

From: [Krawczuk, Dana L.](#)
Sent: Monday, October 5, 2026 8:39 AM
To: [Lam AR26-0002 Appeal](#)
Cc: [Keith Leonard](#); [Kevin McConnell](#)
Subject: FW: Lam's City Council Final Argument AR26-0002 (2nd attempt)
Attachments: City Council Final Argument AR26-0002(154377986.1).pdf

Attached please find Lam's final argument in AR26-0002. Please include this argument in the record and City Council's packet.

Thank you,
Dana

PS: I believe I included a typo in the appeal email address (again) when I initially tried to submit this argument, so this is a second attempt. Please confirm receipt.

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From: Krawczuk, Dana L.
Sent: Monday, October 5, 2026 8:24 AM
To: LamAR26-002appeal@tualatin.gov
Cc: kleonard <kleonard@tualatin.gov>; Kevin McConnell <kmccconnell@tualatin.gov>
Subject: Lam's City Council Final Argument AR26-0002

Attached please find Lam's final argument in AR26-0002. Please include this argument in the record and City Council's packet.

Thank you,
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October 5, 2026

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Submitted by email: LamAR26-002appeal@tualatin.gov

RE: Final Argument: City Council Appeal of Architectural Review for Lam Research Corporation's Building B Addition (AR 26-0002)

Dear Mayor Bubenik and City Councilors:

This is Lam Research Corporation's ("**Lam**") final written argument. No new evidence is submitted with this letter. Its purpose is to bring together, in one place, why the Council should affirm staff's approval of the Building B Addition (AR26-0002) and deny the appeal.

REQUESTED ACTION

We respectfully request that the City Council affirm the June 17, 2026, staff decision approving AR26-0002 (the "**Building B Addition**"), deny the appeal, and direct City staff to work with Lam to draft findings in support of Council's decision that follow the precedent set in Council's findings in the appeal of the Tux Project (AR24-0002, Resolution No. 5937-25 (the "**Tux Approval**")).

ANALYSIS

I. THE COUNCIL ALREADY ANSWERED THE CENTRAL QUESTION IN THE TUX APPROVAL

This appeal turns on one question, and the Council has already answered it. The question is simple: what are the mandatory approval standards that must be complied with at the time of Architectural Review? On December 8, 2025, City Council answered that question when it adopted the Tux Approval after a full public process that resulted in detailed adopted findings.

A. TDC Chapter 63 Includes Performance Standards, Not Mandatory Approval Standards

Tualatin Development Code ("**TDC**" or "**code**") Chapter 63 addresses noise, vibration, air quality, odors, heat and glare, storage, and other environmental standards. Opponents have argued here, as they did in the Tux Approval proceeding, that the TDC Chapter 63 standards

must be met before the City approves Architectural Review. The City Council rejected that interpretation in the Tux Approval, and should reject it again here.

In the Tux Approval, the Council concluded that Chapter 63, including the noise standard at TDC 63.051, is a performance standard, not a mandatory approval standard: it “must be followed once the Project is operating,” but “it does not have to be met in order for Architectural Review to be approved” (Tux Approval, Supplemental Findings § III.A.ii). Because of that, the Council found that “no findings or evidence are required to address noise-related performance standards, and they cannot be a basis for denying the Architectural Review” (Tux Approval, Supplemental Findings § III.A.ii).

The Council based that conclusion on the specific wording of TDC Chapter 63 itself, which regulates how a use operates, not what is required for approval, and on binding guidance from the Land Use Board of Appeals holding that this kind of standard “is not necessarily a prerequisite to issuance of a permit although it may be stated as a condition to operate under a permit.” *Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991), quoting and relying upon *Zusman v. Clackamas County*, 13 Or LUBA 39, 45 (1985) (Tux Approval, Supplemental Findings § III.A.ii).

Staff’s decision on the Building B Addition reaches the identical conclusion, for the identical reasons, applying the identical code chapter. Condition of Approval A14 requires the Building B Addition to comply with TDC Chapter 63 once it is built and operating; the same approach the Council adopted in the Tux Approval. The testimony does not identify any difference in the text of Chapter 63, any change in the law, or any fact about the Building B Addition that would justify answering this question differently than the Council already did. On a question this squarely controlled by a recent Council decision, affirming staff’s decision is not a close call.

