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Via Email

City Council
City of Tualatin
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Tualatin Planning Division
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Re: Appeal Hearing for AR 24-0002, Lam Research Campus, SW Leveton Dr.

Dear Mayor Bubenik and City Councilors:

On behalf of Mr. Hamilton, please accept the following letter for the record in Mr. Hamilton's appeal of AR 24-0002.

Some of the most concerning issues with Lam's proposal include the additional noise and traffic generated by the proposed expansion. This letter addresses the noise that Lam's proposed facilities would generate, if approved by the City Council. The letter explains that Lam has failed to demonstrate compliance with applicable approval criteria for objectionable noises and vibrations.

A. Lam's proposed facilities would produce "objectionable noise" and would unlawfully generate a "noise disturbance."

The sounds and vibrations generated by Lam's current facilities include a range of frequencies that produce disruptive hums, hisses, and pulsing tones. Mr. Hamilton has documented and described the noises that penetrate into his neighborhood, and more distressingly, his home. This issue is not limited to Mr. Hamilton. These sounds and vibrations can be generally heard off-site in the adjacent neighborhood and within nearby residents' homes. Lam's proposed expansion would add equipment and facilities that would result in additional hums, hisses, and pulsing tones.

The provisions of the City's manufacturing park zone address noise concerns, requiring that the "large-scale specialized manufacturing and related uses and research facilities" permitted in the zone "must not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare... or other wastes emanating from the property." TDC 62.100. In addition, Chapter 63, which applies to "all industrial uses" and [a]ll Manufacturing Planning Districts, regardless of the use category," requires that "[a]ll uses and development must comply with Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in, TMC 6-14." TDC 63.051. For noise and vibrations, Lam Research has failed to demonstrate compliance with those requirements.

In this case, Mr. Hamilton and others have already documented "objectionable noise" and "vibration" produced by the existing facility. TDC 62.100. Mr. Hamilton has also documented violations of TMC 6-14. The hums, hisses, pulsing tones, and vibrations produced by Lam certainly qualify as "objectionable." The noises that Lam's existing facilities generate also meet the City's definition of a "noise disturbance," defined as sounds that "disturb[] a reasonable person of normal sensitivities from enjoying their private real property." TMC 6-14-030(b). There is also evidence that Lam's facilities produce sounds that exceed the decibel limits described in TMC 6-14-050. 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.

Lam's expansion would only increase the number of facilities and equipment that produce noises and vibrations that emanate from the property. Yet Lam has not demonstrated that its proposed expansion could comply with the requirements in TDC 62.100 and TDC 63.051 that prohibit objectionable noises and vibrations. For that reason, Lam's proposal does not meet the requirements for uses permitted in the zone. TDC 62.100; TDC 63.051. The applicant's own noise study documents the additional sounds and vibrations that their new facilities would produce. Those sounds would only combine with, and add to, the already objectionable hums, hisses, and pulsing tones produced by the property. Rather than demonstrate how its proposed construction could be modified or designed to reduce or cancel the noises, Lam asks the City Council to simply ignore the criteria all together.

B. Lam has failed to demonstrate that its proposed facilities will comply with the City's noise limits for the zone.

In its letter, Lam suggests that the criteria listed above are not relevant, and can only be addressed as part of a subsequent code enforcement proceeding. Lam's interpretation is wrong. Lam's understanding of the code would leave the City without any ability to ensure that proposed uses must demonstrate compliance with applicable criteria, before issuing final approval. Of course the City has the authority—prior to approval—to require that Lam demonstrate that its proposed facilities will comply with the code provisions that prohibit the approval of facilities that generate objectionable noises or violate the City's noise ordinance.

The City's planning staff have consistently stated that Lam has the burden to show that its new facilities will comply with the City's noise limits. The Staff lists TDC 62 and TDC 63.051 among the applicable approval criteria. The City's planning staff describe the Architectural

Review as the proceedings that will ultimately provide “approval” for the applicant’s request to construct a 90,000 square foot lab building and other facilities. Therefore, the time to ensure that Lam’s proposed facilities are designed in a way that they will not violate TDC 62.100 and TDC 63.051 is now. Lam must demonstrate compliance with the applicable criteria *before* the City’s final approval of the proposed use.

To that end, Architectural Review decisions may impose conditions of approval that “[i]mplement the requirements of the Tualatin Development Code.” TDC 33.020(6)(iii). The conditions of approval “that may be imposed include, but are not limited to... changes in the design or intensity of the proposed development... necessary to assure compliance with this chapter.” TDC 33.020(6)(b). Architectural Review also provides broad authority to “sustain the comfort, health, safety, *tranquility and contentment* of residents and attract 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). The City Council has the authority to require Lam to comply with TDC 62.100 and TDC 63.051.

C. Conclusion: require Lam to modify the facilities and equipment to ensure that its facilities and equipment do not cause objectionable noise to emanate from the property.

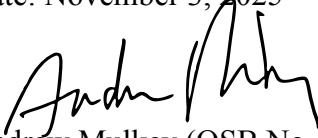
This proceeding appears to provide the only land use approval required before Lam can begin construction of the proposed facilities. *See* Chapter 33.020. The planning staff have described this proceeding as providing the required land use approval required prior to construction. Staff have also listed approval criteria, such as TDC 62 and TDC 63.051, as among the relevant criteria to be considered during Architectural Review. Moreover, the City has the authority needed to impose conditions of approval to ensure compliance with the requirements of the development code, which includes requirements in TDC 62.100 and TDC 63.051. TDC 33.020(6)(iii).

For those reasons, Mr. Hamilton requests that the City deny Lam’s proposal for failing to demonstrate compliance with TDC 62.100 and TDC 63.051. Lam has not demonstrated that its facilities, especially when added to its existing facilities, will comply with the applicable noise criteria. Lam has also failed to propose conditions of approval that would ensure that the sounds generated by its equipment could be or would be dampened or canceled out. Lam has the knowledge about the equipment its facilities will use and the noises that the equipment will produce. For that reason, Lam has the burden to propose changes to its facilities’ design to ensure compliance with TDC 62.100 and TDC 63.051. The development code does not allow applicants to obtain approval for, and then construct uses that would generate objectionable noises and vibrations or otherwise violate the City’s noise ordinance. TDC 62.100, 63.020, 63.051.

Simply put, the development code does not allow Lam to impose a nuisance on its neighbors and residents of the City of Tualatin. The City has the necessary tools to require Lam to demonstrate compliance *prior* to the City’s approval of the new and expanded facilities. And the City may impose conditions of approval during the Architectural Review to make compliance a reality. Mr. Hamilton respectfully requests that the City require Lam to explain how it will design

its new equipment and facilities in a way that ensures compliance with the City's development code. If Lam cannot meet its burden to demonstrate compliance, then Mr. Hamilton asks that the City deny approval until Lam can demonstrate that its expanded facilities will not produce objectionable noises beyond the property line.

Date: November 3, 2025

A handwritten signature in black ink, appearing to read "Andrew Mulkey", with a stylized flourish at the end.

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