pages are included in the record that is publicly available. The City Council hearing is *de novo*,³² so the public could respond to the pages and the City Council considered all evidence when reaching this Decision. Because the pages are in the record, Appellant is aware of them and had the opportunity to respond before the City Council, their omission at the ARB hearing stage does not prejudice Appellant.

iv. Any Delay in Releasing Public Records is Irrelevant.

Appellant alleges that the City erred through “[u]nnecessary delays in releasing Public Records.” If this is a public records disclosure dispute, such a dispute is outside of the scope of a land use appeal and is therefore not a grounds for denial of AR or remand of this Decision. Further, as explained elsewhere in these Supplemental Findings, Appellant has not alleged, and cannot demonstrate, that his substantial rights to a full and fair hearing have been prejudiced.

B. Noise Issues

Appellant argues that Lam must demonstrate compliance (or that it “could comply”) with a variety of noise related provisions that Appellant argues are applicable during Architectural Review before the City can approve the Project.

³¹ *Montgomery v. City of Dunes City*, 60 Or LUBA 274 (2010) (no requirement for a traffic study was triggered where applicant cryptically stated in a letter that they would provide a traffic study); *Cape v. City of Beaverton*, 41 Or LUBA 515 (2002) (no basis for reversal where petitioner identified no legal requirement for any of the notice they alleged was lacking).

³² See TDC 32.310(4)(a) (“All appeals are ‘de novo’ meaning new evidence and argument may be submitted at the appeal hearing.”).

The TDC and TMC sections that Appellant argues impose noise-related standards include:

- Reference to “objectionable noises” in **TDC 62.100** (Manufacturing Park purpose statement)
- Requirement in **TDC 63.051** to comply with Tualatin Noise Ordinance and DEQ standards;
- Regulation of “noise disturbances” in **TMC 6-14-030 and 6-14-020**;
- Decibel limits described in **TMC 6-14-050**; and
- Aspirations of sustaining “tranquility and contentment” and promotion of “peace, health and welfare” described in the purpose statement for Architectural Review in **TDC 33.020(1)(i)**.

When responding to specific arguments, Council endeavors to cite the specific standard at issue. When referring to TMC 6-14, or TDC 63.051, which incorporates TMC 6-14, we use the term “Noise Ordinance.” When referring to all of the noise-related standards in the bullet points above that Appellant alleges are applicable to the Project, and not met, we use the general term “Noise Standards.”

As a legal and evidentiary matter, there is no basis to deny AR approval of the Project based upon noise. Noise and compliance with the Noise Ordinance performance standards and aspirational purpose statements in the Manufacturing Park zone and Architectural Review are not relevant to the AR mandatory approval standards, so allegations about existing noise or potential future noise impacts are not bases for denying the AR.³³ If the City were to deny the AR based on the noise performance standards (rather than the criteria in TDC Chapter 73A through 73G), that the decision would be reversible error pursuant to ORS 197.835(10)(a)(A).³⁴

Additional Findings interpreting the applicable criteria and scope of allowable conditions are provided in Section III of these Supplemental Findings and are also detailed below; which are all incorporated by reference herein.

i. The Existing Facility is Not Subject to Architectural Review, so Allegations of the Existing Facility’s Violations of Noise Standards are Irrelevant.

Appellant’s allegations about noise from the existing facility are not a basis for denying AR for the Project. The existing facility is not within the scope of the AR application under review; only the proposed Project is evaluated through Architectural Review.

³³ ORS 195.835(8) (land use decision shall be reversed “if the decision is not in compliance with applicable provisions of the comprehensive plan or land use regulations”).

³⁴ ORS 197.835(10)(a)(A) provides: “[t]he board shall reverse or remand a decision... if the decision is not in compliance with applicable provisions of the comprehensive plan or land use regulations.” See *Oster v. City of Silverton*, 79 Or LUBA 447 (2019), citing ORS 197.835(10)(a)(A) (reversing a City land use decision based on project’s failure to achieve LOS D standard from the City’s TSP, where the approval criteria did not specifically and expressly incorporate the TSP).

The exclusive forum for addressing whether the existing facility is in violation of the Noise Ordinance is the enforcement procedures in TMC 7-1.³⁵ TMC 6-14-115(3) (“The civil infraction procedures in TMC 7-1 apply to the prosecution of any violation of this Chapter.”) City staff explained at the ARB and City Council appeal hearings that Code Enforcement is actively investigating noise complaints about the existing facility.

Although not relevant to the AR, to provide a balanced analysis of the allegations related to noise, the Applicant provided expert testimony that analyzed noise from the existing facility. Appeal Exhibit E (Lam Research 2025 Site Noise Survey, dated September 9, 2025). As detailed elsewhere in these Supplemental Findings and incorporated herein, the record of this Decision does not establish that the existing facility violates the Noise Ordinance or other Noise Standards. For the reasons explained in Supplemental Findings Section III.C and IV.B.v (and incorporated herein), Council relies upon CGA’s expert analysis and not the A Acoustics Survey or layperson testimony. Substantial evidence in the whole record demonstrates that the existing facility complies with the Noise Ordinance and other Noise Standards.

If Appellant’s allegations about noise from the existing facility are intended to provide support for the allegation that existing noise is predictive of the Project’s compliance with the Noise Standards, the Supplemental Findings in Sections Section III.C and IV.B.vi address the noise evidence needed to approve Architectural Review for the Project, and are incorporated herein. As detailed in those Supplemental Findings, Council finds that Applicant’s expert noise evidence provides substantial evidence to conclude that it is feasible for the existing facility and Project’s cumulative noise impacts to meet the TDC 63.051 and the Noise Ordinance, and in the alternative, all of the Noise Standards.

ii. TDC 63.051 and the Noise Ordinance (TMC 6-14) are Not Applicable as Mandatory Development Standards; they are Performance Standards.

Appellant alleged that Lam has not demonstrated that the Project, especially when added to its existing facilities, will comply with the Noise Standards.

The AR process considers a *proposed* development (not existing uses). Architectural Review is governed by TDC 33.020. The AR approval criteria are listed in TDC 33.020(5), and require the Project to “comply with the applicable standards and objectives in TDC 73A through 73G.” Those criteria do **not** contain noise standards. Those criteria do **not** incorporate by reference the Tualatin Municipal Code, or the Noise Ordinance. Quite simply, noise impacts and the Noise Ordinance are irrelevant to Architectural Review of the Project.

Appellant’s argument that Lam has not carried the evidentiary burden related to noise issues is premised upon the assumption that the Noise Standards are mandatory approval criteria. For the reasons explained in Supplemental Findings Sections III.A and IV.B.iv (and incorporated herein), the Noise Standards are not mandatory approval criteria; they are performance standards

³⁵The robust enforcement procedures required by TMC 7-1 are summarized in these Supplemental Findings Section III.A.ii, and are incorporated herein.

or aspirational purpose statements. *Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991) (“[s]uch performance standards are not necessary prerequisites to issuance of a permit.”)

Because the Noise Standards cannot be the basis for denying the Architectural Review application, there is no evidentiary burden that the Applicant must meet related to noise.

Although not required, the Applicant provided expert evidence analyzing the existing facility’s compliance with the Noise Ordinance and modeling of the cumulative impact of the existing facility and Project’s expected compliance with the Noise Ordinance. Appeal Exhibit E. For the reasons explained in Supplemental Findings Section III.C and IV.B.v (and incorporated herein), Council relies upon CGA’s expert analysis and not the A Acoustics Survey or layperson testimony. Substantial evidence in the whole record supports condition of approval A25, which requires that once operational, the Project must comply with TDC Chapter 63 and the Noise Ordinance. Also see Supplemental Findings Section III.B, which is incorporated herein.

Additional Findings interpreting the applicable criteria and scope of allowable conditions are provided in Section III of these Supplemental Findings, and are incorporated by reference herein. As detailed in those Supplemental Findings, the TDC 63.051 is a performance standard and the other Noise Standards are aspirational purpose statements, so the Applicant need not demonstrate compliance or the feasibility of compliance with those provisions, and no evidentiary burden is imposed.

iii. Condition of Approval A25 Appropriately Requires the Project to Comply with the Performance Standards in the Noise Ordinance Once the Project is Operational.

The City is authorized to impose conditions of approval that implement the Tualatin *Development Code*, per TDC 33.020(6)(a)(iii). The Tualatin Noise Ordinance, however, resides in the Tualatin *Municipal Code*, not the Tualatin *Development Code*, and thus falls outside the scope of allowable AR conditions.

TDC Chapter 63 (Industrial Uses and Utilities and Manufacturing Zones – Environmental Regulations) is a requirement of the Tualatin Development Code, so TDC 33.020(6)(a)(iii) authorizes conditions of approval that require compliance with TDC Chapter 63. Accordingly, condition of approval A25 appropriately requires the proposed development to comply with TDC Chapter 63.

The noise performance standard in TDC Chapter 63 is TDC 63.051, which provides, “all uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in TMC 6-14.”

The purpose statement in TDC 63.010 is not an approval criterion, but provides context for interpreting TDC Chapter 63, and explains, “...It is intended that the following standards provide statutory authority for the **enforcement** of regulations relating to noise...” Emphasis added. This means that the standards in TDC Chapter 63 are performance standards that are applied once a use is operational. It is not a development standard, such as setback or height regulations. Rather, the obligation to comply with the noise standards in Chapter 63, which

incorporate the Noise Ordinance, is an obligation that is wholly independent and separate from the AR review process.

Accordingly, once the Project is constructed, Lam's operations at the Project must comply with the Noise Ordinance, and if there are concerns about compliance, the exclusive forum for addressing a violation is the enforcement procedures in TMC 7-1. TDC 63, Condition of Approval A25 and the Noise Ordinance do not require findings that an existing use or proposed use comply with TDC 63 or the Noise Ordinance.

City Council finds that Appellant's arguments do not acknowledge the effectiveness of Condition of Approval A25 to ensure compliance with the Noise Ordinance. Condition of Approval A25 is condition that "appl[ies] to the site in an on-going manner" and requires "The proposed development must comply with the Environmental Regulations of TDC 63." TDC 63 requires, in relevant part "TDC 63.051. Noise. All uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in TMC 6-14." The remedies available to the City when enforcing the noise ordinance are significant and include civil infraction penalties and injunctive relief. TMC 7-1-030.

Council relies upon the CGA noise model and expert testimony to conclude that that it is feasible for the Project to comply with the Noise Ordinance, and the City's enforcement authority will ensure that ongoing compliance is maintained over the long term.

Additional Findings interpreting the applicable criteria and scope of allowable conditions of approval are provided in Section III of these Supplemental Findings, and are incorporated by reference herein.

iv. The Manufacturing Park Zoning Purpose Statement (TDC 62.100) and Architectural Review Purpose Statement (TDC 33.020(1)(i) are Not Applicable as a Mandatory Development Standards; they are Aspirational Purpose Statements.

Appellant alleges "violations of Manufacturing Park Zoning" as grounds for this Appeal. Some public comments submitted in advance of the ARB hearing alleged that the purpose statement of the Manufacturing Park zone imposes an additional subjective standard, and that uses "must not cause objectionable noise...emanating from the property." TDC 62.100. Generally worded purposes statements are not mandatory approval criteria, absent explicit wording to the contrary.³⁶ The aspirational purpose statement in TDC 62.100 is not included in the AR approval criteria, so the irrelevant purpose statement does not impose a noise standard on the Project and cannot be a basis for denying the AR.

Appellant argues that the purpose statement at TDC 33.020(1)(i) renders TDC 62.100 and TDC 63.051 mandatory approval criteria. City Council disagrees, and interprets TDC 33.020(1)(i) as a purpose statement that articulates an aspirational and "generally worded expression[]" of the motivation for adopting the regulation," rather than an approval criteria. See *Beck*.

³⁶ See *Mariposa Townhouses v. City of Medford*, 68 Or LUBA 479 (2013).

Additional Findings interpreting the applicable criteria and scope of allowable conditions are provided in Sections III of these Supplemental Findings, and are incorporated by reference herein.

v. In the Alternative, the Existing Facility Complies With the Noise Standards.

For the reasons explained in the introduction to these Supplemental Findings, Council has decided to not include in these Supplemental Findings some of the alternative findings related to Noise Standards. Accordingly, this section of the Supplemental Findings does not include any substantive findings but remains as a placeholder³⁷ should the alternative Noise Standards Supplemental Findings may be adopted as a part of reconsideration of this Decision.

vi. In the Alternative, Substantial Evidence Supports the Conclusion that it is Feasible for the Project (in Combination with the Existing Facility) Will Comply with the Noise Standards.

For the reasons explained in the introduction to these Supplemental Findings, Council has decided to not include in these Supplemental Findings some of the alternative findings related to Noise Standards. Accordingly, this section of the Supplemental Findings does not include any substantive findings but remains as a placeholder³⁸ should the alternative Noise Standards Supplemental Findings may be adopted as a part of reconsideration of this Decision.

C. Traffic Issues

Appellant provides the following grounds for the Appeal, as related to traffic issues: (1) the “[e]xpanded North 108th Entrance does not meet New Driveway Approach Criteria; (2) the Project’s TIA did not consider additional employee work shifts; and (3) the claims that traffic is beyond the scope of the AR are incorrect.” These issues are addressed below.

i. Relevance of Traffic to Architectural Review

TDC 33.020(5)(c) requires that the approval criteria for AR are limited to TDC 73A to 73G. None of those criteria require the evaluation of traffic impacts. Instead, TDC Chapters 74 and 75 evaluate public improvements and access management, which includes consideration of traffic impacts. Although transportation issues are not directly applicable to AR, as explained in Section III.A and A (and incorporated herein), TDC 33.020(6)(a)(iii) authorizes the City to impose conditions of approval that implement the Tualatin Development Code, including TDC Chapters 74 and 75. The extent to which conditions of approval may be imposed through Architectural Review is detailed in Supplemental Findings Section III.B, and incorporated herein.

³⁷ Any references to alternative Supplemental Findings are likewise a placeholder.

³⁸ Any references to alternative Supplemental Findings are likewise a placeholder.

Accordingly, the Findings address the Project's compliance (or feasibility of compliance) with TDC Chapters 74 and 75. Appellant's Appeal statement that the ARB decision below concluded that "traffic is beyond the scope of the AR are incorrect" mischaracterizes how City Council has reviewed and applied TDC Chapters 74 and 75, and is rejected.

Many members of the community offered testimony describing existing traffic congestion on SW Tualatin Road. To the extent this testimony is relevant to any approval criteria, it is addressed in the Findings.

When addressing traffic concerns generally, Council finds that some background facts provide context for community concerns. Members of the community have expressed concern about the existing traffic on SW Tualatin Road. Lam responded to these concerns by eliminating a proposed new employee access onto SW Tualatin Road, which significantly reduces the number of Lam employees using SW Tualatin Road. As revised and approved in this Decision, the Project relies exclusively on *existing* driveways for employee traffic. Traffic modeling indicates that the Project will add very few new employee vehicle trips on SW Tualatin Road during peak hours (25 in the AM peak and 23 in the PM peak). The TIA and City Engineer concluded that SW Tualatin Road remains adequate to support the Project.³⁹ Additionally, traffic counts collected following completion of Tualatin-Sherwood Road construction confirmed the projection by Applicant's traffic expert that traffic that was diverted onto Tualatin Road during construction returned to its normal patterns, which supports the projection that the traffic volumes on SW Tualatin Road are expected to be "lower than experienced today, even with the addition to the project."⁴⁰

ii. Existing Northernmost SW 108th Avenue Entrance⁴¹

Once Lam eliminated the originally proposed new employee access onto SW Tualatin Road, some members of the public pivoted their opposition to the existing northernmost entrance at SW 108th Avenue. Non-expert testimony and speculation was offered about that entrance exacerbating concerns with existing congestion on SW Tualatin Road generally, the potential for increased crash rates at the intersection of SW 108th Avenue and SW Tualatin, increased

³⁹ See Staff Report AR24-0002, August 5, 2025 email from Tualatin City Engineer, Mike McCarthy that states: "The existing utilities and transportation system are adequate, or can be made adequate through conditions, to support the proposed Lam development."

⁴⁰ As detailed in Mackenzie's November 7, 2025 letter at Appeal Exhibit M, which has been incorporated by Council as its own findings and enclosed as Attachment 1, "Traffic volumes along the site's frontage on SW Tualatin Road have decreased by 350 AM and 125 PM trips due to construction being completed on SW Tualatin-Sherwood Road, which has been a key concern for neighbors. Even with occupancy of Building G and new development proposed in AR24-0002, volumes on SW Tualatin Road will still be lower than what was observed in Spring 2025."

⁴¹ These Findings refer to the driveway approach on SW 108th Avenue using several interchangeable terms, such as driveway, access, entrance and approach.

neighborhood cut-through traffic (including along 112th and 115th to Hazelbrook Road), additional delays at Hazelbrook Road/99W, and conflicts with school traffic.

Some community members requested a condition of approval that requires closing the existing driveway to employee traffic, despite data about the de minimis additional volume during peak period and continued functionality of SW Tualatin Road.

Members of the public submitted copies of a form letter to the ARB stating that the Project's existing northernmost entrance at 108th Avenue is inconsistent with three of the new driveway approach criteria at TDC 75.020.5. The ARB did not apply these criteria to the existing driveway on SW 108th Avenue because the entrance is existing, so the new approach criteria do not apply.

The Appellant initially argued that the new driveway approach standards should be applied because he characterized the northernmost SW 108th Avenue driveway as being gated. At the ARB and City Council hearings and in Mackenzie's November 7, 2025 testimony (Attachment 1 and Appeal Exhibit M), the Applicant explained that the gate is locked in the evening for security reasons, but that the gate is open during business hours, confirming that it is an existing driveway. Council finds that gating the driveway at night has no relevance to whether the driveway is existing or new, and rejects arguments that gating the driveway at night subjects the driveway to discretionary review during Architectural Review.

Before the City Council (verbally and in testimony dated November 7, 2025) Appellant argued that the northernmost entrance on SW 108th was not approved by an access permit, and that if the driveway had been approved, the recent approval of Building G (IMP 22-001 and AR22-006) somehow relinquished Lam's rights to that driveway. Appellant points to an approved site plan for Building G and portions of the underlying application and traffic study as proving that the northernmost entrance is not existing. The quoted portion of the Building G narrative that describes of existing driveways does not mention the northernmost driveway on SW 108th, and the quoted portion of the Building G traffic analysis focuses on the two newly proposed entrances ("north" and "south"). The depicted Building G approved site plan clearly shows the northernmost accessway, but it is colored green, not grey (for new access points) or white (for existing vehicle areas).

Council finds that the cited material is unclear and not dispositive about the existence of the northernmost driveway on SW 108th. The Building G materials were focused on the two new driveways on SW 108th Avenue. Council finds that the lack of emphasis on the existing northernmost driveway on SW 108th Avenue and inconsistencies in how it is described (or not) in the Building G materials are not conclusive about the driveway's existence; it simply was not material to the Building G Architectural Review, so the existence of the driveway was an afterthought in the application and approval.

In the relatively short period of time between Appellant's testimony about the permitting history of the driveway and the November 10 City Council hearing, neither the City nor Applicant could identify the land use approval or approach permit for the northernmost driveway onto SW 108th Avenue. Applicant's traffic expert testified at the November 10, 2025 City Council hearing that the SW 108th Avenue driveway has existed for some time. No testimony was offered that

challenged that the driveway had been in place for a while; testimony instead focused on the nature of the driveway's use (gated or used for construction access). City staff did not raise any concerns with the legal status of the driveway.

While it is a close call, Council finds that the testimony and evidence support a conclusion that the northmost access on 108th Avenue is an existing lawful driveway. Council relies upon City staff's lack of concern about the driveway, the unrefuted testimony that the driveway (in some usage) has existed for some time, and that the driveway was depicted on the Building G site plan as an existing driveway. We attribute the lack of a specific access permit to the age of the accessway.

The current gated status and allegations of lack of clarity on approval history are the only reasons provided by Appellant or the community to explain why the access approach standards in TDC 75.020(5) are applicable or that the driveway is subject to any discretionary review as a part of AR. For the reasons explained above, Council rejects both arguments and finds that the northernmost driveway on 108th Avenue lawfully exists. Because the driveway is existing, it is not subject to discretionary review as a part of Architectural Review for the Project.

As detailed in Supplemental Findings Section IV.C.iii.b (and incorporated herein), the exclusive criteria for evaluating driveway approach are the standards in TDC 75.020(5). The purpose statement or types of conditions of approval that may be imposed through Architectural Review, TDC 33.020(1)(i) and TDC 33.020(6)(b)(iv) respectively, do not impose additional criteria or broaden the City's authority to impose conditions of approval beyond TDC 33.020(5). See also, Supplemental Findings Section III.B (incorporated by reference), which explains the limitations on conditions of approval that may be imposed through Architectural Review.

i. In the Alternative, the Existing SW 108th Avenue Entrance Meets the New Driveway Approach Criteria

The following Supplemental Findings are offered in the alternative, and include interpretations and findings that apply the evidence in the record based upon the alternative interpretation that the northernmost driveway on SW 108th Avenue is subject to discretionary review as a part of this Architectural Review.

As detailed below, Council finds that the northmost driveway access on SW 108th meets the approval criteria in TDC 75.020(5). The evidence in the record does not support imposing a condition of approval limiting that driveway to construction contractors and emergency vehicles only.

a. Evidence, generally

Council acknowledges that as drivers, walkers and cyclists, we all have opinions about the transportation system. However, as explained in Supplemental Findings Section III.C (incorporated herein) the analysis of the transportation impacts from the Project and its compliance with approval criteria require technical analyses. All of the expert transportation-related evidence in the record agree with the scope, methodology, analysis and conclusions of the

transportation impacts of the Project, which is more credible and persuasive than layperson testimony or extrapolation.

Intersection crash rates are an example. As explained in the TIA, ODOT's Analysis Procedures Manual, which provides standardized procedures and methodologies for transportation analysis in Oregon, flags only intersections in the ODOT 90th percentile crash rates for further analysis. Crash rates of 1.0 crashes per MEV (million entering vehicles) are typically used as a threshold above which additional traffic safety analysis is warranted. The unrebutted technical analysis is that "all intersections have crash rates below 1.0/MEV and below the ODOT 90th percentile crash rate threshold for intersection type." TIA, 6. Appellant and his counsel offered detailed testimony about the risk of increased crash rates at the intersection of 108th Avenue and SW Tualatin Road associated with trips originating from the northernmost access on 108th Avenue, and offered relative comparisons of crash rates from other intersections, and allegations about "above average dangers" to drivers. The data and expert analysis do not support these assertions, and all of the rates cited by Appellant are below ODOT's thresholds. City Council finds that the crash risk at all intersections included in the TIA, including 108th Avenue and Tualatin Road, will operate within established thresholds for crash risk, and do not present a safety-based reason to deny or further condition the Project. Simply stated, when all intersections operate within the objective standards, emphasizing the relative rates are essentially comparing very low to low, and does not establish that any approval criteria are not met.

The layperson testimony speculating about potential impacts of traffic from the northernmost driveway on SW 108th is disproportionate to the data-based evidence of the increased trips on SW Tualatin Road that are attributable to this driveway. As explained in the Mackenzie November 7, 2025 testimony, "Another way to look at the impact [of trips using the northernmost access onto SW 108th Avenue] is the addition of the Project's 25 peak hour trips to SW Tualatin Road represents only 2% of that roadway's volume." Appeal Exhibit M and Attachment 1.

Council incorporates by reference as its own Supplemental Findings the analysis and evidence included in Applicant's traffic engineer's November 7, 2025 testimony at Appeal Exhibit M which is enclosed as Attachment 1, which includes technical and evidence-based responses to layperson community concerns about Tualatin Road impacts, SW Hazelbrook Road approach to Highway 99W, intersection of SW Tualatin Road with SW 108th Avenue, and school safety. Also see Supplemental Findings Section IV.C.iii.c, iv and v, which are incorporated herein.

b. Clarifying the Applicable Criteria

The exclusive standards applicable to a new driveway are those in TDC 75.020(5), which are addressed below.

We understand Appellant to argue that Comprehensive Plan Goal 8.7, TDC 33.020(1)(i) (describing the purpose of Architectural Review) and TDC 33.020(6)(b)(iv) (describing types of

conditions that may be imposed through Architectural Review) as providing the City additional authority to limit access from, or not approve as a new driveway, the northernmost access onto SW 108th. For the reasons explained in Supplemental Findings Sections III.A.iii and III.B (incorporated herein) and detailed below, we disagree.

We do not understand Appellant to argue that these code sections provide independent approval criteria. If we misunderstand Appellant, then we reject it. Council interprets these provisions as not providing independent mandatory approval criteria, for the same reasons that they do not expand the authority to impose conditions of approval.

TDC 33.020(1)(i) is an aspirational purpose statement and its inclusion of the City's desire to "sustain the...safety...of residents..." does not include mandatory approval criteria that operates independently of TDC 75.020(5) and does not expand the scope of allowable conditions of approval.

City Council agrees that TDC 33.020(6)(b)(iv) lists the types of conditions of approval that may be imposed through Architectural Review, including "[c]hanges in the design or intensity of the proposed development...necessary to assure compliance with this chapter [including limits on the]...number, location and design of street accesses...to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained." However, Council disagrees with Appellant's mischaracterization of how this provision operates. Council interprets this provision as providing context for a type of condition of approval that may be imposed, so long as the condition is authorized by TDC 33.020(5). It does not provide an independent basis for imposing conditions of approval, and does not impose a separate set of approval criteria.⁴² For example, the references to street capacity and traffic safety in TDC 33.020(6)(b)(iv) relates the specific criteria in TDC Chapters 74 and 75; they are not an additional standard and do not broaden the scope of authority provided in TDC 33.020(5) for imposing conditions of approval. For example, if a hypothetical project's impacts meet TDC 74 or 75 only if a condition of approval is imposed, then the type of access limiting condition described in TDC 33.020(6)(b)(iv) may be appropriate. However, the evidence analyzing the Project approved by this Decision demonstrates that the applicable standards in TDC 74 and 75 are met without restricting access, so TDC 33.020(6)(b)(iv) is not relevant here.

Under ORS 197.195(1), cities and counties must incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. If a local government does not incorporate a comprehensive plan provision into its land use regulations, that provision may not be used as a basis for a decision by the city or county or on appeal from that decision.

Tualatin Comprehensive Plan Goal 8.7 states: "Consider transportation options that make the best use of the existing network." This goal expresses policy guidance that is implemented

⁴² Testimony was offered that the site design standards in TDC 73A.120(2) incorporates other sections of the TDC, including Chapters 62 and 75, which require avoiding the creation of traffic hazards. City Council rejects that assertion. TDC 73A.120 applies only in the Mixed-Use Commercial (MUC) zone, so is not applicable to the Project. The generally applicable design standards in TDC 73A.110 apply to the Project, and none of those criteria impose a criterion related to traffic hazards, and they do not incorporate other sections of the TDC, including Chapters 62 and 75.

through the TDC; it is not an applicable approval criterion for Architectural Review because it aspirational and has not been expressly incorporated into the Tualatin Development Code as an approval standard applicable to AR, either through TDC Chapter 33, Chapters 73A to 73G or elsewhere. Testimony was offered that TDC 31.070 requires all land use decision to be consistent with the Comprehensive Plan. City Council disagrees. TDC 31.070 does not include any reference to the Comprehensive Plan and does not impose it as approval criteria on either a request for an interpretation of the TDC outside of a pending land use application (the limited scope of TDC 31.070) or other land use decisions generally. Testimony also cites TDC 62.010 as requiring that new access points support the City's Transportation System Plan (TSP). The Tualatin Development Code does not include a section 62.010. Nothing in TDC Chapter 62, or elsewhere, incorporates the TSP or Comprehensive Plan as a standard applicable to new access include to an industrial use considered as part of AR.

c. Compliance with the Driveway Access Standards in TDC 75.020(5)

Mackenzie's technical November 7, 2025 testimony at Appeal Exhibit M applies the expert traffic evidence in the record to the new driveway access standards in TDC 75.020(5) and explains how the criteria are met, findings which Council incorporates as its own, and attaches the testimony as Attachment 1 to these Supplemental Findings. Those incorporated Findings are further bolstered by the Supplemental Findings below, which address the driveway access standards raised by Appellant, TDC 75.020(5)(g to i).

i. Criterion (g): The proposed driveway approach does not result in significant adverse impacts to the vicinity;

City Council interprets "adverse impacts" to mean impacts that, even with mitigation measures, a proposal does not meet the City's standards for access management, safety, capacity and queuing, and the adverse impacts are "significant" if they greatly exceed the standards. City interprets the "vicinity" to include the City intersections studied by the TIA study intersections, which here are all City intersections within a ¼ mile of the Project site.⁴³

The only conclusion supported by the evidence is that the northernmost driveway on SW 108th Street will not result in significant adverse impacts to the vicinity.

The existing driveway meets all of the City's standards for access management in Chapter 75. Per TDC 75.120, driveways on minor collectors must be spaced at a minimum of 100' and driveways must provide a minimum distance of 40' between on-site driveways per TDC 75.040(10)—the three existing driveways on 108th Avenue are spaced at 100'. Driveways must be located at least 150' from the intersection of Collector or Arterial streets, as measured from the

⁴³ In the alternative, if "vicinity" is expanded to include the "adjacent and impacted facilities" described in TDC 74.440(3)(a), the TIA explains that scope is "all City intersections within a ¼ mile of the project site, all ODOT facilities anticipated to be impacted by 50 or more peak hour trips, and intersections of concern as noted by ODOT or the City." ARB, 50. Council finds that Hazelbrook/99W will not be impacted by more than 50 peak hour trips from the Project. Nevertheless, to be thorough, even if the Hazelbrook/99W intersection is considered to be within the "vicinity" of the driveway, for the reasons explained in Supplemental Findings Section IV.C.iii.c.iv (incorporated herein), the driveway will not result in significant adverse impacts on ODOT facilities.

stop bar, per TDC 75.040(11)(a)—the driveway is located approximately 300' south of Tualatin Road.

The TIA shows that, at Project buildout, only 6% of campus trips will use this driveway, but that the Project impact on Tualatin Road is less than 10% of site trips. During the peak hours, the northernmost driveway will add up to about 25 trips, which represents only 2% of SW Tualatin Road's volume. With these volumes of traffic and the required mitigation measures, the vicinity intersections meet safety, capacity and queuing standards.

ii. Criterion (h): The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections; and

The metrics of the functionality of streets and intersections are the City's standards for access management, safety, capacity and queuing. The TIA shows that the existing driveway meets all of those standards, as conditioned. Accordingly, with the conditions, there is no impact to functionality that needs to be minimized. Further, the northernmost driveway is one of six driveways available to Lam employees. Trips from the Project will be distributed among multiple driveways, which minimizes the impacts of each driveway on the functionality of adjacent streets and intersections.

iii. Criterion (i): The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.

The residentially zoned property and the adjacent streets subject to this criterion are the residential area and streets within the "vicinity" of the site, which here, is ¼ mile from the Project. The TIA demonstrates that there is no adverse impact from the Project in the vicinity, including the residentially zoned property and functionality of adjacent streets. Furthermore, there are no adverse impacts to the surrounding residential uses because all standards from the Tualatin Development Code are met, and the addition of only up to about 25 new peak hour trips to SW Tualatin Road is a de minimis amount of traffic on a Major Collector roadway.

iv. Relevance of Hazelbrook/99W to Driveway Approval

Residents of the neighborhood north of the Project described concerns with the existing condition of traffic cutting through their neighborhood from Tualatin Road to Hazelbrook via 112th and 115th to reach 99W. Appellant notes that the intersection of Hazelbrook Road and 99W "already has a failing grade for delays," and complained that the northernmost driveway access onto 108th Avenue will make the problem worse, characterizing it as "a threat to the to the public's health, safety, and welfare of the neighborhood's residents, which though not cited, appears to be a reference to TDC 33.020(1)(i) (Architectural Review Purpose Statement). Appellant Pre-Hearing Comment Letter, 3. Accordingly, Appellant urges the City to prohibit Lam employees from using the northernmost driveway onto SW 108th, relying upon the types of AR conditions that may be imposed pursuant to TDC 33.020(6)(b)(vi) to "maintain the capacity

of streets to carry traffic safely.”⁴⁴ For the reasons detailed in Supplemental Findings Sections III.A.iii, III.B and IV.C.iii.b, neither the purpose statement (TDC 33.030(1)(i)) or types of AR conditions (TDC 33.020(6)(b)(vi)) are approval criteria.

The issues raised by Appellant relate to delays at the intersection from the vehicles at the stop controlled intersection waiting on Hazelbrook Road to turn right onto 99W. The Project as a whole will contribute an estimated 10 additional trips to the intersection in the PM peak hour, of which 5 are expected to originate from the northernmost driveway on 108th Avenue. Council finds that this is relatively small number of trips, as well as the technical and pragmatic analysis below, demonstrates that the layperson speculation about safety risks associated with the driveway are disproportionate to the data-based analysis and conclusions about the actual impacts of the Project.

The Hazelbrook/99W intersection is an ODOT facility, which means ODOT’s standards apply and ODOT controls the improvements, if any, that are appropriate for the intersection. The technical analysis is summarized in Mackenzie’s November 7 testimony, “ODOT’s priority is to maintain the capacity and flow of the highway mainline [99W], so it is not unusual to see long delays or queues on side streets approaching a state highway [Hazelbrook].” Because Hazelbrook/99W is an ODOT facility, Council incorporates as its own the following analysis and evidence offered by ODOT (Appeal Exhibit I):

All ODOT intersections are projected to meet ODOT mobility standards in this and previous TIA revisions, with this revision appearing to better spread out traffic across ODOT intersections, rather than concentrating more traffic on Hazelbrook Rd. As such, there are no significant changes to the comments ODOT provided on 11/12/2024, which are as follows:

ODOT concurs with the findings of the TIA **that all ODOT intersections are projected to meet ODOT mobility standards** following completion of both phases of the project in 2030.

