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City Council
City of Tualatin
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RE: City Council Appeal of Architectural Review for Lam Research Corporation's TUX Facility (AR 24-0002)

Dear Mayor Bubenik and City Councilors:

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") Tux Project ("Project"). The ARB found that the Project meets the AR approval criteria specified in Tualatin Development Code ("TDC") 33.020. On September 25, 2025, Brett Hamilton ("Appellant") appealed ARB's approval of AR24-0002 (the "Appeal"). Lam respectfully requests that the City Council deny the Appeal and uphold ARB's approval of AR24-0002 for the reasons detailed below.

Broadly, the Appeal raises issues with respect to the City's compliance with procedural requirements; the existing facility's compliance with the City's Noise Ordinance at Tualatin Municipal Code, Chapter 6-14 ("Noise Ordinance"); and the analysis of the Project's traffic impacts. Based upon the TDC and evidence in the record, the City Council should deny the Appeal and uphold approval of AR on the basis that:

- Appellant has not alleged any procedural errors demonstrating prejudice to Appellant's substantial rights;
- Compliance with the Noise Ordinance is not a criterion for AR approval;
- The Project demonstrates compliance with all applicable criteria;
- The 108th Avenue entrance does not require a new driveway approach permit; and
- The Project's traffic impact study (the "Traffic Study")¹ complies with TDC 74.440.

I. Project Background

Lam Research designs and builds the tools used to make computer chips. Lam is Oregon's largest semiconductor equipment company, with a strong presence in the state for more than 20 years. The Tualatin campus plays a key role in the creation of new technologies needed in a time of rising semiconductor manufacturing complexity. The Project will enable Lam to expand its

¹ The Traffic Study is included in Staff Report AR24-0002, Exhibit A4.

R&D operations and add 600 jobs in Tualatin that help develop the technology chipmakers need for their most critical applications. The Project is funded in part by the Oregon CHIPS Act, which supports the expansion and modernization of the state’s semiconductor manufacturing and research.

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

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 of Tualatin (“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. The de novo City Council hearing to consider this Appeal is scheduled for November 10, 2025.

II. Legal Considerations

The application at issue in this Appeal is for *Architectural* Review, 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 review is why the body that 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.² The limited scope of Architectural Review is important because the issues raised in the Appeal are not relevant to the Architectural Review criteria.

When considering the Appeal, we encourage the City Council to be guided by the standards that the Oregon Land Use Board of Appeals (“LUBA”) would apply when reviewing the City’s final AR decision. A land use decision, such as the AR approval, will be affirmed and upheld by LUBA unless the Appellant can demonstrate one of the following:³

- Procedural error that impacts Appellant’s substantial rights;
- Noncompliance with the applicable approval criteria;
- Inadequate findings of compliance with TDC Chapter 73A through 73G; or
- The decision is not supported by substantial evidence.

Appellant’s grounds for the Appeal do not meet any of these thresholds, so the Appeal should be denied, and the Project’s AR should be approved.

III. Analysis

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.”⁴ “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.’”⁵ This standard is sometimes referred to as the “no harm, no foul” rule.

Appellant has not alleged, nor based upon the evidence in the record could he 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

² TDC 33.020(5)(d).

³ ORS 197.835

⁴ 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.

⁵ *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).

and frequency of his engagement with the Project at every stage, culminating in this Appeal, which provides for a de novo hearing. For example, the record shows that:

- Appellant received mailed notice of and participated at the neighborhood developer meeting.⁶
- Appellant received mailed notice of and participated in the ARB hearing.⁷
- Appellant submitted several public comments in advance of the ARB hearing on the application.⁸
- Appellant filed this Appeal and will presumably participate in the City Council hearing.

We have addressed 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.” Even if 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.⁹ 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 he will presumably participate in the hearing to consider the Appeal that he filed. 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

⁶ Staff Report AR24-0002, Exhibit A6: Supplemental Information, pp. 39, 53.

