

December 7, 2025

Updated: December 8, 2025

Tualatin City Council
10699 SW Herman Road
Tualatin Oregon 97062

Objection to Resolution No. 5937-25 Supplemental Findings (Exhibit 3)

Dear Mayor Bubenik and Tualatin City Councilors,

I am writing to lodge a formal objection to the proposed inclusion of Lam's Supplemental Findings in your resolution affirming the ARB's decision to approve Lam's TUX project. I am not objecting to the City's staff report or staff findings, and although I disagree with the City's TUX decision, the documents provided by city staff to support the decision are appropriate, professional, and necessary, and their inclusion in the Resolution does not infringe on my rights.

By contrast, Lam's Supplemental Findings are inappropriate, unnecessary, erroneous, and prejudicial. Adoption of Lam's findings by reference into the Tualatin City Council Resolution would violate my right to due process and these findings would unduly influence and interfere with the ongoing code enforcement investigation regarding Lam's alleged code violations. If adopted by City Council, Lam's findings will poison the well for any future proceedings on this issue in the Tualatin Municipal Court.

The first half of Lam's document is fairly reasonable and accurate, with some exceptions, but in the second half, starting around page 25, a line is crossed. Although Lam's arguments and legal theories are typical of a corporate attorney arguing on behalf of their client, the second half of this document is not consistent with previous City Council resolutions, which have set a high standard for accuracy and fairness. Exhibit 3, as currently written, does not meet that standard.

If the City Council can not fully remove Exhibit 3 from the resolution, I would request that Exhibit 3 be edited for accuracy and consistency, and I would ask that the next version be released well in advance of the next City Council meeting to allow for fact checking. The adopted version needs to be appropriate, professional, and consistent with the City's policies.

The current draft of Exhibit 3 has a number of issues including, but not limited to:

- Mischaracterizations, misleading claims, misquotes and meaningful omissions
- Prejudicial statements, false allegations, and bias
- Interference with an ongoing code compliance investigation
- Extremely short notice, inadequate opportunity for review
- Inconsistent with, and contradictory to, past City statements

Offsite Noise Distance:

Despite the fact that Lam's noise signature is audible for more than a mile from campus, Exhibit 3 claims that **any** noise complaint received from a resident who lives more than 400 feet from the facility should be dismissed:

"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." (Page 31)

Rather than acknowledge the truth that Lam's equipment is loud, and the sound carries long distances especially downwind, Lam has decided to place blame on the residents. It would be extremely problematic for the City Council to condone and adopt this tactic.

Premature Conclusory Statements:

Despite the fact that the code enforcement investigation is still ongoing, and evidence on the record shows that winter noise levels reach 52 decibels, Exhibit 3 claims that the Tualatin City Council has already determined that Lam's facility is "reasonably certain" to be in compliance with the Noise Ordinance (bold for emphasis):

"Supplemental Findings and those in Section III.C, substantial evidence in the record demonstrates that the Project's new facilities, in combination with the existing facilities, are likely **and reasonably certain to comply** with the Noise Standards." (Page 27)

"Council finds that in the unexpected and unpredicted event that the Project exceeds noise standards ..." (Page 28)

"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." (Page 29)

Based on the public record, the City of Tualatin has made no such determination. In fact, the City has made statements clarifying the code enforcement investigation needs to be completed before the City can make a determination about compliance.

The Gas Plant:

Exhibit 3 misrepresents the nature and function of Lam's gas plant:

'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 Appellant provides no explanation or basis for this characterization.' (Exhibit 3, Page 50)

The hearing record contains 12-pages of text messages between myself and Chad Oyler, Director of Environmental, Health, and Safety at Lam, which prove that Lam's gas plant produces Nitrogen gas (N2). These text messages are in the hearing packet and posted online:

<http://www.tualatinroad.org/files/STR2025081202.pdf>

Quotes from Mr. Oyler about the gas plant:

"I'll have facilities look into a sound wall where we generate nitrogen." (Page 3)

"I think it is just where we make nitrogen" (Page 3)

"Our newest N2 compressor has been down for a while." (Page 8)

"How did the nitrogen gas plant sound?" (Page 9)

"When I get close to the scrubber fans then back out to the property line I can't hear them with my ears. Or maybe the N2 system is just drowning it out." (Page 7-8)

Lam's site plans show the location of the existing gas plant (misspelled "GAN PLANT") and Exhibit 3 mentions the gas plant by name:

*"Appellant's home is over 500 feet from the nearest Lam property line, and over 1,100 feet from the **existing gas plant** building."* (Exhibit 3, Page 31)

Lam's gas plant is located outside, not in a building. CGA's noise study fails to mention that this gas plant produces a well-documented high-pitch hiss. Exhibit 3 fails to mention that a recording of Lam's offsite noise impacts is available online, and included in the hearing record:

<https://www.youtube.com/watch?v=JfeCwxMqBc>

Also, Lam's "Supplemental" findings appears to override those of City Staff:

"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." (Exhibit 3, Page 1)

Because of the numerous problems with Exhibit 3, I am attaching a marked-up copy that highlights three sets of issues: problematic statements (in red), typographical errors (in purple), and citations needed (in yellow).

