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April 8, 2026

Via Electronic Mail  
West Linn Planning Commission  
c/o City Planner Darren Wyss  
City of West Linn  
22500 Salamo Road  
West Linn, OR 97068

Re: Applicant's Final Written Argument CUP-25-03/DR-25-03/VAR-25-02 / DR-25-03 /  
VAR-25-02 Kaady Car Wash, 18850 Willamette Drive

As you know, this firm represents the Applicant Kaady Car Wash and its owner Charles (Chuck) Kaady (together for convenience, "Applicant"). Please include this final written argument in the record of the above matter.

Applicant respectfully requests approval of the Conditional Use Permit and Design Review application for redevelopment of the long-vacant former McDonald's drive-through site at 18850 Willamette Drive. The record shows that the proposal satisfies the applicable approval criteria. It replaces an abandoned commercial drive-through use, with another code-listed commercial use on a commercially zoned property, in a commercial center, with a redesigned building, substantial setbacks and buffering, professional traffic and noise analyses, and stormwater treatment that not only meets but exceeds what the City's code requires. The Staff Report repeatedly concludes that the applicable criteria are met, subject to conditions, and sets out recommended conditions of approval with which the Applicant will comply. The applicant is also willing to accept Staff's optional condition of approval requiring a follow-up noise evaluation approximately one year after commencement of operations, in order to confirm continued compliance with applicable noise standards.

This final written argument also addresses one procedural change at the outset. On March 25, 2026 in the first open record period, the Applicant submitted revised glazing plans specifically "intended to provide a straightforward alternative path to approval \*\*\* that does not require variance approval." That brings the proposed building entirely into compliance with the applicable transparency standard and therefore the Applicant withdraws, or in the alternative renders moot, the variance request. Those revised plans were prepared in direct response to concerns raised at the hearing. Accordingly, as discussed below, **the variance request should now be treated as withdrawn or, at minimum, moot.**<sup>1</sup>

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<sup>1</sup> The revised glazing does not alter the acoustical conclusions. Tenor (the acoustical engineer) expressly evaluated the sound transmission performance of the glass wall/façade panels proposed in lieu of CMU or metal panels on the south and west elevations that comply with the transparency standard, and concluded that they make no acoustical difference to the study results, because the primary sound paths are at the car wash tunnel entrance and exit rather

Second, also in response to concerns, Applicant added still further acoustical mitigation beyond the already redesigned tunnel exit and acoustic enclosure, which additional mitigation was expressly evaluated in Tenor’s April 1, 2026, report. Applicant now also proposes impact-resistant sound-absorptive wall panels within the modified tunnel extension, a treatment Tenor concluded would provide an additional approximately 3 dBA reduction in tunnel-exit noise and reduce car wash noise at the northeastern shopping-center businesses to within roughly 3 dBA of existing Highway 43 traffic noise—a barely noticeable difference.<sup>2</sup> Applicant is willing to accept a condition requiring installation of those sound-absorptive panels substantially as evaluated in the April 1, 2026 Tenor report, together with a follow-up noise evaluation approximately one year after commencement of operations to confirm continued compliance with applicable noise standards. Thus, the project now comes before the Commission with the window transparency issue resolved, the noise mitigation package materially enhanced, and Applicant willing to accept reasonable conditions ensuring that those additional acoustical protections are implemented and verified.

**I. “Adequate public facilities will be available ... [and] the development shall avoid further degradation of the affected transportation facility.” CDC 60.070(A)(4)**

The traffic evidence in this record supports approval. The Applicant submitted a stamped transportation impact analysis prepared by Michael Ard, P.E., dated February 12, 2026. Staff expressly found that the Ard submission satisfies the applicable code requirement for a traffic analysis and accepted its conclusion that approval of the proposed automated car wash “will not result in increases in traffic or degradation of operation of area roadways and intersections” compared either to the prior fast-food drive-through use or to other uses permitted outright in the GC zone. Staff further found that no mitigation is required.

That conclusion is supported by the numbers. Ard’s analysis projects 78 p.m. peak-hour trips and 96 Saturday peak-hour trips for the proposed car wash. By comparison, reoccupation of the former 3,948-square-foot fast-food restaurant with drive-through which is allowed now as of right, would generate 130 p.m. peak-hour trips and 218 Saturday peak-hour trips. The report also shows that a convenience store on the site, also allowed outright, would generate materially more trips than the proposed car wash. In other words, this proposal does not intensify traffic beyond what this site historically supported or what the code already allows outright in the zone.

The queuing evidence is equally strong. The code requires three reservoir spaces per washing unit and five spaces per entry driveway for attendant ticket dispensing. Staff correctly found that the proposal provides 90 feet of reservoir for the mechanical car wash where 45 feet is required, and 270 feet of reservoir for the two attendant booths where 150 feet is required. Staff therefore appropriately determined that the reservoir-area criteria met.

The site’s access pattern likewise supports approval. The property uses two existing access drives—one from Willamette Drive and one from Walling Way—and the northern

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than through those wall areas. That conclusion appears in Tenor’s March 25, 2026 report and is repeated in the April 1, 2026 report.

<sup>2</sup> This is entirely separate from, and not impacted by, the window treatments that enable the proposal to comply with the transparency standard and avoid the need for a variance.

Willamette access is already subject to a recorded shared-access easement with the shopping center to the north. Staff found the evidence demonstrated that the number of access points were minimized, that the spacing standards met, that the proposal would not cause backing into a public street, and found that no additional right-of-way or street improvements is required. Staff further found that the proposal preserves the existing pedestrian, bicycle, and transit context, including sidewalks, bike lane, bus stop, and the existing striped pedestrian connection to the north commercial center.

Moreover, in response to concerns raised at the hearing, Mr. Ard prepared a full Transportation Impact Analysis (TIA) dated March 25, 2026, and he responded to other issues raised by opponents in the second record period in his April 1, 2026, Response Memorandum. Read together, Mr. Ard's professional reports thoroughly answer the traffic objections in the record. The March 25, 2026, TIA includes actual 2026 traffic counts, future background growth analysis, Highway Capacity Manual operational analysis, crash analysis, and site access/circulation analysis. That study concludes that the affected roadways and intersections currently operate acceptably under City of West Linn and ODOT standards and are projected to continue to operate acceptably with or without the proposed car wash, that no operational mitigations are necessary, that queues entering the wash tunnel can be safely accommodated entirely onsite, that the proposal will not back traffic onto Highway 43, and that the proposal will not adversely affect operation of either Willamette Drive or Walling Way.

Ard's queuing analysis is equally clear. Ard's analysis used deliberately conservative high-demand assumptions—60 vehicles per hour and a 40-second service time—and even under that high-end scenario, the average entry queue is only 1.3 vehicles, and the 95th-percentile entry queue is only 7.4 vehicles. By contrast, the March 25, 2026 TIA confirms that the project site provides storage for approximately 19 vehicles before entry to the wash tunnel. Ard therefore concluded that the entry queue will remain entirely onsite, will not extend back to the driveway entrance, will not impede vehicles entering or exiting the Cedar Oaks Shopping Center, and will not affect operation of Willamette Drive or Walling Way.

Put differently, Mr. Ard's professional reports demonstrate that the site can safely accommodate the projected queue “without interfering with operation of the site access driveways or the adjacent public streets.” The April 1, 2026 Ard memorandum further explains that exit-queue concerns were also analyzed and that the projected 95th-percentile exiting queue from the site access onto Highway 43 is only 1 vehicle during the morning peak hour and 2 to 3 vehicles during the evening peak hour, which can easily be accommodated within the site without interfering with ingress.

The Hunsberger criticism of Walling Way also fails for several reasons. First, the assertion that Mr. Ard's statement that “very little traffic is expected to enter or exit the site via the shared access driveway on Walling Way” is merely speculative, is incorrect. Mr. Ard did not just guess. He specifically explained that during the morning peak hour, the average projected exit delays at the direct site access on Willamette Drive are shorter than those at Walling Way/Willamette Drive, so drivers would not be expected to divert behind the site to reach Highway 43. He further explained that during the evening peak hour, although the average projected exiting delay at the site access is 8.2 seconds greater than at Walling Way/Willamette

Drive, the extra travel distance and travel time associated with going behind the car wash and out to Walling Way exceeds that difference, meaning that drivers choosing Walling Way would subject themselves to longer travel distances and longer travel times. That is why Mr. Ard concluded that very little Kaady traffic is expected to use the Walling Way driveway. That conclusion was based on travel path and travel time, not speculation.