⁷ Staff Report AR24-0002, Exhibit B: Public Noticing.

⁸ 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.

⁹ *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).

this issue; a party that did not itself experience the notice error cannot raise it on behalf of another.¹⁰

Even assuming that the CIOs take issue with the lack of mail 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.¹¹ 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 in Section B, 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. Similarly, there is no impact to the adequacy of the ARB’s findings or evidentiary basis for the approval because the missing pages are not relevant to the approval criteria.

¹⁰ See *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995).

¹¹ *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).

Second, the inadvertently omitted pages are included in the record that is publicly available. The City Council hearing is de novo,¹² so the public can respond to the pages and the City Council can consider all evidence when making the final decision on the AR. Because the pages are in the record and Appellant is aware of them and can respond before the City Council, their omission at the ARB hearing stage does not prejudice Appellant.

iv. Any Delay in Releasing Public Records is Irrelevant.

Appellant alleges that the City erred through “[u]nnecessary delays in releasing Public Records.” If this is a public records disclosure dispute, such a dispute is outside of the scope of a land use appeal and is therefore not a grounds for denial of AR. Further, as explained elsewhere, Appellant has not alleged, and cannot demonstrate, that his substantial rights to a full and fair hearing have been prejudiced.

B. Noise Issues

The Appeal alleges violations of the Noise Ordinance and Manufacturing Park zoning. 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 and Manufacturing Park zone are not relevant to the AR approval criteria, so allegations about existing noise or potential future noise impacts are not bases for denying the AR.¹³ 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).¹⁴

As detailed below,

- The Architectural Review process considers only the Project, not the existing facility, and is not the appropriate forum for adjudicating noise concerns.
- Compliance with noise performance standards is a matter for Code Enforcement, once a use is operational.
- While not relevant to the approval criteria, the evidence supports the conclusion that Lam’s existing facility does not violate the City’s Noise Ordinance, and modeling predicts that the Project will also be compliant with the Noise Ordinance.

¹² See TDC 32.310(4)(a) (“All appeals are ‘de novo’ meaning new evidence and argument may be submitted at the appeal hearing.”).

¹³ 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”).

¹⁴ 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).

- The Condition of Approval A25 ensures that the Project complies with noise standards and is legally supportable.

i. Allegations of the Existing Facility's Violation of the Noise Ordinance 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. Code Enforcement is reviewing the noise complaints and is the sole City body responsible for determining whether a violation exists.

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. As detailed in Section B(v), the record of this approval does not establish that the existing facility violates the Noise Ordinance.

ii. The Noise Ordinance is Not Applicable as Approval Criteria and Noise Impacts are Not Relevant to AR.

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.

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, as explained during the ARB hearing, 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.¹⁵

Accordingly, 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.

iv. *The Manufacturing Park Zoning Purpose Statement is Not an Approval Criterion.*

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.¹⁶ 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.

v. *In the Alternative, the Record Does Not Establish That the Existing Facility or the Proposed Project Violate the Noise Ordinance.*

While the AR criteria do not require findings that a Project will comply with TDC Chapter 63 or the Noise Ordinance, because of community interest in noise, the Applicant voluntarily provided evidence and analysis of both the existing facility’s current compliance and proposed Project’s projected compliance with the Noise Ordinance. Because compliance with the Noise Ordinance is not required as part of AR, we encourage the City to adopt the following findings as reasons in the alternative for rejecting the issues raised in the Appeal.

¹⁵ ARB Hearing, September 10, 2025, available at <https://www.youtube.com/watch?v=yTjPbF0YePw>

¹⁶ See *Mariposa Townhouses v. City of Medford*, 68 Or LUBA 479 (2013).

In the Alternative, the Existing Facility Does Not Violate the Noise Ordinance

To reiterate, the City’s enforcement process is the exclusive forum for evaluating whether the existing facility complies with the Noise Ordinance. However, to respond to community concern and evidence offered that alleged a Noise Ordinance violation, the Applicant provided expert analysis of the existing facility’s compliance with the Noise Ordinance.