In summary, Exhibit 3 does more harm than good and it will interfere with the City's ongoing code enforcement efforts, undermining the fairness of that process. If the City Council adopts Exhibit 3, Tualatin residents will be harmed, Lam's noise issues will be much harder to resolve, and the City's reputation will be eroded. We urge the City Council to remove Exhibit 3 from your Resolution, or if time allows, modify it to remedy the issues raised. Please allow the code enforcement investigation to proceed without interference so that we can sleep better.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett Hamilton", with a long horizontal flourish extending to the right.

Brett Hamilton

Exhibit 3 Supplemental Findings

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 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 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 evidence¹ 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 evidence² 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

¹ See Supplemental Findings Section III.C.ii for a list of Applicant’s transportation expert evidence.

² See Supplemental Findings Section II.C.i for a list of Applicant’s noise-related expert evidence.

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.³

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 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 Findings⁴

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 underling 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

³ 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.

⁴ 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.

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. 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 standard⁵ and (ii) do not demonstrate that the TDC or TMC sections that are allegedly not met (particularly the Noise Standards) are mandatory approval criteria.⁶

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

⁵ 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.

⁶ See also, Supplemental Findings Sections IV.B.ii, iv and IV.C.iii.b and c, which are incorporated by reference.

Category	Characteristics	When Applied	Proof Required During AR Review	Representative Code Provisions
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

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.⁷ 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.

⁷ 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.

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).

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 6-14⁸ 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

⁸ The Tualatin Municipal Code (TMC) is distinct from the Tualatin Development Code ("TDC"). On its face, the TMC is not a land use regulation.

“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 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.⁹ 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 6-14-110.¹⁰ The complainant

⁹ Also see Supplemental Findings Section IV.B.vi.b, which is incorporated by reference, for additional analysis of the “noise disturbance” threshold.

¹⁰ 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

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 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 two¹¹ different purpose statement provisions, TDC 33.020(1)(i) (Architectural Review Purpose) and TDC 62.100 (Manufacturing Park Zone Purpose), and alleges that they

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.

¹¹ 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

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.

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).

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.

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 Record¹² to Support the Decision

The Appeal raises issues related to the cumulative noise impacts¹³ 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

¹² 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.

¹³ 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.

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.

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 A8.¹⁴ 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, and Appellant's attorney criticized some methodological practices of the Applicant's acoustic expert.¹⁵ Exhibit F and Appeal Exhibit K.¹⁶ No evidence of Appellant's, Appellant's counsel's or community members' expertise in acoustics is included in the record.

¹⁴ 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.

¹⁵ 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).

¹⁶ 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.

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 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 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.

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.¹⁷ 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.

¹⁷ 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.

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.

To justify reversal of a land use decision for procedural error, the Appellant "must demonstrate both procedural error and prejudice to its substantial rights."¹⁸ "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.'"¹⁹ 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.²⁰
- Appellant received mailed notice of and participated in the ARB hearing.²¹

¹⁸ 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.

¹⁹ *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).

²⁰ Staff Report AR24-0002, Exhibit A6: Supplemental Information, pp. 39, 53.

²¹ Staff Report AR24-0002, Exhibit B: Public Noticing.

- Appellant submitted several public comments in advance of the ARB hearing on the application.²²
- Appellant filed an Appeal.²³
- Appellant participated in the City Council hearing in writing and verbally, both individually and through counsel.²⁴

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.²⁵ 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.²⁶

²² 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.

²³ Appeal Form and Appeal Letter from Appellant Brett Hamilton, Appeal Exhibit B.

²⁴ Appeal Exhibit K.

²⁵ *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).

²⁶ See *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995).

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 second meeting.²⁷ 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*,²⁸ 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.

²⁷ *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).

²⁸ See TDC 32.310(4)(a) (“All appeals are ‘de novo’ meaning new evidence and argument may be submitted at the appeal hearing.”).

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.

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.²⁹ 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).³⁰

²⁹ 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”).

³⁰ 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 Silvertown*, 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).

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.

The exclusive forum for addressing whether the existing facility is in violation of the Noise Ordinance is the enforcement procedures in TMC 7-1.³¹ 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.

³¹The robust enforcement procedures required by TMC 7-1 are summarized in these Supplemental Findings Section III.A.ii, and are incorporated herein.

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 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.

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.³² 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*.

³² 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.

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.

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 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.

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.

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 testimony in making this Decision, including the conclusion that the existing facility complies with the decibel limits in TMC 6-14-050.

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).

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 demonstrates that the Project's new facilities, in combination with the existing facilities, are likely and reasonably certain to comply with the Noise Standards.

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.

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 (1988).

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

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).

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.

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 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.

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.

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.

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.

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, 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.