Second, the Hunsberger/Starbucks theory improperly attributes Starbucks traffic to Kaady. If a driver leaves the shopping center and then chooses to queue for Starbucks, that driver is a Starbucks customer at that point, not a Kaady customer. Likewise, the eastbound queueing issue on Walling Way is an existing Starbucks condition, not a Kaady-created condition. Mr. Ard expressly acknowledged that eastbound queues entering the existing Starbucks drive-through have, at times, extended along Walling Way to Highway 43. But he also explained that this does not create a significant safety or operational hazard for the Kaady site. Kaady customers entering the site are expected to use the direct Willamette Drive / Highway 43 driveway, which remains the easiest and best access point to the site and is unobstructed by the Starbucks queue.

Third, even for the comparatively few vehicles that might use the Walling Way access, Mr. Ard explained why the Starbucks queue still does not create a material problem. Vehicles turning right from the site onto Walling Way westbound toward Highway 43 are not obstructed by eastbound Starbucks queues at all. As to any vehicle turning left onto Walling Way eastbound, Mr. Ard explained that the shared driveway on the north side of Walling Way is only about 50 feet west of the point where the Starbucks queue ends; that drivers have sufficient sight lines to see oncoming westbound traffic before exiting; and, that, even with the Starbucks queue present on the south side of the street, the existing 36-foot paved cross-section still leaves enough width to accommodate a through lane in each direction and to navigate that 50-foot segment safely and efficiently. Mr. Ard therefore concluded: “there are no significant safety or operational hazards associated with the Starbucks queues.”

Fourth, Mr. Ard’s recommendation about on-street parking on Walling Way has been mischaracterized by opponents. Ard did not recommend that Kaady be required to restrict parking because Kaady somehow needs that restriction. To the contrary, Ard specifically concluded that no additional access or circulation mitigation is recommended for the proposed development. His actual recommendation was narrower and expressly framed as a recommended City policy choice that would be appropriate with or without the proposed car wash facility:

“The City of West Linn may, however, want to consider prohibiting parking along both side of the segment of Walling Way between Highway 43 and the Starbucks entrance driveway in order to ensure than vehicles parked on the street do not narrow the effective road width to less than what is needed to accommodate Starbucks queues and two effective travel lanes. This potential parking restriction would be appropriate either with or without operation of the proposed automated car wash facility.”

That recommendation identifies a possible preexisting Walling Way / Starbucks condition for the City to consider; it is not a finding that Kaady causes, worsens, or depends on such a restriction.

Finally, the City's own Staff Report supports the conclusion that approval is warranted. Staff found that the applicant submitted a traffic impact analysis prepared by Michael Ard, P.E.; found that the proposal includes access from both Willamette Drive and Walling Way; found that neither ODOT nor the City requires closure of either access<sup>3</sup>; and found that the access criteria are met. Staff also found, in the transportation chapter, that the Transportation Impact Analysis shows a decrease in vehicle trips from the prior fast-food drive-through use and that no additional street improvements are required.

Accordingly, the traffic record shows three things clearly: first, the proposed car wash generates less traffic than the prior drive-through restaurant and less than other outright-permitted commercial uses; second, both entry and exit queues can be safely accommodated onsite without degrading Highway 43, Walling Way, or shopping-center access; and third, any occasional eastbound queuing on Walling Way is a Starbucks issue, not a Kaady issue, and in any event does not create a significant safety or operational hazard for the proposed use. The traffic criterion is therefore met.

Opponents argue from speculation about worst-case turning movements and generalized fears of congestion. But the Planning Commission is aware that it must decide this application on evidence, not conjecture. The only professional traffic analysis in the record concludes that the proposal will not degrade traffic operations and that no additional travel-demand, circulation, or queue mitigation measures are necessary. Respectfully, nothing undermines those conclusions. The Staff Report adopts those conclusions. On this record, the traffic criterion is met.

**II. “Businesses or activities that can reasonably be expected to generate noise ... shall undertake and submit appropriate noise studies and mitigate as necessary to comply with the code.” CDC 55.100(D)(4)**

Noise received substantial attention in this proceeding, and Applicant addressed it exactly as the code requires: through professional study, redesign, and additional mitigation. The question is not whether some opponent dislikes the concept of a car wash, nor whether sound might be faintly perceptible at a single point on the eastern sidewalk of the shopping center. The question is whether the proposal complies with West Linn's applicable noise standards and the relevant state-law benchmarks. The record shows that it does.

Under CDC 55.100(D)(4), the inquiry is whether the proposal may generate noise in excess of West Linn's standards and, if so, whether appropriate noise studies and mitigation have been undertaken as required by the City code. West Linn Municipal Code 5.487 does not prohibit every audible sound. It prohibits only sound that is “unreasonably loud, disturbing, or raucous,” judged from the standpoint of an average reasonable person with ordinary sensibilities, taking into account proximity to sleeping facilities, the land use and zoning context, the time of day, the duration of the sound, and whether the sound is recurrent, intermittent, or constant. That local standard is properly evaluated alongside the objective state-law framework under OAR

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<sup>3</sup> The Walling Way access cannot be closed in any event because the undisputed evidence in the record shows that all of the commercial center users have a recorded easement right to use the Walling Way access and the record establishes that the Walling Way access is necessary for the commercial center's use regardless of who occupies the subject site - for garbage truck and emergency vehicle access.

340-035, including both the DEQ baseline limits at noise-sensitive property and the ambient antidegradation rule, which prohibits increasing ambient noise by more than 10 dBA in any one hour. Thus, the legal issue is not whether the proposal makes any sound at all, but whether it satisfies the City's reasonableness standard, meets the DEQ residential benchmark, and avoids a prohibited increase above ambient conditions

The record shows that the proposal meets each of those standards. The April 1, 2026, Tenor report evaluates the project under both WLMC 5.487 and OAR 340-035-0035 as a new industrial or commercial noise source on a previously used commercial site. Tenor's Executive Summary concludes that predicted noise from the proposed facility will meet the West Linn noise ordinance at all sensitive receptors; will meet the DEQ daytime and nighttime L50 limits at all residential receivers; will be "barely or not perceptible" to residential neighbors; and will not be perceptible through the storefront windows and doors of the nearest businesses to the north, with only slightly perceptible sound above traffic noise at the sidewalk outside the easternmost businesses nearest Highway 43.

The evaluation of the ambient-noise evidence makes two distinct and important points. First, the shopping center to the north already experiences very high ambient daytime sound levels from Highway 43 traffic, with the highest daytime ambient sound at those businesses nearest Highway 43 reaching 75 dB and their nighttime ambient sound is 64 dB. Second, the residential area experiences elevated existing ambient noise levels also from Highway 43 traffic: Tenor measured hourly average ambient sound levels ranging from 56 to 62 dBA at the site's eastern edge adjacent to the residential area. Properly understood, then, the record shows that both the shopping center and the nearby residences already exist in a traffic-dominated high-noise environment created principally by Highway 43. That context matters. This is not a quiet residential enclave, into which a new industrial noise source is being inserted; it is an already noisy commercial corridor where traffic is the dominant acoustic condition. The proposed facility will operate only from 8:00 a.m. to 8:00 p.m., which is entirely within permissible daytime hours, making the relevant DEQ comparison is the daytime standard.

Most importantly, the proposal complies because Applicant did not simply submit a study and rest there. Applicant mitigated. And it mitigated in effective layers.

First, Tenor identified the principal acoustical concern in the original Kaady car wash layout: the west-facing tunnel-exit condition and its potential impact toward the residences up the hill to the west. In direct response, the project was redesigned to include a modified tunnel exit—an enclosed extension/turn at the west end of the car wash tunnel—which materially changes the sound path and reduces the westward noise effect. Tenor explains that this noise-control plan was specifically engineered to reduce impacts and to meet the applicable DEQ standards. With that modified tunnel exit in place, Tenor determined that noise at the western residences will be less than 55 dBA, thereby meeting the DEQ L50 residential limit, and will be equal to or less than existing traffic noise. Tenor likewise predicts that the nearest commercial properties across the street, will remain at or below traffic noise levels, and that noise at commercial properties north of the site will range from not perceptible inside those businesses to only somewhat perceptible on the shopping center's eastern sidewalk, relative to existing traffic noise.