1. Feasibility of Future Compliance Does Not Control This Appeal

Opposition testimony points to details in the record that it contends call into question whether Lam can feasibly comply with the Chapter 63 standards for noise (TDC 63.051), hazardous waste (TDC 63.058), and air quality (TDC 63.053) once the Building B Addition is operating. These arguments ignore the Council’s findings in the Tux Approval that “no findings or evidence are required to address noise-related performance standards, and they cannot be a basis for denying the Architectural Review” (Tux Approval, Supplemental Findings § III.A.ii).

As Council concluded in the Tux Approval, the Council does not need to resolve those factual and evidentiary disputes to decide this appeal, because feasibility of future compliance with a performance standard is not an Architectural Review approval criterion in the first place. Said differently, whether compliance will in fact be feasible cannot be a basis for denial.

That said, Lam does not rest on this threshold answer alone. The record contains substantial, specific evidence directly responding to the feasibility arguments raised for each standard, and that evidence is addressed in detail elsewhere in this final argument: noise; hazardous waste; and

air quality. Lam addresses that evidence on its merits so the Council has a complete record, but the Council can affirm staff's decision on the threshold ground alone, without reaching any of it.

2. There is No Basis for Reversing the Interpretation of Performance Standards Adopted in the Tux Approval

a. The 2019 TVF&R Approval (AR19-0002) Does Not Support a Different Result

Testimony argued that the City's 2019 approval of the TVF&R Logistics Service Center (AR-19-0002) treated Chapter 63 differently, as a standard that had to be proven before approval. It did not. That 2019 decision imposed compliance with the Noise Ordinance and TDC 63.051 through a condition of approval applicable on an ongoing basis once the building was built and in use. This is the same approach the Council later adopted in the Tux Approval and the same approach Staff applied here through Condition of Approval A14. The 2019 decision never held, or even discussed, whether Chapter 63 is a mandatory approval standard requiring proof of feasibility of compliance before architectural review could be approved. It simply is silent on that question, which suggests that the question was never presented during that review. A decision that is silent on an issue cannot be read as an interpretation. Nothing about the 2019 approval conflicts with, or should cause the Council to depart from, its own recent and considered interpretation of Chapter 63 in the Tux Approval.

In the Tux Approval, the applicable-criteria question was squarely raised by a party on appeal, briefed by the parties, considered by the Council at a full de novo public hearing, and resolved through detailed adopted findings interpreting the specific text and context of TDC Chapter 63, including its purpose statement, its placement outside the Architectural Review approval criteria in TDC 33.020(5), and controlling LUBA precedent. The Tux Approval is a reasoned, considered interpretation of the Council's own code squarely addressing this question, and it is that interpretation, not the silent 2019 approval, that should guide the Council here.

There is a separate and even more compelling reason the 2019 decision cannot be read as requiring feasibility of Chapter 63 compliance before Architectural Review approval, and it in fact confirms why Chapter 63 is properly treated as a performance standard.

The TVF&R facility was located in the Light Manufacturing (ML) zone, governed by TDC Chapter 60, not in the Manufacturing Park (MP) zone that governs Building B under TDC Chapter 62. The Building B Addition is not subject to TDC Chapter 60 at all. To the extent the 2019 decision discussed noise, it did so only because TDC 60.310(3), Sound Barrier Construction, a development standard found exclusively in the ML zone, separately required sound barrier construction to intercept noise from overhead doors and mechanical equipment located within 450 feet of residential property, and an acoustical engineer's report was submitted to show that existing structures already functioned as an adequate sound barrier, qualifying the project for the exemption for existing structures under TDC 60.310(1)(c). That report had nothing to do with TDC Chapter 63 and was not submitted to satisfy any Chapter 63 standard; it

addressed a distinct, ML-zone-only development standard that does not apply to the Building B Addition. If anything, this underscores the very distinction the Tux Approval and Building B both recognize: where the code intends noise compliance to be demonstrated before approval, as with TDC 60.310 in the ML zone, it says so directly and requires a report as a part of Architectural Review. Chapter 63 contains no comparable upfront proof requirement, which is further confirmation that it operates as a performance standard rather than a mandatory approval standard.

b. The “Absurd Result” Argument Is Based on a Misreading of What a Performance Standard Is

One recurring argument deserves a direct answer: the suggestion that treating Chapter 63 as a performance standard would let any developer build something that "clearly violates every environmental regulation" and force the Council to approve it anyway. That is not what the Tux Approval holds, and it is not what approving Building B would mean.