⁴⁴ “Objectionable” is defined in *Webster’s Third New International Dictionary of the English Language, Unabridged* (2002) as “arousing objection: OFFENSIVE - b.jec,tion,able,ness \-bolnas\ n -ES - objec-tion.abty \-ble, -li\ adv”

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 small ,...s) 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,J* - F.C.Barg:hoorn) (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)”

Tranquil: “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 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: “1 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~c;uJ~c:-re'J:

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.

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°lr~!; negligence of the,....., of his workers - T.P.Whitney) c : 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.⁴⁷ 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."⁴⁸

ii. Existing Northernmost SW 108th Avenue Entrance⁴⁹

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.

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.

⁴⁷ 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."

⁴⁸ 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."

⁴⁹ These Findings refer to the driveway approach on SW 108th Avenue using several interchangeable terms, such as driveway, access, entrance and approach.

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.

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.⁵⁰ 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 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)

⁵⁰ 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.

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.⁵¹

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 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

⁵¹ 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.

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.”⁵² 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

⁵² We find that the only arguments related to Hazelbrook/99W are how the intersection should influence whether the northernmost driveway on 108th is approved.

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)."⁵³ 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 requirement⁵⁴:

- 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.

⁵³ Staff Report AR24-0002, Exhibit A4, June 5, 2025 Updated Transportation Impact Analysis Scoping.

⁵⁴ Staff Report AR24-0002, Exhibit A4: Transportation Impact Analysis and Memorandum, p. 12 ("Trip Distribution and Assignment").

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),⁵⁵ 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).

⁵⁵ 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.

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 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 A3⁵⁶, A11⁵⁷, and A16⁵⁸ 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 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

⁵⁶ Condition of Approval A3 requires "...City approval of Final Street Improvement Plans for SW 108th Avenue, SW Leveton Drive, and SW Tualatin Road..."

⁵⁷ 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..."

⁵⁸ 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"

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 Appellant provides no explanation or basis for this characterization.

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



P 503.224.9560 ■ W MACKENZIE.INC ■ RiverEast Center, 1515 SE Water Avenue, #100, Portland, OR 97214
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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



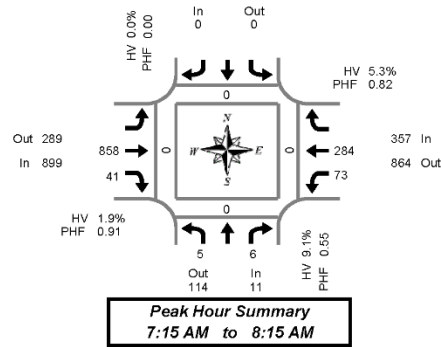
Total Vehicle Summary

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	15	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	289	1,188	1	357	864	1,221	3	1,267	0	0	0	0
%HV	9.1%				0.0%				1.9%				5.3%				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		858	41	899		73	284		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		0.89	0.68	0.91		0.63	0.89		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		884	34	1		66	264	2		1,259	0	1	0	1
7:15 AM	5	6	0				0		858	41	1		73	284	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	5		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		In	Out	Total	Bikes	T	R	Bikes		L	T	Bikes			North	South	East	West
4:00 PM	8	7	2					0	102	2	0		2	215	1		338	0	0	0	0
4:15 PM	5	12	1				0	0	94	1	1		0	220	0		332	0	2	0	0
4:30 PM	14	12	0				0	0	98	0	1		1	259	2		384	0	2	0	0
4:45 PM	4	12	0				0	0	93	3	0		3	238	0		353	0	0	0	0
5:00 PM	17	13	1				0	0	111	1	2		0	239	0		381	0	0	0	0
5:15 PM	14	15	2				0	0	90	2	1		2	249	0		372	0	4	0	0
5:30 PM	10	11	0				0	0	94	4	1		6	207	0		332	0	0	0	1
5:45 PM	5	12	0				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		
%HV	0.0%	NA	3.8%	2.0%	NA	NA	NA	0.0%	NA	3.6%	0.0%	3.5%	0.0%	0.9%	NA	0.9%	
PHF	0.72		0.87	0.84			0.00		0.88	0.50	0.89		0.50	0.95		0.95	