Second, after listening to the noise concerns at the public hearing, Applicant pursued additional mitigation beyond the tunnel redesign itself. The April 1, 2026 Tenor report evaluated a “Redesigned Tunnel Enhancement,” which is shown on updated plans provided by architect Eric Li, consisting of impact-resistant sound-absorptive panels applied to 50% of the tunnel walls. Those panels will be placed as Tenor specifically recommends and a condition of approval to this effect is welcomed (although unnecessary because Applicant will and must develop consistently with such approved plan to which it has committed itself) Specifically, the panels are perforated metal facing panels with a 2-inch absorptive core on the left-hand wall area between 2'-0" and 7'-0", using products such as Price Industries AP, Kinetics KNP, Eckel EFP, Noise Barriers Industrial QuietPerf, or an approved equivalent. Tenor concluded that these sound-absorptive treatments would reduce tunnel-exit noise by approximately 3 dBA. That is significant. Tenor states that this additional reduction benefits the eastern businesses in the north commercial property by bringing car wash noise to within 3 dBA of existing traffic noise, which Tenor characterizes as a barely noticeable difference from the existing ambient noise levels.

Third, the April 1, 2026, Tenor report confirms that the overall mitigation package works. Figure 13 and the report’s conclusion state that, with the modified tunnel and the absorptive-panel treatment, the proposal will meet the noise ordinance and “not be a noise impact in comparison to Willamette Drive / Highway 43 at this site.” Tenor further concludes that at no property will the noise increase by more than 3 dBA in comparison to ambient noise conditions, which is far below the DEQ threshold of 10 dBA in any one hour. That is not marginal compliance. It is compliance with substantial headroom.

Fourth, Tenor did not evaluate this proposal in the abstract or on a simplified flat-site assumption. The April 1, 2026, report expressly states that the model predicting sound to adjacent properties “considers the varying CMU height and topography.” Tenor explains that the site sits on a topographic bench and that the CMU wall’s acoustical performance was evaluated based on its varying height along the property line together with the topography of the site and adjoining properties, with the wall modeled at 6 feet from the proposed tunnel to the north and 4 feet where it aligns with the sloping topography to the south. Tenor then explains that the CMU wall and topography together provide the primary noise reduction to the residential neighbors by blocking direct line-of-sight and creating an acoustic shadow behind the wall.

That geometry is critical. Tenor states that the eastern residences are terraced significantly below the commercial grade, with rooftops and backyards well below the parking-lot elevation. In practical terms, that means any sound energy not blocked by the wall reaches the residences to the east only as diffracted, elevated sound over the barrier geometry—not as direct sound transmission into the neighboring homes at building level, and effectively above the roofline of those lower residences. Just as important, Tenor did not rely on the existing vegetation for compliance; rather, Tenor expressly declined to credit vegetation for meaningful sound reduction because of its limited thickness. Thus, the record shows that compliance on the east side is achieved by the modeled wall-and-slope condition itself. That is why Tenor concluded that the CMU wall and topography provide the primary noise reduction to the

residential neighbors and why the predicted sound levels at those homes remain below 55 dBA and are not perceptible at any residential building or within a residence with the windows open.

There can be no reasonable dispute that Tenor's conclusions were reached only after expressly incorporating the actual terrain, wall geometry, and physical site conditions that opponents mistakenly claim were ignored and is based upon a thoughtful and well-reasoned professional analysis.

Fifth, the mitigation results are not limited to one side of the property. Tenor's April 1, 2026 report predicts that the nearest residences to the east, northeast, and southeast will be less than 55 dBA, meeting the DEQ L50 standard, with car wash operations at most being barely perceptible in the farthest west portions of some yards and not perceptible at any residential building or within a residence with the windows open.

Tenor likewise predicts that western uphill residences will be less than 55 dBA and equal to or less than existing traffic noise. For the north commercial property, the report predicts that the western portion of the strip mall and all properties across a roadway will be not perceptible relative to traffic noise, and that only the eastern portion of the strip mall may be somewhat perceptible relative to traffic noise—an effect the added absorptive panels further reduce to within 3 dBA of traffic noise.

Plainly, the mitigation here is not one-dimensional. It is layered and comprehensive: the project was professionally studied; the tunnel exit was redesigned and enclosed to significantly mitigate sound; additional sound-absorptive treatments were also added inside that redesigned tunnel extension; and the entire system was modeled using the actual wall height variation, site topography, and the traffic-dominated ambient environment. The end result, according to the only expert acoustical evidence in the record, is a facility that easily complies with West Linn's noise ordinance, complies with DEQ residential noise limits, and increases ambient noise by no more than 3 dBA at a small part of the north commercial center's exterior sidewalk to the east, which is only somewhat perceptible—well below the 10 dBA antidegradation ceiling. Respectfully, it simply cannot be unreasonable noise under the City's noise ordinance where the proposal produces sound that is wholly consistent with DEQ standards and that is only “somewhat perceptible” at a part of a commercial center's sidewalk.

Respectfully, this record leaves no reasonable basis to deny the application on noise grounds. The project was evaluated under the correct legal standards, redesigned in response to legitimate concerns, and then further improved through added acoustic treatments. The resulting evidence demonstrates compliance, substantial mitigation, and minimal perceptible effect in an already traffic noise-dominated corridor. Under those circumstances, the noise criterion is met.

**III. “The granting of the proposal will produce a facility that provides an overall benefit to the City.” CDC 60.070(A)(3)**

Staff properly found that the proposal meets this standard. The record demonstrates that the “overall benefit” criterion is satisfied for several independent reasons.

First, the proposal is expressly allowed in the GC zone subject to a conditional use permit. The Planning Commission has recently treated code-listed outright and conditional uses as uses that necessarily meet this standard because the City has already determined them to be acceptable and beneficial in the zone by listing them as permitted and conditional uses. *See* Applicant's April 1, Exhibit 1, p 3. There is no reason not to apply that interpretation here.

Second, the project replaces a long-vacant, deteriorating, vandalized and problematic former McDonald's building with a new, active, well-maintained business. The record includes police-related materials and corroborating communications reflecting repeated concern about suspicious activity, premises checks, vandalism, and loitering associated with the vacant site. March 25, 2026, Applicant Exhibit 1, (vandalism), p 2 (police vandalism call, building had graffiti and broken windows, property manager reported "property had been vandalized many times"), 14, 15 (suspicious activity). It also includes communications relayed by Terry Ward that the former Backyard Burger franchise owner wanted the site occupied by another business like Kaady as soon as possible because he had repeatedly reported "drug activity"/"suspicious drug activity" to the police in the McDonald's parking lot. Applicant's April 1, 2026, Exhibit 7. The Commission need not rely on rhetoric to see the point: reoccupying and redeveloping this abandoned site is a substantial practical benefit to the corridor and surrounding businesses and area.

Third, Kaady is not a speculative operator. The record reflects that Kaady has operated car washes in Oregon since 1976, now operates multiple facilities, and uses enclosed, modern technology that improves wash process, employs a highly specialized and effective independent was liquid and materials facility, modern noise control, and water efficiency. Chuck Kaady's declaration explains that the proposed car wash process is enclosed; that the right-turn exit and acoustic enclosure contains spray and mitigates noise; that stormwater and car wash water are handled in separate systems; and that Kaady's wash process uses substantially less water than many home-washing practices. Just as important, the record demonstrates that Mr. Kaady has been recognized as an environmental leader in his industry - Kaady Car Wash received the Oregon Environmental Stewardship Award for pollution prevention and is the only car wash in Oregon to receive that recognition. That award is significant evidence of the Applicant's longstanding commitment to pollution prevention and environmental responsibility, and it reinforces the credibility of Kaady's representations regarding water quality, operational controls, and stewardship here.