A performance standard is not an exemption from the law. It only changes *when* compliance is checked: it is determined after a building is constructed and operational, not during Architectural Review of the exterior of the building. Condition of Approval A14 (Building B) and the equivalent condition in the Tux Approval (Condition A25) both require ongoing compliance with Chapter 63 as a matter of law, enforceable by the City's Code Compliance Office.

If a use violates the noise ordinance, vibration limits, air quality standards, or any other Chapter 63 requirement once operating, the City can and will act through its established code enforcement process under Tualatin Municipal Code Chapter 7-1, a process with its own evidentiary standards, due process protections, and ultimately a hearing before a Municipal Court judge. That is a real, enforceable backstop, not an empty promise. Treating these standards as a performance standard enforced after construction and once operations begin, rather than as a hypothetical exercise resolved before construction, is how the Council's own code is written, and is also how the Oregon Land Use Board of Appeals (“LUBA”) has repeatedly described this exact kind of standard. *See Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991); *Zusman v. Clackamas County*, 13 Or LUBA 39, 45 (1985).

The “absurd result” argument is also illogical because it is unreasonable to believe that any applicant would spend the resources needed to construct a use that could not operate because of the inability to meet performance standards.

B. The Purpose Statements in TDC 33.020(1)(i) and TDC 62.100 Are Not Mandatory Approval Criteria

The same pattern of repeating previously rejected arguments has occurred with the purpose statements at TDC 33.020(1)(i) (Architectural Review purpose) and TDC 62.100 (Manufacturing Park zone purpose). The appeal and opposition testimony again argue that these provisions

independently require compliance with Chapter 63's noise standards as a condition of approval, and impose their own subjective noise standards that must be met.

The Council already rejected that argument in the Tux Approval, concluding that both provisions are aspirational, generally worded expressions of the City's goals and objectives, not mandatory approval criteria, and that they are not included in, and are not incorporated by reference into, the Architectural Review approval criteria in TDC Chapters 73A through 73G. Nothing about the Building B Addition gives the Council a reason to answer that question differently than it did less than a year ago.

C. Conditions of Approval Do Not Improperly Defer Compliance Review

Testimony has also argued, again, that certain conditions of approval improperly defer compliance review to a later stage without the required notice and opportunity to respond. The Council already addressed this type of argument at length in the Tux Approval, and that analysis applies equally here.

The City cannot defer a required approval decision to a later, non-public process, but it can require later, ministerial confirmation of something already decided, such as engineering verification during permit issuance, without that being an improper deferral (Tux Approval, Supplemental Findings §§ III.A.i, IV.D.i, citing *McKay Creek Valley Assoc. v. Washington County*, 24 Or LUBA 187 (1992); *Wolfgram v. Douglas County*, 54 Or LUBA 54 (2007); *Friends of Collins View v. City of Portland*, 41 Or LUBA 261, 275-77 (2002)). Where the City has already found compliance, or feasibility of compliance, with an approval criterion at the hearing stage, it may impose a condition to confirm that compliance later through planning or engineering staff, rather than at the hearing itself (Tux Approval, Supplemental Findings § III.A.i, citing *Rhyne v. Multnomah County*, 23 Or LUBA 442 (1992)).

As in the Tux Approval, staff's decision here makes the required findings on the applicable discretionary approval criteria. Testimony has not identified any discretionary approval decision that the City is actually putting off.

Testimony argues that Condition of Approval A14 improperly defers review of Chapter 63. That argument misses a simpler point: there is nothing to defer. The deferral rule relates only to postponing a decision on a mandatory approval criterion, and the provisions in Chapter 63 are not mandatory approval criteria. They are performance standard that only has to be met once the Building B Addition is operational (Tux Approval, Supplemental Findings § III.A.ii, citing *Simonson v. Marion County*, 21 Or LUBA 313, 322 (1991), and *Zusman v. Clackamas County*, 13 Or LUBA 39, 45 (1985)). Condition A14 does not put off a decision the Council was required to make now; it just confirms, as a condition of ongoing operation, an obligation that was never part of the approval decision in the first place. The cases testimony points to, including *McKay Creek*, all involved a different situation, where compliance with a mandatory approval criterion was deferred. None of the cited cases involve a performance standard like Chapter 63, so none of them support testimony's argument here.

II. THE APPEAL LARGELY REPEATS ISSUES THE COUNCIL HAS ALREADY RESOLVED

Most if the issues raised in this appeal are not new. They are the same noise related objections and the same disagreement with the Council's own recent interpretation of its code and enforcement conclusions, repackaged for a different, much smaller project. The table below shows the pattern.

