



1 many of the types of analyses that a proper SEPA analysis requires.

2 **Standing**

3 As outlined in LWWF Closing, there is no need to look at Washington case law  
4 for purposes of determining LWWF standing. The SMC is the beginning, and the end, of  
5 the inquiry. As outlined previously, LWWF clearly meets the standing requirements of  
6 the SMC. See, LWWF Closing, pp.1-3.

7 Even if, hypothetically, Washington standing law were somehow applicable in  
8 this forum, LWWF also meeting the state law tests. The three prongs to the Washington  
9 Standing test for where an agency action is challenged are, as laid out in RCW  
10 34.05.530:

11 (1) The agency action has prejudiced or is likely to prejudice that person;

12 (2) That person's asserted interests are among those that the agency was  
13 required to consider when it engaged in the agency action challenged;  
and

14 (3) A judgment in favor of that person would substantially eliminate or  
15 redress the prejudice to that person caused or likely to be caused by  
the agency action.

16 Associational standing, where an association such as LWWF can bring a challenge on  
17 behalf of its members, has been developed through case law, relying heavily on federal  
18 cases. Like the SMC standing test, the state law test is a fairly broad, liberal standard:  
19 “[A] nonprofit corporation **or** association which shows that one or more of its members  
20 are specifically injured by a government action may represent those members in  
21 proceedings for judicial review.” *Save a Valuable Env’t v. Bothell*, 89 Wn.2d 862, 867  
22 (1978) (hereinafter “SAVE”) (emphasis added) (citing *Loveless v. Yantis*, 82 Wn.2d 754,  
23 758 (1973) (“An organization whose members are injured may represent those

1 members in proceedings for judicial review.” in turn citing *NAACP v. Button*, 371 US  
2 415, 428 (1963)).

3 The *SAVE* ruling by the Washinton Supreme Court adopted the two-part federal  
4 test on associational standing. *SAVE*, at 866. That test evaluates first, whether “the  
5 interest sought to be protected [is] ’arguably within the zone of interests to be protected  
6 or regulated by the statute or constitutional guarantee in question” and second, whether  
7 “the challenged action caused ’injury in fact’ whether economic or otherwise.” *SAVE*, at  
8 866 (quoting *Association of Data Processing Serv. Organizations Inc. v. Camp*, 397  
9 U.S. 150, 152-53 (1970)).

10 In that same decision, the *SAVE* court put to rest the very argument that WinCo  
11 is now making, i.e. that LWWF must itself be a corporate entity in order to pursue an  
12 appeal. The *SAVE* court specifically noted that an unincorporated association, such as  
13 a labor Union, is legally capable of representing the interests of its members in legal  
14 actions. *SAVE*, at 866 (citing *Boilermakers Local 104 v. Int’l. Bhd of Boilermakers*, 33  
15 Wn.2d 1 (1949)). The *SAVE* court went on to note that “...federal cases **do not**  
16 **distinguish between nonprofit corporations and unincorporated associations in**  
17 **determining the standing question.**” *SAVE*, at 867 (emphasis added).<sup>1</sup>

18 The *SAVE* opinion also laid out key policy reasoning why associational standing  
19 is an important alternative to other types of lawsuits. *SAVE*, at 867.<sup>2</sup> The court  
20 specifically noted that the fact that an association may not have sufficient tangible

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22 <sup>1</sup> See also, *Mukilteo Citz for Simple Gov’t v. City of Mukilteo*, 174 Wn.2d 41, 45-46 (2012) (finding  
standing for appellant MSCO, who was “...an unincorporated association of Mukilteo residents...”).

23 <sup>2</sup> “An association or nonprofit corporation of persons with a common interest can then be the  
simplest vehicle for undertaking the task, and we see no reason to bar injured persons from this  
method of seeking a remedy.”

1 assets to pay costs assessed against it should it lose the case, **does not matter** to the  
2 standing analysis. As the same may be true of an individual plaintiff, and “[i]t is not  
3 appropriate to bar an injured party from a judicial remedy simply because that party  
4 does not have assets.” *SAVE*, at 867-68.

5 It is also important to keep in mind that under Washington law, when evaluating  
6 standing, “[w]here the injury complained of is procedural in nature, standing  
7 requirements are relaxed.” *Five Corners Family Farmers v. State*, 173 Wn.2d 296, 303  
8 (2011) (citing *Seattle Bldg. & Constr. Trades Council v. Apprenticeship & Training*  
9 *Council*, 129 Wn.2d 787, 794-95 (1996) in turn quoting *Lujan v. Defenders of Wildlife*,  
10 504 US 555, 572 n.7 (1992)). The failure to properly apply SEPA, which is at the heart  
11 of this LWWF appeal, is clearly a procedural issue.