While there are a number intersections along OR 99W where 95th percentile *queues may be expected to exceed existing storage capacity under some models*, the applicant has gone to the effort of correlating HCM 2000 queue outputs to better reflect actual conditions. ODOT concurs with their conclusion that these intersections along OR 99W **“are built out to their full capacity, and little can be done to mitigate these queues”** at the applicant level. While the applicant recommends “coordination of the left turn movement from OR 99W with the left turn movement to SW Tualatin Road,” **ODOT policy does not consider signal retiming as a mitigation for development**. This signal coordination is outside the scope of this development at this time, particularly given the different ownership of each signal, which would require further coordination between ODOT and the City of Tualatin.

⁴⁴ We find that the only arguments related to Hazelbrook/99W are how the intersection should influence whether the northernmost driveway on 108th is approved.

Lastly, long delays were identified for westbound traffic on Hazelbrook on the stop-controlled approach OR 99W. Given that this has not been shown to present safety or operation issues for northbound traffic on OR 99W, ODOT concurs that **“mitigation is not recommended [at Hazelbrook]** because it would encourage vehicles to travel this route from SW Tualatin Road instead of using SW 124th Avenue to access OR 99W northbound.”

No further analysis of state highway facilities is required.

Bold in original, italics added.

The incorporated ODOT analysis rebuts Appellant’s arguments. First, all ODOT intersections (including Hazelbrook/99W) are projected to meet ODOT mobility standards. ODOT references that some queues that may exceed storage capacity, but Table 7 of the TIA demonstrates that the Hazelbrook/99W queue does not exceed the 95th percentile ODOT threshold. All transportation experts (ODOT, City and Applicant’s) agree with this evidence, analysis and conclusion. Council finds that this is substantial evidence that supports the conclusion that the impacts of the Project do not support Council imposing conditions of approval that are intended to limit traffic impacts on Hazelbrook/99W, such as limitations on Lam’s access onto 108th Avenue or signal modifications. We incorporated by reference the analysis in Supplemental Findings Section III.B related to limits upon imposing conditions of approval. TDC 33.020(6)(b)(vi), which describes types of AR conditions, does not overcome the lack of evidentiary basis to impose any conditions of approval related to Hazelbrook/99W, and does not impose an additional transportation-related approval criterion, for the reasons explained in Supplemental Findings Section IV.C.iii.b (incorporated herein). Additionally, the aspirational purpose statement in TDC 33.020(1)(i) is not an independent approval criterion and is not a basis for imposing a condition of approval, for the reasons explained in Supplemental Findings Sections III.A.iii, III.B (incorporated herein).

In addition to the lack of an evidentiary basis to impose an authorized condition of approval targeted at Hazelbrook/99W, there is a pragmatic reason Council has exercised its discretion to not impose conditions. All transportation experts (City, ODOT and the Applicant’s) recommended no mitigation because if the delay was shortened it “would only encourage more traffic to cut through the neighborhood.” Mackenzie, November 7 testimony. Simply stated, the best way to address the community’s concerns about existing cut through traffic is to allow the existing delays at Hazelbrook to remain because the delays act as a deterrent to cut through traffic.

Appellant also links the Hazelbrook/99W PM peak hour delays to the Applicant’s suggestion to coordinate left turn movements from ORS 99W to SW Tualatin Road at the intersection with SW 124th Avenue, which the Decision does not impose as a condition of approval. Applicant’s suggested signal modification at 124th/99W was suggested to address AM peak queues at that intersection; an intersection and peak period that is unrelated to the PM peak concerns at Hazelbrook/99W. Accordingly, any conditions of approval related to 124th/99W are irrelevant to Hazelbrook/99W, which is the sole ODOT intersection raised as a potential issue related to the driveway on SW 108th Avenue. Accordingly, whether or not signal timing modifications are required or pursued for 124th/99W is not a basis to condition or deny the Project.

v. The TIA is Not Required to Consider Additional Employee Shifts or Potential Future Development and Meets the Requirements of TDC 74.440.

Appellant contends that the TIA fails to consider additional employee work shifts and speculates that the future buildout of vacant land on Lam's campus could generate additional traffic. Appellant's argument is undeveloped, and it is unclear if Appellant is arguing that shifts should be required to minimize traffic impacts, or that additional shifts could be added, which would increase traffic impacts. Regardless, neither argument constitutes a valid basis for denial of Architectural Review, as the record demonstrates that the TIA adequately considered the increased employee numbers anticipated from full Project buildout. Accordingly, the TIA satisfies the requirements set forth in TDC 74.440.

Appellant's argument about shifts appears to either request mitigation (e.g., requiring shift work) or to challenge the scope of the TIA (e.g., different assumptions about shifts should have been included). Neither is a basis for denying the AR. The TIA concluded, and the City Engineer agreed, that as conditioned, SW Tualatin Road meets all standards. Meaning, there is no grounds for requiring mitigation such as relying upon shifts to spread the Project's traffic to non-peak hours. If the argument is that additional shifts could be added in a manner that impacts peak hour traffic, that is speculation that is not supported by the record and is unreasonable. As detailed below, the only evidence in the record related to shifts is that Lam currently has only a small percentage of staff working outside the typical day 8-5 shift schedule. It would be a significant change in operation to add shifts or more employees to night shifts. Also, if it made sense to have a second shift, then the new office and lab buildings include in the Project would not be needed – the added 600 employees could simply use existing buildings with additional shifts.

The TIA complies with accepted practices and does not include speculative and unsupported assumptions. The TIA's modeling is based upon current patterns and practices. The TIA explains that the AM peak hour is 8 AM to 9 AM, and the PM peak hour is 4:45 to 5:45 PM. The TIA scoping memo includes a discussion of trip generation, and details shift work, explaining that the day shift for office and lab employees is generally 8-5, which overlaps with the AM and PM peak periods. Manufacturing staff work 12-hour shifts "with changes outside the peak hours (7-7 shift schedule)."⁴⁵ The Project includes an office building, laboratory building and utility building. Accordingly, the TIA assumes that the new office and lab employees will generally commute during the AM and PM peak periods similar to current employees.

TDC 74.440(1) gives the City Manager discretion to require a TIA as part of the development approval process. As relevant to this Appeal, TDC 74.440 requires that the TIA include the information listed in TDC 74.440(3), including proposed trip generation and distribution for the proposed development. The TIA relied on the following analysis to meet this requirement⁴⁶:

⁴⁵ Staff Report AR24-0002, Exhibit A4, June 5, 2025 Updated Transportation Impact Analysis Scoping.

⁴⁶ Staff Report AR24-0002, Exhibit A4: Transportation Impact Analysis and Memorandum, p. 12 ("Trip Distribution and Assignment").

- The TIA contemplates that the Project could add up to 600 employees to the campus.
- The TIA estimates these additional employees will work similar shift schedules as current employees and will generate an additional 244 AM peak hour, 233 PM peak hour, and 2036 daily trips, based on the “Research and Development Center” (LUC 760) trip rate from the Institute of Transportation Engineers’ (ITE) Trip Generation Manual.
- The added trip distribution for each surrounding road resulting from the 600 employees was based on (1) the timing of current employee shifts; (2) the zip codes of current employees; and (3) the fact that “most new employees will be assigned to Building H,” the parking for which is accommodated at the existing southeast and new northeast parking lots.
- While the Project at buildout will be associated with additional trips, testimony has focused on the impacts to Tualatin Road. The traffic study shows that, during peak hours, the Project will result in an average of 25 additional trips on Tualatin Road west of SW 108th Avenue, which is a 2% increase in trips during peak hours.

The Project’s TIA was subject to review by the City Engineer, third party peer review by DKS associates, and subject to review by ODOT and Washington County traffic engineers. Reviewing experts provided some questions about details of the TIA, which were addressed, with no further questions. The agencies agree with the scope and conclusions of the TIA. Therefore, the TIA adequately analyzed the proposed trip generation and distribution for the proposed development, pursuant to the requirements in TDC 74.440.

Any future development on Lam’s campus would be subject to AR and the related traffic impacts would be evaluated at that time. Speculation about future impacts is irrelevant to AR for this Project.

D. Other Issues

i. Conditions of Approval do not Improperly Defer Compliance of Discretionary Approval Criteria

At the de novo City Council public hearing, Appellant’s attorney challenged Conditions of Approval A3, A11, and A16 on the basis that they defer discretionary review to a process not subject to notice and opportunity for a public hearing. Council rejects Appellant’s allegation. Those Conditions of Approval do not defer discretionary decision-making to a later date because they merely require that the improvements meet technical ministerial standards—applicable to post-entitlement permits—that will be ministerially reviewed for compliance by the City’s engineering staff, or require confirmation through a final plan submission process. To the extent that Conditions of Approval A3, A11, and A16 are based upon discretionary standards, the discretion has been exercised as a part of this Decision, which includes Findings of compliance (or feasibility of compliance) will all applicable approval criteria. Also see Supplemental Findings Section III.A.i, incorporated herein.

Since Appellant has made no claims about the substance of any Conditions of Approval (e.g., their efficacy in ensuring that the Project is consistent with approval criteria or the evidence

relied upon to impose the condition),⁴⁷ these Supplemental Findings address only Appellant's procedural claims about Conditions of Approval A3, A11, and A16. Further, Conditions of Approval A3, A11 and A16 are the only conditions identified by Appellant's counsel, so Appellant's challenge is limited to only Conditions of Approval A3, A11 and A16. Appellant's challenge to these conditions do not explain the discretionary criteria that is allegedly improperly deferred to a later process has not met, as required by *O'Shea v. City of Bend*, 49 Or LUBA 498 (2005).

a. Deferring Compliance, Generally

"A local government may, by imposing conditions or otherwise, defer a final determination concerning compliance with an applicable permit approval standard to a later stage. However, if the decision to be made at the later stage is itself *discretionary*, the approval process for the later stage must provide the statutorily-required notice and opportunity for hearing, even though the local code may not require such notice and hearing in other circumstances. *McKay Creek Valley Assoc. v. Washington County*, 24 Or LUBA 187 (1992) (emphases added), citing *Rhyne v. Multnomah County*, 23 Or LUBA 442, 448 (1992); *Headley v. Jackson County*, 19 Or LUBA 109, 114 n 9 (1990); *Holland v. Lane County*, 16 Or LUBA 583, 596 (1988).

In comparison, "Assuming a local government finds compliance, or feasibility of compliance, with all approval criteria during a first stage (where statutory notice and public hearing requirements are observed), it is entirely appropriate to impose conditions of approval to assure those criteria are met and defer responsibility for assuring compliance with those conditions to planning and engineering staff as part of a second stage." *Rhyne v. Multnomah County*, 23 Or LUBA 442 (1992).

Before evaluating whether the standard for which a compliance determination is deferred is discretionary (deferral *not* allowed without process) or ministerial (deferral *is* allowed without process), a threshold issue is whether compliance deferral is happening at all. LUBA does not consider later review of project (such as Final Street Improvement Plans or recorded documents) documents by City staff to be deferral. *Wolfgram v. Douglas County*, 54 Or LUBA 54 (2007) ("where the land use authority finds that an approval criterion is met but requires further confirmation through the final plan submission process, that is not the same thing as deferring a finding of compliance to a later stage of the approval process"); see also *Friends of Collins View v. City of Portland*, 41 Or LUBA 261, 275-77 (2002) (where a local government finds compliance and imposes conditions to ensure compliance, that a condition of approval requires additional review by local government staff does not mean the local government has "deferred" a finding of compliance with an approval criterion). Therefore, merely requiring later engineering review to implement a Finding of compliance with a discretionary approval criterion does not improperly defer compliance.

⁴⁷ Appellant raises concerns with the northernmost driveway access onto SW 108th Avenue, which related to TDC Chapter 75. Those arguments are addressed in Supplemental Findings Section IV.C.iii and incorporated herein. We do not understand Applicant to challenge any condition of approval directed at the northernmost driveway access onto SW 108th Avenue.

Finally, when an individual challenges findings deferring compliance with discretionary applicable approval criteria, they must: (1) identify the applicable discretionary approval criteria; (2) identify the findings that defer consideration of those discretionary criteria; and (3) explain how that deferral is inadequate to ensure compliance with the approval criteria. *O'Shea v. City of Bend*, 49 Or LUBA 498 (2005).

b. Conditions of Approval A3, A11, and A16 Do Not Unlawfully Defer Compliance with Discretionary Approval Criteria

The City finds that Conditions of Approval A3⁴⁸, A11⁴⁹, and A16⁵⁰ do not impermissibly defer compliance with applicable discretionary approval criteria. These conditions reference TDC Chapters 74 (Public Improvements) and 75 (Access Management), either generally or with specific provisions listed. As described in Supplemental Findings Section III.A.i (incorporated herein), TDC 33.020.5.d. provides that the approval criteria for this AR are in TDC Chapter 73A through 73G, and TDC 33.020.6.a.iii provides that the City may impose conditions of approval for AR to ensure that Projects meet the standards in the TDC.

The Findings evaluate TDC 74 and 75 and explain compliance or feasibility of compliance with the applicable criteria in those Chapters, and then conclude with a reference to the applicable conditions of approval. References to TDC 74 and 75 in the Conditions of Approval are meant to correlate the City's authority to impose the conditions in the first instance with the applicable Findings, not signal future discretionary approval. To the extent that the Findings reference PWCC compliance, the PWCC involves technical engineering standards akin to building codes, which are ministerial. Therefore, these Conditions of Approval do not defer compliance review for applicable AR approval criteria to a later discretionary stage.

The Findings for TDC 74.210 (Minimum Street Right-of-Way Widths) are a representative example. That standard includes a discretionary component ("width of streets in feet shall not be less than the width required to accommodate a street improvement *needed to mitigate the impact* of a proposed development") and a ministerial component ("the width of the right-of-way shall not be less than the minimums indicated in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G"). The required additional right of way must be dedicated prior to issuance of building permit. The Findings addressing this standard provide:

⁴⁸ Condition of Approval A3 requires "...City approval of Final Street Improvement Plans for SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road..."

⁴⁹ Condition of Approval A11 requires that "[f]or each Phase...[t]he applicant must submit copies of recorded documents for all lots associated with the proposed Phase of development in accordance with Public Works Construction Code (PWCC) and Tualatin Development Code (TDC) 74.210, 74.330, 74.350, and 75.040 which show the City Engineer approved..."

⁵⁰ Condition of Approval A16 requires "[f]or all lots associated with the proposed Phase of development the applicant must: a. Complete all the private and public improvements as shown on the approved permit plans. All improvements must be constructed and guaranteed as to workmanship and material and also be accepted by the City in accordance with Tualatin Development Code (TDC) 74.120 and 74.140; and, b. Submit an approved final erosion control inspection report to the Engineering division; and, c. Submit pdf as-builts of the Engineering division permits along with maintenance bonds and complete any final fees for public improvements"

The proposal is adjacent to SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road. Required dedication of right-of-way and construction of public street surface infrastructure will benefit this development's expected addition of bicycle, pedestrian, and vehicular trips utilizing streets and sidewalks. Final plans will include a minimum of half-street right-of-way dedications to preferred crosssections along with improvements within SW Leveton Drive and SW Tualatin Road meeting the requirements of the City of Tualatin. With recommended Conditions of Approval A3, A11, and A16 this standard is met.

These representative Findings demonstrate that the City exercised discretion by evaluating the impacts of the Project (the additional trips on frontage roads, which other Findings explain are based upon the City's review of the TIA) and concluded that the additional right of way dedications were required to meet the objective right of way width standards. Condition of Approval A3 references TDC 74 and the required cross-sections, and describes the width of the required right of way. Condition of Approval A11 references TDC 74.210, and confirms that the required right of way must be dedicated prior to issuance of the Project's building permit.

Unlike *McKay Creek*, Conditions of Approval A3, A11, and A16 do not defer questions of compliance with discretionary approval criteria to a subsequent process. No future policy judgment or interpretation of discretionary approval criteria is required; only engineering verification occurs. As *Rhyne* explains, it is appropriate to defer ministerial compliance checks to staff after approval when findings confirm compliance or feasibility at the hearing stage, such as occurred with this Architectural Review and Decision.

The City finds that Conditions of Approval A3, A11, and A16 do not unlawfully defer compliance with discretionary approval criteria, and are lawful and typical for public improvement compliance. They do not defer discretionary review; they require ministerial confirmation during permit issuance. Furthermore, Appellant has not completed any of the steps articulated in *O'Shea v. City of Bend*, 49 Or LUBA 498 (2005), which is required to challenge findings based on deferral of approval criteria. The City also finds that Conditions of Approval A3, A11, and A16 were the only conditions challenged in this matter. Notwithstanding this finding, the City also finds that none of the remaining Conditions of Approval defer a finding of compliance with any mandatory approval standards.

ii. Exterior Gas Storage Complies with TDC 62.210(5)

Appellant alleges that the Project's proposed "gas production facility" or "gas plant" do not comply with TDC 62.210(5), which requires that all uses must be conducted wholly within a completely enclosed building, which certain exceptions listed, with the exceptions not including "gas manufacturing." Appellant's Hearing Letter, 2.

TDC 62.210(5) provides:

(5) Outdoor Uses. All uses must be conducted wholly within a completely enclosed building, except as provided by this section.

(a) Permitted Uses. Off-street parking and loading, utility facilities, wireless communication facilities, and outdoor storage occupying less than ten (10) percent of the total site area, are permitted outright as outdoor uses.

We reject Appellants argument, which misunderstands and mischaracterizes the nature of the Project's gas-related outdoor activities. The record does not include a description of any gas "production," or "manufacturing" that is proposed as a part of the Project. Appellant provides no explanation or basis for this characterization, beyond references to the existing facilities, which are not subject to this Decision.

The use is an outdoor gas storage yard that meets the total site area limitation, so it is an allowed use. As explained in the Findings evaluating TDC 62.210(5), "...The existing bulk gas storage yard, which is an outdoor storage area, will be expanded less than 10% of the total site. The applicant has not proposed outdoor uses besides offstreet parking, loading, and utilities. With recommended Condition of Approval A24 and A14.m., this standard is met."

Attachment 1 to Supplemental Findings

Mackenzie's Technical "Traffic Response for Appeal of AR Decision," dated November 7, 2025



November 7, 2025

City of Tualatin
Attention: Mike McCarthy
18880 SW Martinazzi Avenue
Tualatin, OR 97062

Re: **Lam – Project TUX**
Traffic Response for Appeal of AR Decision
AR24-0002
Project Number 2250180.00

Dear Mike:

Mackenzie has prepared this letter to respond to some of the traffic related comments provided through the Architectural Review (AR) process. Traffic analysis data and calculation results were included in our July 21, 2025, Transportation Impact Analysis (TIA) and supplemental August 19, 2025, letter during the AR process for the proposed development. In addition, new traffic counts were collected at the intersection of SW Tualatin Road with SW 108th Avenue on Thursday October 23, 2025, to assess changes in volumes with substantial completion of SW Tualatin-Sherwood Road widening improvements and the opening of Building G at the Lam Campus.

The original development proposal for AR24-0002 included employee use of a driveway on SW Tualatin Road opposite SW 115th Avenue, currently used by JAE and providing gated emergency access to the Lam campus, and installation of a new traffic signal at that intersection. The traffic signal and employee use of this driveway were subsequently eliminated from the development proposal in response to community feedback. In the approved plan for AR24-0002, existing driveways on SW Leveton Drive and SW 108th Avenue will continue to be used for the campus. This minimizes the number of campus trips added to SW Tualatin Road and cutting through the adjacent neighborhood via SW 115th Avenue and SW Hazelbrook Road. SW Leveton Drive will continue to serve as the primary vehicular access location for the campus.

The development proposed in AR24-0002 was reviewed by City of Tualatin, Washington County, and the Oregon Department of Transportation, and all jurisdictions concurred with the findings and recommendations of the TIA.

Traffic related comments received during the AR process are addressed below.

North access on SW 108th Avenue

The north access on SW 108th Avenue has historically been gated at night for campus safety. However, the driveway has always been available during regular business hours for employees and deliveries and is therefore not a "new access".

There will be an increase in use of this driveway with added parking on the north side of the campus, but even with this increase, the total trips from the campus that will use this driveway will be low. There will be no vehicle connection between this north driveway and the recently constructed parking lot for Building G.

Some neighbors have expressed concern that the increased use of this driveway would lead to additional impact on SW Tualatin Road. Our TIA modeling predicts that impact on SW Tualatin Road from the proposal will be 25 or fewer trips in



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the peak hours, or only 10% of the Project's new trips. As detailed below, our analysis of the actual trips generated by the recent occupancy of Building G validates the accuracy of our TIA modeling, so our TIA estimates for the project are reliable.

Another way to look at the impact is that the addition of the project's 25 peak hour trips to SW Tualatin Road represents only 2% of that roadway's volume. The total impact of Lam's campus after project development is estimated to be less than 5% of the volume on Tualatin Road, meaning the campus impact without the project is about 3% of the volume.

Although the driveway is not new, it will comply with all standards in TDC 75.020.5 for a new driveway:

(a) *The proposed driveway approach meets the standards of this Chapter and the Public Works Construction Code;*

Response: The driveway will meet all the standards, including width of 36", spacing of 100' minimum from other driveways, and 150' from the intersection of collector and arterial streets.

(b) *No site conditions prevent placing the driveway approach in the required location;*

Response: The driveway is existing and there are no site conditions that prevent its continued use at this location.

(c) *The number of driveway approaches onto an arterial are minimized;*

Response: No site driveways are proposed on an arterial. All site driveways are located on SW 108th Avenue and SW Leveton Drive, both of which are collectors as noted in the City of Tualatin's recently adopted 2025 Transportation System Plan.

(d) *The proposed driveway approach, where possible: (i) Is shared with an adjacent property; or (ii) Takes access from the lowest classification of street abutting the property;*

Response: Shared access is not possible as the campus has frontage on the entire length of SW 108th Avenue between SW Tualatin Road and SW Leveton Drive. The campus has frontage on an Arterial (SW Tualatin Road) and two Collector roadways (SW 108th and SW Leveton) and on takes access on the lower classification Collector roadways.

(e) *The proposed driveway approach meets vision clearance standards;*

Response: Vision and sight distance standards were addressed in the TIA, which demonstrates the requirements are met from this driveway approach. City Engineering staff will also review the construction documents to confirm these are met.

(f) *The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access;*

Response: No traffic hazards are created with the location of driveway, turning movements, or anticipated traffic volumes. The TIA indicates operations will meet the applicable City standards.

(g) *The proposed driveway approach does not result in significant adverse impacts to the vicinity;*

Response: As noted in the TIA, there are no intersections or roadways that do not meet operational or safety standards in the vicinity of the campus. While there is a small number of additional trips added to SW Tualatin Road, this does not result in a significant adverse impact. As summarized above, the project will contribute only a 2% or less increase in volumes (25 trips) during peak hours

(h) *The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections;*

Response: Because the driveway is located on a lower classification and lower volume roadway, and all intersections and roadways in the vicinity will operate at acceptable levels, there is minimal impact on the functionality of adjacent streets and intersections.



- (i) *The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.*

Response: The access is located on a collector roadway opposite other industrial development and as noted in the TIA, fewer than 25 peak hour trips will be added to SW Tualatin Road, which borders residentially zoned properties. The TIA demonstrates that there is no adverse impact from the project including on the residentially zoned property and functionality of adjacent streets.

Tualatin Road impacts

As noted in the TIA and reviewed by City of Tualatin staff and summarized above, the proposed is estimated to add fewer than 25 peak hour trips to any segment of SW Tualatin Road. The campus impact on SW Tualatin Road between SW 108th and 115th Avenues is estimated to be less than 5% of the total traffic volumes, with project related traffic comprising of 2% of the total traffic volumes. The total volume on SW Tualatin Road is consistent with its classification as an Arterial roadway.

As noted below, volumes on SW Tualatin Road have decreased since counts were taken for the TIA in the spring of 2025 as construction has neared completion on Tualatin-Sherwood Road.

SW Hazelbrook Road approach to Highway 99W

We have estimated the impact of the project will be 10 additional trips in the PM peak hour and both City and ODOT staff have agreed with our assessment. Further, the recent review of traffic volumes added to SW Tualatin Road from 108th Avenue with occupancy of Building G validates the assumptions in our modeling, which provides additional support for this estimate. Our recommendation is for no mitigation at this location because mitigating the long delays and queues would only encourage more traffic to cut through the neighborhood. ODOT agrees that no mitigation should be made to this location. ODOT's priority is to maintain the capacity and flow of the highway mainline, so it is not unusual to see long delays or queues on side streets approaching a state highway.

Intersection of SW Tualatin Road with SW 108th Avenue

There have been comments from neighbors regarding the crash rate at this intersection as well as the potential need for mitigation. As noted in the TIA, the intersection does not have an elevated crash rate. Comparisons with the crash rate at the intersection of SW 115th Avenue show a higher rate, but both intersections are below the average for these types of intersections.

Operations following the proposed development do not warrant a traffic signal, nor would we recommend one. Adding a traffic signal would only encourage more traffic to use SW Tualatin Road.

School safety

Lam's impact is mostly during the peak commute hours, as noted in the TIA. The observed site peaks are from 8:00 AM – 9:00 AM and 4:45 PM to 5:45 PM. Few AM peak hour trips will be added to either SW Tualatin Road or SW 115th Avenue, and the PM peak hour is well outside school peaks (school ends at 3:10 PM). We also understand the City has met with neighbors to discuss options to reduce cut through traffic that is occurring even without the proposed expansion of the Lam campus.



The recent reduction in SW Tualatin Road volumes due to substantial completion of improvements on SW Tualatin-Sherwood Road, especially during the AM peak hour, also helps to address these concerns.

Tualatin Road Traffic Volumes

As noted in the TIA, traffic volumes on SW Tualatin Road appeared to have increased in 2024 and 2025 due to construction on SW Tualatin-Sherwood Road. Now that construction is substantially complete and all lanes are open, new counts were conducted at the intersection of SW Tualatin Road with SW 108th Avenue on Thursday October 23, 2025. Overall intersection volumes have decreased by more than 100 vehicles in the PM peak hour and 250 vehicles during the AM peak per hour, indicating there was a measurable impact on SW Tualatin Road from the construction project. In addition, Lam's Building G construction has completed, and is now occupied by 500 employees. The original TIA for Building G estimated 196 AM and 193 PM peak hour trips with 600 employees. Most of these trips are added to the two driveways constructed on SW 108th Avenue for the Building G project.

There was a small increase in traffic volumes turning to and from SW 108th Avenue and the west leg of Tualatin Road when compared with the counts conducted in spring 2024 and 2025 during construction on SW Tualatin-Sherwood Road and before occupancy of Building G. Assuming these additional turns are due to the added Building G trips, we calculated the turn volume increase to be 10% of Building G's trip estimate. During the AM peak hour there was a small increase of 12 trips turning right and a decrease of trips turning left to SW Tualatin Road. During the PM peak hour there was a small increase of 14 left turns and two right turns. With 500 employees, Building G is estimated to generate 161 trips in the PM peak hour, and the 16 trips added to SW Tualatin Road is 10% of that total. This supports our assumptions of small increases on SW Tualatin Road with occupancy of both projects.

Traffic volumes along the site's frontage on SW Tualatin Road have decreased by 350 AM and 125 PM trips due to construction being completed on SW Tualatin-Sherwood Road, which has been a key concern for neighbors. Even with occupancy of Building G and new development proposed in AR24-0002, volumes on SW Tualatin Road will still be lower than what was observed in Spring 2025.

The overall impacts of the Lam campus on Tualatin Road are estimated to be approximately 5% of the total PM peak hour volume, with the new development accounting for 2% and existing campus trips 3%.

In summary, the impacts of the development proposed in AR24-0002 will not result in any significant impacts on intersections and roadways in the vicinity. Most trips to and from the campus will use SW Leveton Drive instead of SW Tualatin Road, minimizing the impact near the residential neighborhood and cut through on SW 115th Avenue and SW Hazebrook Road.



Brent Ahrend, PE
Associate Principal | Traffic Engineer

Enclosure(s): Attachment A – Intersection Count Summary Sheets



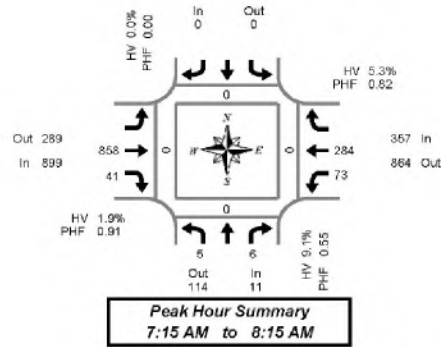
Total Vehicle Summary

Clay Carney
(503) 833-2740

SW 108th Ave & SW Tualatin Rd

Wednesday, June 06, 2018

7:00 AM to 9:00 AM

**15-Minute Interval Summary**

7:00 AM to 9:00 AM

Interval Start Time	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Interval Total	Pedestrians Crosswalk			
	L	R	Bikes				Bikes		T	R	Bikes		L	T	Bikes			North	South	East	West
7:00 AM	1	2	0				0		190	5	0		11	48	0		257	0	1	0	1
7:15 AM	3	2	0				0		226	8	0		13	66	1		318	0	0	0	0
7:30 AM	0	0	0				0		242	6	1		13	70	1		331	0	0	0	0
7:45 AM	1	2	0				0		226	16	0		29	80	0		353	0	0	0	0
8:00 AM	1	2	0				0		164	12	0		18	68	1		265	0	0	0	0
8:15 AM	2	3	0				0		135	8	0		22	53	2		223	0	0	2	3
8:30 AM	2	2	0				0		107	7	0		16	64	1		198	0	0	0	0
8:45 AM	1	3	0				0		91	1	0		17	75	1		188	0	0	0	0
Total Survey	11	16	0				0		1,381	62	1		139	524	7		2,133	0	1	2	4

Peak Hour Summary

7:15 AM to 8:15 AM

By Approach	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Total	Pedestrians Crosswalk			
	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes		North	South	East	West
Volume	11	114	125	0	0	0	0	0	899	269	1,168	1	367	864	1,221	3	1,267	0	0	0	0
%HV	9.1%				0.0%				1.9%				6.3%				2.9%				
PHF	0.55				0.00				0.91				0.82				0.90				

By Movement	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Total	Pedestrians Crosswalk			
	L	R	Total				Total		T	R	Total		L	T	Total			North	South	East	West
Volume	5	6	11				0		658	41	699		73	264	357		1,267	0	1	0	1
%HV	0.0%	NA	16.7%	9.1%	NA	NA	NA	0.0%	NA	1.9%	2.4%	1.9%	2.7%	6.0%	NA	5.3%	2.9%				
PHF	0.42		0.75	0.55			0.00		0.88	0.68	0.91		0.63	0.68	0.82		0.90				

Rolling Hour Summary

7:00 AM to 9:00 AM

Interval Start Time	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Interval Total	Pedestrians Crosswalk			
	L	R	Bikes				Bikes		T	R	Bikes		L	T	Bikes			North	South	East	West
7:00 AM	5	6	0				0		664	34	1		66	264	2		1,259	0	1	0	1
7:15 AM	5	8	0				0		858	41	1		73	264	3		1,267	0	0	0	0
7:30 AM	4	7	0				0		767	41	1		82	271	4		1,172	0	0	2	3
7:45 AM	6	9	0				0		632	42	0		85	265	4		1,039	0	0	2	3
8:00 AM	6	10	0				0		497	28	0		73	260	6		874	0	0	2	3

Total Vehicle Summary

Clay Carney
(503) 833-2740

SW 108th Ave & SW Tualatin Rd

Tuesday, June 05, 2018

4:00 PM to 6:00 PM

15-Minute Interval Summary

4:00 PM to 6:00 PM

Interval Start Time	Northbound SW 108th Ave			Southbound SW 108th Ave			Eastbound SW Tualatin Rd			Westbound SW Tualatin Rd			Interval Total	Pedestrians Crosswalk			
	L	R	Bikes			Bikes	T	R	Bikes	L	T	Bikes		North	South	East	West
4:00 PM	8	7	2			0	102	2	0	2	215	1	336	0	0	0	0
4:15 PM	5	12	1			0	94	1	1	0	220	0	332	0	2	0	0
4:30 PM	14	12	0			0	98	0	1	1	269	2	364	0	2	0	0
4:45 PM	4	12	0			0	93	3	0	3	238	0	353	0	0	0	0
5:00 PM	17	13	1			0	111	1	2	0	239	0	361	0	0	0	0
5:15 PM	14	16	2			0	90	2	1	2	249	0	372	0	4	0	0
5:30 PM	10	11	0			0	94	4	1	6	207	0	332	0	0	0	1
5:45 PM	5	12	0			0	90	6	3	2	174	0	289	0	2	0	1
Total Survey	77	94	6			0	772	19	9	16	1,801	3	2,779	0	10	0	2

Peak Hour Summary

4:30 PM to 5:30 PM

By Approach	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Total	Pedestrians Crosswalk			
	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes		North	South	East	West
Volume	101	12	113	3	0	0	0	0	398	1,034	1,432	4	991	444	1,435	2	1,490	0	6	0	0
%HV	2.0%				0.0%				3.5%				0.9%				1.7%				
PHF	0.84				0.00				0.89				0.95				0.97				