Rolling Hour Summary

4:00 PM to 6:00 PM

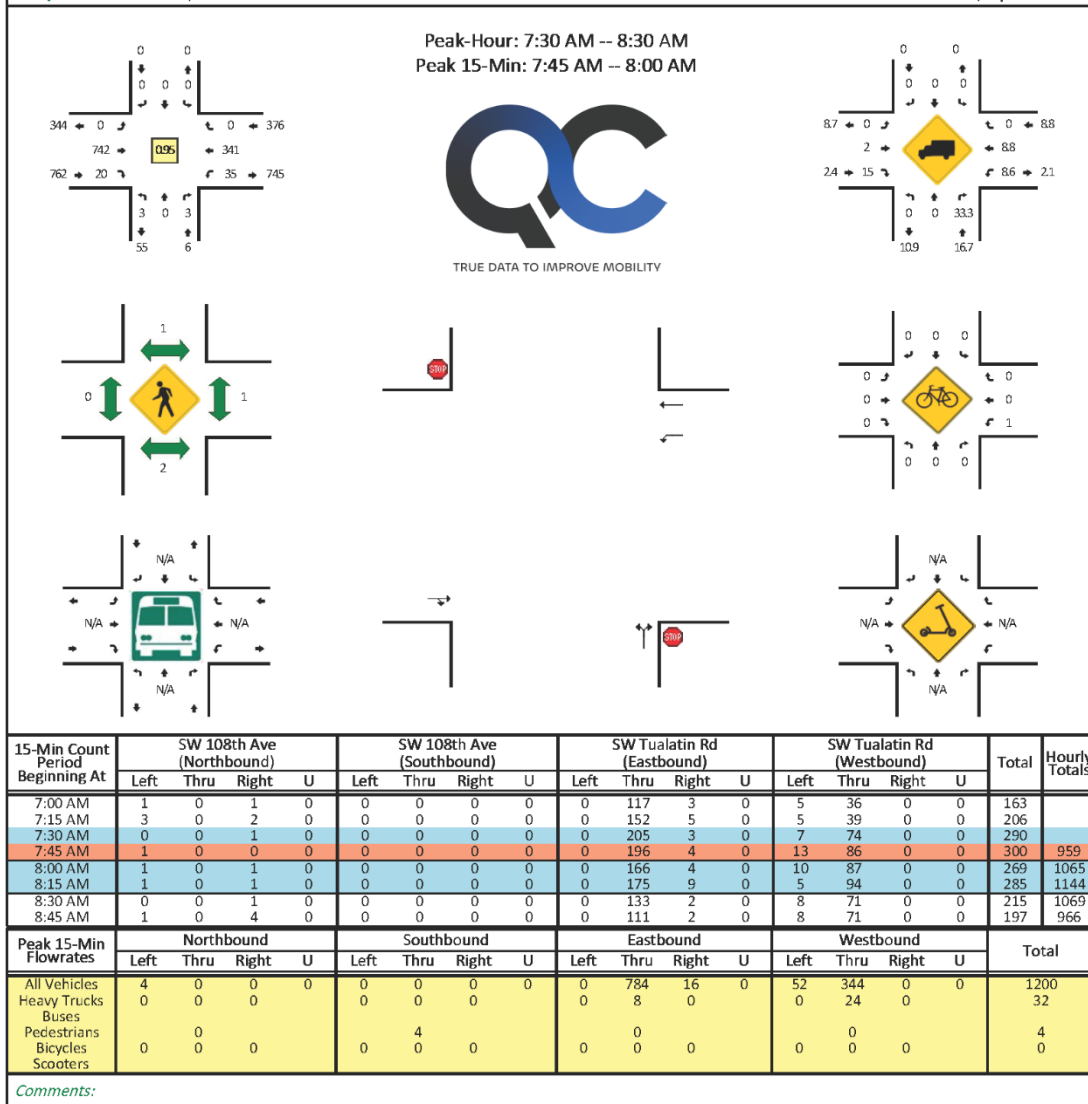
Interval Start Time	Northbound SW 108th Ave				Southbound SW 108th Ave				Eastbound SW Tualatin Rd				Westbound SW Tualatin Rd				Interval Total	Pedestrians Crosswalk			
	L	R	Bikes		In	Out	Total	Bikes	T	R	Bikes		L	T	Bikes			North	South	East	West
4:00 PM	31	43	3				0	0	387	6	2		6	932	3		1,405	0	4	0	0
4:15 PM	40	49	2				0	0	396	5	4		4	956	2		1,450	0	4	0	0
4:30 PM	49	52	3				0	0	392	6	4		6	985	2		1,490	0	6	0	0
4:45 PM	45	51	3				0	0	388	10	4		11	933	0		1,438	0	4	0	1
5:00 PM	46	51	3				0	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