12 WinCo’s citation to SMC 25.05.545(B), with an argument that this Code provision  
13 somehow requires LWWF member Brostrom to have personally commented makes no  
14 sense. WinCo Closing Brief, p. 17. First, the whole point of an association is to allow it  
15 to represent all its members through the actions of the association, *instead* of requiring  
16 each of its members to individually participate in the legal process. If WinCo were right,  
17 then there would be no point in having an association at all.

18 Second, the particular SMC section that WinCo cites merely states that if there is  
19 no objection *at all* from the public or outside agencies to an environmental analysis  
20 *within the given time periods assuming proper notice*, then the City may treat that  
21 decision as uncontested. SMC 25.05.545(B) (emphasis added). However, here there  
22 **were** objections. There is no dispute that LWWF objected, within the required time  
23 periods, both in its comments (HE Ex. #6) and in its appeal (HE Ex. #8). Moreover, the

1 Record is clear that LWWF member Brostrom affirmed and ratified that the LWWF  
2 comments and appeal were consistent with and representing his interests. See, HE Ex.  
3 #10 (Brostrom Decl. ¶1); and Testimony of Mr. Brostrom, Public Hearing Video  
4 Recording 00:28:15. There is **no** requirement that Mr. Brostrom personally comment  
5 himself when an association of which he is a member acts on his behalf.

6 Nor does WinCo's reference to *Riverview Community Group v. Spencer &*  
7 *Livingston*, 181 Wn2d 888 (2014) support the idea that Mr. Brostrom would have to  
8 have personally commented in order for LWWF to have associational standing. That is  
9 not what *Riverview* held. Instead, in that case the Trial Court has denied standing to a  
10 group of various homeowners formed to oppose the re-platting of a golf course into  
11 home sites. *Riverview*, 181 Wn.2d at 892. The Court of Appeals reversed, finding the  
12 organization had standing. *Id.* at 892-93. The Washington Supreme Court affirmed that  
13 holding. *Id.* at 894-995.<sup>3</sup>

14 Notably, both the Court of Appeals and Supreme Court found that standing was  
15 established in an identical manner to the present case. In *Riverview*, "several members  
16 [had] filed sworn declarations that establish the basis of the claim..." 181 Wn.2d at 894.  
17 Similarly, LWWF has establish associational standing in this matter because Mr.  
18 Brostrom, one of LWWF's members, has submitted a sworn declaration establishing the  
19 basis of the claim. See. HE Ex #8.<sup>4</sup>

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21 <sup>3</sup> Should WinCo try to argue in its Reply that the testimony of Brostrom constitutes "participation" such  
22 that associational standing no longer exists under the third prong of the test, that argument was also long  
23 ago rejected. "We have never held that "testimony" is the equivalent of "participation" for purposes of the  
third prong of the standing analysis...and the Court of Appeals has explicitly rejected that argument as  
'without merit.'" *Wash. Trucking Ass'n v. Emp't Sec. Dep't*, 181 Wn.2d 888, 894 n.1 (2014) *rev'd on other*  
*grnds* 188 Wn.2d 198 (2017) (citing *Teamsters Local Union No. 117 v. Dep't of Corr*, 145 Wn. App 507,  
512 (2008)).

1 WinCo's citation to *Friends of Tilden Park v. District of Columbia*, 806 A.2d 1201,  
2 1210 (2002) (hereinafter "*Tilden*") is similarly unavailing. First, that case was decided in  
3 the District of Columbia, under the laws of that jurisdiction - not the law applicable to the  
4 appeal at hand. Second, in that case, it was undisputed that the plaintiff organization  
5 that was seeking associational standing (relying on the potential harm to its members),  
6 could not establish such standing because: "By the terms of its articles of incorporation,  
7 Friends has no members." *Tilden*, at 1208. No such limitations on LWWF's ability to  
8 represent the members of its Coalition exist. To the contrary, Mr. Brostrom testimony  
9 verified his status as a member being represented by LWWF.

10 Moreover, the *Tilden* court went on to note that: "We do not doubt that if Friends  
11 had such members, **it would have standing** as their representative to maintain an  
12 action challenging the [local gov't's] failure to require [the developer] to prepare an EIS."  
13 *Tilden*, at 1206 (emphasis added). Thus in many ways, *Tilden* actually supports the  
14 conclusion that LWWF does have standing to represent its members in challenging the  
15 City's inadequate SEPA compliance.