Issue Raised in This Appeal	Council's Existing Decision on the Issue	Where It Was Decided
Is TDC Chapter 63 (noise, vibration, air quality, waste, etc.) a mandatory approval standard requiring proof before approval?	No. It is a performance standard enforced after construction, not a precondition to approval.	Tux Approval, Resolution No. 5937-25, Supplemental Findings § III.A.ii.
Does the Manufacturing Park zone's purpose statement (TDC 62.100) or the Architectural Review purpose statement (TDC 33.020(1)(i)) independently require compliance with noise standards as a condition of approval?	No. Both are aspirational purpose statements, not mandatory approval criteria.	Tux Approval, Supplemental Findings § III.A.iii.
Is Lam's current, operating facility violating the Noise Ordinance?	No. The City's own independent Code Enforcement found no exceedance of TMC Chapter 6-14 standards.	AR26-0002 Staff Decision at 26 (describing the Code Enforcement investigation conducted during and after AR24-0002).
Does evidence challenging the feasibility of future compliance with a Chapter 63 performance standard (noise, hazardous waste, air quality) provide a basis to deny Architectural Review?	No. Feasibility of future compliance with a performance standard is not an Architectural Review approval criterion, so such evidentiary challenges are irrelevant to this appeal.	Tux Approval, Supplemental Findings § III.A.ii.

Issue Raised in This Appeal	Council’s Existing Decision on the Issue	Where It Was Decided
Do conditions of approval improperly defer compliance review with discretionary approval criteria to a later, non-public process? Does Condition of Approval A14 improperly defer compliance review of Chapter 63?	No. The conditions require only ministerial or technical confirmation at a later stage, not a future discretionary decision, so they do not improperly defer compliance review. Separately, Chapter 63 is a performance standard, not a discretionary mandatory approval criterion, so there is no discretionary compliance determination for Condition of Approval A14 to defer in the first place.	Tux Approval, Supplemental Findings §§ III.A.i, III.A.ii, IV.D.i

Raising the same argument again does not make it new, and resubmitting a disagreement with the Code Enforcement investigation's conclusion is not a basis to deny Architectural Review for an unrelated, much smaller addition. The Council's own recent findings in the Tux Approval already explain, in detail, why these arguments do not succeed; Lam incorporates those findings by reference rather than repeating them at length here.

III. THE NEW ISSUES SPECIFIC TO THIS APPEAL DO NOT CHANGE THE OUTCOME

The Building B Addition is a narrow project: an approximately 3,900 square foot addition to existing Building B, including an enclosed scrubber pad and related utility modifications. It removes seven parking spaces, adds no employment, and is not expected to generate additional vehicle trips. Some issues raised in this appeal are specific to this project and were not before the Council in the Tux Approval. Lam addresses each directly, because they deserve real consideration on their own facts, although none changes the outcome.

A. TDC 63.058 (Hazardous Waste) Is a Performance Standard, and Does Not Apply Because the Building B Addition Is Not a TSDF

Opposition testimony has raised concerns about chemical and waste management tied to TDC 63.058, suggesting the record does not establish "feasible compliance" with that standard. TDC 63.058 provides: “All uses and development are prohibited from the storage, transfer, or processing of hazardous, toxic, or radioactive waste.” Before addressing whether this provision has any bearing on the Building B Addition, it is necessary to interpret what it actually prohibits.

TDC 63.058 relates only to waste (not materials), and the terms “hazardous,” “toxic,” and “radioactive” are not defined anywhere in the Tualatin Development Code.

When a City code provision uses an undefined term to describe a highly regulated category of material, the Council should interpret that term consistent with the existing body of state and federal law that already defines and regulates it, rather than give the term some broader, free-floating meaning the Council never adopted. Hazardous, toxic, and radioactive waste are exactly that kind of highly regulated material: their generation, handling, storage, transfer, processing, and disposal are comprehensively governed by a detailed federal and state regulatory framework, described below. It would make little sense, and would risk inconsistent and unpredictable results, for the Council to interpret TDC 63.058 as reaching some different or broader universe of activity than what federal and state law already defines and regulates under these terms. The Council should therefore look to that framework, not to lay intuition about what "hazardous," "toxic," or "radioactive" might mean, to interpret TDC 63.058.