An expert report from Colin Gordon Associates (“CGA”) shows that the existing facility operations do not exceed the City Noise Ordinance limit of 50 dBA from 10 PM to 7 AM.¹⁷ The CGA report is authored by an engineer that specializes in noise measurements for high-technology facilities, HVAC noise analysis, and environmental noise modeling. Furthermore, CGA also analyzed the acoustic survey submitted by Appellant (the “A Acoustics Survey”) and concluded that its methodology is deficient.¹⁸ 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.

Therefore, 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 Noise Ordinance. Without a clear and reliable attribution of the 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.¹⁹ CGA has

¹⁷ Staff Report AR24-0002, Exhibit L, pp. 7-8.

¹⁸ Staff Report AR24-0002, Exhibit F: Supplemental Public Comments, pp. 7-15.

¹⁹ *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).

expertise in noise from high technology facilities, like Lam, and provided a detailed explanation of their methodology.

In the Alternative, the Project Is Not Expected to Violate the Noise Ordinance

As previously explained, the Project must comply with the performance standards of the Noise Ordinance once the Project's uses are operational. While the AR approval criteria do not consider noise issues, in response to community feedback the Applicant voluntarily provided modeling of the Project's expected noise impacts.

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.²⁰ This preliminary noise model evaluates noise impact 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 new sources are predicted to be well below 50 dBA at all points along the north property line.²¹ The preliminary noise model also shows that cumulatively, existing and future noise sources will remain consistent with the noise contours allowed by the Noise Ordinance. Although this is not a factor to be considered in the land use approval before the City Council, the preliminary noise model by CGA shows that the Project will not generate noise in violation of the City's Noise Ordinance.

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 Traffic Study did not consider additional employee work shifts; and (3) the claims that traffic is beyond the scope of the AR are incorrect." As detailed below, these are not a legal basis to deny the AR because they are not relevant to the criteria for approval of the AR and because the record does not support these statements.

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

²⁰ Lam TUX Expansion Environmental Noise Model, Colin Gordon Associates, September 10, 2025, available at <http://www.tualatinroad.org/files/LAM2025091002.pdf>

²¹ The Noise Ordinance require that noise impacts be measured at the property line, and the north property line is closest to the residential area north of Lam's campus.

evaluate public improvements and access management, which is where traffic impacts are relevant. Although transportation issues are not directly applicable, as explained in Section B(iii), 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 has thoroughly addressed TDC 74 and 75. However, the Appellant has not demonstrated that, from a legal interpretation or evidentiary perspective, TDC Chapters 74 or 75 can be a basis for denying the AR.

ii. Existing SW 108th Avenue Entrance.

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. As revised and approved by the ARB, 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. The TIA and City Engineer concluded that SW Tualatin Road remains adequate to support the Project.²² Additionally, once the Tualatin-Sherwood Road construction is completed and traffic that is currently diverted onto Tualatin Road returns to its normal patterns, the traffic volumes on SW Tualatin Road are expected to be “lower than experienced today, even with the addition to the project.”²³

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. Some community members appear to advocate closing the existing driveway, 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.

²² 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.”

²³ As detailed in Mackenzie’s August 19, 2025 “Lam TUX, TIA Supplemental Letter,” Staff Report AR24-0002, Exhibit A4, based upon measurements of Tualatin Road volumes, it appears that as high as 100-200 additional trips in one direction during the peak hour may be attributed to the ongoing SW Tualatin-Sherwood Road construction. While the exact number is difficult to determine, the traffic engineer concluded that when the SW Tualatin-Sherwood Road construction is complete, “some drivers are anticipated to shift back to using Tualatin-Sherwood instead of Tualatin Road, resulting in volumes lower than experienced today, even with the addition to the project.”