### 16 Merits

17 WinCo and the City's arguments regarding the traffic and stormwater impacts  
18 appear to be based on an incorrect understanding of the scope of SEPA requirements.  
19 Under SEPA, the only questions are (1) whether there are probable significant  
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<sup>4</sup> As noted in the Closing Brief, LWWF has also established organizational standing under the Seattle  
23 Code because, as a coalition of local residents, it fits within the SMC's broad definition of "person." LWWF  
is clearly "interested" in the outcome here. It is undisputed that the organization was created with a stated  
purpose of "protecting our communities, environment, and livelihoods from reckless overdevelopment and  
urban sprawl," and to "advocate for responsible growth that...reduces pollution...and keeps traffic  
manageable for working families." LWWF Mission Statement, HE Ex. #9; LWWF Closing Brief, p.2.

1 environmental impacts,<sup>5</sup> (2) whether the decision maker’s reasoning is “rational and well  
2 documented,”<sup>6</sup> and (3) whether “the decision was based on information sufficient to  
3 evaluate the proposals environmental impact.”<sup>7</sup>

#### 4 **Stormwater**

5 WinCo emphasized heavily in its Closing that it believes in the adequacy of the  
6 Filterra stormwater treatment system to treat 6PPDQ, and as such there was  
7 supposedly no error by the City – who everyone admits failed to look at the 6PPDQ  
8 issue. *WinCo Closing Brief*, pp 4-8. But what WinCo now believes is irrelevant. Missing  
9 is any evidence that the City or WinCo did any of the necessary analysis **during** the  
10 SEPA project approval process. It is there that the City was obligated to consider  
11 impacts – including 6PPDQ stormwater impacts – and to determine whether or not the  
12 proposed stormwater treatment would likely be sufficient to protect the health of local  
13 waterways.

14 Nothing in the Record indicates that the City or WinCo did that analysis during  
15 the approval process. Any claims to the contrary are simply post hoc rationalization,  
16 intended to try to cure (after the fact) an inadequate SEPA analysis.<sup>8</sup>

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18 <sup>5</sup> WAC 197-11-330.

19 <sup>6</sup> *Columbia Riverkeeper v. Port of Vancouver USA*, 188 Wn.2d 80, 92 (2017).

20 <sup>7</sup> *Wild Fish Conservancy v. Dep’t of Fish & Wildlife*, 198 Wn.2d 846, 873 (2022).

21 <sup>8</sup> “An agency seeking to justify its action may not offer a new explanation for the action, but must be  
22 judged on the rationale and record that **led to** the decision.” *Nat’l Wildlife Fed’n v. Nat’l Marine Fisheries*  
23 *Serv.*, 235 F. Supp. 2d 1143, 1152 (2002). *See also, Olenhouse v. Commodity Credit Corp.*, 42 F.3d  
1560, 1575 (10<sup>th</sup> Cir. 1994) (“The grounds upon which the agency acted must be clearly disclosed in, and  
sustained by, the record...After-the-fact rationalization by counsel in briefs or argument will not cure  
noncompliance by the agency.”); *Humane Soc’y of the U.S. v. Locke*, 626 F.3d 1040, 1049 (9<sup>th</sup> Cir. 2010)  
 (“We cannot gloss over the absence of a cogent explanation by the agency by relying on the post hoc  
rationalizations offered by defendants in their appellate briefs . . . . Defendants’ post hoc explanations  
serve only to underscore the absence of an adequate explanation in the administrative record itself.”);  
and *Nw. Env’tl. Def. Ctr. v. Bonneville Power Admin.*, 477 F.3d 668, 688 (9<sup>th</sup> Cir. 2007) (explaining that

1           Moreover, WinCo’s belief of sufficiency rests entirely on the 2022 Report  
2 introduced by WinCo, HE Ex. #28. However, as outlined in LWWF’s Closing, that report  
3 does not say that the Filterra system treats 6PPDQ. In fact, as noted in LWWF’s  
4 Closing, that report merely provides guidance towards future research needed, on  
5 BMP’s that **might** have **the potential** to treat 6PPDQ.<sup>9</sup> It provides no ultimate  
6 conclusions about the effectiveness of the Filterra system at protecting the downstream  
7 surface waters from 6PPDQ.

8           Perhaps equally important, there is also no evidence that this report was  
9 considered at all, by either the City or WinCo, during the SEPA evaluation. The City’s  
10 Planner and Stormwater/Drainage reviewer both specifically said that they did **not**  
11 review for 6PPDQ issues. Citation to an unconsidered report does not save an  
12 inadequate SEPA process, and as such the challenged permitting decision should be  
13 reversed and remanded to the City for a proper SEPA analysis.