That federal and state framework makes clear that TDC 63.058, by its terms, regulates only a specific, narrow category of facility: a treatment, storage, or disposal facility, commonly called a “**TSDF**.” TDC 63.058 refers to facilities that store, transfer, or process hazardous, toxic, or radioactive waste, the same core activities, treatment, storage, and disposal, that define a TSDF under the regulations issued by the United States Environmental Protection Agency (“**EPA**”) under Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (“**RCRA**”), and under the parallel state program at OAR 340-104, implemented by the Oregon Department of Environmental Quality (“**DEQ**”). See OAR 340-104-0001 (establishing minimum state standards for TSDFs and incorporating the EPA's regulatory definition of a TSDF); 40 CFR Part 260.10 (defining "Treatment," "Storage," and "Disposal Facility"); 40 CFR Parts 264, 265, and 270 (establishing TSDF standards, permitting, and approval requirements).

A TSDF is a facility that treats, stores, or disposes of hazardous waste. An example is a specialized, heavily permitted site built for that purpose, like a hazardous waste landfill or incinerator. It is a different thing entirely from a business that may generate some hazardous waste as a byproduct during its operations, and temporarily holds that waste on site, consistent with generator-specific standards, before it is picked up and taken away to a regulated TSDF. Read consistently with the state and federal framework it necessarily draws upon, TDC 63.058 applies only to a use that is itself a TSDF; it does not apply to any use that may simply involve, generate, or temporarily accumulate hazardous waste in the ordinary course of its operations. With that distinction in mind, two independent bases fully address the testimony, and each one is sufficient on its own.

First, and independently, TDC 63.058 is one of the Chapter 63 environmental regulations. Like TDC 63.051 (noise) and the balance of Chapter 63, it is a performance standard enforced once a use is operational under Condition of Approval A14, not a mandatory approval standard that must be proven feasible before the Council can approve the Building B Addition. The Council's reasoning in the Tux Approval, that Chapter 63 standards are not “necessary prerequisites to

issuance of a permit,” and that “no findings or evidence are required” to address them at approval (Tux Approval, Supplemental Findings § III.A.ii), applies to TDC 63.058 exactly as it applies to the noise provisions. This threshold point resolves the issues raised related to hazardous materials without the Council needing to wade into the technical waste stream questions opponents have raised.

Treating TDC 63.058 this way also makes practical sense. Overseeing compliance with the detailed technical standards, including evaluating a use’s self-reporting activities, associated with generators, and when a facility may qualify as a TSDF requires the kind of specialized scientific and regulatory expertise that DEQ and EPA, not the City Council, are equipped to apply. DEQ already regulates hazardous waste generation, accumulation, and disposal under the state hazardous waste program, and EPA does the same at the federal level. Those agencies have the technical staff, testing protocols, and permitting procedures needed to determine whether a given facility’s activities cross the line from ordinary generator status into TSDF status, a determination that depends on detailed factual and technical questions about waste streams, storage practices, and treatment processes. The Council is not equipped, and need not attempt, to make that technical determination in this proceeding. That the City’s own code places the relevant inquiry outside the mandatory Architectural Review approval criteria, and leaves it to be addressed through ongoing compliance, is consistent with, not contrary to, how this kind of technical regulatory performance standard is normally and appropriately resolved.

Second, and in the alternative, if Council were to reverse its interpretation in the Tux Approval and conclude that TDC Chapter 63 must be addressed as a part of Architectural Review, there is no basis in the record to conclude that the Building B Addition would cause Lam’s facility to become a TSDF under Oregon or EPA regulations, and therefore not comply with TDC 63.058.

Oregon and federal law establish specific standards and a permitting process to operate a TSDF. See OAR 340-104-0001; 40 CFR Part 260.10; 40 CFR Parts 264, 265, and 270. While some testimony points to references on Lam’s plans to a CMS building, waste management infrastructure, and information about hazardous materials, those details are not dispositive. No party has identified, and the record does not contain, any TSDF permit application, any TSDF permit, or any other evidence that Lam’s existing facilities or the minor expansion proposed by the Building B Addition would require Lam to seek or obtain approval to operate a TSDF under this state and federal framework.

The Building B Addition provides additional laboratory space and an enclosed scrubber pad. There is no evidence that it would involve treatment, storage beyond permissible accumulation timelines, or disposal of hazardous waste on site. Instead, any waste generated would be the kind of incidental generation and temporary accumulation that is subject to a separate, generator-specific regulatory track. See OAR 340-102-0010 (generator standards). That generator-specific track does not implicate the TSDF framework, or TDC 63.058, at all.