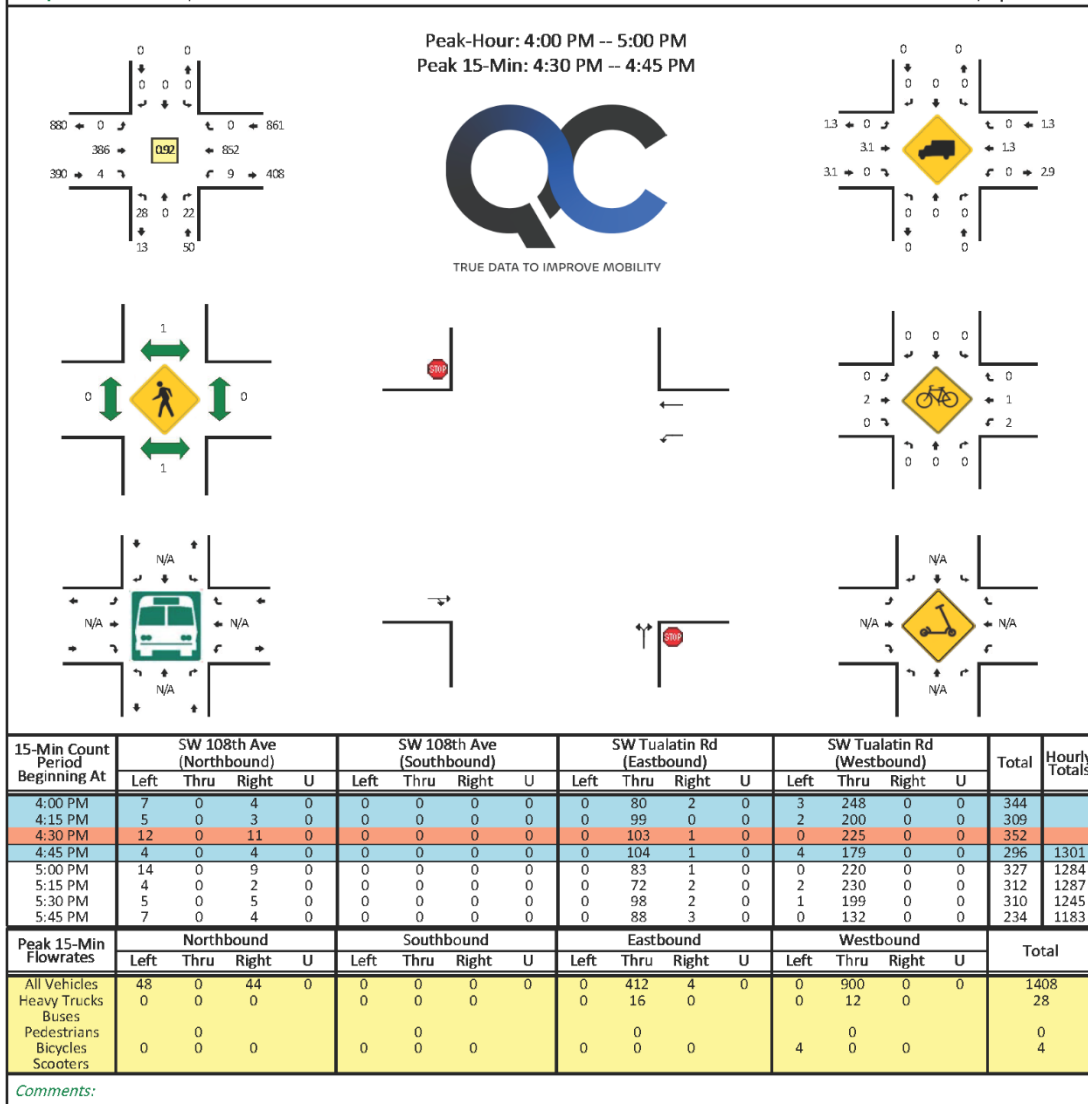
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

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

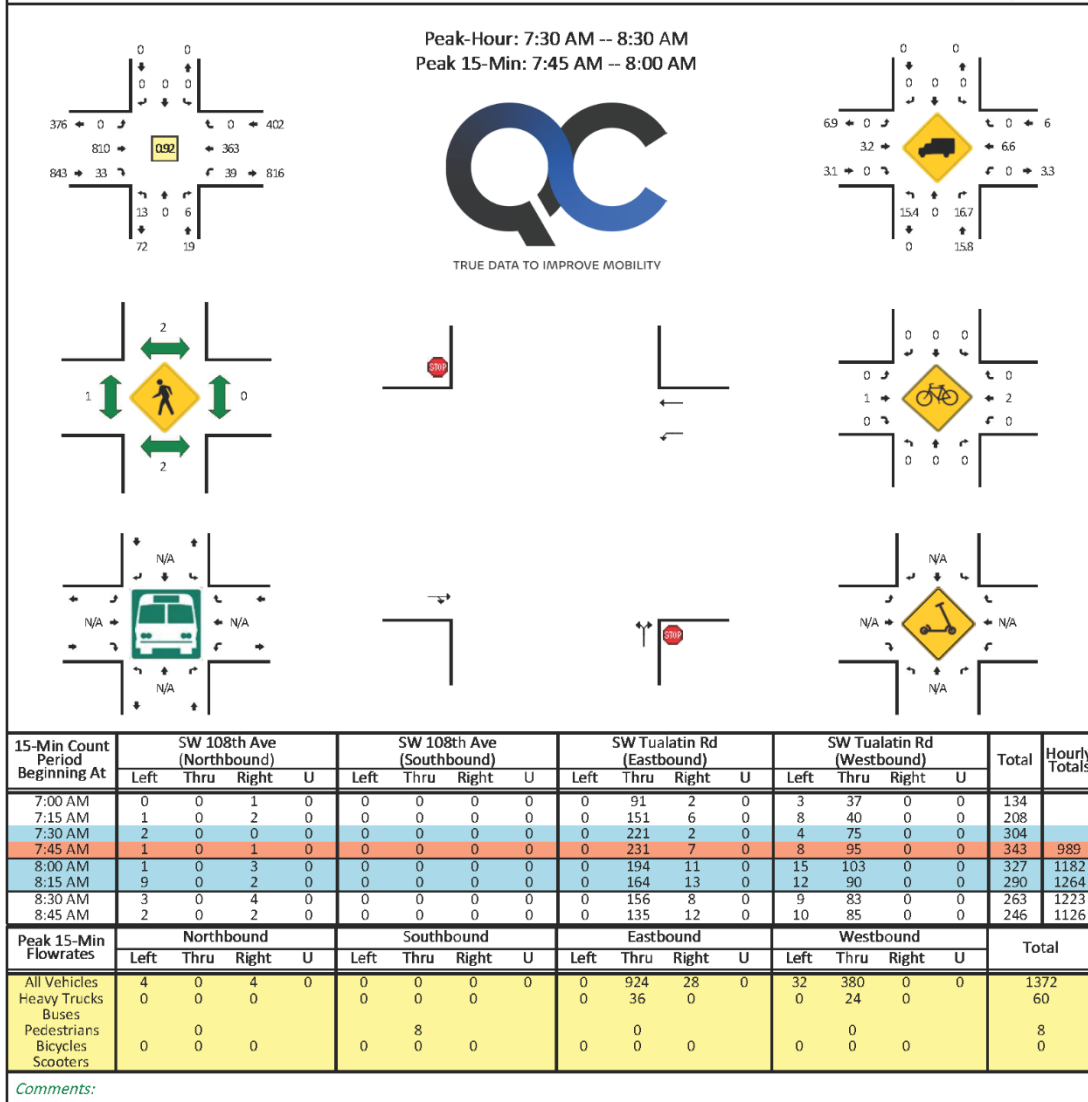
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