By Movement	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Total
	L	R	Total				Total		T	R	Total		L	T	Total		
Volume	49	52	101				0		392	6	398		6	985	991		1,490
%HV	0.0%	NA	3.8%	2.0%	NA	NA	NA	0.0%	NA	3.8%	0.0%	3.5%	0.0%	0.9%	NA	0.9%	1.7%
PHF	0.72		0.87	0.84			0.00		0.88	0.50	0.89		0.50	0.95		0.95	0.97

Rolling Hour Summary

4:00 PM to 6:00 PM

Interval Start Time	Northbound SW 108th Ave			Southbound SW 108th Ave			Eastbound SW Tualatin Rd			Westbound SW Tualatin Rd			Interval Total	Pedestrians Crosswalk			
	L	R	Bikes			Bikes	T	R	Bikes	L	T	Bikes		North	South	East	West
4:00 PM	31	43	3			0	367	6	2	6	932	3	1,405	0	4	0	0
4:15 PM	40	49	2			0	396	5	4	4	966	2	1,450	0	4	0	0
4:30 PM	49	52	3			0	392	6	4	6	985	2	1,490	0	6	0	0
4:45 PM	45	51	3			0	388	10	4	11	933	0	1,438	0	4	0	1
5:00 PM	46	51	3			0	385	13	7	10	869	0	1,374	0	6	0	2

Type of peak hour being reported: Intersection Peak

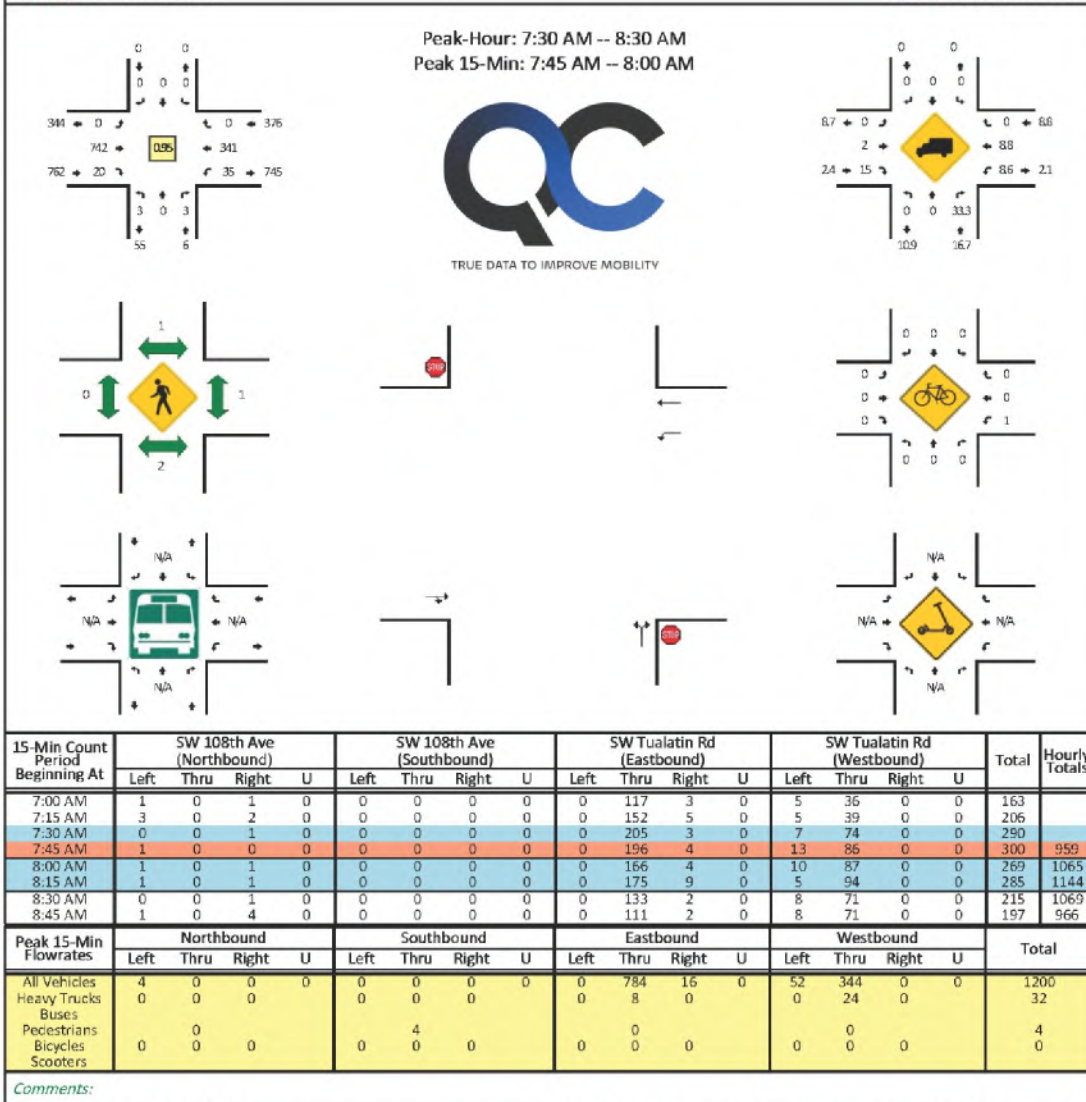
Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd

QC JOB #: 16573205

CITY/STATE: Tualatin, OR

DATE: Tue, Apr 23 2024



Report generated on 5/3/2024 1:07 PM

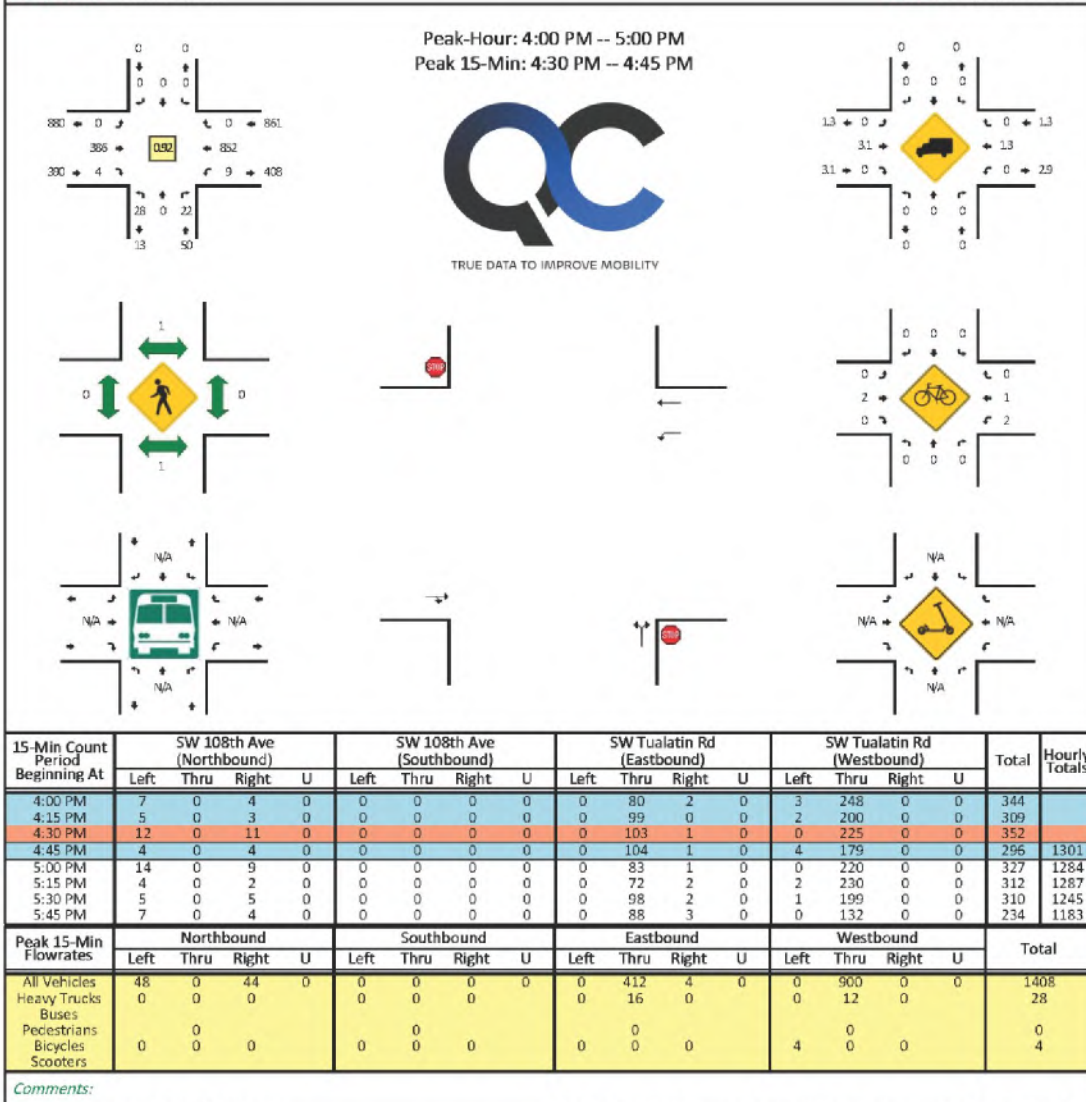
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 16573206
 DATE: Tue, Apr 23 2024



Report generated on 5/3/2024 1:07 PM

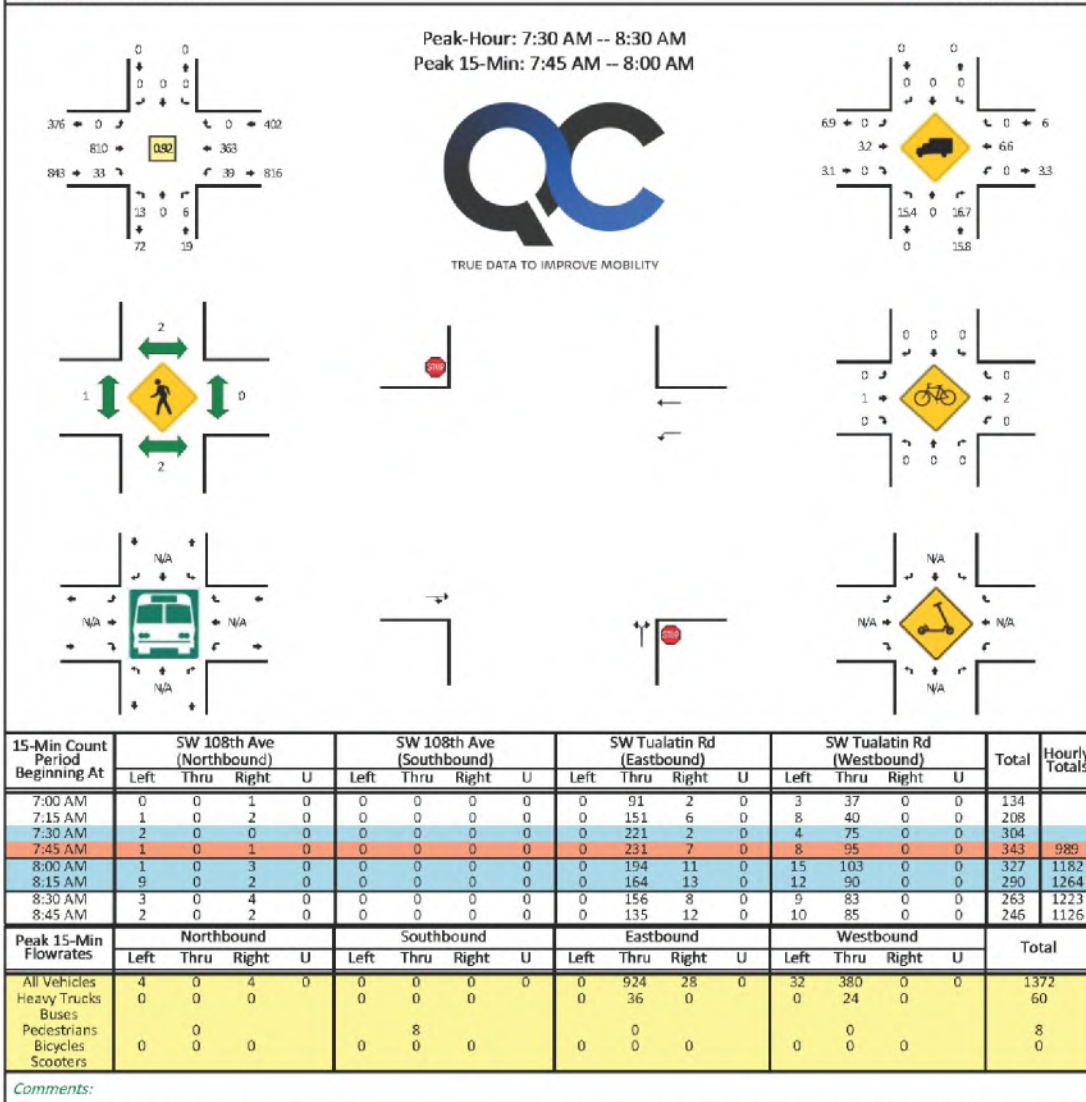
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 17042833
 DATE: Tue, May 13 2025



Report generated on 6/2/2025 1:12 PM

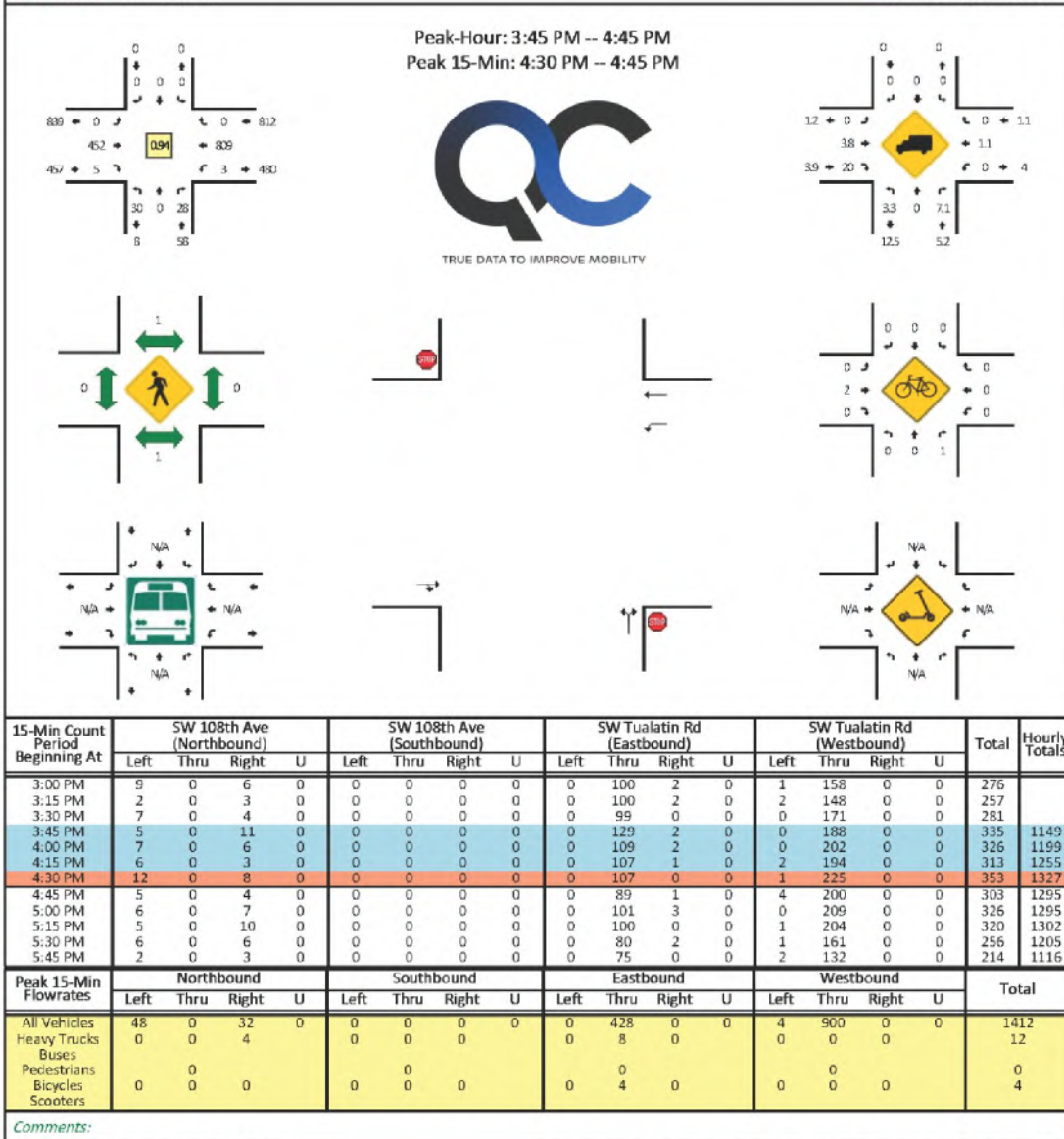
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 17042834
 DATE: Tue, May 13 2025



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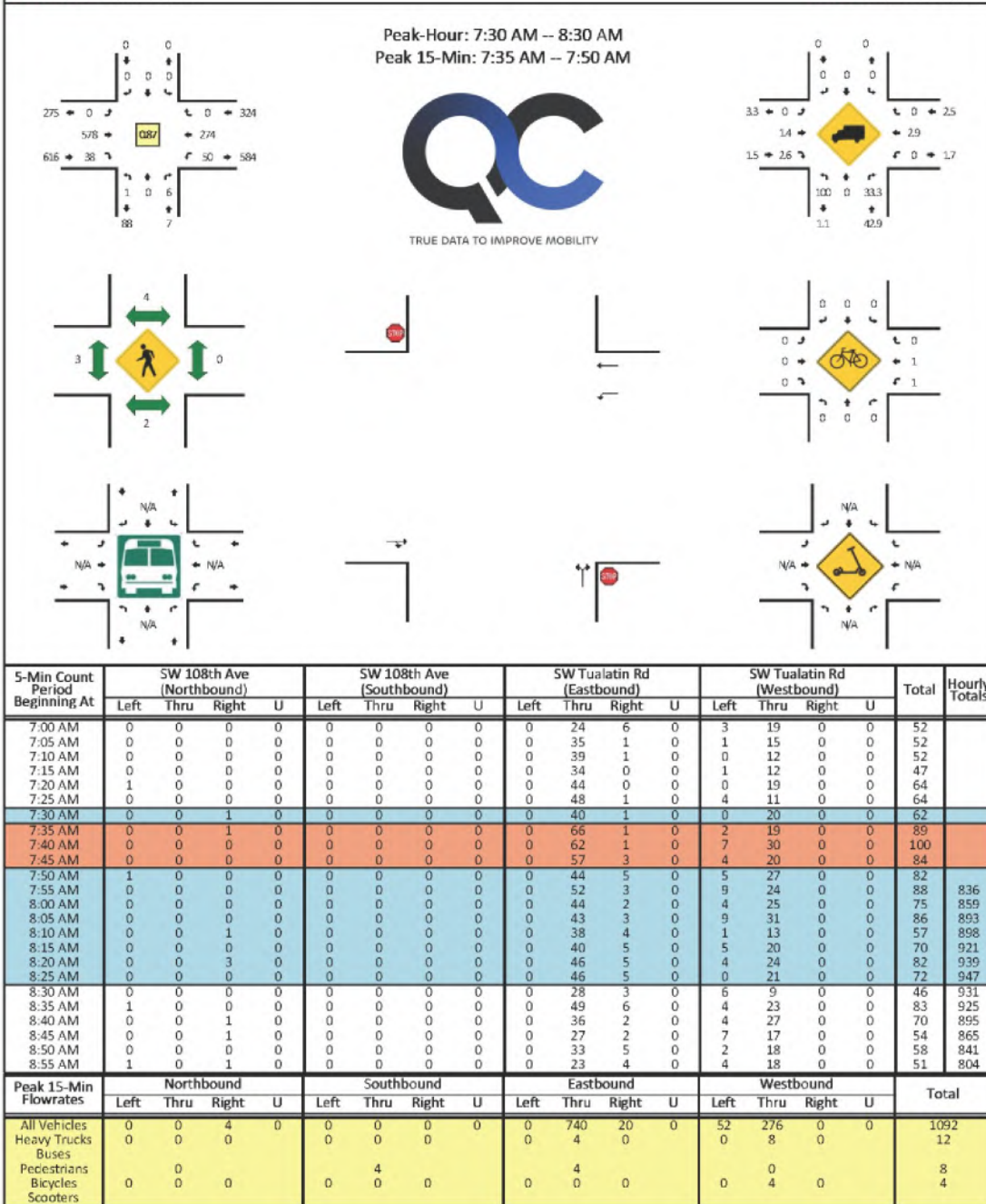
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 17305501
 DATE: Thu, Oct 23 2025



Report generated on 10/29/2025 6:37 AM

SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

QC JOB #: 17305502
DATE: Thu, Oct 23 2025



Comments:

SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Exhibit 3 Supplemental Findings (as Revised, December 8, 2025)

The City Council adopts the following Supplemental Findings to address certain matters raised on appeal and during the Council's de novo review.

Collectively, the "Findings" detailing the application's compliance with all applicable criteria include:

- November 10, 2025 Supplemental Staff Memo, Supplemental Staff Memo – Architectural Review (AR) for Lam Research Corporation located at located at 11155-11361 SW Leveton Drive (Tax Lots: 2S122AA500 & 800, 2S122A00100, 2S122BA00100) in the Light Manufacturing Park Zone (MP) (Exhibit 1/Attachment B to Resolution No. 5937-25);
- September 10, 2025 ARB Decision AR24-0002, Analysis and Findings- Lam Research Campus; Updated September 11, 2025 with Findings and Conditions of Approval (Exhibit 2/Exhibit A to Resolution No. 5937-25) which were presented at the Public hearing and adopted by the Architectural Review Board;
- These Supplemental Findings (Exhibit 3 to Resolution No. 5937-25), which include Attachment 1 (Mackenzie's Technical "Traffic Response for Appeal of AR Decision," dated November 7, 2025).

The Supplemental Findings were prepared by the Applicant, who was the prevailing party in this Decision, and the "proponent" for the Project. Council adopts the Supplemental Findings as its own. This practice is commonplace, is supported by case law¹ and contemplated and authorized by the City Council's own rules. Council's rules expressly allow Council to "incorporate findings proposed by the proponent, the opponent, or staff in its decision." City Council Rule 4B(6). Council rejects all challenges that Council has erred in adopting the Supplemental Findings, which were drafted by Applicant, as its own.

¹ See, for example, *Rawson v. Hood River County*, 77 Or LUBA 571 (2018), which explains:

Since *Sunnyside Neighborhood [v. Clackamas Co. Comm.]*, 280 Or 3, 20-21, 569 P2d 1063 (1977)], it has become common practice in this state for local governments to close the evidentiary record at the conclusion of the evidentiary phase of quasi-judicial land use proceeding and render a tentative oral decision. Local governments then commonly request proposed findings from the prevailing party or from planning staff. And finally, at a final hearing for adopting a final decision, the local government adopts the written decision and findings prepared by the prevailing party or planning staff, with or without modifications.

While many of the findings of fact and the findings setting out a local government's final decision reasoning may therefore be supplied by the prevailing party or planning staff, the local government has all those findings before it when it acts to adopt its final written decision and can either embrace all those findings and adopt them as its own or have them removed and replaced with findings that the local government agree with. This process, or some variation on it, occurs in most quasi-judicial land use decisions. And we have explained on numerous occasions that it is the final written decision that is subject to LUBA review, not the oral statements that individual decision makers may make during the local proceedings. *Lowery v. City of Portland*, 68 Or LUBA 339, 359 (2013); *Hale v. City of Beaverton*, 21 Or LUBA 249, 258 (1991); *McCoy v. Linn County*, 16 Or LUBA 295, 306 (1987); *Citadel Corporation v. Tillamook County*, 9 Or LUBA 401, 404 (1983).

The Supplemental Findings include some findings in the alternative. To the extent that there is a conflict between any of the Findings that are not expressly or implicitly adopted in the alternative, these Supplemental Findings supersede the other Findings.

City Council's motion at the November 10, 2025 hearing expressly included instructions to adopt Supplemental Findings in the alternative. The Supplemental Findings were published in advance of Council's December 8, 2025 hearing to adopt the Findings. Some community members were concerned that some of the alternative Supplemental Findings may somehow impact the City's evaluation of potential Noise Ordinance violations. Council desires to avoid any misconceptions about the independence of Noise Ordinance enforcement. Accordingly, Council has decided to not include in these Supplemental Findings some of the alternative findings related to Noise Standards. However, should this Decision be appealed, Council anticipates voluntarily withdrawing this Decision for reconsideration so that the alternative Noise Standards Supplemental Findings may be adopted in support of the Decision.

City Council rejects several issues raised by Appellant for reasons in common. For example, the City Council rejects several points for not being related to a mandatory approval standard, or because an alleged procedural error does not prejudice Appellant's substantial rights. To avoid redundancy on these issues, we frequently incorporate Findings by reference. Given the volume of issues raised, if Findings inadvertently fail to incorporate other supporting Findings by reference then incorporation by reference of other relevant and supportive Findings should be implied because Council's intent is to provide adequate findings.

Certain public comments were not directed at the applicable approval criteria, and some were directed at an earlier design of the Project that was modified prior to this approval (e.g., the originally proposed employee access onto SW Tualatin Road, which was eliminated and is not a part of the approved Project). Council attempts to respond to all issues raised, but issues raised in public comment and not addressed in Findings are deemed irrelevant to the mandatory approval standards that apply to the Decision or the approved version of the Project.

I. Appeal Summary

On September 10, 2025, the Tualatin Architectural Review Board ("ARB") unanimously approved application AR24-002 for Type III Architectural Review ("AR") of Lam Research Corporation's ("Lam" or "Applicant") Tux Project ("Project"). The ARB found that the Project meets the AR approval criteria specified in Tualatin Development Code ("TDC"). On September 25, 2025, Brett Hamilton ("Appellant") appealed ARB's approval of AR24-0002 (the "Appeal"). On November 10, 2025, the Tualatin City Council ("City Council" or "Council") conducted a de novo public hearing to consider the Appeal and AR for the Project. The Council unanimously denied the Appeal and approved AR for the Project (the "Decision"), for the reasons explained in these Findings.

Broadly, the Appeal raised issues with respect to the City's compliance with procedural requirements; the existing facility's and Project's compliance with noise limitations in Tualatin Municipal Code ("TMC"), Chapter 6-14 ("Noise Ordinance") and other Noise Standards; and the analysis of the Project's traffic impacts, particularly related to the northernmost entrance on SW

108th Avenue. Based upon Council’s interpretation of the TDC and TMC and evidence in the whole record, the City Council denied the Appeal and approved the AR. The Council determined that:

- Appellant has not alleged any procedural errors demonstrating prejudice to Appellant’s substantial rights;
- The Noise Ordinance is a performance standard, so compliance is determined once a use is operational; it is not a mandatory approval standard for AR approval;
- The Project demonstrates compliance with all applicable mandatory approval standards;
- The northernmost 108th Avenue entrance does not require a new driveway approach permit;
- The Project’s traffic impact study (the “TIA”) and Applicant’s expert transportation evidence¹² comply with TDC 74.440; and
- In the alternative, the Project’s compliance with the Noise Standards is feasible based upon the Applicant’s expert noise-related evidence²³ and the northernmost 108th Avenue entrance complies with new driveway approach standards in TDC 75.020(5).

II. Project Background

The Project approved by the AR 24-0002 Decision includes: construction of an office building, research laboratory, central utilities building, and a small storage building, totaling 241,230 square feet; expansion of an existing bulk gas storage yard; and associated landscaping, parking, and public/site improvements on a 75.96-acre site zoned Manufacturing Park (“MP”). The Project is subject to the recently approved Industrial Master Plan IMP24-0001 (“IMP”), which is final and effective.

The original design of the Project included new employee access on SW Tualatin Road. In response to community feedback, Lam redesigned the Project and removed the new employee access on to SW Tualatin Road. As revised, and approved by City Council, the Project includes only one new driveway—a driveway for truck access on SW Leveton Drive. Employee traffic will use the existing six driveways, including three on SW 108th Avenue and three on SW Leveton. As a result, the Project is expected to add only 25 new trips to SW Tualatin Road to the west of SW 108th Avenue during the morning peak hour, and 23 new trips in the afternoon peak hour, which is a de minimis amount of traffic on a Major Collector roadway.³⁴

This Project has been the subject of robust public participation at every stage. Several members of the community, including Appellant, participated in the June 5, 2024 Neighborhood Developer Meeting. The City sent out a Notice of Hearings and Opportunity to Comment on the application

¹² See Supplemental Findings Section III.C.ii for a list of Applicant’s transportation expert evidence.

²³ See Supplemental Findings Section II.C.i for a list of Applicant’s noise-related expert evidence.

³⁴ The Findings sometimes refer to the Project adding approximately 24 new trips during peak hours, which is the average of 25 new AM peak hour trips and 23 PM peak hour trips, or rely upon the higher contribution of 25 new peak hour trips.

on December 16, 2024. The City also sent two Notices of Rescheduled Hearings and Extended Opportunity to Comment on March 11, 2025 and on May 9, 2025. The Applicant posted signs on the site as notice for all of the potential and actual hearing dates. Members of the public, including Appellant, submitted myriad public comments on the Project and testified at the ARB hearing on September 10, 2025. Appellant and members of the public submitted testimony prior to and at the de novo City Council hearing on November 10, 2025 where the Appeal was considered.

III. Generally Applicable Findings⁴⁵

In this Decision, the City Council is required to interpret and apply the TDC and TMC. From the outset, Council notes the Decision is for *Architectural Review*, an approval which has a very limited scope and purpose—it primarily evaluates the exterior appearance and design quality of proposed development, with criteria that address design standards for buildings, parking areas, and landscaping. The design-oriented nature of AR is why the body that initially reviews AR applications, the Architectural Review Board, is the only City board or commission whose membership requires professional registration, such as Registered Architect, Registered Landscape Architect or Engineer.

Architectural Review for this Project requires findings of consistency with the applicable standards and objectives at TDC Chapter 73A through 73G. TDC 33.0220(5)(d). The limited scope of Architectural Review is important because many of the issues raised in the Appeal are not relevant to the Architectural Review criteria. Evaluating the relevance of an argument typically depends upon how City Council interprets the TDC and TMC. The City Council is aware of, and takes seriously, the broad discretion the City has to interpret and apply its own code, and the deference given to City Council's interpretation, particularly where, as here, there are no state statutes or regulations involved. Specifically, LUBA must affirm the City's interpretation of its own land use regulations unless LUBA determines that the City's interpretation is "inconsistent with the express language" of the regulation, the purpose of the regulation, the underlying policy that provides the basis for the regulation, or is contrary to a state statute, land use goal, or rule that the regulation implements. ORS 197.829(1). Whether the City's interpretation is inconsistent with the express language of a comp plan or land use regulation turns on whether the city's interpretation is "plausible." *Siporen v. City of Medford*, 349 Or 247, 261, 243 P3d 776 (2010).

In this generally applicable Section III of the Supplemental Findings that apply to all of the issues raised, Council explains (A) how it interprets the TDC and TMC to distinguish standards and identify the applicable approval criteria; (B) the limits on Council's authority to impose conditions of approval through Architectural Review; and (C) how Council considered and compared competing testimony and evidence to reach conclusions about the relative credibility of testimony and evidence, resulting in substantial evidence upon which City Council relies. In Supplemental Findings Section IV below, Council addresses specific issues raised on appeal.

⁴⁵ The findings in this Supplemental Findings Section III are intended to apply to all issues raised, and while Council attempts to specifically reference and incorporate Section III, even in the absence of an express incorporation in a particular subsection of Findings, these Supplemental Findings Section III are herein incorporated by reference throughout the Findings.

Supplemental Findings Section IV also includes interpretations of specific criteria and reaches conclusions about whether they are mandatory approval criteria, whether they must be addressed through a discretionary review, and if they are a basis for imposing a condition of approval; Findings which are all incorporated herein by reference.

A. Distinguishing Mandatory Approval Standards from Performance Standards and Aspirational Purpose Statements

A quasi-judicial application, such as the Project’s AR application that is the subject of this Decision, may not be approved unless the applicant demonstrates compliance with all mandatory approval standards, or that compliance is feasible. *Meyer v. City of Portland*, 7 Or LUBA 184 (1983), *aff’d*, 67 Or App 274, *rev. denied*, 297 Or 82 (1984).

Many of Appellant’s arguments, especially related to Noise Standards (as defined in Supplemental Findings Section IV.B), are rejected by Council because the arguments (i) fail to address that not every provision in the Tualatin Development Code or Tualatin Municipal Code is a mandatory approval standard⁵⁶ and (ii) do not demonstrate that the TDC or TMC sections that are allegedly not met (particularly the Noise Standards) are mandatory approval criteria.⁶⁷

As relevant to this Appeal and Project, City Council interprets the TDC and TMC to include three categories of code provisions:

Category	Characteristics	When Applied	Proof Required During AR Review	Representative Code Provisions
Mandatory Approval Standard	Binding criterion for approval	Discretionary standards are applied prior to approval of discretionary land use application	Compliance or feasibility of compliance	TDC 73A through 73G
Performance Standard	Regulates how a use functions	Once a use is operational, including through enforcement if necessary	None, because they are “not necessary prerequisites to issuance of a permit”	TDC 63.051 and TMC 6-14
Aspirational Purpose Statements	Nonbinding policy or intent	Are not applied	None; may be used to guide interpretation	TDC 33.020(1)(i) and TDC 62.100

⁵⁶ These Supplemental Findings sometimes refer to the mandatory approval standards as development standards, applicable criteria or approval criteria. We use the terms interchangeably, with the meaning being that they are standards for which compliance must be determined (or that compliance is feasible) prior to land use approval.