Fourth, "overall benefit" does not codify a market-demand test. There is no code standard requiring the Applicant to prove that no other car wash exists nearby, that the City "needs" another car wash, or that no competitor may be affected by the proposed car wash. Oregon law bars denial based on uncodified standards. ORS 227.175. Moreover, as the Planning Commission knows, the City may not use its land-use power as a device to suppress competition and opponents' call for economic favoritism to masquerade as a proxy for land-use regulation is a call for legal error. In this regard, the federal Sherman Act prohibits contracts, combinations, and conspiracies in restraint of trade. Obviously interpreting a local rule or imposing a permit condition to seek to protect a particular nearby car wash from competition cannot fairly be said to regulate land-use impacts; but rather seeks to allocate the market, excludes rivals, and protect an incumbent from entry. That is the kind of competitive foreclosure the antitrust laws were

enacted to prevent. Further, opponent objections that another use might be more desirable, or that some residents would prefer a restaurant, are policy preferences, not approval criteria and cannot lead to denial.

In short, the criterion asks whether this proposal, on this site, provides an overall benefit to the City. Redeveloping a long, chronically vacant, troubled commercial drive-through parcel with a code-listed, locally operated business that satisfies the operative development standards plainly does so. It is respectfully submitted that the evidence demonstrates that this standard is met.

**IV. The site size and dimensions provide ... [a]dequate area for the needs of the proposed use” and “adequate area for aesthetic design treatment to mitigate any possible adverse effect.” CDC 60.070(A)(1). “The characteristics of the site are suitable for the proposed use ...” CDC 60.070(A)(2)**

The site adequacy and site-suitability criteria are met. The proposal is not one to insert an auto-oriented use into a residential district. It is a proposal to redevelop an existing commercial drive-through site in the General Commercial zone, in an existing commercial center, surrounded on the north, west, and south by other GC-zoned commercial properties. Staff found the site suitable for the proposed commercial use and specifically noted that the proposed car wash will replace a former fast-food restaurant with drive-through service.

The site also provides substantial physical separation and buffering. Staff correctly found the proposal includes approximately 71 feet of south buffer, 54 feet of west buffer, 53 feet of north buffer, and 113 feet of east buffer to the property lines. Staff also correctly found that the existing street trees and landscaping along Willamette Drive and Walling Way will be retained, as will the cedar trees behind the masonry wall on the east side, and that the east-side landscape area is approximately 50 feet wide as a buffer to residential property. Those are not trivial features. They are part of the evidentiary calculus that led staff to repeatedly conclude the criteria are met.

Staff’s design-review findings are similarly favorable. Staff agreed with the applicant’s findings that the building is consistent in scale and character with surrounding commercial development and there really is no evidence otherwise. Staff properly found that drive-through commercial activity already has abundant precedents along Willamette Drive. Staff found that the site itself historically supported a McDonald’s drive-through; that there are no public building entrances because the facility is a drive-through use; and that the rooftop mechanical equipment is screened. Staff also correctly found the proposal includes buffering and screening for the waste enclosure and vacuum equipment, shielded lighting, and landscaping sufficient to demarcate public and private areas and support crime prevention.

Chapter 60 allows the Commission to impose conditions to ensure compatibility and staff proposed those. The recommended conditions require compliance with engineering standards, pruning in clear-vision areas, completion of parking and reservoir areas, ADA compliance, bicycle signage and lighting, EV conduit, fire-flow confirmation, covered and screened waste enclosure improvements, DEQ confirmation regarding hazardous waste if any exists onsite, landscaping around the waste area, and a litter receptacle and, if the Planning Commission

wishes, a requirement for noise review in a year. This is not a record of unresolved incompatibility. It is a record of a project that has worked hard to comply with all City standards and that City Staff have evaluated and concluded the proposal should be approved with appropriate conditions.

**IV. “The use will comply with the applicable policies of the Comprehensive Plan.”  
CDC 60.070(A)(7)**

The opposition’s most aggressive legal argument is that the Robinwood Neighborhood Plan operates as a self-executing code that independently bars this proposal. But that is not a correct reading of the Robinwood Plan. In the undersigned’s April 1, 2026, letter, the issue of Robinwood and Comprehensive Plan compliance was thoroughly addressed. That response is incorporated herein for brevity. We here reinforce only a few points.

The Comprehensive Plan itself states:

“Until the City adopts new code provisions consistent with adopted neighborhood plans, the City shall apply appropriate development standards consistent with the existing Community Development Code.”

That language is express and matters. It means site-specific approval of a particular development proposal proceeds under the adopted CDC unless and until implementing code provisions to implement neighborhood plans are adopted.

The structure of the Robinwood Neighborhood Plan supports that reading of the plan and shows that the Robinwood Neighborhood Plan is not intended to serve as an independent approval standard for quasi-judicial development applications like this one.

The Robinwood Neighborhood Plan’s vision statement is expressly aspirational. Its policies supplement the Comprehensive Plan. Its action measures are expressly nonbinding recommendations and repeatedly call for later implementation if the City chooses to implement, through CDC amendments, zoning amendments, design manuals, transportation work, ODOT coordination, and other legislative or programmatic actions. That structure defeats the opposition’s effort to turn every Robinwood policy statement into an immediate permit-denial standard. In fact, LUBA has held that similarly structured comprehensive plans are implemented as they say and are not independent approval standards for individual development applications. *See Murphey v. City of Ashland*, 19 Or LUBA 182 (1990), *Benjamin v. City of Ashland*, 20 Or LUBA 265 (1990).

Just as important, the Robinwood Plan does not identify car washes as prohibited uses. Instead, Robinwood Policy 2.5 contemplates future CDC amendments to prohibit certain “inappropriate automotive sales, repair, and storage uses,” along with certain industrial and warehousing uses, but *does not list automotive cleaning or car washes*. The existing CDC, by contrast, expressly defines “automotive and equipment, cleaning” to include “auto laundries or car washes” uses that are expressly allowed as conditional uses in the GC zone. That is the adopted law the Commission must apply.

The proposal also complies with the applicable City comprehensive plan’s policies as they are properly understood. The proposal redevelops a long-vacant commercial parcel within the corridor in a developed commercial center; it does so under existing general commercial zoning; it retains and supplements buffering; it preserves existing sidewalks, bike lane, transit access, and pedestrian connections; it addresses traffic using professional traffic analysis; it addresses noise using professional acoustical analysis and redesign; and it addresses natural-resource concerns through the City’s applicable, adopted WRA and stormwater framework. The Staff Report expressly found all applicable Comprehensive Plan provisions to be met.

To be clear, the Planning Commission is not being asked to say the Robinwood Neighborhood Plan does not matter. It is being asked to apply it properly in the manner the City’s planning framework requires. Properly read, the Robinwood Plan is relevant only as supplemental policy context within the existing Comprehensive Plan and Community Development Code framework, and as evidence of the kinds of future code changes, overlays, design tools, and review processes the City may later adopt. But unless and until its terms are implemented by corresponding code amendments, it is not a separate, self-executing body of permit standards that overrides the current CDC or creates uncodified prohibitions the Commission may enforce ad hoc.

The Robinwood Plan repeatedly shows that its intended implementation mechanism is future legislative and regulatory action. Its Action Measures call for such things as CDC amendments, zoning map amendments, a Robinwood Main Street design review manual, and use of the development review process. A good illustration is Robinwood Policy 2.5. That policy states that only commercial uses “compatible with the main street concept” should be allowed. But the accompanying Action Measure does not say that any uses the CDC allows to be approved as permitted or conditions uses are already prohibited today. Instead, the Robinwood Plan expressly directs that the City should adopt Community Development Code amendments to prohibit certain uses in the future—specifically “inappropriate automotive sales, repair, and storage uses,” (notably, not contemplating prohibition of car washes), along with other listed uses. That is a classic indication that the Robinwood Plan contemplates a future legislative step before any categorical prohibition would exist in enforceable code.