14           Finally, WinCo contests the validity of Mr. Jayakaran’s conclusions. WinCo  
15 Closing, pp. 4-8. For instance, WinCo alleges that “the base premise of the amount of  
16 6PPDQ dropped on the parking lot is flawed from the beginning.” WinCo Closing Brief,  
17 p. 8. There is, however, no actual evidence to support that contention. WinCo had an  
18 opportunity at this Hearing to contest the facts about how much 6PPDQ would be  
19 produced. WinCo never produced any evidence on that issue. WinCo did put an expert

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21 the court “may not accept appellate counsel’s post hoc rationalizations for agency action....” (internal quotation marks and citation omitted)).

22 <sup>9</sup> LWWF Closing Brief, pp. 12-13; See e.g., HE Ex. # 28, p.12 (“This report is an initial assessment to help  
23 with reconnaissance (monitoring and science) of a new contaminant of emerging concern.”); p.107 (“an  
evaluation criteria and process were developed to rank BMPs in terms of *potential ability* to provide  
treatment...”) (emphasis added);and p.137 (“the intent of this chapter is to characterize the *likely* efficacy  
of existing BMPs...”) (emphasis added).

1 on the stand to address stormwater. However, that expert presented no evidence or  
2 testimony that challenged or in any way contradicted Mr. Jayakaran’s conclusions as to  
3 the quantity of 6PPDQ that this project would produce. Mr. Jayakaran’s analysis  
4 concerning quantities and impacts of 6PPDQ is unrebutted in this Record. As such, this  
5 sort of after-the-fact challenge by counsel, without supporting evidence, should be given  
6 little to no weight in any final determination.

7 **Traffic**

8 The very broad threshold question of whether there are environmental impacts,  
9 includes an evaluation of impacts on traffic.<sup>10</sup> As noted in LWWF’s Closing, this  
10 requirement is distinct from the Traffic Impact Analysis (“TIA”) requirements present in  
11 the Seattle Municipal Code.<sup>11</sup>

12 This distinction should be clear. The requirements for TIAs, and exceptions from  
13 requiring them, exist in an entirely different section in the Code than the SEPA  
14 requirements. The TIA requirements are in SMC 23.52.008 (SMC Title 23 – Land Use  
15 Code), whereas the SEPA requirements are in SMC 25.05 (SMC Title 25 –  
16 Environmental Protection and Historic Preservation).<sup>12</sup>

17 LWWF *does not* argue that WinCo or the City should be required to complete a  
18 TIA as specified in the SMC. Instead, LWWF simply points out (and provides  
19 supporting expert testimony) that WinCo and/or the City needed to do *some* level of

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21 <sup>10</sup> WAC 197-11-444(2)(c); See e.g., *City of Federal Way v. Town & Country Real Estate, LLC*, 161  
22 Wn.App 17, 24-29 (2011) (evaluating the adequacy of traffic analysis and mitigation in regards to a SEPA  
23 DNS determination).

<sup>11</sup> LWWF Closing, p.9.

<sup>12</sup> In fact, the City’s own SEPA regulations lay out an *entirely separate* set of analyses to take into  
account when evaluating traffic impacts under SEPA. See, SMC 25.05.675(R)(2)(B).

1 traffic analysis, to be able to make a reasoned decision about the potential traffic  
2 impacts of an additional 11,494 daily vehicle trips.<sup>13</sup>

3 SMC 23.52 creates a sort of standardized TIA process, including specific  
4 requirements for what must be in a TIA. While a full TIA of that nature would certainly be  
5 enough here, in reality, where a project is exempted by the SMC from the obligation to  
6 do a full TIA, there is still some level of traffic impact analysis needed to satisfy SEPA.<sup>14</sup>  
7 Here, the Record is clear, there was **nothing** done to evaluate current conditions<sup>15</sup> or  
8 the potential impacts of the projected additional traffic.

9 Where there is *no* analysis, a Court or Hearing Examiner owes no deference to  
10 the City's determination. In cases such as this, deference is generally given to an  
11 agency when it evaluates the underlying data and then reaches an ultimate conclusion  
12 based on that evaluation. However, here there is *no* data, and *no* underlying evaluation,  
13 only otherwise bare conclusions.

14 Once SEPA was triggered (by the demolition of 17,000 square feet of building),  
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16 <sup>13</sup> In 2003, when Sam's Club proposed to expand and add roughly 1,000 new daily trips, (See, 2003 City  
17 SEPA Decision - HE Ex. #20), the City conducted analysis on the impacts to then-existing traffic  
18 conditions. In the matter at hand, despite nearly 10 times more daily trips being added to the present  
19 traffic loads, the City failed to require or do **any** analysis of existing traffic conditions. It is both legally  
20 incorrect, and logically makes no sense, that the City does not need to conduct *any* new analysis when  
21 adding over 11,000 daily trips. The City recognized the need under SEPA for at least some traffic analysis  
22 in 2003. SEPA has not changed since then. The City was required to insist on or do some sort of analysis  
23 for the proposed massive change from current conditions to a 24/7 "Big Box" operation.