A useful way to think about this distinction is to consider an ordinary household. A homeowner generates waste at home, sorts out recyclables and compost, and stores the remaining garbage in

a waste can until the trash hauler comes to take it to a regulated landfill. No one would say that a homeowner operates a landfill simply because they temporarily keep a garbage can on their property between pickups. The landfill is the regulated TSDF in that example; the homeowner is the generator, subject to a different set of rules entirely. This analogy is offered only to illustrate the legal distinction between a generator and a TSDF; it is not a claim that the nature, volume, or regulatory classification of Lam's waste is comparable to household trash. The same legal distinction applies here: even assuming, purely for the sake of argument, that some incidental generation of byproduct were associated with laboratory operations at the Building B Addition, that would not transform the facility from a generator into a TSDF, any more than keeping a garbage can makes a homeowner a landfill operator.

The concern raised in the appeal appears to rest on a misunderstanding of what a TSDF is and is not, and conflates the heavily permitted, specialized activity of treating, storing, or disposing of hazardous waste with the ordinary, incidental presence of regulated materials in a research and laboratory setting. Lam demonstrated compliance with the applicable approval criteria in the record below, and the testimony has not identified any evidence in that record that the Building B Addition would make Lam's facility a TSDF.

B. TDC 63.053 (Air Quality) Is Also a Performance Standard, and the Scrubber-Emissions Testimony Does Not Support Denial

Testimony raises a parallel argument about the proposed scrubber system for the Building B Addition, contending that the record lacks sufficient information to establish “feasible compliance” with TDC 63.053, the Chapter 63 air quality standard. The same two independent bases that resolve the hazardous waste testimony apply equally here, for the same reasons.

TDC 63.053 provides that “[a]ll uses and development must comply with the most recent air quality standards adopted by the Oregon Department of Environmental Quality,” and that “[p]lans of construction and operations must comply with the recommendations and regulations of the State Department of Environmental Quality.” By its own terms, TDC 63.053 is framed the same way as TDC 63.051 (noise) and TDC 63.058 (hazardous waste): it describes an ongoing obligation that governs how a use operates and is measured once operating, not a demonstration that must be made before Architectural Review can be approved. Indeed, TDC 63.053(2) confirms this by directing that air pollution be measured using DEQ-approved procedures and equipment, and by authorizing the City to request operational monitoring information “upon request” from “persons responsible for a suspected source of air pollution,” language that presupposes an operating use, not a pre-construction filing.

First, and independently, TDC 63.053 is one of the Chapter 63 environmental regulations addressed in the Tux Approval. Like TDC 63.051 and TDC 63.058, it is a performance standard enforced once the Building B Addition is operational under Condition of Approval A14, not a mandatory approval standard that must be proven feasible before the Council can approve Architectural Review. The Council's reasoning in the Tux Approval, that Chapter 63 standards are not “necessary prerequisites to issuance of a permit,” and that “no findings or evidence are

required" to address them at approval (Tux Approval, Supplemental Findings § III.A.ii), applies to TDC 63.053 exactly as it applies to the noise and hazardous waste provisions. This threshold point resolves the scrubber-emissions testimony without the Council needing to evaluate the technical adequacy of the proposed scrubber system, expected emission constituents or rates, or whether a DEQ air quality permit will ultimately be required.

Overseeing compliance with DEQ's air quality standards, including evaluating scrubber design, removal efficiency, exhaust characterization, and permitting thresholds, requires the kind of specialized technical and regulatory expertise that DEQ, not the City Council, is equipped to apply. DEQ already administers the air quality permitting program that TDC 63.053 expressly incorporates by reference, and TDC 63.053(2) itself contemplates that information about a source's operating conditions will be requested and evaluated once a use is operating, not during Architectural Review. That the City's own code places this inquiry outside the mandatory Architectural Review approval criteria, and leaves it to be addressed through ongoing compliance and DEQ's permitting process, is consistent with how this kind of technical performance standard is normally and appropriately resolved.

Second, and in the alternative, if the Council were to reverse its interpretation in the Tux Approval and conclude that Chapter 63 must be addressed as part of Architectural Review, the record does not show that the Building B Addition's scrubber system would violate applicable DEQ air quality standards. The application materials state that all exhaust air from the laboratory will be scrubbed and filtered and that no equipment requiring a DEQ air quality permit is anticipated. No party has identified, and the record does not contain, any DEQ air quality permit application, denial, or violation finding, or any other evidence that the scrubber system would fail to comply with DEQ's air quality standards. Questions about the scrubber's specific design basis, removal efficiency, or expected emission constituents are the kind of operational detail that TDC 63.053(2) contemplates will be documented and, if necessary, requested once the use is operating, not a precondition to approving the building's exterior design.