In other words, the Robinwood Plan tells the City: here are the policies, and here is how they should later be translated into code, design standards, or projects. Until those later steps occur, the Comprehensive Plan itself expressly directs the City to review permit applications under the existing CDC criteria. The Robinwood Plan therefore provides policy guidance to the City, but it does not create a hidden, parallel code that forbids a conditional use that the City has expressly chosen to allow in the GC zone

**V. The variance issue: “The main front elevation \*\*\* shall provide at least 60 percent windows or transparency \*\*\* [and] [o]ne side elevation shall provide at least 30 percent transparency.” CDC 55.100(B)(6)(e)**

The variance issue has been removed from this case and no longer impedes approval. This is because the March 25, 2026, submitted revised glazing plans provide a code-compliant path forward. The March 25, 2026, alternative glazing submission states on its face that it was prepared “to provide a straightforward alternative path to approval \*\*\* that does not require

variance approval.” It quotes the applicable transparency standard and explains that the redesign uses the acoustic exit enclosure to create the required transparency on the main elevation and modifies the Walling Way elevation to provide the necessary side-elevation glazing.

More specifically, the submission explains that the acoustic exit enclosure created the opportunity to provide the windows necessary to meet the 60% linear requirement on the main Willamette Drive-facing elevation, and that the Walling Way-facing south elevation was modified to fully glaze the employee areas, bringing that side elevation to 35%.<sup>4</sup> The submission expressly states that these changes bring the building into compliance with CDC 55.100(B)(6)(e) and thus provide an approval path that does not require a variance.

Accordingly, Applicant respectfully withdraws the Class II Variance request. The Planning Commission can and should approve the project on the basis of the revised glazing plans, rendering the variance unnecessary. At a minimum, the variance request should be deemed moot because the operative transparency standard is now met.

**VI. “All proposed storm detention and treatment facilities must comply with the standards ... and there will be no adverse off-site impacts caused by the development.” CDC 55.100(I)(3)**

The stormwater and environmental record supports approval. Starting with what the City code requires, Staff Finding 145 properly concludes that the Froelich stormwater report provides sufficient factual data and that, “[b]ased on the requirements of the City of West Linn, all facilities and conveyance components have enough capacity to manage the runoff from the required storm event and should be approved as designed.” That finding alone is significant and dispositive. It means the City’s professional review concluded the submittal satisfies the City’s applicable stormwater standard.

The project’s hydrologic design is substantial. The original stormwater report states that runoff from the site will be collected through trench drains, roof drains, and a catch basin, then conveyed through a water-quality manhole into a buried detention structure and tied back into the existing stormwater outfall location. The report calculates post-development peak flow controls matching or improving on predevelopment values for the 2-year, 10-year, and 25-year storms, and identifies a 96-inch-diameter water-quality manhole with nine 18-inch StormFilters and a 60-chamber ADS SC-800 detention system.

Since the hearing in response to concerns, the Applicant went further. At the Applicant’s instruction, Froelich identified an enhanced treatment approach that exceeds the City code’s minimum. The supplemental report explains that while the West Linn manual requires only basic treatment, the project will use a Filterra Bioretention System for stormwater. Froelich explains that Filterra is included on the City of Portland’s approved list of proprietary stormwater

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<sup>4</sup> As explained above and in the Tenor acoustical reports, this change has no impact on the proposal’s compliance with noise standards.

treatment technologies<sup>5</sup> and that the Washington State Department of Ecology<sup>6</sup> has favorably evaluated the technology under its TAPE/GULD program for metals treatment. The Froelich report further explains that although Washington Ecology has approved operation at hydraulic loading rates up to approximately 324 inches per hour, this project is designed at the more conservative rate of 100 inches per hour<sup>7</sup>.

The updated Filterra approval materials in the record confirm the “latest info” on that treatment system. The Washington Ecology General Use Level Designation reflects updated findings through April 2025 and authorizes Basic, Metals, and other treatment at 324 inches per hour for applicable Filterra systems. The City of Portland approval materials likewise confirm that Filterra meets Portland pollution-reduction requirements and is approved for use there.

The pollutant-removal performance cited by Froelich is also strong: roughly 87% median removal for total suspended solids, about 80% for total phosphorus, about 34% for total nitrogen, about 79% for total copper, about 56% for dissolved copper, about 70% for total zinc, about 66% for dissolved zinc, and about 87% for hydrocarbons. Those are not generic assurances. They are measured treatment metrics cited by the project engineer in direct response to the Commission’s concerns.

Opponents blur together two different water collection and treatment systems that the record keeps separate because they are separate, and then asks the Commission to bridge that gap with speculation. Their theory is that spray, mist, or residual wash water will somehow leave the enclosed wash process area, reach the parking lot, go through two stormwater quality systems and enter the storm system, and ultimately Fern Creek. But that chain of events is not supported by the evidence. It is only asserted. The actual record evidence goes the other way. Opponents’ own framing is expressly speculative, positing “wind-driven drift” and “routine operational carryover” as possibilities, not plausible circumstances associated with this proposal.

The record demonstrates that the car wash process-water system is separate from the stormwater system, and that distinction is central. Mr. Kaady explains in his sworn declaration that the wash process occurs inside the building, with the active cleaning process beginning approximately 15 feet inside the structure, continuing through the wash sequence inside the building, and then the rinsed vehicle enters the 41-foot acoustical exit enclosure before a vehicle

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<sup>5</sup> The City of West Linn Stormwater Management Manual specifies that City of Portland listed proprietary treatment devices are ones that the City of West Linn recognizes. City of West Linn Stormwater Management Manual, 3-24, and see Appendix B, at B-4 (values for “green practices come from Portland’s Stormwater Management Manual.”)

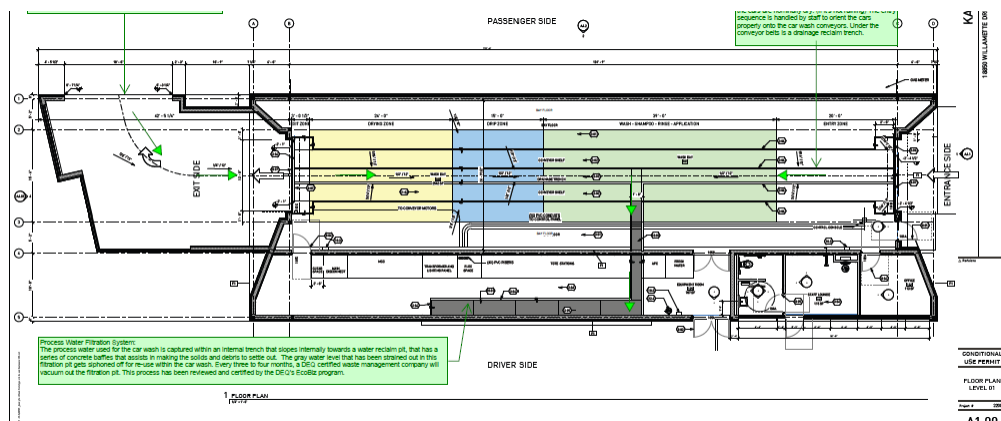
<sup>6</sup> Which is a recognized “gold standard” for stormwater systems. See City of Portland Stormwater Manual: “The applicant’s device must have a current general use level designation (GULD) for basic treatment under the WA DOE Technology Assessment Protocol-Ecology (TAPE) program. Information about the TAPE field-testing protocol is provided on the WA DOE TAPE program website. BES will accept an application for review no sooner than 2 years after the date of the WA DOE GULD approval to ensure applicants successfully meet the application requirements.”

<sup>7</sup> Froelich’s March 25, 2026 supplemental report also explains that the car wash is not subject to DEQ’s 1200-Z Industrial Stormwater Permit because car wash SIC codes are not among the regulated industrial activities, and that this interpretation was confirmed with DEQ. The supplemental materials also explain that the project is not subject to 1200-C permitting because the disturbed area is less than one acre.