⁶⁷ See also, Supplemental Findings Sections IV.B.ii, iv and IV.C.iii.b and c, which are incorporated by reference.

When interpreting a provision to determine if it is a mandatory approval standard or if it is something else, the City Council first evaluates the text of the provision, and then analyzes the relevant context. *Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991).

i. Mandatory Approval Standards

Mandatory approval standards are preconditions to granting a land use application and are expressly incorporated as an approval criterion. Here, the application is for Architectural Review, and the approval criteria are expressly listed TDC 33.020(5) (Approval Criteria), which specifies at subsection (d) that industrial development “...must comply with the applicable standards and objectives in TDC Chapter 73A through 73G.” The standards and objectives in TDC Chapter 73A through 73G do **not** contain criteria related to noise; they do **not** incorporate by reference the Tualatin Municipal Code generally, or the Noise Ordinance at TMC 6-14, or other Noise Standards. Therefore, the mandatory approval standards, do not include any of the Noise Standards. Instead, the Noise Standards cited by Appellant are either performance standards or aspirational purpose statements, based upon the text and context of the cited provisions, for the reasons in Supplemental Findings Section III.A.ii and iii, which are incorporated herein, as well as Supplemental Findings Sections IV.B.ii and iv.

Architectural Review has very narrow approval criteria, with TDC 33.050(5)(d) providing a closed universe of applicable criteria. That universe expands, however, through TDC 33.020(6)(a)(iii), which authorizes an Architectural Review decision to impose conditions of approval to “implement the requirements of the Tualatin Development Code.” Meaning, the scope of Architectural Review goes beyond TDC Chapter 73A through 73G.

For example, TDC Chapters 62, 63, 74 and 75 are not listed as Architectural Review criteria, but they are sections of the Tualatin Development Code, so the Project must meet the applicable standards found in those chapters that are intended to be approval criteria.⁷⁸ Each provision must be analyzed to determine whether the standard is a mandatory approval standard (and if it is discretionary or objective), performance standard or aspirational purpose statement.

For the reasons explained in Supplemental Findings Section III.A.ii (and incorporated herein), the standards in TDC Chapter 63 are performance standards that are not applied as a prerequisite to approving Architectural Review. Nevertheless, City Council includes in the alternative the Supplemental Findings at Section IV.B.v and vi (and incorporated herein) that apply TDC Chapter 63 as mandatory approval standards. Additionally, aspirational purpose statements throughout the TDC are also not mandatory approval standards for the reasons explained in Supplemental Findings Section III.A.iii (and incorporated herein), but the City Council includes in the alternative findings that apply aspirational purpose statements as mandatory approval standards, as detailed in Supplemental Findings at Sections IV.B.v and vi (and incorporated herein).

⁷⁸ Appellant described the City’s authority to apply TDC Chapters 62, 74 and 75 in the “Appellant’s Hearing Letter” dated November 10, 2025. The extent to which those chapters of the TDC are mandatory approval criteria or may be the basis of the City imposing a condition of approval is addressed throughout these Supplemental Findings.

A more nuanced issue is when considering mandatory approval standards, some are objective and others are discretionary. Many of the approval criteria in TDC 62, 74 and 75 are ministerial standards that are objective and measurable that do not require discretion, such as objective engineering standards and dimensional development standards. The ministerial standards in the TDC that do not require interpretation or the exercise of policy or legal judgement are not required to be applied as part of Architectural Review. Instead, they could be applied at the time of a subsequent ministerial process, such as a building permit or public works permit, and those ministerial decisions would not be a statutory permit (ORS 227.160(2)) or a land use decision (ORS 197.015(b)(A) and (B)). *Kerns Neighbors v. City of Portland*, 67 Or LUBA 130 (2013).

However, the standards in TDC Chapters 62, 74 and 75 are not exclusively ministerial; some are discretionary and require interpretation. Deferring compliance with discretionary land use standards to a later, non-public process is not allowed under Oregon land use law. *McKay Creek Valley Assoc. v. Washington County*, 24 Or LUBA 187 (1992) ("Conditions of approval may not defer compliance with applicable approval criteria to a later stage unless the deferred matter involves only ministerial or technical details."). In the abundance of caution to avoid inadvertently deferring compliance with a discretionary standard to a later stage without a public process (such as building permit review), the Findings address the Project's compliance (or feasibility of compliance) with TDC Chapters 62, 74 and 75. As detailed in the Supplemental Findings Section IV.D.i (and incorporated herein) the Conditions of Approval do not defer a finding of compliance with any discretionary mandatory approval standard.

ii. Performance Standards: TDC 63.051 and TMC 6-14.

Performance standards are ongoing operational or performance requirements that govern how a use functions after approval. The requirement in TDC 63.051 to comply with the Tualatin noise ordinance in TMC 6-14⁸⁹ and applicable DEQ noise standards is a performance standard. Also see Supplemental Findings Section IV.B.ii, which is incorporated herein.

The text of TDC 63.051 and the incorporated Noise Ordinance provisions indicate that they are performance standards because they regulate the manner in which a use operates over time, rather than prescribing conditions for initial approval. The language does not require compliance "prior to issuance of a permit" or "as a prerequisite to development approval" or as required by TDC 33.020(5)(d) that "applications...must comply..."; instead, it mandates that "all uses and development must comply." This phrasing signals an obligation that attaches to the functioning of the use, not to the land use decision itself.

In contrast and as supporting context, the "Approval Criteria" section of Architectural Review for industrial development provides "*Applications* for Large Commercial, Industrial and Multifamily Development *must comply* with the applicable standards and objectives in TDC Chapter 73A through 73G." TDC 33.020(5)(d), emphasis added.

The context of TDC 63.051 (and the incorporated TMC 6-14) supports the interpretation that it is a performance standard. First, the location and heading are relevant: TDC 63.051 is housed in

⁸⁹ The Tualatin Municipal Code (TMC) is distinct from the Tualatin Development Code ("TDC"). On its face, the TMC is not a land use regulation.

the generally applicable Chapter 63 “Environmental Regulations” portion of the TDC, not in the Architectural Review section in Chapter 33. The cross-referenced noise limitations are not located in the Tualatin *Development* Code at all; they are located in the separate Tualatin *Municipal* Code, which are not land use regulations that apply to a quasi-judicial land use application.

The purpose statement in TDC 63.010 provides context for interpreting Chapter 63, and explains, “...It is intended that the following standards provide statutory authority for the **enforcement** of regulations relating to noise...” Emphasis added. Enforcement applies after operation begins; it is not a prerequisite to approving a permit. Enforcement is conducted pursuant to procedures set out in the Tualatin *Municipal* Code (TMC 7-1), a regulatory scheme that is entirely separate from the TDC; context which supports characterizing TDC as a performance standard, not mandatory development standards. Similarly, the applicability provision in TDC 63.020 does not specify that the standards apply during Architectural Review or to new development; it applies to industrial uses and uses within a Manufacturing zone. In contrast and as supporting context, the “Applicability” section of Architectural Review does not reference uses; it describes types of development that are subject to Architectural Review and lists examples of “new” development such as new buildings, new parking lots or new utilities. TDC 33.020(2)(a) and (b)(i), (iv) and (v).

The Noise Ordinance includes a “noise disturbance” threshold that is a *qualitative* and complaint-driven standard, which is further context for concluding that the Noise Ordinance is a performance standard, not a mandatory approval standard.⁹¹⁰ Additional context for concluding that the Noise Ordinance is a performance standard is the process for enforcing an alleged noise disturbance or decibel violation, which includes a detailed process wholly independent of a land use process. A process that has unique evidentiary standards that shift the burden of proof to the complainant and that may result in a hearing before a Municipal Court Judge that affords due process to the parties. An enforcement action related to a noise disturbance may be initiated with evidence of at least two persons from different households. TMC 6-14-110.¹⁰¹¹ The complainant has the “burden of proving the alleged ordinance infraction by a preponderance of the evidence.” TMC 7-1-040(8)(f). An enforcement officer then reviews the facts, and has discretion to further an enforcement action “depending upon an assessment of the quality, quantity and sufficiency of the evidence, the seriousness of the violation and appropriateness of the remedy.” TMC 7-1-040(2). The enforcement officer may issue a Uniform Citation and Complaint, which describes the allegations of the infraction, and a summons that orders the cited violator to appear in

⁹¹⁰ Also see Supplemental Findings Section IV.B.vi.b, which is incorporated by reference, for additional analysis of the “noise disturbance” threshold.

¹⁰¹¹ TMC 6-14-110 describes the evidence to “establish a violation in an enforcement action based on sections 6-14-030.” However, evidence alleging a violation does not prove a violation. Instead, the enforcement process in TMC Chapter 7.01, the Uniform Civil Infraction Procedure, must be followed. TMC 6-14-115(3) (“the civil infraction procedures in TMC 7-1 apply to the prosecution of any violation of this Chapter.”) Considering this context, Council interprets TMC 6-14-110 to mean that the evidence described in TMC 6-14-110 (e.g., two persons from different households or a qualified decibel reading) does not, on its face, prove a noise violation. Instead, that is the evidence needed to initiate an enforcement proceeding, where the evidence is evaluated and due process is provided to all parties. Therefore, Council interprets “establish a violation” in TMC 6-14-110 to mean an enforcement action for a violation may be initiated, not that a violation is proven.

Municipal Court. TMC 7-1-040(5). A hearing is then held before a Municipal Court Judge, where the respondent has the right to present evidence and witnesses, to cross examine witnesses who testify against the respondent, and to submit rebuttal evidence. TMC 7-1-040(8). The Municipal Court Judge then enters a judgment with findings. TMC 7-1-040(8)(l).

LUBA has affirmed a local jurisdiction describing a noise standard as a performance standard, and concluded that “such performance standards are not necessarily prerequisites to issuance of a permit although they may be stated as conditions to operate under a permit” and “we do not believe the county was required by its ordinances to find the noise standard satisfied as a prerequisite to surface mining permit.” *Zusman v. Clackamas County*, 13 Or LUBA 39, 45 (1985). Also see *Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991) (quoting and relying upon *Zusman* to conclude “where a local government’s code simply imposes an ‘operational requirement’ or ‘performance standard’ to be satisfied during operation of a use, [s]uch performance standards are not necessary prerequisites to issuance of a permit.”)

In laymen’s terms, a performance standard is different than a mandatory approval standard. A performance standard must be followed once the Project is operating, but it does not have to be met in order for Architectural Review to be approved.

Because performance standards must not be met as a prerequisite to approving Architectural Review, no findings or evidence are required to address noise-related performance standards, and they cannot be a basis for denying the Architectural Review. Nevertheless, condition of approval A25 requires compliance with the noise performance standards in TDC Chapter 63 (which incorporates the Noise Ordinance) (as detailed in the Supplemental Findings Section III.B, and incorporated herein), and substantial evidence demonstrates that compliance is feasible, as detailed in the Supplemental Findings in Section IV.B.vi, which are incorporated herein.

iii. Aspirational Purpose Statements: TDC 33.020(1)(i) and TDC 62.100

Appellant cites two^{H12} different purpose statement provisions, TDC 33.020(1)(i) (Architectural Review Purpose) and TDC 62.100 (Manufacturing Park Zone Purpose), and alleges that they impose the Noise Standards, including TDC 62.100 and TDC 63.051 on the Project. The cited purpose statements are not included in the Architectural Review mandatory approval criteria (TDC 73A to 73G) and are not incorporated by reference by those criteria. Accordingly, Appellant argues that the purpose statements nevertheless apply as independent approval authority because they provide a relevant requirement for the uses listed as allowed in the Manufacturing Park zone.

^{H12} Throughout these findings, when describing purpose statements upon which Appellant’s arguments are based, we understand Appellant relies exclusively on TDC 33.020(1)(i) and TDC 62.100. We do not understand Appellant to argue that the purpose statement for Chapter 63 (Environmental Regulations) in TDC 63.010 as a basis for imposing Noise Standards. If we misunderstand Appellant, then we reject that assertion because, as explained elsewhere in these Supplemental Findings, and incorporated herein: (1) TDC Chapter 63 includes performance standards; (2) TDC 63.010 includes aspirational statements that are not approval criteria; and (3) TDC 63.010’s reference that the standards in Chapter 63 are intended to provide “statutory authority for enforcement of regulations relating to noise...” is contextual support for concluding that TDC Chapter 63 includes only performance standards.

As detailed in these Supplemental Findings, the purpose statements at TDC 33.020(1)(i) and TDC 62.100 do not contain applicable approval criteria for Architectural Review. The City interprets the specific wording of these code sections to contain “generally worded expressions of motivation” and “objectives that the [City] hopes to achieve”—but not mandatory approval standards. Also see Supplemental Findings Section IV.B.iv, which is incorporated herein.

“[A]bsent wording to the contrary, generally worded zoning purpose statements are not mandatory approval standards for permits and other site specific land use decisions.” *Mariposa Townhouses v. City of Medford*, 68 Or LUBA 479 (2013), citing *Bridge Street Partners v. City of Lafayette*, 56 Or LUBA 387, 392 (2008); *Renaissance Development v. City of Lake Oswego*, 45 Or LUBA 312, 322-23 (2003). “Whether the provisions of a zoning ordinance ‘purpose’ section are approval criteria for individual land use decisions depends on the wording of the specific provisions and their context.” *Tylka v. Clackamas County*, 22 Or LUBA 166, 173 (1991).

Purpose statements that are “generally worded expressions of the motivation for adopting the regulation, or the goals or objectives that the local government hopes to achieve by adopting the regulation” are not approval criteria. *Beck v. City of Tillamook*, 20 Or LUBA 178, 185-86 (1990), *aff’d* 105 Or App 276, 812 P2d 16 (1991), *rev’d on other grounds* 313 Or 148, 831 P2d 674 (1992).

When purpose statements are not mandatory approval standards, they may guide or provide context for the interpretation of an ambiguous mandatory approval standard.

a. TDC 33.020(1)(i) (Architectural Review Purpose Statement) Does Not Contain Approval Criteria

Appellant argues that the purpose statement at TDC 33.020(1)(i) renders TDC 62.100 and TDC 63.051 mandatory approval criteria. City Council disagrees, and interprets TDC 33.020(1)(i) as a purpose statement that articulates an aspirational and “generally worded expression[] of the motivation for adopting the regulation,” rather than an approval criteria. See *Beck v. City of Tillamook*, 20 Or LUBA 178, 185-86 (1990), *aff’d* 105 Or App 276, 812 P2d 16 (1991), *rev’d on other grounds* 313 Or 148, 831 P2d 674 (1992).

The City’s interpretation is based on the specific wording of TDC 33.020(1)(i), which does not contain any concrete indication that approval must be conditioned on findings of compliance therewith.

TDC 33.020(1)(i) provides:

- (1) *Purpose.* The City Council finds that excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of structures and the lack of proper attention to site development and landscaping, in the business, commercial, industrial, and certain residential areas of the City hinders the harmonious development of the City; impairs the desirability of residence, investment or occupation in the City; limits the opportunity to attain the optimum use and value of land and improvements; adversely affects the stability and value of property;

produces degeneration of property in such areas with attendant deterioration of conditions affecting the peace, health and welfare of the City; and destroys a proper relationship between the taxable value of property and the cost of municipal services therefore. *The purposes and objectives of community design standards* are to:

* * *

- (i) Sustain the comfort, health, safety, *tranquility and contentment* of residents and attract new residents by reason of the City's favorable environment and thus promote and *protect the peace, health and welfare* of the City.

* * *

Emphasis added.

A careful reading of TDC 33.020(1)(i) demonstrates that the provision is not a general purpose statement for Architectural Review; the general purpose statement is in TDC 33.020(1). The eleven subsections of TDC 33.020(1)(a to k), including (i), describe the “purposes and objectives of community design standards.” The “community design standards” are not defined in the TDC. TDC Chapter 69 applies to the Industrial Business Park Overlay, so although not applicable here, provides context for interpreting what “community design standards” means. TDC 69.160 is entitled “Community Design Standards” and refers to TDC Chapter 73; TDC 73A to G, the Architectural Review mandatory approval standards.

TDC 33.020(1)(i) itself is aspirational and expresses a conceptual goal, much like the purpose statement in *Mek Properties, LLC, v. Coos County*, 61 Or LUBA 360 (2010). (County reliance on “CCCP Policy 5.19(1), which provides that the city should ‘strive to promote and encourage’ a safe transportation network,” as a mandatory approval criterion was reversible error.)

The context of TDC 33.020(1)(i), which is one of 11 subparts to the lengthy Architectural Review purpose statement at TDC 33.020(1), also does not support an interpretation that Architectural Review approval may only be issued in compliance with the purpose statement, and are instead context for interpreting TDC 73A to 73G. Each of the other subparts in TDC 33.020(1) contains goal oriented and generally worded expressions. For example, TDC 33.020(1)(i) is included in the following list of purpose statements: “[e]ncourage originality, flexibility and innovation” (subpart (a)); “[d]iscourage monotonous, drab, unsightly, dreary and inharmonious development” (subpart (b)); “[a]chieve the beneficial influence of pleasant environments...” (subpart (g)). None of these could be construed as mandatory approval criteria, and all are aspirational—they do not suggest an interpretation of TDC 33.020(1)(i) that would render it a mandatory approval criterion. Instead, the mandatory approval criteria are those listed in TDC 33.020(5) “Approval Criteria,” which here are TDC 73A through 73G.

b. TDC 62.100 (Manufacturing Park Zone Purpose Statement) Does Not Contain Approval Criteria

Appellant argues that the City has the discretion to interpret the purpose statement at TDC 62.100 as an approval criterion for Architectural Review, citing *Mariposa* and *Tylka*. Appellant

frames the purpose statement as characterizing the uses allowed in the MP zone are allowed “provided that” or “on condition that,” meaning that even if a proposed use is listed as allowed in the zone, it still must demonstrate compliance with the zone’s purpose statement in order to be approved. Appellant’s interpretation inserts words that are not included in TDC 62.100, and City Council disagrees with Appellant’s interpretation of TDC 62.100. The specific wording and context of TDC 62.100 support the City Council’s interpretation that it is a generally worded purpose statement that is not applicable approval standard for Architectural Review.

The specific wording of TDC 62.100 does not contain any indication that Architectural Review approval must be conditioned on findings of compliance. The sentence extracted from this code section by Appellant reads: “... [s]uch permitted uses must not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property...” First, to the extent that this sentence in the Chapter purpose statement contains a limitation based upon noise, the limitation applies generally to “such permitted uses” (e.g., uses once they are operational), rather than development, approval, or review of “such permitted uses.” See *Mek Properties, LLC, v. Coos County*, 61 Or LUBA 360, fn 10 (2010) (a policy “direct[ing] the county to incorporate cost-effective road design standards into the CCZLDO” could not “possibly be viewed as an approval criterion for land divisions”). Second, there are no articulable objective standards in the extracted sentence—it merely protests “objectionable noise, smoke,” etc. The obliqueness of the statement supports the City’s position that it is aspirational, rather than a criterion. Additionally, imposing a noise standard in the purpose section is unnecessary, because TDC 63.051 includes a performance standard that requires uses, once operational, to comply with the Noise Ordinance. See also Supplemental Finding Section III.A.ii, incorporated herein. Therefore, the City interprets this sentence to *reference* the performance standards in TDC 63.051 that apply to operating uses, but the language does not require the City to consider “objectionable noise” as a gatekeeping consideration for allowed uses that requires compliance as a part of Architectural Review.

In its regulatory context, the sentence that Appellant has extracted need not be interpreted by the City to impose an approval criterion. The remainder of the code section from which the sentence is excerpted communicates generalized goal statements and aspirations, supporting the City’s reading. The code section provides in its entirety:

The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities. Such permitted uses must not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property. The district is to provide for an aesthetically attractive working environment with park or campus like grounds, attractive buildings and other amenities appropriate to an employee oriented activity. The purpose is also to protect existing and future sites for such uses by maintaining large lot configurations or a cohesive planned development design and limiting uses to those that are of a nature so as to not conflict with other industrial uses or surrounding residential areas. The purpose is also to allow a limited amount of commercial uses and services and other support uses.

Italics added.

Given the text of the sentence itself and its context within this mass of other generalized aspirational statements about the zone, the City does not interpret the sentence to impose approval criteria for Architectural Review.

B. Authority to Impose Conditions of Approval

Appellant requests conditions (1) requiring the closure of the northernmost access on SW 108th Avenue to employees; (2) requiring Applicant to comply with TDC 62.001 and TDC 63.051; and (3) unspecified noise-related conditions to “ensure that the sounds generated by [Lam’s] equipment could or would be dampened or canceled out.” November 3, 2025 Pre-Hearing Comment Letter, 3 (Appeal Exhibit K).

Conditions must be tied to an applicable, mandatory approval standard. *King v. Washington County*, 60 Or LUBA 253 (2009). Substantial evidence also must support the conclusion that the condition is necessary. *Id.* LUBA has repeatedly held that, when the evidentiary basis for a condition is challenged, the reviewing authority must find that “*evidence in the record could lead a reasonable person to conclude that considering the impacts of the proposed development there is a need for the condition to further a legitimate planning purpose.*” (emphasis added) *E.g.*, *Sherwood Baptist Church v. City of Sherwood*, 24 Or LUBA 502, 505 (1993); *see also Williamson v. City of Arlington*, 35 Or LUBA 90, 96 (1998).

The only condition requested by the Appellant that is lawful and supportable is requiring the Applicant to comply with TDC 63.051, which the City has required through the imposition of Condition of Approval A25.

City Council interprets and applies the TDC such that it does not authorize City Council to impose the other conditions requested by Appellant because they are not required to implement any mandatory approval standards in the TDC, substantial evidence (including Applicant’s traffic and acoustic expert testimony) does not support the conclusion that ~~they~~ additional conditions are necessary, and additional conditions would not further a legitimate planning purpose. Also see Supplemental Findings Sections IV.B.vi and IV.C.iii, incorporated herein.

i. AR Conditions Generally

TDC 33.020(6)(a)(iii) provides authority for an Architectural Review approval to impose conditions implementing any approval criteria within of the Development Code, such as Chapters 62, 74 and 75:

(6) *Conditions of Approval.*

(a) Architectural Review decisions may include conditions of approval that apply restrictions and conditions that:

- (i) Implement identified public facilities and services needed to serve the proposed development;
- (ii) Implement identified public facilities and services needed to be altered or increased attributable to the impacts of the proposed development; and
- (iii) *Implement the requirements of the Tualatin Development Code.*

Italics added.

Aspirational statements in TDC 33.020(1)(i) and TDC 62.100 cannot serve as a basis for imposing conditions because they are aspirational purpose statements, not mandatory approval criteria, as detailed in Supplemental Findings Section III.A.iii, incorporated herein.

ii. Condition of Approval A25 is Warranted.

TDC Chapter 63 (Industrial Uses and Utilities and Manufacturing Zones – Environmental Regulations) is a requirement of the Tualatin Development Code, so TDC 33.020(6)(a)(iii) authorizes conditions of approval that require compliance with TDC Chapter 63. As explained in Supplemental Findings Section III.A.ii, and incorporated herein, TDC Chapter 63 includes performance standards. Accordingly, Condition of Approval A25 will be applicable to the Project approved by this Decision once it is operational, and requires “in an on-going manner” that “the proposed development must comply with the Environmental Regulations of TDC 63.” For the reasons explained in Supplemental Findings Section IV.B.vi and incorporated herein, Applicant’s expert evidence demonstrates that it is feasible that the cumulative noise impacts from the existing facility and Project will comply with the TDC 63.051 (noise) and the incorporated Noise Ordinance.

The only lawful and supportable condition related to noise is Condition of Approval A25, because it which requires compliance with TDC Chapter 63 (Industrial Uses and Environmental Regulations) and is supported by substantial evidence. Also see Supplemental Findings Section IV.B.iii, which is incorporated herein.

iii. The City May Not Impose Additional Conditions of Approval Regarding Noise.

The City finds no authority to impose additional conditions of approval regarding noise, either to mitigate noise or to generally eliminate offsite noise.

First, as described above and incorporated herein, there are no mandatory approval criteria regarding noise to justify imposition of conditions in addition to Condition of Approval A25. The City is authorized to impose conditions of approval that implement the Tualatin

Development Code, per TDC 33.020(6)(a)(iii). The Tualatin Noise Ordinance, however, resides in the Tualatin *Municipal Code*, not the Tualatin *Development Code*, and imposing a condition that directly requires compliance with the TMC falls outside the scope of allowable AR conditions. Aspirational purpose statements in TDC 33.020(1)(i), TDC 62.100 and TDC 63.020 cannot serve as a basis for imposing conditions because they are not mandatory approval criteria, for the reasons explained in Supplemental Findings Section III.A.iii. and incorporated herein.

Second, there is no substantial evidence that the Project will have noise impacts that would justify additional conditions of approval. As explained in the incorporated Supplemental Findings Sections III.C and IV.B.vi, the Applicant's expert acoustic evidence in the record demonstrates that compliance with the Noise Ordinance is feasible, and condition of approval A25 requires compliance. There is no evidentiary basis for additional conditions of approval.

Finally, the City finds that there is no legitimate planning purpose for additional noise conditions because the Project has not yet been constructed, and it is not possible to assess the actual noise levels generated by the Project. Compliance with condition A25 will be verified following construction, should operational noise from the Project result in substantiated complaints. As such, the imposition of noise related conditions beyond Condition of Approval A25 are not needed to ensure compliance with TDC 63.051 and would not advance a legitimate planning purpose or objective.

If, in the alternative TDC 33.020(1)(i), TDC 62.100 and TDC 63.020 or any of the Noise Standards referenced by Appellant impose mandatory approval criteria, for the same reasons described above and in Supplemental Findings Section IV.B.vi, additional noise-related conditions of approval are not needed or allowed.

iv. The City May Not Impose a Condition of Approval Requiring Closure of Northernmost Access on SW 108th.

City Council declines to impose a condition of approval prohibiting employee access to the northernmost driveway on SW 108th.

There are no applicable TDC requirements that necessitate this condition. TDC 33.020(5)(c) requires that the approval criteria for AR are limited to TDC 73A to 73G. None of those criteria require the evaluation of traffic impacts. Instead, TDC Chapters 74 and 75 evaluate public improvements and access management, which is where traffic impacts are relevant. Although transportation issues are not directly applicable, as explained in Sections III.A, III.A.i, and IV.C.i, TDC 33.020(6)(a)(iii) authorizes the City to impose conditions of approval that implement the Tualatin Development Code, including TDC Chapters 74 and 75. Accordingly, the Applicant thoroughly addressed TDC 74 and 75 with analysis and expert evidence, which Council agrees with and relies upon to find compliance with those standards, as detailed in these Findings, including Supplemental Findings Section IV.C.ii, and in the alternative, IV.C.iii.

As detailed in Supplemental Findings Section IV.C.iii.c (and incorporated herein), substantial evidence in the TIA demonstrates that a condition of approval mitigating traffic impacts by eliminating employee access from the northernmost driveway SW 108th Avenue is not

warranted. The TIA, which the City Engineer, a third-party consultant, and the Oregon Department of Transportation reviewed and agreed with, did not require any mitigation of any impacts and did not raise concerns with the driveways on SW 108th Avenue. Accordingly, substantial evidence does not support an additional condition of approval that would limit driveway access at the northernmost access point on 108th Avenue. Also see Supplemental Findings Section III.C, which is incorporated herein.

C. Credibility of Expert Testimony and Relying Upon Substantial Evidence in the Whole Record¹²¹³ to Support the Decision

The Appeal raises issues related to the cumulative noise impacts¹³¹⁴ of the Project and existing facility, and the transportation impacts of the northernmost driveway on SW 108th Avenue. Evaluating existing noise sources and acoustic modeling, as well as evaluating and modeling transportation impacts are highly technical issues, which makes it imperative that the City Council rely on the testimony of qualified experts when evaluating the evidence in this matter.

Legally speaking, the City Council must rely on “substantial evidence” in the whole record when making decisions. This is evidence that a reasonable person would rely on to make a Decision. *Younger v. City of Portland*, 305 Or 346, 360, 752 P2d 262 (1988). When an application involves technical issues, such as those at issue in this Decision, Oregon law will almost always deem expert testimony on the subject to prevail over layperson testimony. Put another way, absent unique facts, appellate bodies would consider it unreasonable for a decision maker to rely on the testimony of a layperson when contrary expert testimony on the same subject exists in the record.

When confronted with competing expert testimony, as is the case here, Oregon law requires the City Council to evaluate and weigh the credentials of the experts and determine which expert is more credible. In other words, based on the information in the record regarding the experts’

¹²¹³ The record is structured in reverse chronological order. The entire record was before the City Council. Items labeled “Exhibit” were before the Architectural Review Board (i.e., Exhibit F is Public Comments presented to the ARB). Items labeled “Appeal Exhibit” are items presented to Council as a part of the de novo appeal hearing (i.e., Appeal Exhibit G is Lam’s Technical Findings in Response to the Appeal Filed in AR24-0002). Some items from the ARB phase of the proceeding were re-entered into the record before Council on appeal, in which case the same information has two record citations. For example, CGA’s 2025 Site Noise Survey, September 9, 2025 is included in the record as Appeal Exhibit E and Exhibit A7 (formerly Exhibit L). Council attempts to be comprehensive and accurately cite to materials that appear in the record more than once, and any failure to refer to items consistently is a scrivener’s error.

¹³¹⁴ Appellants arguments and the acoustic study focused exclusively on noise impacts. However, Appellant’s testimony in Appeal Exhibit K includes a few passing references to vibrations. Appellant’s vibrations argument is completely undeveloped and no evidence is provided. As described in verbal testimony at the City Council hearing, Lam’s manufacturing and labs use highly sensitive equipment which cannot tolerate vibration. Based upon the unique sensitivity of Lam’s activities to vibration, speculation about off-site vibrations are unsubstantiated and unreasonable. Further, the vibration standard in TDC 63.052 is a performance standard, so it is irrelevant to the Architectural Review for the same (and incorporated) reasons the performance standards regarding noise in TDC 63.051 are irrelevant during Architectural Review.

background, work history, education, project history, and methodologies used by the experts, the City Council must determine which expert's testimony is "most substantial" or most reliable.

For the reasons explained below and in the Supplemental Findings in Section III.C.i and ii (which are incorporated herein), the City Council finds that the Applicant's expert testimony related to noise impacts and transportation impacts is more reliable evidence than the Appellant's expert and lay person testimony. Council applies this credibility and reliability conclusion when it addresses the substantive issues, including in Supplemental Findings Sections IV.B. and C.

i. Acoustics Expertise

With respect to issues regarding noise, the Applicant offered expert testimony from an engineer with expertise in noise from high technology facilities, like Lam, and provided a detailed explanation of their methodology. See the Colin Gordon Associates ("CGA") materials dated September 3, 2025 (Lam Research Tualatin Site – Comments on A Acoustics Noise Survey Report), September 9, 2025 (Lam Research 2025 Site Noise Survey), which includes the expert's qualifications in Appendix B, and September 10, 2025 (Lam TUX Expansion Environmental Noise Model). Exhibit F, Appeal Exhibit E, Exhibit A7, Exhibit A8.⁺⁴¹⁵ Appellant offered an acoustic survey authored by an engineer, the A Acoustics Survey dated August 13, 2025. Exhibit F. Other than the "P.E." professional engineering stamp on the A Acoustics Survey and that "acoustics" is in the company's name, no evidence of the engineer's expertise in acoustics was offered. Appellant and community members offered personal testimony about noise, offered simulations of noise frequencies that were alleged to be emitted from the existing facility, and Appellant's attorney criticized some methodological practices of the Applicant's acoustic expert.⁺⁵¹⁶ Exhibit F and Appeal Exhibit K.⁺⁶¹⁷ No evidence of Appellant's, Appellant's counsel's or community members' expertise in acoustics is included in the record.

Appellant's speculation about the noise impacts of the Project is not based upon the specifics of the Project. First, Appellant describes the impacts of the "additional research laboratory and manufacturing facilities...". The Project does not include new manufacturing facilities. Appellant acknowledges, "Lam has the knowledge about the equipment its facilities will use and the noises that the equipment will produce." Appellant Pre-hearing Comment Letter (November 3, 2025), 3. Appellant is correct about Applicant's level of knowledge; CGA's environmental

⁺⁴¹⁵ Throughout the Findings, when City Council refers to relying upon CGA, Applicant's expert testimony or CGA's modeling for noise-related issues, we are describing and relying upon these three CGA documents, including all attachments.

⁺⁵¹⁶ Appellant's counsel's verbal testimony at the November 10 City Council hearing criticized that CGA's noise readings were taken at ground level, and not from the source of the sound (e.g., rooftop equipment). The City Council rejects this criticism because it is inconsistent with the requirements of the Noise Ordinance, which requires decibel levels to be "measured from the property line of the recipient property" (TMC 6-14-050) and describes specific noise disturbances as those "within a noise sensitive property" (TMC 6-14-040).

⁺⁶¹⁷ Throughout the Findings, when City Council refers to Appellant's noise-related testimony, when describing Appellant's expert testimony, we are describing the A Acoustics Study. When we reference Appellant's lay person testimony, we are describing personal testimony from the Appellant and lay person community members and counsel.

noise model noted that “the noise impacts were evaluated using a computer noise model of the Lam campus, based on layout and information on proposed new major exterior mechanical equipment provided by the design team...” CGA Environmental Noise Model, September 10, 2025 (Appeal Exhibit E). This modeling was then added to the measured current noise levels to predict the total overall noise levels. *Id.* This relative understanding of the actual noise sources contributes to the accuracy and reliability of expert evidence from CGA, and is another reason City Council relies upon Applicant’s expert evidence in support of this Decision instead of Appellant’s expert or layperson testimony.