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

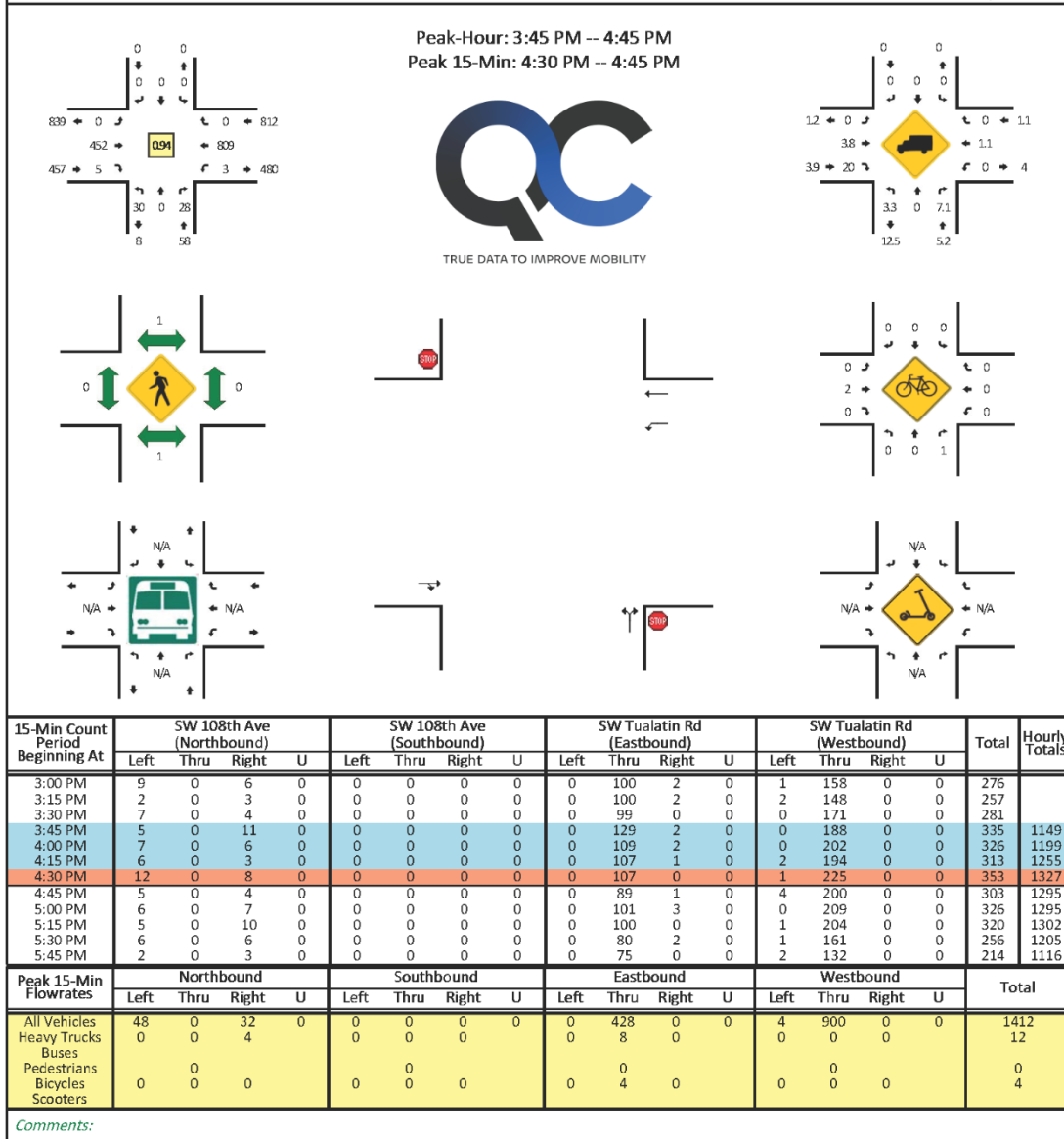
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