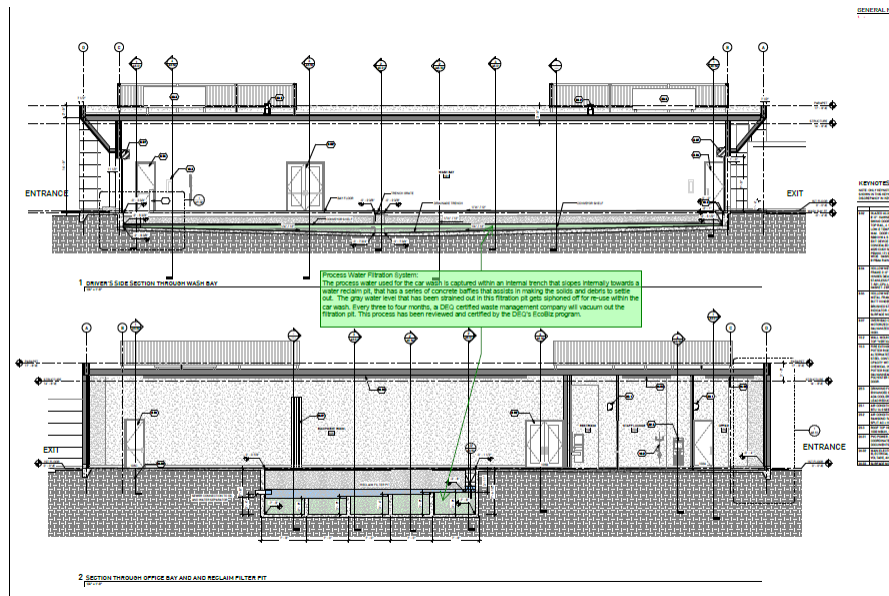
reaching the open drive aisle. He further explains that all wash operations, including washing, rinsing and drying, occur inside the building; that the proposed facility does not use employee-deployed manual prep guns to spray vehicles; and that the acoustic exit enclosure acts as a windbreak that prevent drafts from causing spray to leave the wash building. On that basis, he states there is no plausible likelihood that car wash spray would be emitted outside during normal operations. That is direct, affirmative record evidence.

That evidence is reinforced by real-world observation at a reasonably comparable Kaady facility except that Burnside does not have the additional the 41-foot acoustical exist enclosure. In his March 25, 2026 Burnside observations letter, Eric Li specifically reported that he observed no evidence of spray at the entrance, no evidence of car wash spray outside of the tunnel, and likewise no evidence of car wash spray at the exit; what he observed at the exit were only wet tire marks coming out of the tunnel.<sup>8</sup> That does not prove that no droplet could never escape under any conceivable condition, but it directly refutes the opponents’ attempt to treat external overspray as some ordinary or inevitable operational reality. The only actual observation with a reasonably comparable facility in the record is consistent with Applicant’s evidence that the wash process is contained.

The process-water system itself is also not some loose or informal arrangement. As described in the record, the wash-process system is designed to capture the car wash liquids and solids generated by operations, reclaim some water for reuse, dispose of the remaining liquids into the sanitary sewer system, and periodically remove solids for proper off-site disposal. Mr. Kaady explains that the wash system and stormwater system are “entirely separate systems,” that wash water is not the same as stormwater, and that the wash process releases liquids into a closed exclusively carwash collection system. In other words, the liquids generated by the car wash process are routed to a specialized internal management system, not to the exterior stormwater facilities. This is reinforced and illustrated in the April 1 TVA letter. See first two attached diagrams to the April 1, 2026 TVA Kaady Car Wash Supplement:



<sup>8</sup> He also explained that there was no malodor outside of the Burnside Kaady Car Wash tunnel.



By contrast, the stormwater system handles exterior runoff only from the parking lot and roof. Froelich explains that the proposed project collects roof and pavement runoff through downspouts, catch basins, and trench drains, and states unequivocally: “All wash water generated by the car wash operations are collected internal to the building and discharged to the sanitary sewer system. No wash water is connected to or discharged into the stormwater system.”

Froelich further explains that exterior runoff then receives first-pass hydrocarbon separation through snouted structures, treatment in the proposed Filterra vault to enhanced DOE GULD standards, detention in a lined underground facility that prevents infiltration into soil, and then routing through the existing shopping-center stormwater treatment and detention system before discharge to the public storm system.

That matters because even if the Commission were to assume that some minute amount of diluted wash process related moisture or wash process related tire carry-out might reach exterior pavement after a vehicle exits the tunnel, that would still not convert the wash-process system into the stormwater system. Even assuming some minute amount of product drips to the parking lot after the rinse, blower, and 41-foot acoustical exit, that liquid would already be highly diluted, and it would then be subject to the proposed enhanced stormwater treatment system and then even after that would go to the existing downstream treatment system before ever reaching the City’s stormwater infrastructure. That is a far cry from opponents’ repeated suggestion that wash-process liquids are simply entering Fern Creek.

And the proposed stormwater treatment is not minimal. Froelich explains that the project will exceed the City’s basic treatment requirements by implementing the Filterra Bioretention System, a proprietary treatment technology approved by both the Washington Department of Ecology and the City of Portland, with published metals-treatment capability and strong pollutant-removal performance for suspended solids, phosphorus, copper, zinc, and hydrocarbons. Froelich further states that providing this enhanced metals treatment is voluntary

and was selected specifically to improve water-quality performance beyond the code minimum and address community concerns.

Finally, the broader environmental logic also cuts against the opponents' theory. Mr. Kaady explains that vehicles arrive at a car wash carrying road contaminants such as brake dust, oil residue, grease, and other pollutants that would otherwise be washed off onto driveways and streets during home washing and can then reach rivers and streams. Here, by contrast, the proposed commercial system is designed to capture, contain, treat, reuse, separate, and properly dispose of those materials. So even on the environmental question, the record does not show a facility that casually releases wash chemicals into the storm system. It shows the opposite: a contained commercial washing system paired with a separate and enhanced stormwater treatment system

That separation is central, and it directly undercuts the claim that wash-process liquids are simply entering Fern Creek.

The record also addresses PFAS. Applicant submitted a PFAS certification dated April 1, 2026, certifying that none of the Chemical Compounding Company products and none of the Kaady Chemical Corporation products contain per- and polyfluoroalkyl substances. The proposed Kaady car wash does not and will not use PFAS-containing products.

As to the Water Resource Area (WRA) arguments, Staff Finding 17 is clear: although the City's WRA mapping shows a significant riparian corridor associated with Fern Creek on the property, Fern Creek is piped across the site, and all proposed development is located within a right angle of that piped segment. Staff therefore correctly determined that the proposal is exempt from obtaining a Chapter 32 permit under the express terms of CDC 32.040(F)(2). Further, CDC Chapter 28 does not apply because the property is not within the mapped Willamette/Tualatin overlay zone to which it applies, the limits of which is in the record.

In short, the environmental record does not show an unaddressed stormwater problem. It shows (1) staff approval of the stormwater report, (2) a separate process-water and sanitary-sewer system for wash water, (3) an enhanced stormwater treatment design using Filterra beyond the minimum code requirement, (4) DEQ-confirmed nonapplicability of 1200-Z and 1200-C permits, and (5) a PFAS-free certification. That is more than enough to satisfy the applicable stormwater and environmental criteria.

## **VII. Claims about Unanimous Opposition**

As the Planning Commission knows and, as its chair stated at the beginning of the hearing, whether people show up and oppose or support a proposal is not relevant to any approval standard, and is entirely irrelevant to approval or denial of a proposal. Nonetheless, this emotional argument appears repeatedly in the opponent submittals, nonetheless.

Two comments in response are therefore provided for some context.

First, the record does not show unanimous opposition. It shows active opposition from some residents and businesses, but it also contains affirmative support for the proposal, and it is important to keep in mind that not everyone with an opinion voices it. For example:

Dear City Planner,

I see a lot of negative comments online regarding the proposed car wash. I am not part of that group. I believe the old McDonalds on the present site has been closed approximately 10 years. I used to support Kaady when they were at Hidden Springs and Willamette, however I believe the landlord forced them out of business. Kaady is a quality company and a better use of the property than an abandoned McDonalds.

Thank you,

Mark Cooper  
20650 Willamette Drive

Also, Meláni Studios, located in the shopping center across from the vacant McDonald's site, submitted a letter supporting redevelopment of the site into a car wash because the area has experienced loitering and occasional property damage and because a well-maintained business could improve the environment and safety for neighboring businesses and the community.

The record also contains evidence that another wanted the site occupied by another business - Terry Ward relayed that the former Backyard Burger franchise owner wanted the McDonald's site occupied as soon as possible because of repeated vandalism and undesirable activity in the parking lot.