Apart from credentials and analysis of the specifics of the Project, the Applicant’s expert testimony is not rebutted by any expert. The record includes only an August 13 survey of the existing facility by the Appellant’s engineer. The Appellant’s engineer did not review, comment or refute the subsequent acoustic evidence submitted by the Applicant on September 3, 9 and 10, which countered the A Acoustic Survey’s conclusions with differing noise measurements, questioned A Acoustic’s methodology, and modeled the Project’s expected compliance with Noise Standards, as detailed in Supplemental Findings Sections IV.B.v and IV.B.vi and incorporated herein by reference. The Applicant’s expert testimony is not rebutted by any expert. Specifically, CGA’s expert report details the sound measurement methodology and measurement results and demonstrates that the existing facility operations do not exceed the City Noise Ordinance limit of 50 dBA from 10 PM to 7 AM.¹⁸ Appeal Exhibit E. The CGA report is authored by an engineer that specializes in noise measurements for high-technology facilities, HVAC noise analysis, and environmental noise modeling. Id. Furthermore, CGA also analyzed the acoustic survey submitted by Appellant (the “A Acoustics Survey”) and concluded that its methodology is deficient.¹⁹ While the A Acoustics Survey reported a measurement of 52 dBA after 10 PM at a home near Lam’s campus, CGA identified the following deficiencies in the methodology, which render this measurement an unreliable indicator of ambient noise near the campus:

- The survey does not specify the noise metric used (e.g., L50, L10, L1, Leq), which is essential for interpreting compliance with applicable standards.
- There is no documentation of the measurement duration, location, or integration time.
- The survey lacks frequency analysis and fails to isolate noise sources attributable to Lam Research.
- The measured level of 52 dBA is presented without sufficient context to determine its source or relevance to regulatory thresholds.

The methodological deficiencies in the A Acoustics Survey are relative to not only the probative value of the expert evidence, but also to the credibility and persuasiveness of the expert offering the testimony. When experts offer opinions that differ, a significant factor in determining the credibility of the evidence is the credentials of the individual offering testimony.²⁰ The City

¹⁸ Staff Report AR24-0002, Exhibit L, pp. 7-8.

¹⁹ Staff Report AR24-0002, Exhibit F: Supplemental Public Comments, pp. 7-15.

²⁰ *Department of Land Conservation and Development v. Curry County*, LUBA No. 96-073, 31 Or LUBA 503, 505–506 (1996) (when résumé of soil scientist did not establish his credentials to determine forest productivity and the

Council finds the Applicant's expert testimony throughout the record to be more reliable than the Appellant's expert and layperson testimony. The City Council therefore relies on the Applicant's expert testimony in making this Decision.

ii. Traffic Expertise

With respect to issues regarding traffic impacts, the Applicant offered a transportation impact analysis ("TIA" at Appeal Exhibit H) and related testimony and analysis (Appeal Exhibit M, Exhibit A4) that was conducted and stamped by a registered professional engineer.¹⁷²¹ The Applicant's transportation materials were scoped and peer reviewed by the City's outside transportation engineer and the City Engineer. Engineers at ODOT also reviewed the Applicant's transportation materials. The engineers on behalf of the Applicant, City (Attachment B to Exhibit A4 and verbal testimony at the public hearings before the ARB and City Council), City's outside transportation engineer and ODOT (Appeal Exhibit I and Exhibit K) all agree with the scope, methodology, analysis and conclusions of the transportation impacts of the Project. The Appellant and neighbors offered anecdotal information about their experiences driving in the area, and conducted their own calculations based upon data in the record to draw conclusions that differed from those of all of the engineers. For example, opposition testimony in Exhibit F. No evidence of the Appellant's or other community members' expertise in transportation engineering is included in the record. The Applicant's expert testimony is not rebutted by any expert. Also see Supplemental Findings Sections IV.C.iii, iv and v, which are incorporated herein.

iii. Expert Substantial Evidence Conclusion

For these reasons in this Section III.C and those included in Sections IV.B and C (and incorporated herein), the City Council finds the Applicant's expert testimony throughout the record to be more reliable in addressing the technical noise and transportation-related issues than the Appellant's expert and lay testimony. The City Council therefore relies on the Applicant's expert testimony in making this Decision.

IV. Analysis of Issues Raised in Appeal

A. Procedural and Public Participation Issues

only scientific data in the record was results of soil tests, soil scientist's conclusions with respect to forest productivity were not substantial evidence).

¹⁷²¹ Throughout the Findings, when City Council refers to relying upon Applicant's expert testimony for traffic-related issues, we are describing and relying upon these technical documents authored by the engineer at Mackenzie listed here, as well as Mackenzie's verbal testimony at the public hearings before the ARB and City Council.

Four of Appellant's grounds for the Appeal implicate procedural issues. None are grounds for denial of AR.

To justify reversal of a land use decision for procedural error, the Appellant "must demonstrate both procedural error and prejudice to its substantial rights."¹⁸²² "Under ORS 197.835(9)(a)(B), the 'substantial rights' of parties that may be prejudiced by failure to follow required procedures are 'the rights to an adequate opportunity to prepare and submit their case and a full and fair hearing.'"¹⁹²³ This standard is sometimes referred to as the "no harm, no foul" rule.

In written testimony submitted over two weeks before the City Council hearing, the Applicant provided written testimony addressing the procedural errors alleged by Appellant, and detailed why Appellant's substantial rights were not prejudiced. Appellant did not respond, and has not alleged that his substantial rights were prejudiced. Nor could Appellant support such an allegation, because based upon the evidence in the record, Appellant could not demonstrate that any of the purported procedural errors prejudiced his substantial rights, as he was afforded ample opportunity to prepare and present this Appeal for a full and fair hearing.

The adequacy of Appellant's opportunity to prepare for and participate in the process is evidenced by the extent and frequency of his engagement with the Project at every stage, culminating in this Decision on Appeal, for which the Appellant was provided a de novo hearing. For example, the record shows that:

- Appellant received mailed notice of and participated at the neighborhood developer meeting.²⁰²⁴
- Appellant received mailed notice of and participated in the ARB hearing.²¹²⁵
- Appellant submitted several public comments in advance of the ARB hearing on the application.²²²⁶
- Appellant filed an Appeal.²³²⁷
- Appellant participated in the City Council hearing in writing and verbally, both individually and through counsel.²⁴²⁸

¹⁸²² See e.g., *Mason v. Linn County*, 13 Or LUBA 1, 4 (1984), *aff'd in part, rev'd and rem'd on other grounds*, *Mason v. Mountain River Estates*, 73 Or App 334, 698 P2d 529 (1985); see also ORS 197.835(9)(a)(B); OAR 661-010-0071.

¹⁹²³ *Families for a Quarry Free Neighborhood v. Lane County*, 64 Or LUBA 297, 302 (2011), citing *Muller v. Polk County*, 16 Or LUBA 771, 775 (1988).

²⁰²⁴ Staff Report AR24-0002, Exhibit A6: Supplemental Information, pp. 39, 53.

²¹²⁵ Staff Report AR24-0002, Exhibit B: Public Noticing.

²²²⁶ Staff Report AR24-0002, Exhibit F: Public Comments, pp. 35-38, 39, 256-57, 258, 259-60, 262, 263-74, 512-17, 559-60, 744-46, 748-51; and Appeal Exhibit C.

²³²⁷ Appeal Form and Appeal Letter from Appellant Brett Hamilton, Appeal Exhibit B.

²⁴²⁸ Appeal Exhibit K.

Council addresses each of Appellant's procedural grounds for denial in detail below.

i. TDC 32.120.5(b)(iii) Does Not Provide Grounds for Denial.

Appellant alleges a “[f]ailure to send notice to CIOs as required by TDC 32.120.5(b)(iii).” This code section requires that, for *neighborhood/developer meetings*, not the public hearing where the application is considered, the Applicant provide timely written notice via first class mail to “[a]ll designated representatives of recognized Citizen Involvement Organizations.” Assuming that the Applicant failed to meet TDC 32.120.5(b)(iii)’s neighborhood meeting notice requirements, it does not justify denial of the AR.

While the Appellant has not alleged prejudice, there are several reasons that there is no basis to find that the Appellant has been prejudiced.²⁵²⁹ Appellant’s error relates to notice for a neighborhood/developer meeting, which occurred prior to application submittal—this noticing does not impact the actual opportunity to participate in the AR hearing. Appellant did not allege that he failed to receive any required notice. Appellant participated in the AR public hearing and participated in writing and verbally (as an individual and through counsel) at the de novo City Council public hearing where the Appeal was considered. The volume and specificity of Appellant’s written, video and verbal testimony demonstrates that he had an opportunity to prepare for and participate in all hearings. Since Appellant received notice of and had ample opportunity to prepare for all hearings in this matter, there is no prejudice.

As noted above, Appellant did not allege that he personally did not receive a required notice. Appellant may not raise this issue on behalf of the CIOs because only the person or entity that is directly harmed by a procedural error (e.g. was supposed to receive notice and did not) may raise this issue; a party that did not itself experience the notice error cannot raise it on behalf of another.²⁶³⁰

Even assuming that the CIOs take issue with the lack of mailed notice, there is no substantial prejudice to the CIOs. The CIOs received mailed notice of the actual land use process. The lack of mailed notice for the preliminary neighborhood developer meeting is harmless error—attendance at the neighbor meeting has no bearing on the rights of a party to participate in the actual land use approval process via the public hearing.

ii. No Second Neighborhood/Developer Meeting Was Required.

²⁵²⁹ *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995)(failure to provide notice of hearings to persons other than petitioners does not prejudice petitioners’ substantial rights if petitioners received notice of the local government hearings and participated in them), *Thomas v. Wasco County*, 30 Or LUBA 142 (1995)(failure to comply with applicable notice requirements is reversible only if the defect prejudices a petitioner’s substantial rights); *Bauer v. City of Portland*, 38 Or LUBA 432, 436 (2000)(), *Cape v. City of Beaverton*, 40 Or LUBA 78, 85 (failure to provide notice was not prejudicial where petitioner nonetheless appeared at the approval hearing and present comments).

²⁶³⁰ See *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995).

Appellant alleges a procedural error because the Applicant made “[c]ommitments to hold a second Neighborhood Developer Meeting,” but the Applicant did not hold a second meeting. This is not a procedural error because there is no applicable local or state requirement for such second meeting.²⁷³¹ Rather, holding a second meeting is entirely at the discretion of the Applicant: “An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.” TDC 32.120 (2). Even if holding a second neighbor meeting were a requirement of the code, Appellant does not indicate how it could have prejudiced his substantial rights—Appellant still participated in the public hearing process.

iii. The Missing Noise Model Pages Do Not Prejudice Appellant and Are Irrelevant to AR Approval Criteria.

Appellant alleges that the City’s “[f]ailure to provide the last 3 pages of Lam’s noise model to the ARB at their hearing” is a procedural error. The inadvertent omission of three pages of the noise model at the ARB approval stage does not prejudice Appellant’s substantial rights and therefore does not justify denying the AR.

First, as detailed elsewhere in these Supplemental Findings, the noise generated by the existing facility is not relevant to any of the applicable AR approval criteria. Omission of pages of noise-related evidence does not prejudice Appellant’s substantial rights because the right to a full and fair hearing does not extend to the right to raise or rebut irrelevant issues.

Second, the inadvertently omitted pages are included in the record that is publicly available. The City Council hearing is de novo,²⁸³² so the public could respond to the pages and the City Council considered all evidence when reaching this Decision. Because the pages are in the record, Appellant is aware of them and had the opportunity to respond before the City Council, their omission at the ARB hearing stage does not prejudice Appellant.

iv. Any Delay in Releasing Public Records is Irrelevant.

Appellant alleges that the City erred through “[u]nnecessary delays in releasing Public Records.” If this is a public records disclosure dispute, such a dispute is outside of the scope of a land use appeal and is therefore not a grounds for denial of AR or remand of this Decision. Further, as explained elsewhere in these Supplemental Findings, Appellant has not alleged, and cannot demonstrate, that his substantial rights to a full and fair hearing have been prejudiced.

B. Noise Issues

²⁷³¹ *Montgomery v. City of Dunes City*, 60 Or LUBA 274 (2010) (no requirement for a traffic study was triggered where applicant cryptically stated in a letter that they would provide a traffic study); *Cape v. City of Beaverton*, 41 Or LUBA 515 (2002) (no basis for reversal where petitioner identified no legal requirement for any of the notice they alleged was lacking).

²⁸³² See TDC 32.310(4)(a) (“All appeals are ‘de novo’ meaning new evidence and argument may be submitted at the appeal hearing.”).

Appellant argues that Lam must demonstrate compliance (or that it “could comply”) with a variety of noise related provisions that Appellant argues are applicable during Architectural Review before the City can approve the Project.

The TDC and TMC sections that Appellant argues impose noise-related standards include:

- Reference to “objectionable noises” in **TDC 62.100** (Manufacturing Park purpose statement)
- Requirement in **TDC 63.051** to comply with Tualatin Noise Ordinance and DEQ standards;
- Regulation of “noise disturbances” in **TMC 6-14-030 and 6-14-020**;
- Decibel limits described in **TMC 6-14-050**; and
- Aspirations of sustaining “tranquility and contentment” and promotion of “peace, health and welfare” described in the purpose statement for Architectural Review in **TDC 33.020(1)(i)**.

When responding to specific arguments, Council endeavors to cite the specific standard at issue. When referring to TMC 6-14, or TDC 63.051, which incorporates TMC 6-14, we use the term “Noise Ordinance.” When referring to all of the noise-related standards in the bullet points above that Appellant alleges are applicable to the Project, and not met, we use the general term “Noise Standards.”

As a legal and evidentiary matter, there is no basis to deny AR approval of the Project based upon noise. Noise and compliance with the Noise Ordinance performance standards and aspirational purpose statements in the Manufacturing Park zone and Architectural Review are not relevant to the AR mandatory approval standards, so allegations about existing noise or potential future noise impacts are not bases for denying the AR.²⁹³³ If the City were to deny the AR based on the noise performance standards (rather than the criteria in TDC Chapter 73A through 73G), that the decision would be reversible error pursuant to ORS 197.835(10)(a)(A).³⁰³⁴

Additional Findings interpreting the applicable criteria and scope of allowable conditions are provided in Section III of these Supplemental Findings and are also detailed below; which are all incorporated by reference herein.

i. The Existing Facility is Not Subject to Architectural Review, so Allegations of the Existing Facility’s Violations of Noise Standards are Irrelevant.

²⁹³³ ORS 195.835(8) (land use decision shall be reversed “if the decision is not in compliance with applicable provisions of the comprehensive plan or land use regulations”).

³⁰³⁴ ORS 197.835(10)(a)(A) provides: “[t]he board shall reverse or remand a decision... if the decision is not in compliance with applicable provisions of the comprehensive plan or land use regulations.” See *Oster v. City of Silverton*, 79 Or LUBA 447 (2019), citing ORS 197.835(10)(a)(A) (reversing a City land use decision based on project’s failure to achieve LOS D standard from the City’s TSP, where the approval criteria did not specifically and expressly incorporate the TSP).

Appellant’s allegations about noise from the existing facility are not a basis for denying AR for the Project. The existing facility is not within the scope of the AR application under review; only the proposed Project is evaluated through Architectural Review.

The exclusive forum for addressing whether the existing facility is in violation of the Noise Ordinance is the enforcement procedures in TMC 7-1.³⁴⁺³⁵ TMC 6-14-115(3) (“The civil infraction procedures in TMC 7-1 apply to the prosecution of any violation of this Chapter.”) City staff explained at the ARB and City Council appeal hearings that Code Enforcement is actively investigating noise complaints about the existing facility.

Although not relevant to the AR, to provide a balanced analysis of the allegations related to noise, the Applicant provided expert testimony that analyzed noise from the existing facility. Appeal Exhibit E (Lam Research 2025 Site Noise Survey, dated September 9, 2025). As detailed elsewhere in these Supplemental Findings and incorporated herein, the record of this Decision does not establish that the existing facility violates the Noise Ordinance or other Noise Standards. For the reasons explained in Supplemental Findings Section III.C and IV.B.v (and incorporated herein), Council relies upon CGA’s expert analysis and not the A Acoustics Survey or layperson testimony. Substantial evidence in the whole record demonstrates that the existing facility complies with the Noise Ordinance and other Noise Standards.

If Appellant’s allegations about noise from the existing facility are intended to provide support for the allegation that existing noise is predictive of the Project’s compliance with the Noise Standards, the Supplemental Findings in Sections Section III.C and IV.B.vi address the noise evidence needed to approve Architectural Review for the Project, and are incorporated herein. As detailed in those Supplemental Findings, Council finds that Applicant’s expert noise evidence provides substantial evidence to conclude that it is feasible for the existing facility and Project’s cumulative noise impacts to meet the TDC 63.051 and the Noise Ordinance, and in the alternative, all of the Noise Standards.

ii. TDC 63.051 and the Noise Ordinance (TMC 6-14) are Not Applicable as Mandatory Development Standards; they are Performance Standards.

Appellant alleged that Lam has not demonstrated that the Project, especially when added to its existing facilities, will comply with the Noise Standards.

The AR process considers a *proposed* development (not existing uses). Architectural Review is governed by TDC 33.020. The AR approval criteria are listed in TDC 33.020(5), and require the Project to “comply with the applicable standards and objectives in TDC 73A through 73G.” Those criteria do **not** contain noise standards. Those criteria do **not** incorporate by reference the Tualatin Municipal Code, or the Noise Ordinance. Quite simply, noise impacts and the Noise Ordinance are irrelevant to Architectural Review of the Project.

³⁴⁺³⁵The robust enforcement procedures required by TMC 7-1 are summarized in these Supplemental Findings Section III.A.ii, and are incorporated herein.

Appellant's argument that Lam has not carried the evidentiary burden related to noise issues is premised upon the assumption that the Noise Standards are mandatory approval criteria. For the reasons explained in Supplemental Findings Sections III.A and IV.B.iv (and incorporated herein), the Noise Standards are not mandatory approval criteria; they are performance standards or aspirational purpose statements. *Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991) (“[s]uch performance standards are not necessary prerequisites to issuance of a permit.”)

Because the Noise Standards cannot be the basis for denying the Architectural Review application, there is no evidentiary burden that the Applicant must meet related to noise.

Although not required, the Applicant provided expert evidence analyzing the existing facility's compliance with the Noise Ordinance and modeling of the cumulative impact of the existing facility and Project's expected compliance with the Noise Ordinance. Appeal Exhibit E. For the reasons explained in Supplemental Findings Section III.C and IV.B.v (and incorporated herein), Council relies upon CGA's expert analysis and not the A Acoustics Survey or layperson testimony. Substantial evidence in the whole record supports condition of approval A25, which requires that once operational, the Project must comply with TDC Chapter 63 and the Noise Ordinance. Also see Supplemental Findings Section III.B, which is incorporated herein.

Additional Findings interpreting the applicable criteria and scope of allowable conditions are provided in Section III of these Supplemental Findings, and are incorporated by reference herein. As detailed in those Supplemental Findings, the TDC 63.051 is a performance standard and the other Noise Standards are aspirational purpose statements, so the Applicant need not demonstrate compliance or the feasibility of compliance with those provisions, and no evidentiary burden is imposed.

iii. Condition of Approval A25 Appropriately Requires the Project to Comply with the Performance Standards in the Noise Ordinance Once the Project is Operational.

The City is authorized to impose conditions of approval that implement the Tualatin *Development Code*, per TDC 33.020(6)(a)(iii). The Tualatin Noise Ordinance, however, resides in the Tualatin *Municipal Code*, not the Tualatin *Development Code*, and thus falls outside the scope of allowable AR conditions.

TDC Chapter 63 (Industrial Uses and Utilities and Manufacturing Zones – Environmental Regulations) is a requirement of the Tualatin *Development Code*, so TDC 33.020(6)(a)(iii) authorizes conditions of approval that require compliance with TDC Chapter 63. Accordingly, condition of approval A25 appropriately requires the proposed development to comply with TDC Chapter 63.

The noise performance standard in TDC Chapter 63 is TDC 63.051, which provides, “all uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in TMC 6-14.”

The purpose statement in TDC 63.010 is not an approval criterion, but provides context for interpreting TDC Chapter 63, and explains, “...It is intended that the following standards provide

statutory authority for the **enforcement** of regulations relating to noise...” Emphasis added. This means that the standards in TDC Chapter 63 are performance standards that are applied once a use is operational. It is not a development standard, such as setback or height regulations. Rather, the obligation to comply with the noise standards in Chapter 63, which incorporate the Noise Ordinance, is an obligation that is wholly independent and separate from the AR review process.

Accordingly, once the Project is constructed, Lam’s operations at the Project must comply with the Noise Ordinance, and if there are concerns about compliance, the exclusive forum for addressing a violation is the enforcement procedures in TMC 7-1. TDC 63, Condition of Approval A25 and the Noise Ordinance do not require findings that an existing use or proposed use comply with TDC 63 or the Noise Ordinance.

City Council finds that Appellant’s arguments do not acknowledge the effectiveness of Condition of Approval A25 to ensure compliance with the Noise Ordinance. Condition of Approval A25 is condition that “appl[ies] to the site in an on-going manner” and requires “The proposed development must comply with the Environmental Regulations of TDC 63.” TDC 63 requires, in relevant part “TDC 63.051. Noise. All uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in TMC 6-14.” The remedies available to the City when enforcing the noise ordinance are significant and include civil infraction penalties and injunctive relief. TMC 7-1-030.

Council relies upon the CGA noise model and expert testimony to conclude that that it is feasible for the Project to comply with the Noise Ordinance, and the City’s enforcement authority will ensure that ongoing compliance is maintained over the long term.

Additional Findings interpreting the applicable criteria and scope of allowable conditions of approval are provided in Section III of these Supplemental Findings, and are incorporated by reference herein.

iv. The Manufacturing Park Zoning Purpose Statement (TDC 62.100) and Architectural Review Purpose Statement (TDC 33.020(1)(i) are Not Applicable as a Mandatory Development Standards; they are Aspirational Purpose Statements.

Appellant alleges “violations of Manufacturing Park Zoning” as grounds for this Appeal. Some public comments submitted in advance of the ARB hearing alleged that the purpose statement of the Manufacturing Park zone imposes an additional subjective standard, and that uses “must not cause objectionable noise...emanating from the property.” TDC 62.100. Generally worded purposes statements are not mandatory approval criteria, absent explicit wording to the contrary.³²³⁶ The aspirational purpose statement in TDC 62.100 is not included in the AR approval criteria, so the irrelevant purpose statement does not impose a noise standard on the Project and cannot be a basis for denying the AR.

³²³⁶ See *Mariposa Townhouses v. City of Medford*, 68 Or LUBA 479 (2013).

Appellant argues that the purpose statement at TDC 33.020(1)(i) renders TDC 62.100 and TDC 63.051 mandatory approval criteria. City Council disagrees, and interprets TDC 33.020(1)(i) as a purpose statement that articulates an aspirational and “generally worded expression[] of the motivation for adopting the regulation,” rather than an approval criteria. See *Beck*.

Additional Findings interpreting the applicable criteria and scope of allowable conditions are provided in Sections III of these Supplemental Findings, and are incorporated by reference herein.

v. In the Alternative, the Existing Facility Complies With the Noise Standards.

~~The following Supplemental Findings are offered in the alternative, and include interpretations and findings that apply the evidence in the record based upon the alternative interpretation that the Noise Standards are mandatory approval standards which require the City Council to find that compliance is achieved or feasible.~~

~~Appellant alleges “the evidence in the record indicates that the additional research laboratory and manufacturing facilities proposed by Lam would add to those already non-compliant existing sounds and vibrations.” There are two components of this argument: (1) Appellant’s allegation that the existing facility does not comply with the Noise Standards; and (2) the Project’s presumed worsening of the existing situation. Council considers each component of the argument separately and rejects both contentions. Based upon Council’s interpretation of the relevant code provisions and the evidence in the record (for the reasons detailed throughout the Findings), Council finds (1) the existing facility complies with the applicable Noise Standards; and (2) it is feasible for the cumulative impact of the existing facility and Project to comply with the applicable Noise Standards.~~

~~For the reasons explained in the introduction to these Supplemental Findings, Council has decided to not include in these Supplemental Findings some of the alternative findings related to Noise Standards. Accordingly, this section of the Supplemental Findings does not include any substantive findings but remains as a placeholder³⁷ should the alternative Noise Standards Supplemental Findings may be adopted as a part of reconsideration of this Decision.~~

~~a. Existing Facility’s Compliance with TMC 6-14-050 (Decibel Levels)~~

~~The Noise Ordinance includes objective decibel limitations in TMC 6-14-050. The applicable standard in the Noise Ordinance provides for a maximum of 50 dBA from the hours of 10:00pm to 7:00am for noise sensitive recipients. TMC 6-14-050(1). A noise sensitive recipient includes real property used for sleeping, such as the residential uses to the north of the site. TMC 6-14-020. For properties that are not noise sensitive recipients, such as the industrial uses in the Manufacturing Park zoned area to the west, the limit from 10:00pm to 7:00am is 60 dBA. TMC 6-14-050(2). No noise ordinance limitations at all (decibel or noise disturbance) apply to sounds caused by industrial uses, such as the existing facility, during the hours of 7:00am to 6:00pm. TMC 6-14-060(4). The DEQ Noise Standards provide for a maximum of 50 to 60 dBA from~~

³⁷ Any references to alternative Supplemental Findings are likewise a placeholder.

~~10:00pm to 7:00am on noise-sensitive properties, depending on the measurement period. OAR 340-035-0035, Table 8.~~³³

~~An expert report from Colin Gordon Associates (“CGA”) details the sound measurement methodology and measurement results and demonstrates that the existing facility operations do not exceed the City Noise Ordinance limit of 50 dBA from 10 PM to 7 AM.~~³⁴ ~~Appeal Exhibit E. The CGA report is authored by an engineer that specializes in noise measurements for high-technology facilities, HVAC noise analysis, and environmental noise modeling. Id. Furthermore, CGA also analyzed the acoustic survey submitted by Appellant (the “A Acoustics Survey”) and concluded that its methodology is deficient.~~³⁵ ~~While the A Acoustics Survey reported a measurement of 52 dBA after 10 PM at a home near Lam’s campus, CGA identified the following deficiencies in the methodology, which render this measurement an unreliable indicator of ambient noise near the campus:~~

- ~~• The survey does not specify the noise metric used (e.g., L50, L10, L1, Leq), which is essential for interpreting compliance with applicable standards.~~
- ~~• There is no documentation of the measurement duration, location, or integration time.~~
- ~~• The survey lacks frequency analysis and fails to isolate noise sources attributable to Lam Research.~~
- ~~• The measured level of 52 dBA is presented without sufficient context to determine its source or relevance to regulatory thresholds.~~

~~For these reasons and those detailed in Section III.C of these Supplemental Findings (and incorporated herein), the City Council finds that the A Acoustics Survey does not establish a violation of the City’s Noise Ordinance with respect to the existing facility. The Appellant offered as evidence a simulation of the noise frequency that he alleges is emitted from the existing facility. Frequency is not a component of the TMC 6-14-050 and Appellant has not provided credentials of his expertise in acoustics, so Council finds that he is a layperson. Without a clear and reliable attribution of the actual measured decibel sound to Lam Research operations, the alleged violation is unsubstantiated, and a reasonable person could not conclude that a violation exists.~~

~~The methodological deficiencies in the A Acoustics Survey are relative to not only the probative value of the expert evidence, but also to the credibility and persuasiveness of the expert offering the testimony. When experts offer opinions that differ, a significant factor in determining the credibility of the evidence is the credentials of the individual offering testimony.~~³⁶ ~~As detailed in Supplemental Findings Section III.C (and incorporated herein), the City Council finds the Applicant’s expert testimony throughout the record to be more reliable than the Appellant’s expert and layperson testimony. The City Council therefore relies on the Applicant’s expert~~

³³ ~~We understand Appellant’s arguments alleging violations of TMC 6-14-050 to be based exclusively on the decibel levels listed in TMC 6-14-050(1), and not DEQ’s standards. Regardless, the decibel limits in TMC 6-14-050 and DEQ applicable to noise-sensitive properties are the same (50 dBA), so it is feasible for cumulative impact of the existing facility and Project to comply with DEQ’s decibel levels for the same reason that compliance with the TMC’s decibel levels is feasible. Accordingly, any analysis in these Supplemental Findings to TMC 6-14-050 includes DEQ’s decibel regulations.~~

³⁴ ~~Staff Report AR24-0002, Exhibit L, pp. 7-8.~~

³⁵ ~~Staff Report AR24-0002, Exhibit F; Supplemental Public Comments, pp. 7-15.~~

³⁶ ~~*Department of Land Conservation and Development v. Curry County*, LUBA No. 96-073, 31 Or LUBA 503, 505-506 (1996) (when résumé of soil scientist did not establish his credentials to determine forest productivity and the only scientific data in the record was results of soil tests, soil scientist’s conclusions with respect to forest productivity were not substantial evidence).~~

~~testimony in making this Decision, including the conclusion that the existing facility complies with the decibel limits in TMC 6-14-050.~~

~~**b. Existing Facility's Compliance with TMC 6-14-030 (Noise Disturbance)**~~

~~Council understands Appellant's argument that the existing facility does not comply with the "noise disturbance" standard in TMC 6-14-030 is raised as the basis for arguing that additional noise from the Project will exacerbate the situation. Council does not understand Appellant to argue that the AR application is the forum for pursuing enforcement of the existing facility's alleged violations. For example, the Appellant's October 10, 2025 "Hamilton Response Ltr. To Mr. LaVigne" is one of apparently several communications between the Appellant and the City's enforcement officer about the status of the ongoing enforcement investigation. Council understands this letter to mean that Appellant is actively engaged in the enforcement investigation and is not requesting City Council to intervene in that process through this quasi-judicial land use application for the Project. If we misunderstand Appellant's argument, Council incorporates by reference the Supplemental Findings in Section IV.B.vi.b that details the existing facility's and Project's cumulative compliance with TMC 6-14-030 (Noise Disturbance) as being responsive to any argument that the existing facility does not comply with TMC 6-14-030.~~

~~**c. Existing Facility's Compliance TDC 33.020(1)(i) and TDC 62.100 (Purpose Statements)**~~

~~Council understands Appellant's arguments that the existing facility does not comply with the purpose statements in TDC 33.020(1)(i) and TDC 62.100 are raised as the basis for arguing that additional noise from the Project will exacerbate the situation. Council does not understand Appellant to argue that the existing facility must comply with the purpose statements in TDC 33.020(1)(i) and TDC 62.100 as part of Architectural Review for the Project.~~

~~If we misunderstand Appellant's argument, Council incorporates by reference the Supplemental Findings in Section IV.B.vi.c that details the existing facility's and Project's cumulative compliance with TDC 33.020(1)(i) and TDC 62.100 (Purpose Statements) as being responsive to any argument that the existing facility does not comply with TDC 33.020(1)(i) or TDC 62.100.~~

vi. In the Alternative, Substantial Evidence Supports the Conclusion that it is Feasible for the Project (in Combination with the Existing Facility) Will Comply with the Noise Standards.

~~The following Supplemental Findings are offered in the alternative, and include interpretations and findings that apply the evidence in the record based upon the alternative interpretation that TDC 63.051, and the incorporated Noise Ordinance at TMC Chapter 6-14, and Noise Standards are mandatory approval standards which require the City Council to find that compliance is achieved or feasible.~~

~~Appellant alleges "the evidence in the record indicates that the additional research laboratory and manufacturing facilities proposed by Lam would add to those already non-compliant existing sounds and vibrations." Supplemental Findings Section IV.B.v details the reasons Council concludes that the existing facility complies with the Noise Standards. This Supplemental Findings Section IV.B.vi explains why Council concludes it is feasible for the cumulative impact of the existing facility and Project to comply with the Noise Standards. As detailed in these Supplemental Findings and those in Section III.C, substantial evidence³⁷ in the record~~

³⁷ Substantial evidence is evidence a reasonable person would rely on in reaching a decision, when the record is viewed as a whole. *Younger v. Portland*, 305 Or 346, 358–360

~~demonstrates that the Project's new facilities, in combination with the existing facilities, are likely and reasonably certain to comply with the Noise Standards.~~

For the reasons explained in the introduction to these Supplemental Findings, Council has decided to not include in these Supplemental Findings some of the alternative findings related to Noise Standards. Accordingly, this section of the Supplemental Findings does not include any substantive findings but remains as a placeholder³⁸ should the alternative Noise Standards Supplemental Findings may be adopted as a part of reconsideration of this Decision.

~~In addition to the evidentiary basis for finding that compliance with the Noise Standards is feasible, City Council finds that Appellant's arguments do not acknowledge the effectiveness of Condition of Approval A25 to ensure compliance with the Noise Ordinance. Condition of Approval A25 is condition that "appl[ies] to the site in an on-going manner" and requires "The proposed development must comply with the Environmental Regulations of TDC 63." TDC 63 requires, in relevant part "TDC 63.051. Noise. All uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in TMC 6-14." The remedies available to the City when enforcing the noise ordinance are significant and include civil infraction penalties and injunctive relief. TMC 7-1-030. Council finds that in the unexpected and unpredicted event that the Project exceeds noise standards, the City's enforcement authority will ensure that ongoing compliance is maintained over the long term.~~

~~Simply stated, City Council finds that compliance with the Noise Standards is feasible, for the reasons explained throughout the Findings.³⁸~~

~~a. The Project and Existing Facility's Cumulative Compliance with TMC 6-14-050 (Decibel Levels)~~

~~Appellant's noise complaints relate only to noise impacts on the residential area to the north, which are considered "noise sensitive uses," during nighttime hours. As explained above, the applicable decibel limitations in TMC 6-14-050 for noise sensitive uses is a maximum of 50 dBA from the hours of 10:00pm to 7:00am. TMC 6-14-050(1). No noise ordinance limitations at all (decibel or noise disturbance) apply to sounds caused by industrial uses, such as the existing facility and Project, during the hours of 7:00am to 6:00pm. TMC 6-14-060(4). The DEQ Noise Standards provide for a maximum of 50 to 60 dBA from 10:00pm to 7:00am, depending on the measurement period. OAR 340-035-0035, Table 8. As relevant here, DEQ's maximum decibel level from 10:00pm to 7:00am is 50 dBA; the same as the City's standard.~~

~~The evidence and City Council's conclusions about the existing facility's compliance with TMC 6-14-050 are detailed in these Supplemental Findings Section IV.B.i and v, and incorporated herein. Appellant offers no expert testimony about the projected noise impacts of the Project, other than speculation that the Project will increase noise levels, in violation of TMC 6-14-050. Council rejects that speculation, and instead relies upon Applicant's expert evidence, for the reasons detailed herein and in Supplemental Findings Section III.C.~~

~~(1988).~~

³⁸ Any references to alternative Supplemental Findings are likewise a placeholder.