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

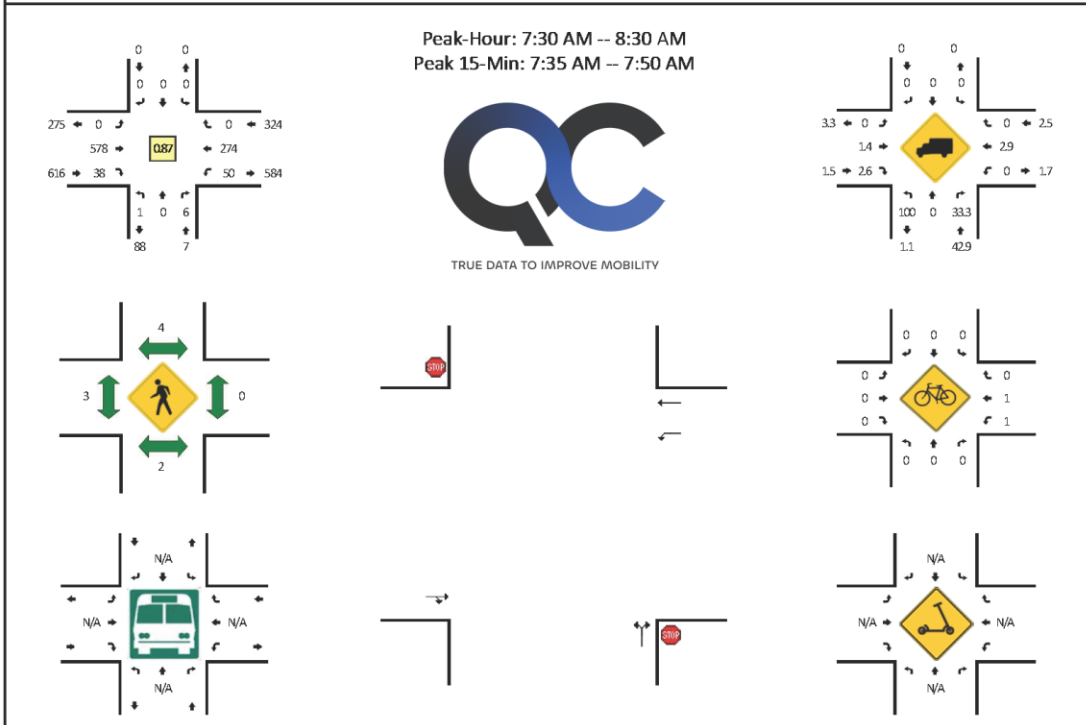
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

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



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		
7:00 AM	0	0	0	0	0	0	0	0	0	24	6	0	3	19	0	0	52	
7:05 AM	0	0	0	0	0	0	0	0	0	35	1	0	1	15	0	0	52	
7:10 AM	0	0	0	0	0	0	0	0	0	39	1	0	0	12	0	0	52	
7:15 AM	0	0	0	0	0	0	0	0	0	34	0	0	1	12	0	0	47	
7:20 AM	1	0	0	0	0	0	0	0	0	44	0	0	0	19	0	0	64	
7:25 AM	0	0	0	0	0	0	0	0	0	48	1	0	4	11	0	0	64	
7:30 AM	0	0	1	0	0	0	0	0	0	40	1	0	0	20	0	0	62	
7:35 AM	0	0	1	0	0	0	0	0	0	66	1	0	2	19	0	0	89	
7:40 AM	0	0	0	0	0	0	0	0	0	62	1	0	7	30	0	0	100	
7:45 AM	0	0	0	0	0	0	0	0	0	57	3	0	4	20	0	0	84	
7:50 AM	1	0	0	0	0	0	0	0	0	44	5	0	5	27	0	0	82	
7:55 AM	0	0	0	0	0	0	0	0	0	52	3	0	9	24	0	0	88	836
8:00 AM	0	0	0	0	0	0	0	0	0	44	2	0	4	25	0	0	75	859
8:05 AM	0	0	0	0	0	0	0	0	0	43	3	0	9	31	0	0	86	893
8:10 AM	0	0	1	0	0	0	0	0	0	38	4	0	1	13	0	0	57	898
8:15 AM	0	0	0	0	0	0	0	0	0	40	5	0	5	20	0	0	70	921
8:20 AM	0	0	3	0	0	0	0	0	0	46	5	0	4	24	0	0	82	939
8:25 AM	0	0	0	0	0	0	0	0	0	46	5	0	0	21	0	0	72	947
8:30 AM	0	0	0	0	0	0	0	0	0	28	3	0	6	9	0	0	46	931
8:35 AM	1	0	0	0	0	0	0	0	0	49	6	0	4	23	0	0	83	925
8:40 AM	0	0	1	0	0	0	0	0	0	36	2	0	4	27	0	0	70	895
8:45 AM	0	0	1	0	0	0	0	0	0	27	2	0	7	17	0	0	54	865
8:50 AM	0	0	0	0	0	0	0	0	0	33	5	0	2	18	0	0	58	841
8:55 AM	1	0	1	0	0	0	0	0	0	23	4	0	4	18	0	0	51	804
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	0	0	4	0	0	0	0	0	0	740	20	0	52	276	0	0	1092	
Heavy Trucks	0	0	0	0	0	0	0	0	0	4	0	0	0	8	0	0	12	
Buses																		
Pedestrians		0				4				4				0			8	
Bicycles	0	0	0		0	0	0		0	0	0		0	4	0		4	
Scooters																		