Second, the Planning Commission also should not equate nonparticipation with opposition. Most community members do not attend land use hearings or submit written testimony in quasi-judicial land use cases. The record therefore does not support the suggestion that there is uniform opposition, or that silence should count as evidence of opposition. The fair conclusion is narrower and more accurate: there is opposition, but there is also support, and the record is not one of unanimous community rejection.

#### **IX. Former Employee<sup>9</sup> Anecdotes About Operations Do Not Establish Noncompliance and Are Rebutted by the Current Design, Current Operating Policies, and the Expert Record**

Opponents submitted comments from former employees describing conditions they say they observed at older Kaady facilities years ago. Even if they were true, which is disputed, those accounts do not establish that the proposed West Linn facility, as currently designed and proposed, will operate in the same way. That is especially true here, where the record contains current sworn testimony from the owner, a response from Kaady's current General Manager, detailed architectural plans, and professional acoustical and engineering analyses directed to the actual West Linn design. The Commission must decide this application on the current record for this current proposal, not on anecdotal recollections from other sites and earlier operational eras.

The most significant operational claim by the former employees is that employees will be in the wash bay during wash operations, or that the applicant's description of that issue is

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<sup>9</sup> Lyra Harbor worked at Kaady "for less than one week and worked only four shifts. She was still in training when she stopped showing up for work." Applicant's April 1, 2026 Exhibit 6. Ms. Khosravi claims to have worked at a Beaverton Kaady between 2013-2014.

inaccurate. The current record squarely rebuts that claim. The car wash process to be utilized at the proposed facility is outlined in detail on April 1, 2026 Updated Plan sheet A1.00. Further, in a sworn declaration, Chuck Kaady declares that employees do not enter the wash process area while the equipment is operating, and that employees enter that area to clean it only when wash operations are turned off. He further declares that when employees do clean, they direct material to an internal drain that empties into collection tanks inside the building. Kaady's General Manager, Adam Wilde, separately confirms that company policy strictly prohibits employees from entering the wash area during operational hours, and that cleaning tasks and inspections are conducted exclusively while the car wash is not in operation. That direct evidence from current management and the owner is more probative than generalized unsworn anecdotes from former employees claiming actions years ago, at other locations.

The former employee comments also describe manual prep work, interior spraying, and related practices as though those are part of the proposed West Linn operation. They are not. Mr. Kaady expressly states in his sworn declaration that the proposed West Linn car wash does not use employee-deployed manual prep guns to spray vehicles, calling that "old technology" that will not be part of the proposed West Linn process. He further declares that employees do not yell to communicate during loading; instead, they use paddles to direct customers and state-of-the-art headsets to communicate with one another. Those details matter because they directly answer the former employee comments that portray a loud, shouted, manually sprayed, employee-intensive process. The proposed facility is a different operational model.

The same is true of the former employee allegations about exterior spray, chemicals blowing out of the tunnel, and process liquids reaching adjacent properties. Mr. Kaady explains in his sworn declaration that the proposed West Linn facility will use a 150-foot enclosed building, including a 41-foot right-turn acoustic enclosure and covered exit component designed to mitigate noise and contain the wash process. He declares that the active car wash process ends before vehicles move through that right-turn acoustic enclosure; that the right turn functions as a windbreak that it prevents wash spray from being blown outside the building; that by the time a vehicle exits the building it has been thoroughly rinsed and air dried; and that remaining water on the vehicle and tires is rinse water, not wash chemicals. He therefore concludes that, based on the enclosed nature of the system and the location within the wash process where sprays are deployed, it is not plausible that car wash spray would be emitted outside the building during normal operations. Those statements directly rebut the former employees' comments claiming that spray or chemical mist from active wash operations will leave the building.

That operational account is corroborated by the architectural and process-water materials. TVA explains that the building includes an internal drainage trench, reclaim pit, and process-water filtration system, and that the acoustic enclosure provides the added benefit of preventing wind-tunnel effects and providing additional drainage back into the car wash. The plans show the internal reclaim filter pit and associated drainage system within the building. That is current design evidence for this proposed facility, not conjecture.

The former employees' comments about noise and employee safety likewise do not overcome the current record. In his sworn declaration, Mr. Kaady explains that the proposed design is a new enclosed design that produces less noise and contains the washing process inside

the building, with vacuum equipment—including the noise-generating components—located **inside the enclosed building** so that only vacuum hoses are outside. He states that the vacuums are therefore much quieter than they would be if the equipment were outside.

Kaady Car Wash General Manager, Adam Wilde, further states that Kaady complies with OSHA requirements, including baseline and annual audiometric testing, provision and required use of hearing protection, and required non-slip footwear. And the only professional acoustical evidence in the record—Tenor’s studies—concludes that the proposed facility, with mitigation, meets the applicable City and DEQ standards. Personal impressions from former employees about how loud older facilities felt to them do not outweigh the current engineered acoustical analysis for this current proposal.

The former employee comments about garbage, customer debris, and general untidiness fare no better. Even if one assumes those observations were true at some earlier and different location, they do not establish that the West Linn proposal will have such problems or that the proposal here fails any approval criterion.

More importantly, the current record shows the opposite operational direction: an enclosed modern facility, controlled employee procedures, internal drainage and collection, and a designed waste and process-water system. In short, read in the light most favorable to them, the former employee comments are anecdotal, backward-looking, and tied to other places and older practices. That is not what is at issue – at issue is the proposed West Linn design, current operating policies, and current expert record, all of which rebut the former employees’ operational claims.

#### **XI. The Actual Products Proposed for Use, the Absence of PFAS, and the Proper Function of SDS Sheets Do Not Support Denial**

The product-related objections in the record suffer from the same basic flaw: they do not focus on the actual products proposed for use at the West Linn facility, and they misuse Safety Data Sheets as though any warning language in an SDS automatically proves that the proposed facility will contaminate stormwater or Fern Creek. The record squarely rebuts both propositions.

First, not all chemicals or products referenced by opponents are actually used in the proposed wash. Mr. Kaady explains in his sworn declaration (as was also explained at the hearing), that Kaady Chemical Corp. is a separate business that sells products to other businesses and industries, including some harsher products not used by Kaady Car Washes, and that the chemicals listed on the Kaady Chemical website are not the same thing as the products actually used at Kaady car washes. TVA identifies the actual products proposed for use at the car wash: Unscented Liquid Polish; Tire, Wheel & Body (Unscented); Paint Guard; Ceramic Paint Protection; and Lemon Fragrance, and provides their SDS sheets. The record thus makes clear that opponents’ reliance on broader website material and unrelated products is misplaced.

Second, the record affirmatively addresses PFAS. Applicant submitted a certification stating that none of the Chemical Compounding Company products and none of the Kaady Chemical Corporation products contain per- and polyfluoroalkyl substances (PFAS). So whatever other criticisms opponents raise, PFAS cannot be one of them.

Third, the actual SDS information for the products Kaady Car Wash will actually use does not support the alarmist framing opponents urge. The record shows a mixed and much more modest picture. Unscented Liquid Polish carries mild skin- and eye-irritation warnings. Tire, Wheel & Body (Unscented) carries oral acute toxicity, skin irritation, and eye irritation warnings. The SDSs for Paint Guard and Ceramic Paint Protection state that those products are not classified according to GHS<sup>10</sup>, with void hazard statements and void pictograms. The SDSs references to “label elements void,” “signal word void,” “hazard statements void,” and “hazard pictograms void” do not use the word “void” because information is missing, but because under the OSHA/GHS labeling system there are no such hazard labels to give.

That point is important because OSHA’s own materials explain that pictograms and hazard statements are the mechanism Section 2 uses to communicate product hazards, and TVA’s April 1, 2026, letter explains that pictograms are applied even for mild warnings. So, where Paint Guard and Ceramic Paint Protection have **no signal word, no hazard statement, and no pictogram**, that is affirmative evidence of a lower hazard profile, not a drafting omission.