The same distinction that resolves the hazardous waste testimony resolves this testimony as well: a use that operates pollution-control equipment to comply with an ongoing performance standard is not thereby required to prove, before a building addition is even approved, every technical detail of how that equipment will perform once installed. That is precisely the kind of showing Chapter 63 reserves for enforcement once the use is operational, not for Architectural Review.

C. Testimony About Offsite Emergency Response Planning for Lam's Existing Facility Does Not Provide a Basis to Deny This Addition

Testimony raises detailed questions about Washington County's Chemical Facility Offsite Release Plan for the Lam campus, the AEGL exposure modeling associated with Lam's existing ammonia inventory, and the degree to which the Tigard-Tualatin School District, Washington County Emergency Management, the Local Emergency Planning Committee, and Tualatin Valley Fire & Rescue have coordinated around that existing emergency plan. Lam does not dispute the facts reported about those agencies' coordination, and takes community safety

seriously. But none of that testimony provides a basis to deny or condition approval of the Building B Addition, for three independent reasons.

First, this testimony is about Lam's existing, already-operating campus and its existing hazardous material inventory, not about the Building B Addition. The Chemical Facility Offsite Release Plan, the AEGL modeling, and the agency-coordination described in testimony all predate, and are independent of, this application. Testimony asks whether the Building B Addition and its enclosed scrubber pad will increase or change the type, quantity, storage, transfer, or handling frequency of ammonia or other hazardous substances at the Lam campus, and whether the expansion changes the likelihood or consequences of an off-site chemical release. The record answers that question: the application materials show the Building B Addition adds laboratory space and an enclosed scrubber pad without introducing a new use or process to the campus.

Second, testimony that ammonia is identified as an Extremely Hazardous Substance above its Threshold Planning Quantity describes the existing regulatory classification of a chemical already present at, and already governed at, the Lam campus; it is not evidence that the Building B Addition changes that classification or the hazard level associated with Lam's existing operations. That classification is precisely why Lam's existing facility is already subject to the Washington County Chemical Facility Offsite Release Plan, LEPC oversight, and OSFM reporting described in testimony, through those existing, independent regulatory channels, not through this Architectural Review application.

Third, and independently, offsite emergency response planning, consequence modeling, and inter-agency coordination are not Architectural Review approval criteria. Architectural Review evaluates the exterior design of a building under TDC Chapters 73A through 73G; it does not evaluate, and the Council is not called upon to adjudicate, the adequacy of county emergency-management planning, school-district coordination, or fire-district response capability. Those are the responsibilities of Washington County Emergency Management, the Local Emergency Planning Committee, the Oregon State Fire Marshal, and Tualatin Valley Fire & Rescue, acting under their own statutory and regulatory frameworks, not the City Council acting on an Architectural Review application. Because the questions raised are not tied to any applicable approval criterion, they cannot supply a basis to deny or condition approval of the Building B Addition, whatever their importance in those other channels.

D. Projected Noise From the Building B Addition

As explained above, a noise model is not required to approve Architectural Review, so noise modeling, or criticism of it, cannot be the basis for Council's decision. Although not required or relevant to the Architectural Review proceeding, because Lam takes community noise concerns seriously, Lam voluntarily commissioned updated modeling from its noise engineer, CGA, for this specific addition. That modeling builds on the same methodology the Council already reviewed and accepted in the Tux Approval, and it remains persuasive evidence that compliance with the applicable noise standards is feasible, for the following reasons:

- CGA's model is based on recognized engineering methodology, using a three dimensional computer model of the Lam campus and surroundings and the ISO 9613-2 standard for predicting how sound travels outdoors, the same accepted approach CGA used in its Tux Approval modeling that the Council already found credible.
- The model is conservative rather than optimistic: it combines the new equipment associated with the Building B Addition with the noise from all of Lam's other planned development, and then adds that combined total to measured existing background noise at the relevant receptor locations, rather than looking at the Building B Addition in isolation.
- Even under that cumulative, conservative approach, CGA's modeling predicts noise levels well below the City's 50 dBA nighttime criterion at the sensitive receptors along the north boundary nearest the residential area.
- CGA directly responded to the competing technical submissions by DSA offered during the open record period, explaining why metrics like the L01 and Lmax levels relied on by those submissions reflect short term transient events rather than the continuous mechanical noise at issue here, and why DSA's own measurements, properly read, show continuous noise from Lam below the 50 dBA threshold.