Comments:

Report generated on 10/29/2025 6:37 AM

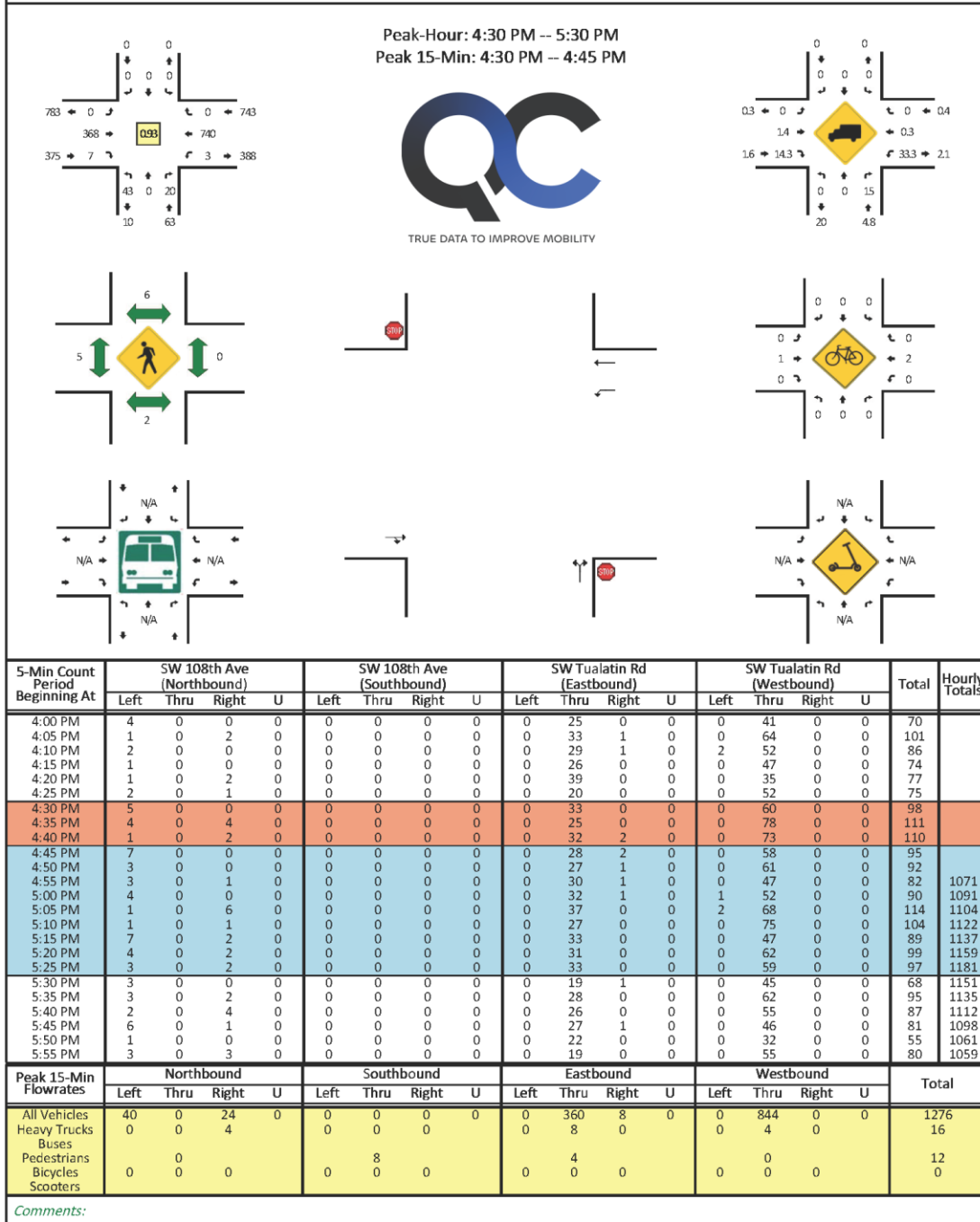
SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

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



Report generated on 10/29/2025 6:37 AM

SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212