More broadly, the record explains that even the products that do carry the exclamation-mark symbol fall into the same general category as many household cleaners, shampoos, and perfumes, and that **none** of the products actually used at the facility carries the higher-concern GHS labels for Health Hazard, Flammability, Corrosion, or Environment (Aquatic Toxicity). That is a far different picture from opponents’ suggestion that all products used at the facility are inherently toxic or environmentally dangerous. And even those modest hazard profiles must be viewed in the context of **how** the products are actually used here. As the record explains, the products that are used are used in diluted form as intended, within a contained wash-process system in which process water is captured in an internal trench and reclaim pit, reused in part, and managed separately from stormwater, while bulk products are stored in a filtration room with an internal floor drain so that no spill can leave the room, let alone reach the stormwater system or Fern Creek. The TVA April 1, 2026, supplement further explains that the acoustic enclosure provides added drainage back into the car wash and reduces wind-tunnel effects, reinforcing that this is a contained commercial process using relatively modest products—not a system that releases hazardous chemicals into exterior runoff.

Fourth, even where an SDS contains warning language, the record explains why that does not do the work opponents want it to do. TVA explains that SDS forms are required by OSHA to identify hazardous properties of products for worker handling, firefighting, storage, and public safety, and that Section 2 lists hazards and warning information associated with the chemical as stored. TVA further explains that these hazard identifications are for **undiluted products as they are stored**, not as they are applied, and that even the exclamation-mark pictogram can appear on many ordinary household products, including shampoo and perfume. SDS sheets are hazard communication documents for storage, handling, spills, first aid, worker exposure, and disposal; they do not, by themselves, establish that trace, diluted, post-use residues from a controlled

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<sup>10</sup> GHS stands for the Globally Harmonized System of Classification and Labeling of Chemicals. When an SDS says a product is “not classified under GHS,” it means the product does not meet the criteria for one of the hazard classifications that would require warnings under that system.

commercial process will unlawfully enter waters of the state or do so in harmful concentrations. That is the correct legal and practical use of SDS information.

That point is confirmed by the OSHA material in the record. The OSHA Hazard Communication Standard brief explains that SDSs are meant to communicate information about a chemical's properties, physical and health hazards, protective measures, and precautions for handling, storing, and transporting the chemical. It explains that Sections 1 through 8 provide general information useful for handling and emergency response, while Sections 12 through 15 are included for GHS consistency but are not enforced by OSHA because they concern matters handled by other agencies. In other words, SDSs are not permit-denial documents. They are safety communication documents. Using them as if any warning sentence proves land use noncompliance is improper and distorts their purpose.

Fifth, the record also explains why the repeated opponent focus on language in Section 6 of various SDSs is misplaced. TVA points out that statements such as "Do not allow undiluted product or large quantities of it to reach ground water, water course, or sewage system" are intended to apply to large quantities of undiluted product. TVA notes that the same sort of statement appears in many common household products. Many of the strongest phrases opponents quote are spill-response, accidental-release, storage, worker-handling, or disposal language for concentrated product "as sold," not for properly managed, diluted wash water in controlled use. That distinction is central. Here, the bulk products are stored within the filtration bay, which has a floor drain connected directly to the process-water filtration system, and TVA states that no spillage of bulk products can exit the storage room, let alone get into the stormwater system.

Sixth, the actual and distinct process-water and stormwater systems provide additional reasons why opponents' product-based fears do not support denial. TVA explains that the process water is captured in an internal trench draining toward a reclaim pit with concrete baffles that cause solids and debris to settle out; strained gray water is siphoned off for reuse; and a DEQ-certified waste management company periodically vacuums out the filtration pit. TVA further explains that all car wash products are stored in the water filtration room with an internal floor drain connected to the process-water filtration system, and that no product spills can reach the stormwater system. Mr. Kaady likewise states in his sworn declaration that the process-water system and stormwater system are entirely separate, that remaining liquids from the wash process go to the sanitary sewer rather than the stormwater system, and that the wash process does not release water into the stormwater system. So even if one starts with the SDS warnings opponents quote, the actual facility design keeps the relevant concentrated materials out of the stormwater pathway in the first place.

Finally, the product record is also favorable in broader environmental terms. TVA states that the products used at the car wash have been reviewed and screened by the State of Oregon DEQ for EcoBiz certification, and that all Kaady Car Wash Oregon facilities have been certified EcoLogical. Mr. Kaady separately states in his sworn declaration that Kaady received a special environmental award through the Pollution Prevention Resource Center and EcoBiz program, reflecting high standards to reduce toxics, prevent pollution, and protect the environment. The record thus presents an operator using identified products, with no PFAS, within a contained

commercial washing system, supported by environmental certification and separate treatment systems—not an uncontrolled discharge of mystery chemicals into the environment.

Accordingly, with all due respect, the product objections fail for three independent reasons: the opponents are not focused on the actual products the proposed Kaady Car Wash will use; the record affirmatively and strongly shows no PFAS products will be used; and SDS sheets do not function the way opponents claim. They are safety communication documents, largely directed to handling, storage, spills, and worker safety for the product as stored, not proof that this proposed facility will unlawfully discharge harmful substances. On this record, the actual products proposed for use, together with the actual collection, reuse, filtration, sanitary disposal, and stormwater-treatment systems, are responsible, compliance with all rules and do not support denial.

**XII. “The Planning Commission shall approve, approve with conditions, or deny ... based on findings of fact with respect to each of the following criteria.” CDC 60.070(A)**

The City’s professional planning staff has done the code work here, and that work supports approval. The Staff Report is not neutral in the sense opponents suggest. It sets out detailed findings under the applicable chapters, repeatedly finds that the criteria are met, and proposes a full set of conditions of approval. The City’s professional staff finds the project warrants approval with conditions. The one issue the Staff report flagged (Staff finding 101), was the need for a 5-foot landscape strip from the 3.9 foot one initially provided. In response, the Applicant provided an updated site plan that showed the requested 5-foot landscape strip. This issue could have been resolved by a condition of approval, but the Applicant has simplified the matter and provided the requested revision.

Staff support for approval appears throughout the report. Staff found the site suitable for the use; found the reservoir, access, parking, pedestrian, bicycle, and lighting standards met; found the stormwater report sufficient; found the traffic analysis adequate and nondegrading; found the project compatible with surrounding uses subject to conditions; found the conditional use provides an overall benefit to the City; and found the proposal compliant with applicable Comprehensive Plan policies. Those are not passing observations. They are the formal findings by a City professional whose expertise it is to evaluate such things.

Where Staff identified issues warranting conditions, staff proposed conditions. That is how this process is supposed to work. The existence of conditions does not show the criteria are unmet; it shows the City has used the City’s Chapter 60 and Chapter 55 tools available as the City code contemplates to assure compliance with the City code.

**XIII. CONCLUSION**

The record supports approval.

The traffic evidence shows fewer trips than the prior drive-through use and adequate onsite queuing. The acoustic evidence shows the project, as redesigned with the layered mitigation of the acoustical tunnel and sound absorption panels, complies with applicable noise standards. The public-benefit criterion is satisfied by redevelopment of a long-vacant and problematic commercial drive-through parcel with a code-listed, locally operated business. The

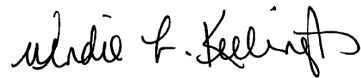
site suitability criteria are met through the site's commercial context, substantial setbacks, buffering, retained landscaping and walls, screening, lighting, and conditions of approval. The Comprehensive Plan criterion is met because the proposal complies with the applicable plan policies as properly understood, applied and reviewed through the existing CDC framework. The stormwater record is not merely adequate; it has been strengthened post-hearing with an enhanced Filterra treatment approach and the clear separation of process water from stormwater. The PFAS issue has been affirmatively answered. And the variance issue has now been overtaken by revised glazing plans that provide a code-compliant path without variance approval.

For all of those reasons, Applicant respectfully requests that the Planning Commission:

- (1) approve the Conditional Use Permit;
- (2) approve the Design Review application subject to the Staff Report's recommended conditions as modified if the Commission deems appropriate; and
- (3) treat the Class II Variance request as withdrawn or moot in light of the revised glazing plans that demonstrate that the proposal complies with CDC 55.100(B)(6)(e);

Thank you for your consideration.

Very truly yours,



Wendie L. Kellington

WLK:wlk  
CC: Clients