³⁸ ~~Compliance is "feasible" when "substantial evidence supports findings that solutions to certain problems . . . are possible, likely and reasonably certain to succeed." *Meyer v. Portland*, 67 Or App 274, 280 n 5 (1984).~~

A preliminary noise model by CGA shows that the new development associated with the Project will not create noise in violation of the City of Tualatin's Noise Ordinance.³⁹ This preliminary noise model evaluates noise impacts from major exterior noise sources associated with the Project's new facilities and shows predicated overall noise levels associate with the existing facility in addition to new proposed facilities associated with Project buildout. This noise modeling was conducted per ISO 9613-2, the industry standard for calculating noise propagation from industrial sources such as these, using layout and information provided by the design team detailing the Project's proposed new major exterior mechanical equipment. This preliminary noise model by CGA shows that noise levels due to the Project's new sources are predicted to be well below 50 dBA at all points along the north property line, which is closest to noise sensitive uses. The noise model also shows that cumulatively, existing and future noise sources will remain consistent with the noise contours allowed by the Noise Ordinance. The predicted noise contour map from the model shows the predicted maximum combined decibel level from both existing and new proposed sources at several points on the north property line (the location of nearby noise sensitive properties)—this map shows maximum decibel levels of 47 dBA, 49 dBA, 50 dBA, but does not predict any decibel levels of over 50 dBA at the noise sensitive properties to the north of the property line.⁴⁰ Appeal Exhibit E. This map also shows that, to the west of the property, where there are additional manufacturing park uses, the maximum decibel levels will not exceed 60 dBA. Appeal Exhibit E.

~~Council relies upon the CGA noise model and expert testimony to conclude that that the Project is likely and reasonably certain to comply with the decibel standards in TMC 6-14-050 upon operation. Compliance is feasible. Compliance is further assured by Condition of Approval A25, as detailed by the incorporated Supplemental Findings at Sections III.B and IV.B.ii.~~

~~b. The Project and Existing Facility's Cumulative Compliance with TMC 6-14-030 (Noise Disturbance)~~

~~Appellant argues that in addition to the maximum decibel level limitations in the Noise Ordinance, TMC 6-14-030 imposes a subjective standard that prohibits a “noise disturbance.” Appellants allege that the decibel levels and characteristics of the noise (hums, hisses, pulsing tones and frequency) from the existing facility creates a noise disturbance during nighttime hours in violation of TMC 6-14-030, which will be exacerbated by the Project.⁴¹~~

~~TMC 6-14-030 prohibits a person from knowingly creating, permitting or assisting in the creation or continuance of “any noise disturbance.” “Noise disturbance” is defined to mean “any sound that: (a) injures or endangers the health or safety of a person; (b) disturbs a reasonable person of normal sensitivities from enjoying their private real property; or (c) injures or endangers personal or real property.” TMC 6-14-020.~~

³⁹ Lam TUX Expansion Environmental Noise Model, Colin Gordon Associates, September 10, 2025, available at <http://www.tualatinroad.org/files/LAM2025091002.pdf>

⁴⁰ The Noise Ordinance require that decibel levels be “measured from the property line of the recipient property.” TMC 6-14-050. Lam's north property line is closest to the residential area north of Lam's campus, so the measurement is taken slightly closer to the noise source than is required by the Noise Ordinance. Because sound levels diminish with distance, measuring at Lam's property line instead of the more distant recipient property line means that the noise levels heard at and within the noise sensitive property will be lower than what CGA's model predicts.

⁴¹ No noise ordinance limitations at all (decibel or noise disturbance) apply to sounds caused by industrial uses, such as the existing facility and Project, during the hours of 7:00am to 6:00pm. TMC 6-14-060(4).

The City Council must read the Noise Ordinance harmoniously, giving effect to every provision. The “noise disturbance” provision is qualitative, but it operates within the framework set by the quantitative decibel thresholds in TMC 6-14-030. The numeric limits express the City’s legislative judgement about the level at which sound ceases to be reasonable or may begin to disturb a reasonable person of normal sensitivities’ enjoyment of their private real property. Said differently, the numeric limits in TMC 6-14-050 are a benchmark of reasonableness; noise that complies with the decibel limits is presumptively not unreasonable and therefore not a disturbance. To be clear, Council is not concluding that a noise disturbance exists only if the decibel level is exceeded. However, overcoming that presumption requires an enforcement proceeding, in which the burden of proof is on the complainant to prove by a preponderance of the evidence that a noise disturbance has occurred. TMC 7-1-040(8)(f).

The noise disturbance provision in TMC 6-14-030 provides a backstop for extreme or atypical cases where sound characteristics might make even numerically compliant noise unreasonable. It is not a second, independently applicable nuisance test that overrides the numeric standard. City Council interprets the text and context of TMC 6-14-020 (definitions) TMC 6-14-030 (noise disturbances) and TMC 6-14-040 (specific noise disturbances) as setting a high bar for establishing a noise disturbance under TMC 6-14-030. The definition of noise disturbance, which is quoted above, includes three descriptions of noise disturbances, two of which relate to a sound that “injures or endangers” a person or property. The element of the definition at issue here, “disturbs a reasonable person of normal sensitivity from enjoying their private real property” must be read to be comparable to the other two types of “injures or endangers” noise disturbances. This relative intensity of a noise disturbance alleged under TMC 6-14-030, which is the basis for Appellant’s complaint, is supported by the context of more detailed specific noise disturbances in TMC 6-14-040. For most of the specific disturbances, the noise disturbance standard is modified to sound that is “plainly audible” “within a noise sensitive property,” with “plainly audible” meaning that the “listener can clearly hear the sound produced by a sound source with unaided hearing facilities.” TMC 6-14-040(1), (2), (6) (specific noise disturbances) and TMC 6-14-020 (definitions). In comparison, to establish a noise disturbance other than a specific noise disturbance, which is a TMC 6-14-030 noise disturbance at issue here, simply demonstrating that a noise is “plainly audible” is not enough. The higher unmodified noise disturbance threshold applies.

City Council acknowledges that the record includes complaints from more than two households about noise concerns. Staff explained at the hearing that the enforcement officer is following up with all households that reported noise concerns, including those that submitted form letters into the record of this AR. The existence of complaints does not itself establish non-compliance with the “noise disturbance” standards; subjective sensitivity varies and the ordinance qualifies a noise disturbance as one that disturbs a “reasonable person of normal sensitivities.”⁴²

The evidence of a noise disturbance is inherently qualitative because the threshold at issue here is that of a reasonable person of normal sensitivity. While City Council believes Appellant’s description that his ability to enjoy his private real property is disturbed, based upon the volume, tenor and examples of testimony offered by Appellant and the distance of Appellant’s home for Applicant’s noise sources, Council concludes that Appellant is not a “reasonable person of normal sensitivities.” For example, Appellant details leaving his home after 10 PM and driving

⁴² The enforcement process is summarized in Section III.A.ii of these Supplemental Findings (which are incorporated herein), and explains the due process afforded all parties to rebut evidence of alleged violations of the Noise Ordinance, including a noise disturbance.

~~with the windows of his car rolled down to see how far from Lam's campus noise can be heard. Appellant testified about being able to hear Lam campus noise from his guest bathroom. Council believes that actively seeking noise impacts outside of one's home late at night or in rooms dedicated for transient use is not representative of a reasonable person of normal sensitivities, particularly given the considerable distance between Appellant's home and the noise sources. CGA's predicted total cumulative noise levels indicate that along Lam's property line west of SW 112th Avenue, which is the direction of Appellant's home, the predicted noise level (including crickets) would be 47 decibels. Appellant's home is over 500 feet from the nearest Lam property line, and over 1,100 feet from the existing gas plant building. In comparison, and as context, when a noise variance is considered, the City Manager must consider the "potential impacts on businesses and noise sensitive properties within 400 feet." TMC 6-14-080. The 400-foot limit for considering potential noise impacts in a variance expresses the City's legislative judgement about the distance at which noise may begin to disturb a reasonable person of normal sensitivities' enjoyment of their private real property. Said differently, the 400-foot distance limit in TMC 6-14-080 is a benchmark of reasonableness; complaints of a noise disturbance from a residence over 400 feet from the noise source or Lam property line, such as Appellant's and the three homeowner's quoted in Appellant's October 10, 2025 letter to the enforcement officer, is presumptively not from a reasonable person of normal sensitivities and therefore not a noise disturbance. Overcoming that presumption requires an enforcement proceeding, in which the burden of proof is on the complainant to prove by a preponderance of the evidence that a noise disturbance has occurred. TMC 7-1-040(8)(f).~~

~~A vast majority of the other testimony submitted about noise impacts was a form letter (drafted by Appellant). Pasting or simply forwarding testimony drafted by a third party is less credible or reliable than individualized and detailed testimony and does not rise to the high bar of a noise disturbance.~~

~~The same evidence demonstrates that it is feasible for the Project to comply with the numeric decibel standard in TMC 6-14-050 (detailed in Supplemental Findings Section IV.B.vi.a and incorporated herein) constitutes substantial evidence that it is feasible for the Project and existing facility to operate below the threshold of a noise disturbance. Compliance is further assured by Condition of Approval A25, as detailed by the incorporated Supplemental Findings at Sections III.B and IV.B.ii.~~

~~c. The Project and Existing Facility's Cumulative Compliance with TDC 33.020(1)(i) and TDC 62.100 (Purpose Statements)~~

~~Appellant alleges that the decibel levels and characteristics of the noise (hums, hisses, pulsing tones and frequency) from the existing facility will create an "objectionable noise" in violation of TDC 62.100, which the City can address based upon the broad purpose of Architectural Review as described in TDC 33.020(1)(i).~~

~~Lam's campus is zoned Manufacturing Park (MP). As relevant to Appellant's arguments, the purpose of the MP zone provides, "The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities. Such permitted uses must not cause *objectionable noise*...emanating from the property...." TDC 62.100 (italics added).~~

Appellant then cites to the purpose of Architectural Review in TDC 33.020(1)(i) as providing authority to require compliance with TDC 62.100 and TDC 63.051.⁴³ The Architectural Review purpose statement at TDC 33.020(1) is lengthy, and includes 11 subparts (a-k) that detail “the purposes and objectives of community design standards.” The provision of the purpose statement relied upon by Appellant provides that the “purposes and objectives of community design standards” include “sustain the comfort, health, safety, *tranquility and contentment* of residents and attract new residents by reason of the City’s favorable environment and thus *promote and protect the peace, health and welfare* of the City.” TDC 33.020(1)(i) (italics added).

The italicized terms in TDC 62.100 and TDC 33.020(1)(i) are ambiguous and undefined, so Council must interpret and identify their meaning before determining whether the existing facility and Project can cumulatively comply with the terms. The TDC does not direct Council to a dictionary or outside source for interpreting undefined terms. When Council must interpret undefined words, it consults with *Webster’s Third New International Dictionary of the English Language, Unabridged* (2002) as a nonbinding reference source.

As detailed below and in Supplemental Findings Sections III.B and C (incorporated herein), based upon Council’s interpretation of the purpose statements in TDC 62.100 and TDC 33.020(1)(i), Council’s reliance on Applicants expert evidence, and the inclusion of an enforceable operational condition of approval A25, the City Council concludes that compliance with TDC 62.100 and TDC 33.020(1)(i) is feasible.

i. Objectionable Noise (TDC 62.100)

In common usage, “objectionable” means something that is offensive.⁴⁴ Council finds that the sensitivity of the noise recipient in TDC 62.100 should be the same as that in the Noise Ordinance: “a reasonable person with normal sensitivities” would find the noise offensive. Read in harmony with TDC 63.051 and the Noise Ordinance, Council interprets “objectionable noise” to mean noise that exceeds the decibel standards in TMC 6-14-050 or constitutes a “noise disturbance” under TMC 6-14-030. This interpretation gives effect both to the qualitative direction (“objectionable noise”) and to the City’s codified expression of acceptable noise levels in decibels provided in TMC 6-14.

This interpretation is also consistent with how Appellant framed his concerns, which lumps together in a single complaint that “Lam’s proposed facilities would produce ‘objectionable noise’ and would unlawfully generate a ‘noise disturbance,’” without distinguishing between what may be required by the two standards (e.g., describing noises that allegedly qualify as “objectionable” and then noting that those noises “also meet the City’s definition of a ‘noise disturbance’” and defined by TMC 6-14.030(b)). Appellant’s Pre-Hearing Comment Letter, November 3, 2025.

Council finds that feasibility of compliance with Noise Ordinance constitutes strong, though not necessarily dispositive, evidence that noise is not “objectionable” within the meaning of MP zone purpose statement in TDC 62.100. As explained in Supplemental Findings Section IV.B.vi.b, which is incorporated herein, the numeric decibel limits in TMC 6-14-050 express the City’s legislative judgement about the level at which sound ceases to be reasonable or may begin to disturb a reasonable person of normal sensitivities’ enjoyment of their private real property;

⁴³ TDC 63.051 incorporates the Noise Ordinance. Supplemental Findings Section IV.B.vi includes findings in the alternative demonstrating compliance with the Noise Ordinance, and are incorporated herein.

⁴⁴ “Objectionable” is defined in *Webster’s Third New International Dictionary of the English Language, Unabridged* (2002) as “arousing objection: OFFENSIVE—b.jee,tion,able,ness \bɒlˈnæs\ n—ES—objec-tion.abty \ˈble-, -ti\ adv”

and for when a noise may be considered “objectionable.” Said differently, the numeric limits in TMC 6-14-050 are a benchmark of reasonableness; noise that complies with the decibel limits is presumptively not objectionable. Compliance (or feasibility of compliance) with the Noise Ordinance is persuasive evidence that predicted operational noise will not reach an objectionable level.

The Supplemental Findings at Sections IV.B.vi.a and b explain, respectively why it is feasible for the existing facility and Project to cumulatively comply with the decibel levels in TMC 6-14-050 and will not cause a noise disturbance as provided in TMC 6-14-030. Those Findings are incorporated herein as support for Council’s conclusion that based upon Applicant’s expert evidence from CGA, it is feasible that the Project, combined with the existing facility, will not cause objectionable noise. Compliance is further assured by Condition of Approval A25, as detailed by the incorporated Supplemental Findings at Sections III.B and IV.B.ii.

ii. “Tranquility and Contentment” and “Promote and Protect the Peace, Health and Welfare” (TDC 33.020(1)(i))

Appellant provides that the “purposes and objectives of community design standards” include “sustain the comfort, health, safety, *tranquility and contentment* of residents and attract new residents by reason of the City’s favorable environment and thus *promote and protect the peace, health and welfare* of the City.” TDC 33.020(1)(i) (italics added).

We do not understand Appellant to allege that the Architectural Review purpose statement in TDC 33.020(1)(i) in-and-of-itself imposes a noise standard that must be met (e.g., the use must not disrupt tranquility and contentment) and instead alleges that the Architectural Review purpose statement provides the City Council the authority to require compliance with TDC 62.100 and TDC 63.051.⁴⁵ However, if Council misunderstands Appellant’s arguments and Appellant intended to allege that TDC 33.020(1)(i) imposes a noise standard, Council finds that it is feasible for the cumulative noise impacts from the existing facility and Project to comply with TDC 33.020(1)(i) for the reasons detailed below.

In common usage, “tranquility and contentment” and “peace, health and welfare” are terms that general describe conditions of livability and community well-being.⁴⁶ The terms do not require

⁴⁵ The scope of the City Council’s authority to impose conditions of approval is detailed in Supplemental Findings Section III.B, and the applicability of TDC 62.100 and TDC 63.051 are addressed in Supplemental Findings Section III.A, all of which are incorporated herein.

⁴⁶ The individual words in the phrases “tranquility and contentment” and “peace, health and welfare” have multiple definitions in *Webster’s Third New International Dictionary of the English Language, Unabridged* (2002). Given the context of the words being used together, Council finds that the following definitions are most helpful for interpreting the purpose statement, which generally describe conditions of livability and community well-being (emphasis added):

Contentment: “the act or process of making content : SATISFYING (....., of avarice is impossible) 2 : the quality or state of being contented 3 : something that affords content or pleasure (an old man’s smalls) 4 *archaic* : GRATIFICATION, PLEASURE”

Health “2 : flourishing condition : **WELL-BEING**, VITALITY, PROSPERITY (one more indication of the, of this pulsating ... art form—Harriet Johnson) (expected the capitalist system to retain some degree of *r*..... F.C.Barghoorn) (a serious menace to our economic — F.L.Allen)”

Peace: “3 a : a **tranquil** state of freedom from **outside disturbance and harassment** (decided to accept a year-round post ... and have, to write *Newsweek*) (now remembered sharply the *r*..... and quiet of the place—Sherwood Anderson)”

Tranquility: “the quality or state of **being tranquil** (emotion recollected in, —William Wordsworth) (the lasting peace which is the— of order—J.P.McGranery) (the— of the flowing—stream is carefully measured)”

Franquil: “b : **free from disturbance** or turmoil : QUIET, PEACEFUL (....., as a rural church on a Sunday afternoon—Green Peyton) (a, twilight hour—Elinor Wylie) (has transformed a normally, agricultural region

~~absolute quite. Instead, they describe sound conditions consistent with established City decibel standards in TMC 6-14-050 and “noise disturbance” limitations under TMC 6-14-030, as well as compliance with the Community Design Standards in TDC 73A to 73G.~~

~~Council finds that feasibility of compliance with Noise Ordinance constitutes strong, though not necessarily dispositive, evidence that noise maintains “tranquility and contentment” and promotes and protects the “peace, health and welfare” of the City. For all of the reasons that it is feasible for the cumulative impact of the existing facility and Project to comply with the “objectionable noise” standard in TDC 62.100, compliance with the purpose statement in TDC 33.020(1)(i) is also feasible, and those Findings are incorporated herein. Further, the Findings of compliance with TDC 73A to 73G are also incorporated herein to demonstrate the feasibility of the existing facility and Project’s cumulative impact complying with the purpose statement in TDC 33.020(1)(i).~~

C. Traffic Issues

Appellant provides the following grounds for the Appeal, as related to traffic issues: (1) the “[e]xpanded North 108th Entrance does not meet New Driveway Approach Criteria; (2) the Project’s TIA did not consider additional employee work shifts; and (3) the claims that traffic is beyond the scope of the AR are incorrect.” These issues are addressed below.

i. Relevance of Traffic to Architectural Review

TDC 33.020(5)(c) requires that the approval criteria for AR are limited to TDC 73A to 73G. None of those criteria require the evaluation of traffic impacts. Instead, TDC Chapters 74 and 75 evaluate public improvements and access management, which includes consideration of traffic impacts. Although transportation issues are not directly applicable to AR, as explained in Section III.A and A (and incorporated herein), TDC 33.020(6)(a)(iii) authorizes the City to impose conditions of approval that implement the Tualatin Development Code, including TDC Chapters 74 and 75. The extent to which conditions of approval may be imposed through Architectural Review is detailed in Supplemental Findings Section III.B, and incorporated herein.

Accordingly, the Findings address the Project’s compliance (or feasibility of compliance) with TDC Chapters 74 and 75. Appellant’s Appeal statement that the ARB decision below concluded that “traffic is beyond the scope of the AR are incorrect” mischaracterizes how City Council has reviewed and applied TDC Chapters 74 and 75, and is rejected.

Many members of the community offered testimony describing existing traffic congestion on SW Tualatin Road. To the extent this testimony is relevant to any approval criteria, it is addressed in the Findings.

~~into one of factories—Amer. Guide Series: Texas) (celebrity5: ... allowed to live and die in, privacy—E.M. Lustgarten) (peace can be made, and secure only by understanding and agreement—B.M.Baruch)”~~
~~Welfare: “I a : the state of faring or doing well : thriving or successful progress in life : a state characterized esp. by good fortune, happiness, well-being, or prosh—tin—;e—H—s—i—u—;n—n (:—ee—OuS “nfiJi—ewh°e;uJ—e:—re’J: seeks her child’s ,...—H.M.Parshley) (increasing production has made ,..., for all seem —.. possible—A.I.Toynbee)—opposed to il/Jare—b : the state or condition (as of a person or ente—prise) in regard to well-being;—esp : one’s condition in—:f:—nh—h—t—P—P—fe—an°:—b—if.K—reg(h—lif;t—r°!r—!; negligence of the,....., of his workers—T.P.Whitney) e : the sum of individual utilities : a social optimum”~~

When addressing traffic concerns generally, Council finds that some background facts provide context for community concerns. Members of the community have expressed concern about the existing traffic on SW Tualatin Road. Lam responded to these concerns by eliminating a proposed new employee access onto SW Tualatin Road, which significantly reduces the number of Lam employees using SW Tualatin Road. As revised and approved in this Decision, the Project relies exclusively on *existing* driveways for employee traffic. Traffic modeling indicates that the Project will add very few new employee vehicle trips on SW Tualatin Road during peak hours (25 in the AM peak and 23 in the PM peak). The TIA and City Engineer concluded that SW Tualatin Road remains adequate to support the Project.⁴⁷³⁹ Additionally, traffic counts collected following completion of Tualatin-Sherwood Road construction confirmed the projection by Applicant's traffic expert that traffic that was diverted onto Tualatin Road during construction returned to its normal patterns, which supports the projection that the traffic volumes on SW Tualatin Road are expected to be "lower than experienced today, even with the addition to the project."⁴⁸⁴⁰

ii. Existing Northernmost SW 108th Avenue Entrance⁴⁹⁴¹

Once Lam eliminated the originally proposed new employee access onto SW Tualatin Road, some members of the public pivoted their opposition to the existing northernmost entrance at SW 108th Avenue. Non-expert testimony and speculation was offered about that entrance exacerbating concerns with existing congestion on SW Tualatin Road generally, the potential for increased crash rates at the intersection of SW 108th Avenue and SW Tualatin, increased neighborhood cut-through traffic (including along 112th and 115th to Hazelbrook Road), additional delays at Hazelbrook Road/99W, and conflicts with school traffic.

Some community members requested a condition of approval that requires closing the existing driveway to employee traffic, despite data about the de minimis additional volume during peak period and continued functionality of SW Tualatin Road.

⁴⁷³⁹ See Staff Report AR24-0002, August 5, 2025 email from Tualatin City Engineer, Mike McCarthy that states: "The existing utilities and transportation system are adequate, or can be made adequate through conditions, to support the proposed Lam development."

⁴⁸⁴⁰ As detailed in Mackenzie's November 7, 2025 letter at Appeal Exhibit M, which has been incorporated by Council as its own findings and enclosed as Attachment 1, "Traffic volumes along the site's frontage on SW Tualatin Road have decreased by 350 AM and 125 PM trips due to construction being completed on SW Tualatin-Sherwood Road, which has been a key concern for neighbors. Even with occupancy of Building G and new development proposed in AR24-0002, volumes on SW Tualatin Road will still be lower than what was observed in Spring 2025."

⁴⁹⁴¹ These Findings refer to the driveway approach on SW 108th Avenue using several interchangeable terms, such as driveway, access, entrance and approach.

Members of the public submitted copies of a form letter to the ARB stating that the Project's existing northernmost entrance at 108th Avenue is inconsistent with three of the new driveway approach criteria at TDC 75.020.5. The ARB did not apply these criteria to the existing driveway on SW 108th Avenue because the entrance is existing, so the new approach criteria do not apply.

The Appellant initially argued that the new driveway approach standards should be applied because he characterized the northernmost SW 108th Avenue driveway as being gated. At the ARB and City Council hearings and in Mackenzie's November 7, 2025 testimony (Attachment 1 and Appeal Exhibit M), the Applicant explained that the gate is locked in the evening for security reasons, but that the gate is open during business hours, confirming that it is an existing driveway. Council finds that gating the driveway at night has no relevance to whether the driveway is existing or new, and rejects arguments that gating the driveway at night subjects the driveway to discretionary review during Architectural Review.

Before the City Council (verbally and in testimony dated November 7, 2025) Appellant argued that the northernmost entrance on SW 108th was not approved by an access permit, and that if the driveway had been approved, the recent approval of Building G (IMP 22-001 and AR22-006) somehow relinquished Lam's rights to that driveway. Appellant points to an approved site plan for Building G and portions of the underlying application and traffic study as proving that the northernmost entrance is not existing. The quoted portion of the Building G narrative that describes of existing driveways does not mention the northernmost driveway on SW 108th, and the quoted portion of the Building G traffic analysis focuses on the two newly proposed entrances ("north" and "south"). The depicted Building G approved site plan clearly shows the northernmost accessway, but it is colored green, not grey (for new access points) or white (for existing vehicle areas).

Council finds that the cited material is unclear and not dispositive about the existence of the northernmost driveway on SW 108th. The Building G materials were focused on the two new driveways on SW 108th Avenue. Council finds that the lack of emphasis on the existing northernmost driveway on SW 108th Avenue and inconsistencies in how it is described (or not) in the Building G materials are not conclusive about the driveway's existence; it simply was not material to the Building G Architectural Review, so the existence of the driveway was an afterthought in the application and approval.

In the relatively short period of time between Appellant's testimony about the permitting history of the driveway and the November 10 City Council hearing, neither the City nor Applicant could identify the land use approval or approach permit for the northernmost driveway onto SW 108th Avenue. Applicant's traffic expert testified at the November 10, 2025 City Council hearing that the SW 108th Avenue driveway has existed for some time. No testimony was offered that challenged that the driveway had been in place for a while; testimony instead focused on the nature of the driveway's use (gated or used for construction access). City staff did not raise any concerns with the legal status of the driveway.

While it is a close call, Council finds that the testimony and evidence support a conclusion that the northmost access on 108th Avenue is an existing lawful driveway. Council relies upon City staff's lack of concern about the driveway, the unrefuted testimony that the driveway (in some

usage) has existed for some time, and that the driveway was depicted on the Building G site plan as an existing driveway. We attribute the lack of a specific access permit to the age of the accessway.

The current gated status and allegations of lack of clarity on approval history are the only reasons provided by Appellant or the community to explain why the access approach standards in TDC 75.020(5) are applicable or that the driveway is subject to any discretionary review as a part of AR. For the reasons explained above, Council rejects both arguments and finds that the northernmost driveway on 108th Avenue lawfully exists. Because the driveway is existing, it is not subject to discretionary review as a part of Architectural Review for the Project.

As detailed in Supplemental Findings Section IV.C.iii.b (and incorporated herein), the exclusive criteria for evaluating driveway approach are the standards in TDC 75.020(5). The purpose statement or types of conditions of approval that may be imposed through Architectural Review, TDC 33.020(1)(i) and TDC 33.020(6)(b)(iv) respectively, do not impose additional criteria or broaden the City's authority to impose conditions of approval beyond TDC 33.020(5). See also, Supplemental Findings Section III.B (incorporated by reference), which explains the limitations on conditions of approval that may be imposed through Architectural Review.

i. ~~iii.~~ In the Alternative, the Existing SW 108th Avenue Entrance Meets the New Driveway Approach Criteria

The following Supplemental Findings are offered in the alternative, and include interpretations and findings that apply the evidence in the record based upon the alternative interpretation that the northernmost driveway on SW 108th Avenue is subject to discretionary review as a part of this Architectural Review.

As detailed below, Council finds that the northmost driveway access on SW 108th meets the approval criteria in TDC 75.020(5). The evidence in the record does not support imposing a condition of approval limiting that driveway to construction contractors and emergency vehicles only.

a. Evidence, generally

Council acknowledges that as drivers, walkers and cyclists, we all have opinions about the transportation system. However, as explained in Supplemental Findings Section III.C (incorporated herein) the analysis of the transportation impacts from the Project and its compliance with approval criteria require technical analyses. All of the expert transportation-related evidence in the record agree with the scope, methodology, analysis and conclusions of the transportation impacts of the Project, which is more credible and persuasive than layperson testimony or extrapolation.

Intersection crash rates are an example. As explained in the TIA, ODOT's Analysis Procedures Manual, which provides standardized procedures and methodologies for transportation analysis in Oregon, flags only intersections in the ODOT 90th percentile crash rates for further analysis. Crash rates of 1.0 crashes per MEV (million entering vehicles) are typically used as a threshold above which additional traffic safety analysis is warranted. The unrebutted technical analysis is

that “all intersections have crash rates below 1.0/MEV and below the ODOT 90th percentile crash rate threshold for intersection type.” TIA, 6. Appellant and his counsel offered detailed testimony about the risk of increased crash rates at the intersection of 108th Avenue and SW Tualatin Road associated with trips originating from the northernmost access on 108th Avenue, and offered relative comparisons of crash rates from other intersections, and allegations about “above average dangers” to drivers. The data and expert analysis do not support these assertions, and all of the rates cited by Appellant are below ODOT’s thresholds. City Council finds that the crash risk at all intersections included in the TIA, including 108th Avenue and Tualatin Road, will operate within established thresholds for crash risk, and do not present a safety-based reason to deny or further condition the Project. Simply stated, when all intersections operate within the objective standards, emphasizing the relative rates are essentially comparing very low to low, and does not establish that any approval criteria are not met.

The layperson testimony speculating about potential impacts of traffic from the northernmost driveway on SW 108th is disproportionate to the data-based evidence of the increased trips on SW Tualatin Road that are attributable to this driveway. As explained in the Mackenzie November 7, 2025 testimony, “Another way to look at the impact [of trips using the northernmost access onto SW 108th Avenue] is the addition of the Project’s 25 peak hour trips to SW Tualatin Road represents only 2% of that roadway’s volume.” Appeal Exhibit M and Attachment 1.

Council incorporates by reference as its own Supplemental Findings the analysis and evidence included in Applicant’s traffic engineer’s November 7, 2025 testimony at Appeal Exhibit M which is enclosed as Attachment 1, which includes technical and evidence-based responses to layperson community concerns about Tualatin Road impacts, SW Hazelbrook Road approach to Highway 99W, intersection of SW Tualatin Road with SW 108th Avenue, and school safety. Also see Supplemental Findings Section IV.C.iii.c, iv and v, which are incorporated herein.

b. Clarifying the Applicable Criteria

The exclusive standards applicable to a new driveway are those in TDC 75.020(5), which are addressed below.

We understand Appellant to argue that Comprehensive Plan Goal 8.7, TDC 33.020(1)(i) (describing the purpose of Architectural Review) and TDC 33.020(6)(b)(iv) (describing types of conditions that may be imposed through Architectural Review) as providing the City additional authority to limit access from, or not approve as a new driveway, the northernmost access onto SW 108th. For the reasons explained in Supplemental Findings Sections III.A.iii and III.B (incorporated herein) and detailed below, we disagree.

We do not understand Appellant to argue that these code sections provide independent approval criteria. If we misunderstand Appellant, then we reject it. Council interprets these provisions as

not providing independent mandatory approval criteria, for the same reasons that they do not expand the authority to impose conditions of approval.

TDC 33.020(1)(i) is an aspirational purpose statement and its inclusion of the City's desire to "sustain the...safety...of residents..." does not include mandatory approval criteria that operates independently of TDC 75.020(5) and does not expand the scope of allowable conditions of approval.

City Council agrees that TDC 33.020(6)(b)(iv) lists the types of conditions of approval that may be imposed through Architectural Review, including "[c]hanges in the design or intensity of the proposed development...necessary to assure compliance with this chapter [including limits on the]...number, location and design of street accesses...to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained." However, Council disagrees with Appellant's mischaracterization of how this provision operates. Council interprets this provision as providing context for a type of condition of approval that may be imposed, so long as the condition is authorized by TDC 33.020(5). It does not provide an independent basis for imposing conditions of approval, and does not impose a separate set of approval criteria.⁵⁰⁴² For example, the references to street capacity and traffic safety in TDC 33.020(6)(b)(iv) relates the specific criteria in TDC Chapters 74 and 75; they are not an additional standard and do not broaden the scope of authority provided in TDC 33.020(5) for imposing conditions of approval. For example, if a hypothetical project's impacts meet TDC 74 or 75 only if a condition of approval is imposed, then the type of access limiting condition described in TDC 33.020(6)(b)(iv) may be appropriate. However, the evidence analyzing the Project approved by this Decision demonstrates that the applicable standards in TDC 74 and 75 are met without restricting access, so TDC 33.020(6)(b)(iv) is not relevant here.

Under ORS 197.195(1), cities and counties must incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. If a local government does not incorporate a comprehensive plan provision into its land use regulations, that provision may not be used as a basis for a decision by the city or county or on appeal from that decision.