Considered together, this is substantial technical evidence that a reasonable person could rely upon to support a finding that compliance with the applicable noise standards is feasible, even though no such finding or evidence is required for Architectural Review approval in the first place.

Testimony has also pointed to octave-band noise measurements, comparing them to the limits in Table 10 of the DEQ noise rules, OAR 340-035-0035(1)(e), to argue that Lam's existing facility already exceeds applicable noise standards. That comparison skips a threshold requirement: Table 10's octave-band limits do not apply automatically. Under OAR 340-035-0035(1)(e), DEQ may impose those limits only after the Department determines that the ordinary decibel-level standards in OAR 340-035-0035(1)(a)-(c) “do not adequately protect the health, safety, or welfare of the public.” No party has identified, and the record does not contain, any such determination by DEQ for the Lam campus. Because that threshold has not been met, the Table 10 octave-band limits do not apply, and the octave-band measurements cannot show a noise violation, let alone one caused by the Building B Addition.

E. Compliance With Architectural Review Criteria

A narrower set of testimony raised questions tied to the actual Architectural Review approval criteria in TDC Chapters 73A through 73D, specifically mechanical equipment screening, outdoor lighting, landscaping, and vehicle and bicycle parking and waste enclosure capacity. Lam addresses the testimony that is relevant to this proceeding.

Staff's decision already found the Architectural Review mandatory approval standards are satisfied based on the application materials. In direct response to the specific questions raised, a

supplemental letter dated September 28, 2026 from Mackenzie, Lam's project architect and land use planner, provided additional supporting evidence and analysis addressing each point:

- Supplemental sight line diagrams from adjacent public streets supporting the finding that roof mounted mechanical equipment is adequately screened under TDC 73A.110(8);
- An updated site plan identifying existing and proposed outdoor light fixtures, including the new loading area, supporting the finding that exterior lighting meets the applicable standards under TDC 73A.110(7);
- An aerial site plan confirming existing vegetation between the Building B Addition and adjacent public streets, supporting the finding that no additional landscaping is required under TDC 73B.040(1);
- Updated bicycle and vehicle parking calculations confirming that existing facilities provide sufficient capacity for the addition under TDC 73C.040(1); and
- A waste and recycling enclosure plan confirming that the existing enclosure exceeds the applicable size requirement under the Minimum Standards Method in TDC 73D.030.

Together, Staff's decision, the application materials, and this supplemental evidence confirm compliance with the applicable Architectural Review criteria and directly answer the specific questions raised.

F. Response to Precautionary Procedural Objections

Testimony submitted during the open record period included a precautionary procedural objection, and requested the opportunity for an open record period if Lam's final argument included new evidence. Consistent with ORS 197.797(6)(e), this final written argument raises no new evidence, so no additional open record period is required or appropriate.

This final argument only summarizes and applies the existing record, including the Tux Approval findings, the Building B Addition staff decision, and the evidence and responsive testimony that was already submitted.

This final written argument cites statutes, administrative rules, and the Tualatin Development Code to explain the legal framework that governs the interpretation of provisions of the code, such as TDC 63.058. These citations are legal argument, not evidence. They identify no new facts about Lam's operations, the Building B Addition, or any condition of the property, and they rely on nothing outside the existing record. Interpreting an undefined term in the City's own code, including by reference to the body of law from which that term is drawn, is a legal question the Council must resolve regardless of which party raises it, and identifying the applicable legal framework for that interpretation does not introduce evidence within the meaning of ORS 197.797(6)(e).

CONCLUSION

The Council does not need to decide this appeal in a vacuum. It already decided the same legal question in the December 2025 Tux Approval, after extensive public process, in detailed written findings it adopted as its own, and nothing about this appeal justifies a different answer.

For these reasons, Lam respectfully requests that the City Council affirm the June 17, 2026 staff decision approving AR26-0002, deny the appeal, and direct City staff to work with Lam to draft findings in support of the Council's decision that follow the precedent set in the Tux Approval (AR24-0002, Resolution No. 5937-25).

Very truly yours,



Dana L. Krawczuk