No Explanation of Why the Existing SW 108th Avenue Driveway is Subject to New Driveway Approach Standards

The Appellant has not explained why he believes that the new driveway approach standards should be applied, other than offering that the northernmost SW 108th Avenue driveway is currently gated. At the hearing, the Applicant explained that the gate is locked in the evening for security reasons, but that the gate is open during business hours.

The Appellant has not provided a legal or evidentiary basis for why a new driveway approach permit is needed for the existing northernmost SW 108th Avenue access.

In the Alternative, the Existing 108th Avenue Entrance Meets the New Driveway Approach Criteria

Assuming, without conceding, that the criteria apply, the existing northern SW 108th Avenue driveway complies with the new driveway approach criteria. While not required, we encourage the City Council to adopt in the alternative the following findings that the existing northernmost entrance on 108th Avenue complies with the three driveway approach criteria raised by commenters:

Criterion (g): The proposed driveway approach does not result in significant adverse impacts to the vicinity;

Applying this criterion first requires the City Council to interpret the terms “significant,” “adverse impacts,” and the “vicinity.” We encourage the City to interpret “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. We encourage the City to interpret 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.

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 Traffic Study shows that, at Project buildout, only 6% of campus trips will use this existing driveway, but that the Project impact on Tualatin Road is less than 10% of site trips. With these volumes of traffic and the required mitigation measures, the vicinity intersections meet safety, capacity and queuing standards.

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 Traffic Study shows that the existing driveway meets all of those standards, as conditioned. Accordingly, with the conditions, there is no impact to functionality that needs to be minimized. Further, the existing driveway is one of six driveways available to Lam employees. Trips from the campus will be distributed among multiple driveways, which minimizes the impacts of each driveway on the functionality of adjacent streets and intersections.

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 average of 24 new peak hour trips added to SW Tualatin Road is a de minimis amount of traffic on a Major Collector roadway.

iii. The Traffic Study is Not Required to Consider Additional Employee Shifts and Meets the Requirements of TDC 74.440.

Appellant contends that the Traffic Study fails to consider additional employee work shifts. 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 Traffic Study adequately considered the increased employee numbers anticipated from full Project buildout. Accordingly, the Traffic Study satisfies the requirements set forth in TDC 74.440.

Appellant's argument appears to either request mitigation (e.g., requiring shift work) or to challenge the scope of the Traffic Study (e.g., different assumptions about shifts should have been included). Neither is a basis for denying the AR. The Traffic Study 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 impact peak hour traffic, that is speculation that is not supported by the record and is unreasonable. As detailed below, 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 Traffic Study complies with accepted practices and does not include speculative and unsupported assumptions. The Traffic Study’s modeling is based upon current patterns and practices. The Traffic Study 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 Traffic Study 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).”²⁴ 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 Traffic Study as part of the development approval process. As relevant to this Appeal, TDC 74.440 requires that the Traffic Study include the information listed in TDC 74.440(3), including proposed trip generation and distribution for the proposed development. The Traffic Study relied on the following analysis to meet this requirement²⁵:

- The Traffic Study contemplates that the Project could add up to 600 employees to the campus.
- The Traffic Study 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.

²⁴ Staff Report AR24-0002, Exhibit A4, June 5, 2025 Updated Transportation Impact Analysis Scoping.

²⁵ Staff Report AR24-0002, Exhibit A4: Transportation Impact Analysis and Memorandum, p. 12 (“Trip Distribution and Assignment”).

The Project's Traffic Study 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 Study, which were addressed, with no further questions. The agencies agree with the scope and conclusions of the Traffic Study. Therefore, the Traffic Study adequately analyzed the proposed trip generation and distribution for the proposed development, pursuant to the requirements in TDC 74.440.

IV. Conclusion

The Applicant respectfully requests that the City Council deny this Appeal and affirm the ARB's approval of AR24-0002. Appellant has not demonstrated a reversible procedural error, nor has Appellant has not demonstrated noncompliance with applicable law, inadequate findings or lack of substantial evidence.

Very truly yours,



Dana L. Krawczuk