Tualatin Comprehensive Plan Goal 8.7 states: "Consider transportation options that make the best use of the existing network." This goal expresses policy guidance that is implemented through the TDC; it is not an applicable approval criterion for Architectural Review because it is aspirational and has not been expressly incorporated into the Tualatin Development Code as an approval standard applicable to AR, either through TDC Chapter 33, Chapters 73A to 73G or elsewhere. Testimony was offered that TDC 31.070 requires all land use decision to be consistent with the Comprehensive Plan. City Council disagrees. TDC 31.070 does not include any reference to the Comprehensive Plan and does not impose it as approval criteria on either a request for an interpretation of the TDC outside of a pending land use application (the limited

⁵⁰⁴² Testimony was offered that the site design standards in TDC 73A.120(2) incorporates other sections of the TDC, including Chapters 62 and 75, which require avoiding the creation of traffic hazards. City Council rejects that assertion. TDC 73A.120 applies only in the Mixed-Use Commercial (MUC) zone, so is not applicable to the Project. The generally applicable design standards in TDC 73A.110 apply to the Project, and none of those criteria impose a criterion related to traffic hazards, and they do not incorporate other sections of the TDC, including Chapters 62 and 75.

scope of TDC 31.070) or other land use decisions generally. Testimony also cites TDC 62.010 as requiring that new access points support the City's Transportation System Plan (TSP). The Tualatin Development Code does not include a section 62.010. Nothing in TDC Chapter 62, or elsewhere, incorporates the TSP or Comprehensive Plan as a standard applicable to new access include to an industrial use considered as part of AR.

c. Compliance with the Driveway Access Standards in TDC 75.020(5)

Mackenzie's technical November 7, 2025 testimony at Appeal Exhibit M applies the expert traffic evidence in the record to the new driveway access standards in TDC 75.020(5) and explains how the criteria are met, findings which Council incorporates as its own, and attaches the testimony as Attachment 1 to these Supplemental Findings. Those incorporated Findings are further bolstered by the Supplemental Findings below, which address the driveway access standards raised by Appellant, TDC 75.020(5)(g to i).

i. Criterion (g): The proposed driveway approach does not result in significant adverse impacts to the vicinity;

City Council interprets "adverse impacts" to mean impacts that, even with mitigation measures, a proposal does not meet the City's standards for access management, safety, capacity and queuing, and the adverse impacts are "significant" if they greatly exceed the standards. City interprets the "vicinity" to include the City intersections studied by the TIA study intersections, which here are all City intersections within a ¼ mile of the Project site.⁵¹⁴³

The only conclusion supported by the evidence is that the northernmost driveway on SW 108th Street will not result in significant adverse impacts to the vicinity.

The existing driveway meets all of the City's standards for access management in Chapter 75. Per TDC 75.120, driveways on minor collectors must be spaced at a minimum of 100' and driveways must provide a minimum distance of 40' between on-site driveways per TDC 75.040(10)—the three existing driveways on 108th Avenue are spaced at 100'. Driveways must be located at least 150' from the intersection of Collector or Arterial streets, as measured from the stop bar, per TDC 75.040(11)(a)—the driveway is located approximately 300' south of Tualatin Road.

The TIA shows that, at Project buildout, only 6% of campus trips will use this driveway, but that the Project impact on Tualatin Road is less than 10% of site trips. During the peak hours, the northernmost driveway will add up to about 25 trips, which represents only 2% of SW Tualatin

⁵¹⁴³ In the alternative, if "vicinity" is expanded to include the "adjacent and impacted facilities" described in TDC 74.440(3)(a), the TIA explains that scope is "all City intersections within a ¼ mile of the project site, all ODOT facilities anticipated to be impacted by 50 or more peak hour trips, and intersections of concern as noted by ODOT or the City." ARB, 50. Council finds that Hazelbrook/99W will not be impacted by more than 50 peak hour trips from the Project. Nevertheless, to be thorough, even if the Hazelbrook/99W intersection is considered to be within the "vicinity" of the driveway, for the reasons explained in Supplemental Findings Section IV.C.iii.c.iv (incorporated herein), the driveway will not result in significant adverse impacts on ODOT facilities.

Road's volume. With these volumes of traffic and the required mitigation measures, the vicinity intersections meet safety, capacity and queuing standards.

ii. Criterion (h): The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections; and

The metrics of the functionality of streets and intersections are the City's standards for access management, safety, capacity and queuing. The TIA shows that the existing driveway meets all of those standards, as conditioned. Accordingly, with the conditions, there is no impact to functionality that needs to be minimized. Further, the northernmost driveway is one of six driveways available to Lam employees. Trips from the Project will be distributed among multiple driveways, which minimizes the impacts of each driveway on the functionality of adjacent streets and intersections.

iii. Criterion (i): The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.

The residentially zoned property and the adjacent streets subject to this criterion are the residential area and streets within the "vicinity" of the site, which here, is ¼ mile from the Project. The TIA demonstrates that there is no adverse impact from the Project in the vicinity, including the residentially zoned property and functionality of adjacent streets. Furthermore, there are no adverse impacts to the surrounding residential uses because all standards from the Tualatin Development Code are met, and the addition of only up to about 25 new peak hour trips to SW Tualatin Road is a de minimis amount of traffic on a Major Collector roadway.

iv. Relevance of Hazelbrook/99W to Driveway Approval

Residents of the neighborhood north of the Project described concerns with the existing condition of traffic cutting through their neighborhood from Tualatin Road to Hazelbrook via 112th and 115th to reach 99W. Appellant notes that the intersection of Hazelbrook Road and 99W "already has a failing grade for delays," and complained that the northernmost driveway access onto 108th Avenue will make the problem worse, characterizing it as "a threat to the to the public's health, safety, and welfare of the neighborhood's residents, which though not cited, appears to be a reference to TDC 33.020(1)(i) (Architectural Review Purpose Statement). Appellant Pre-Hearing Comment Letter, 3. Accordingly, Appellant urges the City to prohibit Lam employees from using the northernmost driveway onto SW 108th, relying upon the types of AR conditions that may be imposed pursuant to TDC 33.020(6)(b)(vi) to "maintain the capacity of streets to carry traffic safely."⁵²⁴⁴ For the reasons detailed in Supplemental Findings Sections III.A.iii, III.B and IV.C.iii.b, neither the purpose statement (TDC 33.030(1)(i)) or types of AR conditions (TDC 33.020(6)(b)(vi)) are approval criteria.

⁵²⁴⁴ We find that the only arguments related to Hazelbrook/99W are how the intersection should influence whether the northernmost driveway on 108th is approved.

The issues raised by Appellant relate to delays at the intersection from the vehicles at the stop controlled intersection waiting on Hazelbrook Road to turn right onto 99W. The Project as a whole will contribute an estimated 10 additional trips to the intersection in the PM peak hour, of which 5 are expected to originate from the northernmost driveway on 108th Avenue. Council finds that this is relatively small number of trips, as well as the technical and pragmatic analysis below, demonstrates that the layperson speculation about safety risks associated with the driveway are disproportionate to the data-based analysis and conclusions about the actual impacts of the Project.

The Hazelbrook/99W intersection is an ODOT facility, which means ODOT's standards apply and ODOT controls the improvements, if any, that are appropriate for the intersection. The technical analysis is summarized in Mackenzie's November 7 testimony, "ODOT's priority is to maintain the capacity and flow of the highway mainline [99W], so it is not unusual to see long delays or queues on side streets approaching a state highway [Hazelbrook]." Because Hazelbrook/99W is an ODOT facility, Council incorporates as its own the following analysis and evidence offered by ODOT (Appeal Exhibit I):

All ODOT intersections are projected to meet ODOT mobility standards in this and previous TIA revisions, with this revision appearing to better spread out traffic across ODOT intersections, rather than concentrating more traffic on Hazelbrook Rd. As such, there are no significant changes to the comments ODOT provided on 11/12/2024, which are as follows:

ODOT concurs with the findings of the TIA **that all ODOT intersections are projected to meet ODOT mobility standards** following completion of both phases of the project in 2030.

While there are a number intersections along OR 99W where 95th percentile *queues may be expected to exceed existing storage capacity under some models*, the applicant has gone to the effort of correlating HCM 2000 queue outputs to better reflect actual conditions. ODOT concurs with their conclusion that these intersections along OR 99W **"are built out to their full capacity, and little can be done to mitigate these queues"** at the applicant level. While the applicant recommends "coordination of the left turn movement from OR 99W with the left turn movement to SW Tualatin Road," **ODOT policy does not consider signal retiming as a mitigation for development**. This signal coordination is outside the scope of this development at this time, particularly given the different ownership of each signal, which would require further coordination between ODOT and the City of Tualatin.

Lastly, long delays were identified for westbound traffic on Hazelbrook on the stop-controlled approach OR 99W. Given that this has not been shown to present safety or operation issues for northbound traffic on OR 99W, ODOT concurs that **"mitigation is not recommended [at Hazelbrook]** because it would encourage vehicles to travel this route from SW Tualatin Road instead of using SW 124th Avenue to access OR 99W northbound."

No further analysis of state highway facilities is required.

Bold in original, italics added.

The incorporated ODOT analysis rebuts Appellant's arguments. First, all ODOT intersections (including Hazelbrook/99W) are projected to meet ODOT mobility standards. ODOT references that some queues that may exceed storage capacity, but Table 7 of the TIA demonstrates that the Hazelbrook/99W queue does not exceed the 95th percentile ODOT threshold. All transportation experts (ODOT, City and Applicant's) agree with this evidence, analysis and conclusion. Council finds that this is substantial evidence that supports the conclusion that the impacts of the Project do not support Council imposing conditions of approval that are intended to limit traffic impacts on Hazelbrook/99W, such as limitations on Lam's access onto 108th Avenue or signal modifications. We incorporated by reference the analysis in Supplemental Findings Section III.B related to limits upon imposing conditions of approval. TDC 33.020(6)(b)(vi), which describes types of AR conditions, does not overcome the lack of evidentiary basis to impose any conditions of approval related to Hazelbrook/99W, and does not impose an additional transportation-related approval criterion, for the reasons explained in Supplemental Findings Section IV.C.iii.b (incorporated herein). Additionally, the aspirational purpose statement in TDC 33.020(1)(i) is not an independent approval criterion and is not a basis for imposing a condition of approval, for the reasons explained in Supplemental Findings Sections III.A.iii, III.B (incorporated herein).

In addition to the lack of an evidentiary basis to impose an authorized condition of approval targeted at Hazelbrook/99W, there is a pragmatic reason Council has exercised its discretion to not impose conditions. All transportation experts (City, ODOT and the Applicant's) recommended no mitigation because if the delay was shortened it "would only encourage more traffic to cut through the neighborhood." Mackenzie, November 7 testimony. Simply stated, the best way to address the community's concerns about existing cut through traffic is to allow the existing delays at Hazelbrook to remain because the delays act as a deterrent to cut through traffic.

Appellant also links the Hazelbrook/99W PM peak hour delays to the Applicant's suggestion to coordinate left turn movements from ORS 99W to SW Tualatin Road at the intersection with SW 124th Avenue, which the Decision does not impose as a condition of approval. Applicant's suggested signal modification at 124th/99W was suggested to address AM peak queues at that intersection; an intersection and peak period that is unrelated to the PM peak concerns at Hazelbrook/99W. Accordingly, any conditions of approval related to 124th/99W are irrelevant to Hazelbrook/99W, which is the sole ODOT intersection raised as a potential issue related to the driveway on SW 108th Avenue. Accordingly, whether or not signal timing modifications are required or pursued for 124th/99W is not a basis to condition or deny the Project.

v. The TIA is Not Required to Consider Additional Employee Shifts or Potential Future Development and Meets the Requirements of TDC 74.440.

Appellant contends that the TIA fails to consider additional employee work shifts and speculates that the future buildout of vacant land on Lam's campus could generate additional traffic. Appellant's argument is undeveloped, and it is unclear if Appellant is arguing that shifts should be required to minimize traffic impacts, or that additional shifts could be added, which would increase traffic impacts. Regardless, neither argument constitutes a valid basis for denial of Architectural Review, as the record demonstrates that the TIA adequately considered the increased employee numbers anticipated from full Project buildout. Accordingly, the TIA satisfies the requirements set forth in TDC 74.440.

Appellant's argument about shifts appears to either request mitigation (e.g., requiring shift work) or to challenge the scope of the TIA (e.g., different assumptions about shifts should have been included). Neither is a basis for denying the AR. The TIA concluded, and the City Engineer agreed, that as conditioned, SW Tualatin Road meets all standards. Meaning, there is no grounds for requiring mitigation such as relying upon shifts to spread the Project's traffic to non-peak hours. If the argument is that additional shifts could be added in a manner that impacts peak hour traffic, that is speculation that is not supported by the record and is unreasonable. As detailed below, the only evidence in the record related to shifts is that Lam currently has only a small percentage of staff working outside the typical day 8-5 shift schedule. It would be a significant change in operation to add shifts or more employees to night shifts. Also, if it made sense to have a second shift, then the new office and lab buildings include in the Project would not be needed – the added 600 employees could simply use existing buildings with additional shifts.

The TIA complies with accepted practices and does not include speculative and unsupported assumptions. The TIA's modeling is based upon current patterns and practices. The TIA explains that the AM peak hour is 8 AM to 9 AM, and the PM peak hour is 4:45 to 5:45 PM. The TIA scoping memo includes a discussion of trip generation, and details shift work, explaining that the day shift for office and lab employees is generally 8-5, which overlaps with the AM and PM peak periods. Manufacturing staff work 12-hour shifts "with changes outside the peak hours (7-7 shift schedule)."⁵³⁴⁵ The Project includes an office building, laboratory building and utility building. Accordingly, the TIA assumes that the new office and lab employees will generally commute during the AM and PM peak periods similar to current employees.

TDC 74.440(1) gives the City Manager discretion to require a TIA as part of the development approval process. As relevant to this Appeal, TDC 74.440 requires that the TIA include the information listed in TDC 74.440(3), including proposed trip generation and distribution for the proposed development. The TIA relied on the following analysis to meet this requirement⁵⁴⁴⁶:

- The TIA contemplates that the Project could add up to 600 employees to the campus.
- The TIA estimates these additional employees will work similar shift schedules as current employees and will generate an additional 244 AM peak hour, 233 PM peak hour, and

⁵³⁴⁵ Staff Report AR24-0002, Exhibit A4, June 5, 2025 Updated Transportation Impact Analysis Scoping.

⁵⁴⁴⁶ Staff Report AR24-0002, Exhibit A4: Transportation Impact Analysis and Memorandum, p. 12 ("Trip Distribution and Assignment").

2036 daily trips, based on the “Research and Development Center” (LUC 760) trip rate from the Institute of Transportation Engineers’ (ITE) Trip Generation Manual.

- The added trip distribution for each surrounding road resulting from the 600 employees was based on (1) the timing of current employee shifts; (2) the zip codes of current employees; and (3) the fact that “most new employees will be assigned to Building H,” the parking for which is accommodated at the existing southeast and new northeast parking lots.
- While the Project at buildout will be associated with additional trips, testimony has focused on the impacts to Tualatin Road. The traffic study shows that, during peaks hours, the Project will result in an average of 25 additional trips on Tualatin Road west of SW 108th Avenue, which is a 2% increase in trips during peak hours.

The Project’s TIA was subject to review by the City Engineer, third party peer review by DKS associates, and subject to review by ODOT and Washington County traffic engineers. Reviewing experts provided some questions about details of the TIA, which were addressed, with no further questions. The agencies agree with the scope and conclusions of the TIA. Therefore, the TIA adequately analyzed the proposed trip generation and distribution for the proposed development, pursuant to the requirements in TDC 74.440.

Any future development on Lam’s campus would be subject to AR and the related traffic impacts would be evaluated at that time. Speculation about future impacts is irrelevant to AR for this Project.

D. Other Issues

i. Conditions of Approval do not Improperly Defer Compliance of Discretionary Approval Criteria

At the de novo City Council public hearing, Appellant’s attorney challenged Conditions of Approval A3, A11, and A16 on the basis that they defer discretionary review to a process not subject to notice and opportunity for a public hearing. Council rejects Appellant’s allegation. Those Conditions of Approval do not defer discretionary decision-making to a later date because they merely require that the improvements meet technical ministerial standards—applicable to post-entitlement permits—that will be ministerially reviewed for compliance by the City’s engineering staff, or require confirmation through a final plan submission process. To the extent that Conditions of Approval A3, A11, and A16 are based upon discretionary standards, the discretion has been exercised as a part of this Decision, which includes Findings of compliance (or feasibility of compliance) will all applicable approval criteria. Also see Supplemental Findings Section III.A.i, incorporated herein.

Since Appellant has made no claims about the substance of any Conditions of Approval (e.g., their efficacy in ensuring that the Project is consistent with approval criteria or the evidence relied upon to impose the condition),⁵⁵⁴⁷ these Supplemental Findings address only Appellant’s

⁵⁵⁴⁷ Appellant raises concerns with the northernmost driveway access onto SW 108th Avenue, which related to TDC Chapter 75. Those arguments are addressed in Supplemental Findings Section IV.C.iii and incorporated herein. We

procedural claims about Conditions of Approval A3, A11, and A16. Further, Conditions of Approval A3, A11 and A16 are the only conditions identified by Appellant's counsel, so Appellant's challenge is limited to only Conditions of Approval A3, A11 and A16. Appellant's challenge to these conditions do not explain the discretionary criteria that is allegedly improperly deferred to a later process has not met, as required by *O'Shea v. City of Bend*, 49 Or LUBA 498 (2005).

a. Deferring Compliance, Generally

"A local government may, by imposing conditions or otherwise, defer a final determination concerning compliance with an applicable permit approval standard to a later stage. However, if the decision to be made at the later stage is itself *discretionary*, the approval process for the later stage must provide the statutorily-required notice and opportunity for hearing, even though the local code may not require such notice and hearing in other circumstances. *McKay Creek Valley Assoc. v. Washington County*, 24 Or LUBA 187 (1992) (emphases added), citing *Rhyne v. Multnomah County*, 23 Or LUBA 442, 448 (1992); *Headley v. Jackson County*, 19 Or LUBA 109, 114 n 9 (1990); *Holland v. Lane County*, 16 Or LUBA 583, 596 (1988).

In comparison, "Assuming a local government finds compliance, or feasibility of compliance, with all approval criteria during a first stage (where statutory notice and public hearing requirements are observed), it is entirely appropriate to impose conditions of approval to assure those criteria are met and defer responsibility for assuring compliance with those conditions to planning and engineering staff as part of a second stage." *Rhyne v. Multnomah County*, 23 Or LUBA 442 (1992).

Before evaluating whether the standard for which a compliance determination is deferred is discretionary (deferral *not* allowed without process) or ministerial (deferral *is* allowed without process), a threshold issue is whether compliance deferral is happening at all. LUBA does not consider later review of project (such as Final Street Improvement Plans or recorded documents) documents by City staff to be deferral. *Wolfgram v. Douglas County*, 54 Or LUBA 54 (2007) ("where the land use authority finds that an approval criterion is met but requires further confirmation through the final plan submission process, that is not the same thing as deferring a finding of compliance to a later stage of the approval process"); see also *Friends of Collins View v. City of Portland*, 41 Or LUBA 261, 275-77 (2002) (where a local government finds compliance and imposes conditions to ensure compliance, that a condition of approval requires additional review by local government staff does not mean the local government has "deferred" a finding of compliance with an approval criterion). Therefore, merely requiring later engineering review to implement a Finding of compliance with a discretionary approval criterion does not improperly defer compliance.

Finally, when an individual challenges findings deferring compliance with discretionary applicable approval criteria, they must: (1) identify the applicable discretionary approval criteria; (2) identify the findings that defer consideration of those discretionary criteria; and (3) explain

do not understand Applicant to challenge any condition of approval directed at the northernmost driveway access onto SW 108th Avenue.

how that deferral is inadequate to ensure compliance with the approval criteria. *O'Shea v. City of Bend*, 49 Or LUBA 498 (2005).

b. Conditions of Approval A3, A11, and A16 Do Not Unlawfully Defer Compliance with Discretionary Approval Criteria

The City finds that Conditions of Approval A3⁵⁶⁴⁸, A11⁵⁷⁴⁹, and A16⁵⁸⁵⁰ do not impermissibly defer compliance with applicable discretionary approval criteria. These conditions reference TDC Chapters 74 (Public Improvements) and 75 (Access Management), either generally or with specific provisions listed. As described in Supplemental Findings Section III.A.i (incorporated herein), TDC 33.020.5.d. provides that the approval criteria for this AR are in TDC Chapter 73A through 73G, and TDC 33.020.6.a.iii provides that the City may impose conditions of approval for AR to ensure that Projects meet the standards in the TDC.

The Findings evaluate TDC 74 and 75 and explain compliance or feasibility of compliance with the applicable criteria in those Chapters, and then conclude with a reference to the applicable conditions of approval. References to TDC 74 and 75 in the Conditions of Approval are meant to correlate the City's authority to impose the conditions in the first instance with the applicable Findings, not signal future discretionary approval. To the extent that the Findings reference PWCC compliance, the PWCC involves technical engineering standards akin to building codes, which are ministerial. Therefore, these Conditions of Approval do not defer compliance review for applicable AR approval criteria to a later discretionary stage.

The Findings for TDC 74.210 (Minimum Street Right-of-Way Widths) are a representative example. That standard includes a discretionary component ("width of streets in feet shall not be less than the width required to accommodate a street improvement *needed to mitigate the impact* of a proposed development") and a ministerial component ("the width of the right-of-way shall not be less than the minimums indicated in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G"). The required additional right of way must be dedicated prior to issuance of building permit. The Findings addressing this standard provide:

The proposal is adjacent to SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road. Required dedication of right-of-way and construction of public street surface

⁵⁶⁴⁸ Condition of Approval A3 requires "...City approval of Final Street Improvement Plans for SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road..."

⁵⁷⁴⁹ Condition of Approval A11 requires that "[f]or each Phase...[t]he applicant must submit copies of recorded documents for all lots associated with the proposed Phase of development in accordance with Public Works Construction Code (PWCC) and Tualatin Development Code (TDC) 74.210, 74.330, 74.350, and 75.040 which show the City Engineer approved..."

⁵⁸⁵⁰ Condition of Approval A16 requires "[f]or all lots associated with the proposed Phase of development the applicant must: a. Complete all the private and public improvements as shown on the approved permit plans. All improvements must be constructed and guaranteed as to workmanship and material and also be accepted by the City in accordance with Tualatin Development Code (TDC) 74.120 and 74.140; and, b. Submit an approved final erosion control inspection report to the Engineering division; and, c. Submit pdf as-builts of the Engineering division permits along with maintenance bonds and complete any final fees for public improvements"

infrastructure will benefit this development's expected addition of bicycle, pedestrian, and vehicular trips utilizing streets and sidewalks. Final plans will include a minimum of half-street right-of-way dedications to preferred crosssections along with improvements within SW Leveton Drive and SW Tualatin Road meeting the requirements of the City of Tualatin. With recommended Conditions of Approval A3, A11, and A16 this standard is met.

These representative Findings demonstrate that the City exercised discretion by evaluating the impacts of the Project (the additional trips on frontage roads, which other Findings explain are based upon the City's review of the TIA) and concluded that the additional right of way dedications were required to meet the objective right of way width standards. Condition of Approval A3 references TDC 74 and the required cross-sections, and describes the width of the required right of way. Condition of Approval A11 references TDC 74.210, and confirms that the required right of way must be dedicated prior to issuance of the Project's building permit.

Unlike *McKay Creek*, Conditions of Approval A3, A11, and A16 do not defer questions of compliance with discretionary approval criteria to a subsequent process. No future policy judgment or interpretation of discretionary approval criteria is required; only engineering verification occurs. As *Rhyne* explains, it is appropriate to defer ministerial compliance checks to staff after approval when findings confirm compliance or feasibility at the hearing stage, such as occurred with this Architectural Review and Decision.

The City finds that Conditions of Approval A3, A11, and A16 do not unlawfully defer compliance with discretionary approval criteria, and are lawful and typical for public improvement compliance. They do not defer discretionary review; they require ministerial confirmation during permit issuance. Furthermore, Appellant has not completed any of the steps articulated in *O'Shea v. City of Bend*, 49 Or LUBA 498 (2005), which is required to challenge findings based on deferral of approval criteria. The City also finds that Conditions of Approval A3, A11, and A16 were the only conditions challenged in this matter. Notwithstanding this finding, the City also finds that none of the remaining Conditions of Approval defer a finding of compliance with any mandatory approval standards.

ii. Exterior Gas Storage Complies with TDC 62.210(5)

Appellant alleges that the Project's proposed "gas production facility" or "gas plant" do not comply with TDC 62.210(5), which requires that all uses must be conducted wholly within a completely enclosed building, which certain exceptions listed, with the exceptions not including "gas manufacturing." Appellant's Hearing Letter, 2.

TDC 62.210(5) provides:

(5) Outdoor Uses. All uses must be conducted wholly within a completely enclosed building, except as provided by this section.

(a) Permitted Uses. Off-street parking and loading, utility facilities, wireless communication facilities, and outdoor storage occupying less than ten (10) percent of the total site area, are permitted outright as outdoor uses.

We reject Appellants argument, which misunderstands and mischaracterizes the nature of the Project's gas-related outdoor activities. The record does not include a description of any gas "production," or "manufacturing," ~~and~~that is proposed as a part of the Project. Appellant provides no explanation or basis for this characterization, beyond references to the existing facilities, which are not subject to this Decision.

The use is an outdoor gas storage yard that meets the total site area limitation, so it is an allowed use. As explained in the Findings evaluating TDC 62.210(5), "...The existing bulk gas storage yard, which is an outdoor storage area, will be expanded less than 10% of the total site. The applicant has not proposed outdoor uses besides offstreet parking, loading, and utilities. With recommended Condition of Approval A24 and A14.m., this standard is met."

Attachment 1 to Supplemental Findings

Mackenzie's Technical "Traffic Response for Appeal of AR Decision," dated November 7, 2025



November 7, 2025

City of Tualatin
Attention: Mike McCarthy
18880 SW Martinazzi Avenue
Tualatin, OR 97062

Re: **Lam – Project TUX**
Traffic Response for Appeal of AR Decision
AR24-0002
Project Number 2250180.00

Dear Mike:

Mackenzie has prepared this letter to respond to some of the traffic related comments provided through the Architectural Review (AR) process. Traffic analysis data and calculation results were included in our July 21, 2025, Transportation Impact Analysis (TIA) and supplemental August 19, 2025, letter during the AR process for the proposed development. In addition, new traffic counts were collected at the intersection of SW Tualatin Road with SW 108th Avenue on Thursday October 23, 2025, to assess changes in volumes with substantial completion of SW Tualatin-Sherwood Road widening improvements and the opening of Building G at the Lam Campus.

The original development proposal for AR24-0002 included employee use of a driveway on SW Tualatin Road opposite SW 115th Avenue, currently used by JAE and providing gated emergency access to the Lam campus, and installation of a new traffic signal at that intersection. The traffic signal and employee use of this driveway were subsequently eliminated from the development proposal in response to community feedback. In the approved plan for AR24-0002, existing driveways on SW Leveton Drive and SW 108th Avenue will continue to be used for the campus. This minimizes the number of campus trips added to SW Tualatin Road and cutting through the adjacent neighborhood via SW 115th Avenue and SW Hazelbrook Road. SW Leveton Drive will continue to serve as the primary vehicular access location for the campus.

The development proposed in AR24-0002 was reviewed by City of Tualatin, Washington County, and the Oregon Department of Transportation, and all jurisdictions concurred with the findings and recommendations of the TIA.

Traffic related comments received during the AR process are addressed below.

North access on SW 108th Avenue

The north access on SW 108th Avenue has historically been gated at night for campus safety. However, the driveway has always been available during regular business hours for employees and deliveries and is therefore not a "new access".

There will be an increase in use of this driveway with added parking on the north side of the campus, but even with this increase, the total trips from the campus that will use this driveway will be low. There will be no vehicle connection between this north driveway and the recently constructed parking lot for Building G.

Some neighbors have expressed concern that the increased use of this driveway would lead to additional impact on SW Tualatin Road. Our TIA modeling predicts that impact on SW Tualatin Road from the proposal will be 25 or fewer trips in



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the peak hours, or only 10% of the Project's new trips. As detailed below, our analysis of the actual trips generated by the recent occupancy of Building G validates the accuracy of our TIA modeling, so our TIA estimates for the project are reliable.

Another way to look at the impact is that the addition of the project's 25 peak hour trips to SW Tualatin Road represents only 2% of that roadway's volume. The total impact of Lam's campus after project development is estimated to be less than 5% of the volume on Tualatin Road, meaning the campus impact without the project is about 3% of the volume.

Although the driveway is not new, it will comply with all standards in TDC 75.020.5 for a new driveway:

(a) *The proposed driveway approach meets the standards of this Chapter and the Public Works Construction Code;*

Response: The driveway will meet all the standards, including width of 36", spacing of 100' minimum from other driveways, and 150' from the intersection of collector and arterial streets.

(b) *No site conditions prevent placing the driveway approach in the required location;*

Response: The driveway is existing and there are no site conditions that prevent its continued use at this location.

(c) *The number of driveway approaches onto an arterial are minimized;*

Response: No site driveways are proposed on an arterial. All site driveways are located on SW 108th Avenue and SW Leveton Drive, both of which are collectors as noted in the City of Tualatin's recently adopted 2025 Transportation System Plan.

(d) *The proposed driveway approach, where possible: (i) Is shared with an adjacent property; or (ii) Takes access from the lowest classification of street abutting the property;*

Response: Shared access is not possible as the campus has frontage on the entire length of SW 108th Avenue between SW Tualatin Road and SW Leveton Drive. The campus has frontage on an Arterial (SW Tualatin Road) and two Collector roadways (SW 108th and SW Leveton) and on takes access on the lower classification Collector roadways.

(e) *The proposed driveway approach meets vision clearance standards;*

Response: Vision and sight distance standards were addressed in the TIA, which demonstrates the requirements are met from this driveway approach. City Engineering staff will also review the construction documents to confirm these are met.

(f) *The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access;*

Response: No traffic hazards are created with the location of driveway, turning movements, or anticipated traffic volumes. The TIA indicates operations will meet the applicable City standards.

(g) *The proposed driveway approach does not result in significant adverse impacts to the vicinity;*

Response: As noted in the TIA, there are no intersections or roadways that do not meet operational or safety standards in the vicinity of the campus. While there is a small number of additional trips added to SW Tualatin Road, this does not result in a significant adverse impact. As summarized above, the project will contribute only a 2% or less increase in volumes (25 trips) during peak hours

(h) *The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections;*

Response: Because the driveway is located on a lower classification and lower volume roadway, and all intersections and roadways in the vicinity will operate at acceptable levels, there is minimal impact on the functionality of adjacent streets and intersections.



- (i) *The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.*

Response: The access is located on a collector roadway opposite other industrial development and as noted in the TIA, fewer than 25 peak hour trips will be added to SW Tualatin Road, which borders residentially zoned properties. The TIA demonstrates that there is no adverse impact from the project including on the residentially zoned property and functionality of adjacent streets.

Tualatin Road impacts

As noted in the TIA and reviewed by City of Tualatin staff and summarized above, the proposed is estimated to add fewer than 25 peak hour trips to any segment of SW Tualatin Road. The campus impact on SW Tualatin Road between SW 108th and 115th Avenues is estimated to be less than 5% of the total traffic volumes, with project related traffic comprising of 2% of the total traffic volumes. The total volume on SW Tualatin Road is consistent with its classification as an Arterial roadway.

As noted below, volumes on SW Tualatin Road have decreased since counts were taken for the TIA in the spring of 2025 as construction has neared completion on Tualatin-Sherwood Road.

SW Hazelbrook Road approach to Highway 99W

We have estimated the impact of the project will be 10 additional trips in the PM peak hour and both City and ODOT staff have agreed with our assessment. Further, the recent review of traffic volumes added to SW Tualatin Road from 108th Avenue with occupancy of Building G validates the assumptions in our modeling, which provides additional support for this estimate. Our recommendation is for no mitigation at this location because mitigating the long delays and queues would only encourage more traffic to cut through the neighborhood. ODOT agrees that no mitigation should be made to this location. ODOT's priority is to maintain the capacity and flow of the highway mainline, so it is not unusual to see long delays or queues on side streets approaching a state highway.

Intersection of SW Tualatin Road with SW 108th Avenue

There have been comments from neighbors regarding the crash rate at this intersection as well as the potential need for mitigation. As noted in the TIA, the intersection does not have an elevated crash rate. Comparisons with the crash rate at the intersection of SW 115th Avenue show a higher rate, but both intersections are below the average for these types of intersections.

Operations following the proposed development do not warrant a traffic signal, nor would we recommend one. Adding a traffic signal would only encourage more traffic to use SW Tualatin Road.

School safety

Lam's impact is mostly during the peak commute hours, as noted in the TIA. The observed site peaks are from 8:00 AM – 9:00 AM and 4:45 PM to 5:45 PM. Few AM peak hour trips will be added to either SW Tualatin Road or SW 115th Avenue, and the PM peak hour is well outside school peaks (school ends at 3:10 PM). We also understand the City has met with neighbors to discuss options to reduce cut through traffic that is occurring even without the proposed expansion of the Lam campus.



The recent reduction in SW Tualatin Road volumes due to substantial completion of improvements on SW Tualatin-Sherwood Road, especially during the AM peak hour, also helps to address these concerns.

Tualatin Road Traffic Volumes

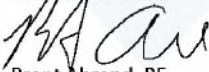
As noted in the TIA, traffic volumes on SW Tualatin Road appeared to have increased in 2024 and 2025 due to construction on SW Tualatin-Sherwood Road. Now that construction is substantially complete and all lanes are open, new counts were conducted at the intersection of SW Tualatin Road with SW 108th Avenue on Thursday October 23, 2025. Overall intersection volumes have decreased by more than 100 vehicles in the PM peak hour and 250 vehicles during the AM peak per hour, indicating there was a measurable impact on SW Tualatin Road from the construction project. In addition, Lam's Building G construction has completed, and is now occupied by 500 employees. The original TIA for Building G estimated 196 AM and 193 PM peak hour trips with 600 employees. Most of these trips are added to the two driveways constructed on SW 108th Avenue for the Building G project.

There was a small increase in traffic volumes turning to and from SW 108th Avenue and the west leg of Tualatin Road when compared with the counts conducted in spring 2024 and 2025 during construction on SW Tualatin-Sherwood Road and before occupancy of Building G. Assuming these additional turns are due to the added Building G trips, we calculated the turn volume increase to be 10% of Building G's trip estimate. During the AM peak hour there was a small increase of 12 trips turning right and a decrease of trips turning left to SW Tualatin Road. During the PM peak hour there was a small increase of 14 left turns and two right turns. With 500 employees, Building G is estimated to generate 161 trips in the PM peak hour, and the 16 trips added to SW Tualatin Road is 10% of that total. This supports our assumptions of small increases on SW Tualatin Road with occupancy of both projects.

Traffic volumes along the site's frontage on SW Tualatin Road have decreased by 350 AM and 125 PM trips due to construction being completed on SW Tualatin-Sherwood Road, which has been a key concern for neighbors. Even with occupancy of Building G and new development proposed in AR24-0002, volumes on SW Tualatin Road will still be lower than what was observed in Spring 2025.

The overall impacts of the Lam campus on Tualatin Road are estimated to be approximately 5% of the total PM peak hour volume, with the new development accounting for 2% and existing campus trips 3%.

In summary, the impacts of the development proposed in AR24-0002 will not result in any significant impacts on intersections and roadways in the vicinity. Most trips to and from the campus will use SW Leveton Drive instead of SW Tualatin Road, minimizing the impact near the residential neighborhood and cut through on SW 115th Avenue and SW Hazebrook Road.



Brent Ahrend, PE
Associate Principal | Traffic Engineer

Enclosure(s): Attachment A – Intersection Count Summary Sheets



Total Vehicle Summary

Clay Carney
(503) 833-2740

SW 108th Ave & SW Tualatin Rd

Wednesday, June 06, 2018

7:00 AM to 9:00 AM

15-Minute Interval Summary

7:00 AM to 9:00 AM

Interval Start Time	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Interval Total	Pedestrians Crosswalk			
	L	R	Bikes				Bikes		T	R	Bikes		L	T	Bikes			North	South	East	West
7:00 AM	1	2	0				0		190	5	0		11	48	0		257	0	1	0	1
7:15 AM	3	2	0				0		226	8	0		13	66	1		318	0	0	0	0
7:30 AM	0	0	0				0		242	6	1		13	70	1		331	0	0	0	0
7:45 AM	1	2	0				0		226	16	0		29	80	0		353	0	0	0	0
8:00 AM	1	2	0				0		164	12	0		18	68	1		265	0	0	0	0
8:15 AM	2	3	0				0		135	8	0		22	53	2		223	0	0	2	3
8:30 AM	2	2	0				0		107	7	0		16	64	1		198	0	0	0	0
8:45 AM	1	3	0				0		91	1	0		17	75	1		188	0	0	0	0
Total Survey	11	16	0				0		1,381	62	1		138	524	7		2,133	0	1	2	4

Peak Hour Summary

7:15 AM to 8:15 AM

By Approach	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Total	Pedestrians Crosswalk			
	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes		North	South	East	West
Volume	11	114	125	0	0	0	0	0	599	269	1,168	1	357	864	1,221	3	1,267	0	0	0	0
%HV		9.1%				0.0%				1.9%				6.3%			2.9%				
PHF		0.55				0.00				0.91				0.82			0.90				

By Movement	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Total				
	L	R	Total				Total		T	R	Total		L	T	Total						
Volume	5	6	11				0		658	41	699		73	264	357		1,267				
%HV	0.0%	NA	16.7%	9.1%	NA	NA	NA	0.0%	NA	1.9%	2.4%	1.9%	2.7%	6.0%	NA	5.3%	2.9%				
PHF	0.42		0.75	0.55			0.00		0.88	0.68	0.91		0.63	0.68	0.82		0.90				

Rolling Hour Summary

7:00 AM to 9:00 AM

Interval Start Time	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Interval Total	Pedestrians Crosswalk			
	L	R	Bikes				Bikes		T	R	Bikes		L	T	Bikes			North	South	East	West
7:00 AM	5	6	0				0		664	34	1		66	264	2		1,259	0	1	0	1
7:15 AM	5	8	0				0		858	41	1		73	264	3		1,267	0	0	0	0
7:30 AM	4	7	0				0		767	41	1		82	271	4		1,172	0	0	2	3
7:45 AM	6	9	0				0		632	42	0		85	265	4		1,039	0	0	2	3
8:00 AM	6	10	0				0		497	28	0		73	260	6		874	0	0	2	3

Total Vehicle Summary

Clay Carney
(503) 833-2740

SW 108th Ave & SW Tualatin Rd

Tuesday, June 05, 2018

4:00 PM to 6:00 PM

15-Minute Interval Summary

4:00 PM to 6:00 PM

Interval Start Time	Northbound SW 108th Ave			Southbound SW 108th Ave			Eastbound SW Tualatin Rd			Westbound SW Tualatin Rd			Interval Total	Pedestrians Crosswalk			
	L	R	Bikes			Bikes	T	R	Bikes	L	T	Bikes		North	South	East	West
4:00 PM	8	7	2			0	102	2	0	2	215	1	336	0	0	0	0
4:15 PM	5	12	1			0	94	1	1	0	220	2	332	0	2	0	0
4:30 PM	14	12	0			0	98	0	1	1	269	2	364	0	2	0	0
4:45 PM	4	12	0			0	93	3	0	3	238	0	353	0	0	0	0
5:00 PM	17	13	1			0	111	1	2	0	239	0	361	0	0	0	0
5:15 PM	14	16	2			0	90	2	1	2	249	0	372	0	4	0	0
5:30 PM	10	11	0			0	94	4	1	6	207	0	332	0	0	0	1
5:45 PM	5	12	0			0	90	6	3	2	174	0	289	0	2	0	1
Total Survey	77	94	6			0	772	19	9	16	1,801	3	2,779	0	10	0	2

Peak Hour Summary

4:30 PM to 5:30 PM

By Approach	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Total	Pedestrians Crosswalk			
	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes		North	South	East	West
Volume	101	12	113	3	0	0	0	0	398	1,034	1,432	4	991	444	1,435	2	1,490	0	6	0	0
%HV	2.0%				0.0%				3.5%				0.9%				1.7%				
PHF	0.84				0.00				0.89				0.95				0.97				

By Movement	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Total
	L	R	Total				Total		T	R	Total		L	T	Total		
Volume	49	52	101				0		392	6	398		6	985	991		1,490
%HV	0.0%	NA	3.8%	2.0%	NA	NA	0.0%	NA	3.8%	0.0%	3.5%		0.0%	0.9%	NA	0.9%	1.7%
PHF	0.72		0.87	0.84			0.00		0.88	0.50	0.89		0.50	0.95		0.95	0.97

Rolling Hour Summary

4:00 PM to 6:00 PM

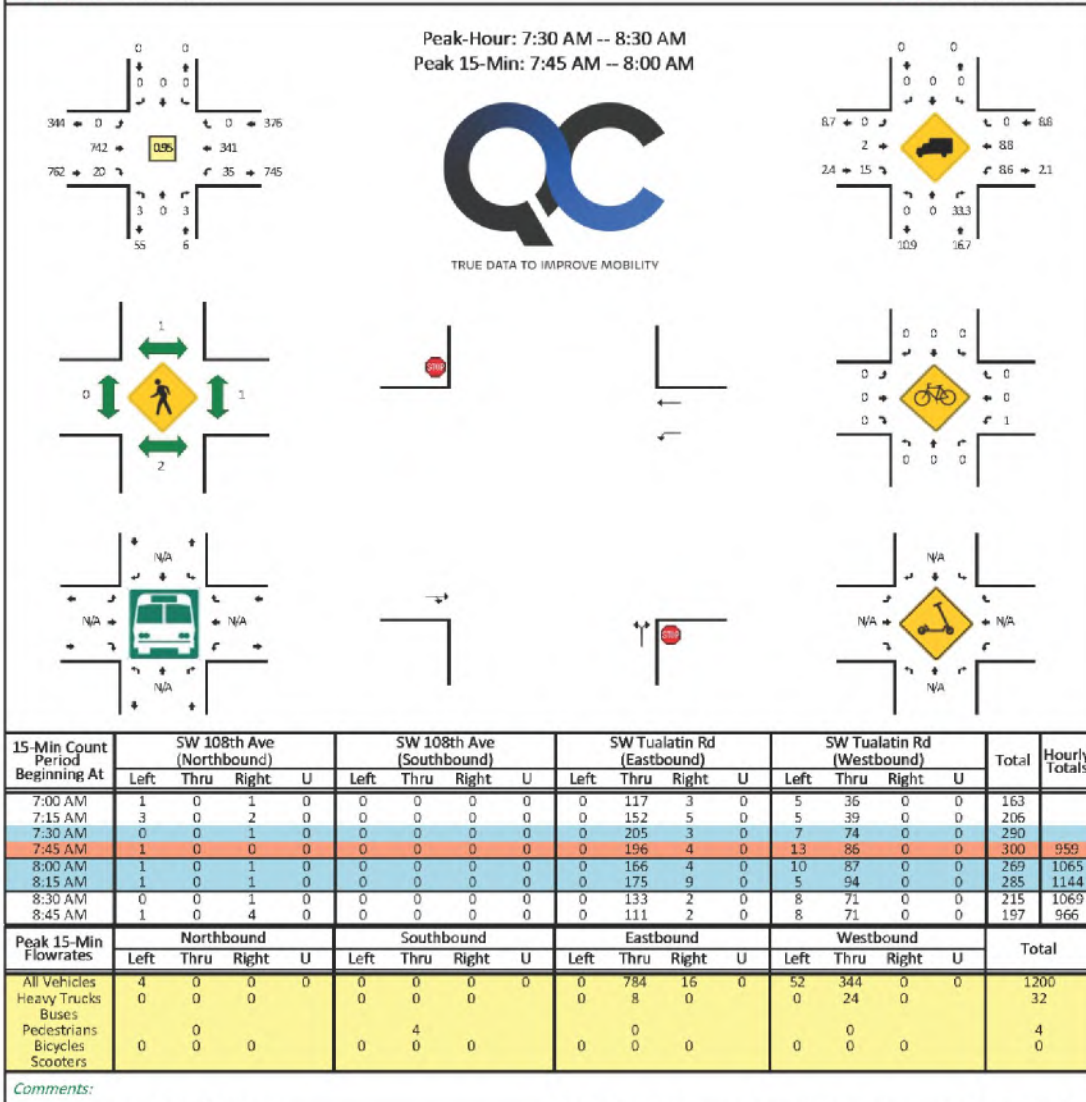
Interval Start Time	Northbound SW 108th Ave			Southbound SW 108th Ave			Eastbound SW Tualatin Rd			Westbound SW Tualatin Rd			Interval Total	Pedestrians Crosswalk			
	L	R	Bikes			Bikes	T	R	Bikes	L	T	Bikes		North	South	East	West
4:00 PM	31	43	3			0	367	6	2	6	932	3	1,405	0	4	0	0
4:15 PM	40	49	2			0	396	5	4	4	966	2	1,450	0	4	0	0
4:30 PM	49	52	3			0	392	6	4	6	985	2	1,490	0	6	0	0
4:45 PM	45	51	3			0	388	10	4	11	933	0	1,438	0	4	0	1
5:00 PM	46	51	3			0	385	13	7	10	869	0	1,374	0	6	0	2

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 16573205
 DATE: Tue, Apr 23 2024



Report generated on 5/3/2024 1:07 PM

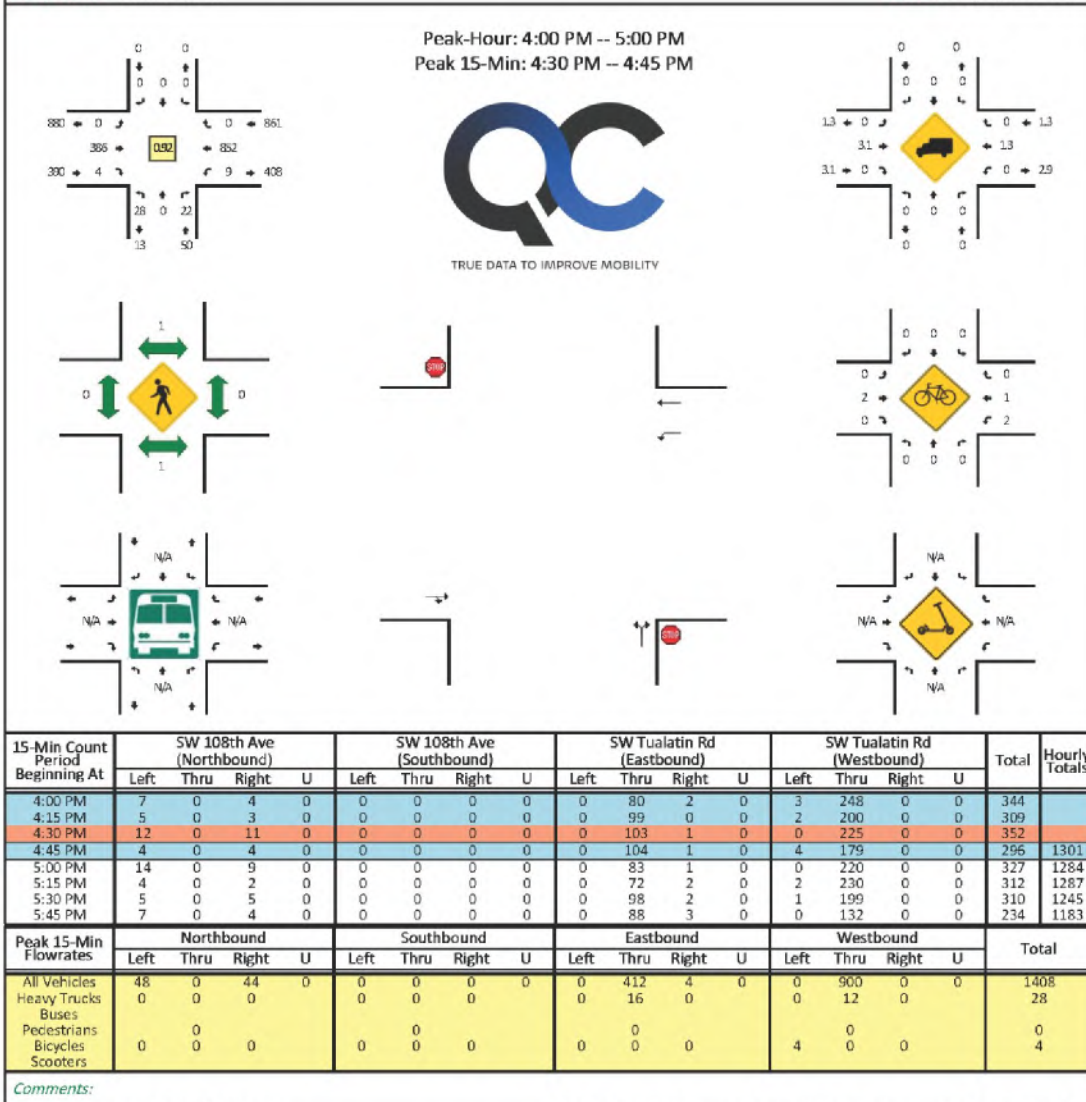
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 16573206
 DATE: Tue, Apr 23 2024



Report generated on 5/3/2024 1:07 PM

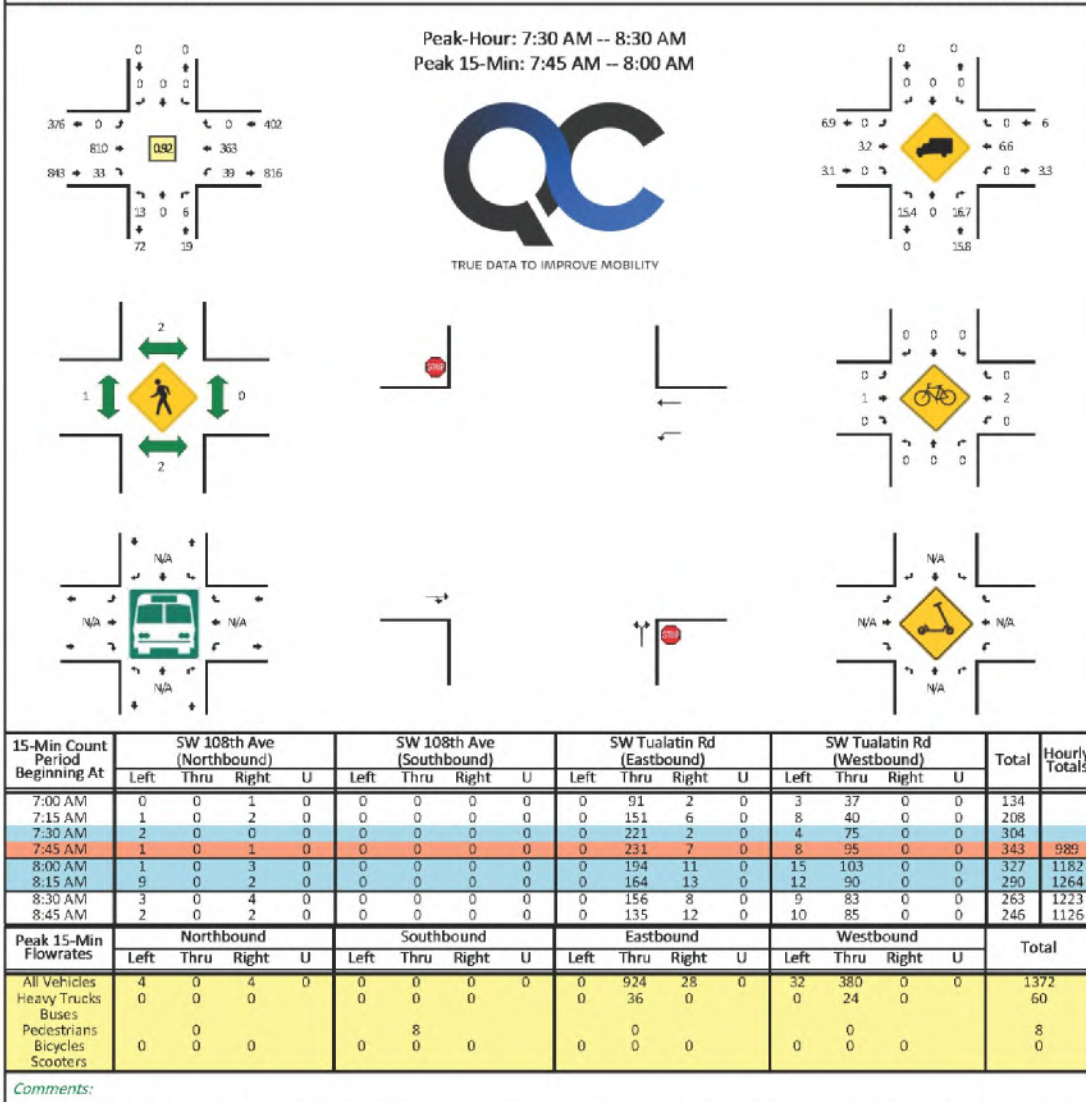
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 17042833
 DATE: Tue, May 13 2025



Report generated on 6/2/2025 1:12 PM

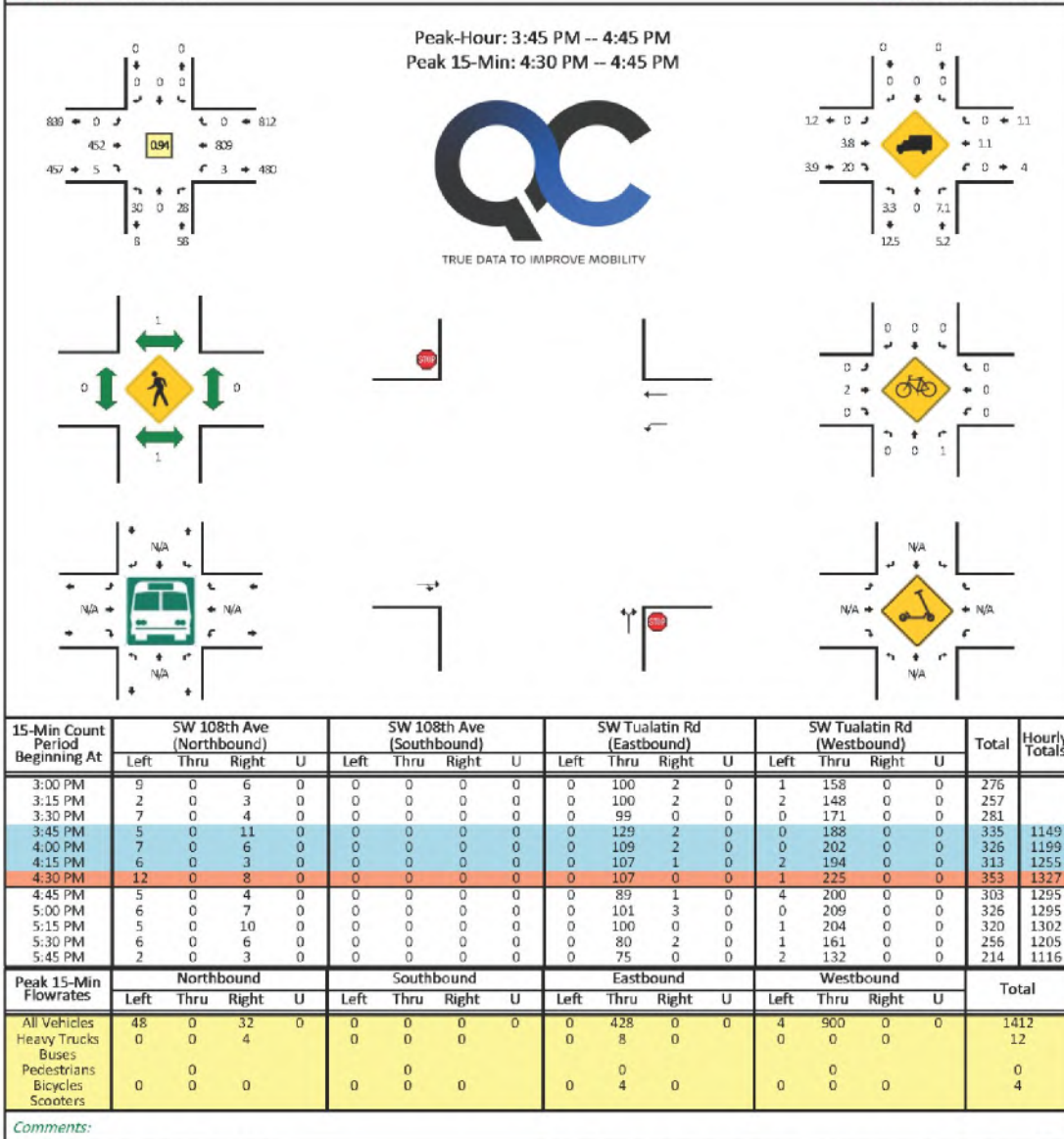
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 17042834
 DATE: Tue, May 13 2025



Report generated on 6/2/2025 1:12 PM

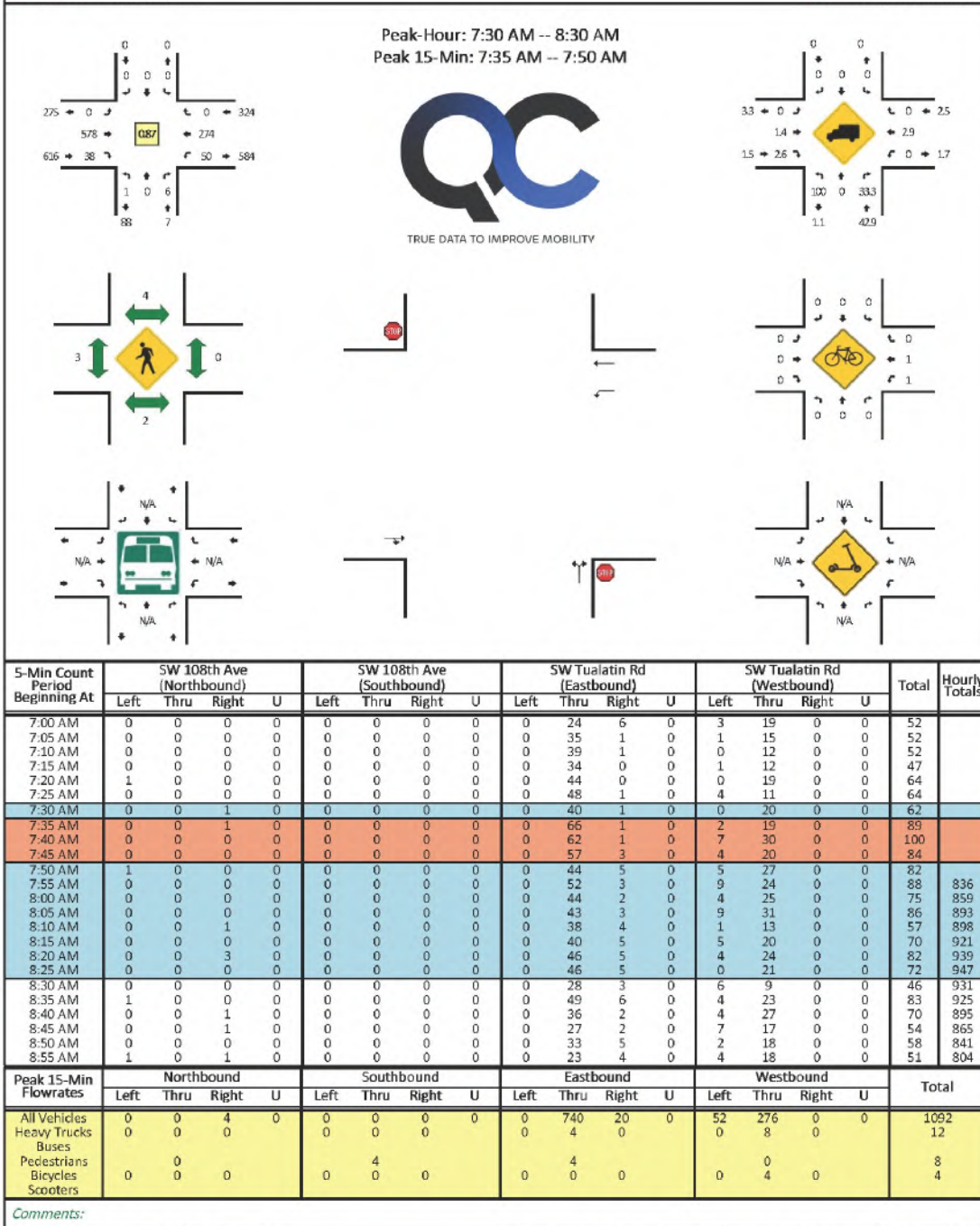
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
 CITY/STATE: Tualatin, OR

QC JOB #: 17305501
 DATE: Thu, Oct 23 2025



Report generated on 10/29/2025 6:37 AM

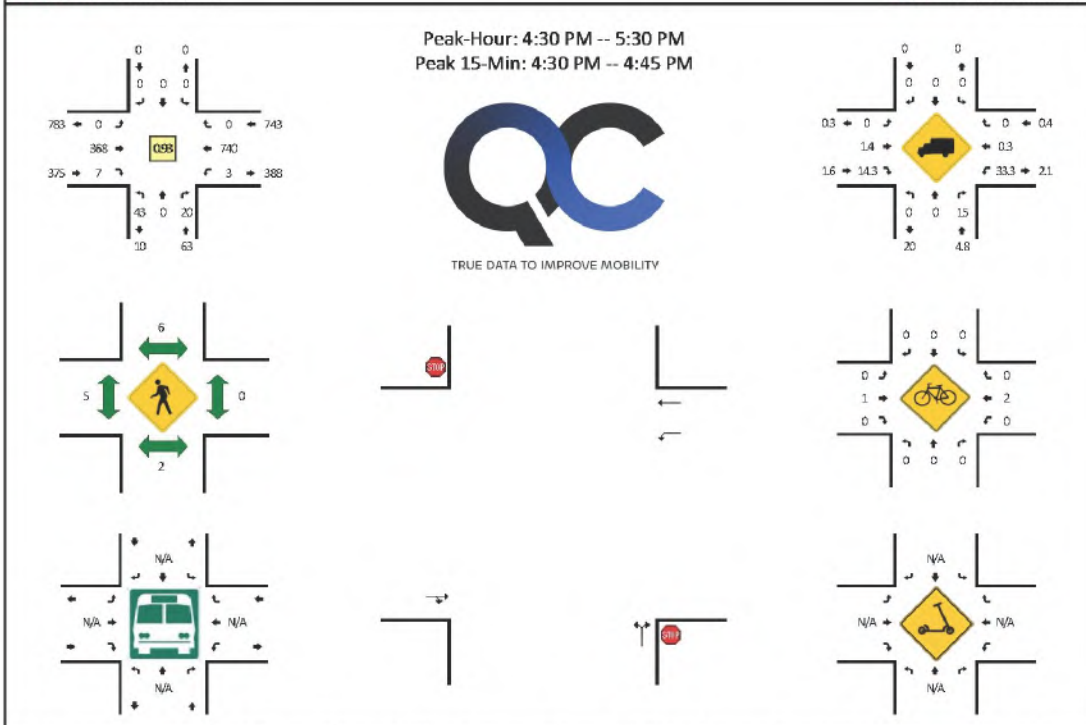
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: SW 108th Ave -- SW Tualatin Rd
CITY/STATE: Tualatin, OR

QC JOB #: 17305502
DATE: Thu, Oct 23 2025



5-Min Count Period Beginning At	SW 108th Ave (Northbound)				SW 108th Ave (Southbound)				SW Tualatin Rd (Eastbound)				SW Tualatin Rd (Westbound)				Total	Hourly Totals
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U		
4:00 PM	4	0	0	0	0	0	0	0	0	25	0	0	0	41	0	0	70	
4:05 PM	1	0	2	0	0	0	0	0	0	33	1	0	0	64	0	0	101	
4:10 PM	2	0	0	0	0	0	0	0	0	29	1	0	2	52	0	0	86	
4:15 PM	1	0	0	0	0	0	0	0	0	26	0	0	0	47	0	0	74	
4:20 PM	1	0	2	0	0	0	0	0	0	39	0	0	0	35	0	0	77	
4:25 PM	2	0	1	0	0	0	0	0	0	20	0	0	0	52	0	0	75	
4:30 PM	5	0	0	0	0	0	0	0	0	33	0	0	0	60	0	0	98	
4:35 PM	4	0	4	0	0	0	0	0	0	25	0	0	0	78	0	0	111	
4:40 PM	1	0	2	0	0	0	0	0	0	32	2	0	0	73	0	0	110	
4:45 PM	7	0	0	0	0	0	0	0	0	28	2	0	0	58	0	0	95	
4:50 PM	3	0	0	0	0	0	0	0	0	27	1	0	0	61	0	0	92	
4:55 PM	3	0	1	0	0	0	0	0	0	30	1	0	0	47	0	0	82	1071
5:00 PM	4	0	0	0	0	0	0	0	0	32	1	0	1	52	0	0	90	1091
5:05 PM	1	0	6	0	0	0	0	0	0	37	0	0	2	68	0	0	114	1104
5:10 PM	1	0	1	0	0	0	0	0	0	27	0	0	0	75	0	0	104	1122
5:15 PM	7	0	2	0	0	0	0	0	0	33	0	0	0	47	0	0	89	1137
5:20 PM	4	0	2	0	0	0	0	0	0	31	0	0	0	62	0	0	99	1159
5:25 PM	3	0	2	0	0	0	0	0	0	33	0	0	0	59	0	0	97	1181
5:30 PM	3	0	0	0	0	0	0	0	0	19	1	0	0	45	0	0	68	1151
5:35 PM	3	0	2	0	0	0	0	0	0	28	0	0	0	62	0	0	95	1135
5:40 PM	2	0	4	0	0	0	0	0	0	26	0	0	0	55	0	0	87	1112
5:45 PM	6	0	1	0	0	0	0	0	0	27	1	0	0	46	0	0	81	1098
5:50 PM	1	0	0	0	0	0	0	0	0	22	0	0	0	32	0	0	55	1061
5:55 PM	3	0	3	0	0	0	0	0	0	19	0	0	0	55	0	0	80	1059
Peak 15-Min Flowrates	Northbound				Southbound				Eastbound				Westbound				Total	
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U		
All Vehicles	40	0	24	0	0	0	0	0	0	360	8	0	0	844	0	0	1276	
Heavy Trucks	0	0	4	0	0	0	0	0	0	8	0	0	0	4	0	0	16	
Buses																		
Pedestrians							8			4				0			12	
Bicycles	0	0	0		0	0	0		0	0	0		0	0	0		0	
Scoters																		

Comments:

Report generated on 10/29/2025 6:37 AM

SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

Summary report: Litera Compare for Word 11.12.0.83 Document comparison done on 12/8/2025 12:33:16 PM	
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Intelligent Table Comparison: Active	
Original filename: Supplemental Findings(151049800.6).docx	
Modified filename: Alternative Supplemental Findings 12.8.25(151333324.1).docx	
Changes:	
<u>Add</u>	129
Delete	211
Move From	20
<u>Move To</u>	20
<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	380