14 This could, in theory, be as simple as a City employee going out to the at-issue intersections and  
gathering a single week day and a single weekend day of traffic data, which could then be evaluated by a  
traffic expert to determine what issues the addition of 11,494 daily vehicle trips might potentially create.

<sup>15</sup> For this particular project, the analysis regarding what traffic levels make up the current baseline need  
to account for a property that lacks **any** current traffic. If, for instance, this property had an active Sam's  
Club, then the current conditions would take into account the traffic patterns created by a Big Box store.  
But this property is a vacant building, and has been for almost a decade. The current conditions, or  
baseline, is no traffic generated from this site. As noted in LWWF's Closing, there is likely a threshold in  
time where conditions from a previous active use should be considered, but whatever that threshold may  
be 5, 7, or 9 years is well past that threshold.

1 the City was obligated to look at the existing conditions (i.e. the baseline) and evaluate  
2 what the likely impacts would be. Here, the City failed to do *any* work to understand the  
3 existing conditions at the site or the likely impacts of the changes proposed by the  
4 project. Courts have held that, in instances where **no analysis** has been done by the  
5 agency, the Courts (and similarly a Hearing Examiners) “cannot defer to a void.” *Oregon*  
6 *Natural Desert Ass’n v. BLM*, 531 F.3d 1114, 1142 (9<sup>th</sup> Cir. 2008).<sup>16</sup> Here, where there  
7 should be supporting data and supporting analysis of traffic conclusions, there is only a  
8 void. As such, the City did not comply with its SEPA obligations.

9 Since SEPA **was** triggered, WinCo and the City cannot rely on the City Code to  
10 account for the complete lack of traffic analysis. Under Washington’s SEPA regulations,  
11 in making a SEPA threshold decision, a City can “determine that requirements for  
12 environmental analysis [and] protection...in the City’s comprehensive plan...provide  
13 adequate analysis of...specific adverse environmental impacts of the project.” WAC  
14 197-11-158(1). However, WAC 197-11-158(2) clearly lays out the steps that a City must  
15 comply with in order to rely on existing regulations. There is no evidence in the Record  
16 that those steps were followed here.

17 Instead, the City leapt to the conclusion that a TIA was not required, by  
18 mistakenly looking only at its traffic Code. That is not a SEPA analysis, and certainly not  
19 one that the Hearings Examiner can defer to. Any reliance on WAC 19-11-158 now,

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21 <sup>16</sup> “[C]ourts should not automatically defer . . . without carefully reviewing the record and satisfying  
22 themselves that the agency has made a reasoned decision . . . .” *Marsh v. Or. Nat. Res. Council*, 490  
23 U.S. 360, 378 (1989). When an agency does “...not provide any reasoning or analysis for its  
conclusion...” then “there is nothing” to which the court can defer. *Wildearth Guardians v. United States*  
*BLM*, 870 F.3d 1222, 1238 (10<sup>th</sup> Cir. 2017). “A contrary approach would not simply render judicial review  
generally meaningless, but would be contrary to the demand that courts ensure that agency decisions are  
founded on a reasoned evaluation of the relevant factors.” *Marsh*, 490 U.S. at 378 (internal quotation  
marks omitted).”

1 would be purely a post hoc explanation for what was in reality an inadequate SEPA  
2 process.<sup>17</sup>

### 3 **Other Impacts**

4 There are also a number of other likely impacts referenced by LWWF in its  
5 comments and appeal and by LWWF, WinCo and/or the City in their respective Closing  
6 Briefs. First, the City addresses issues related to archeological resources. City Closing,  
7 pp. 3-4. It is not clear why this issue was raised in the City's Closing Statement. LWWF  
8 did not address archeological resources in either its comment or the appeal, and on  
9 cross examination the City Planner specifically acknowledged that it was not LWWF  
10 who raised that issue.

11 WinCo also addressed noise, light and glare, greenhouse gas emissions, and  
12 aesthetics. WinCo Closing, pp.11-13. As with traffic impacts, both WinCo, and the City  
13 in its evaluation under SEPA, failed to consider the true baseline conditions of what is  
14 the current state of use of the property. SEPA calls for an evaluation of the existing or  
15 current environmental conditions. See, LWWF Closing pp.4-6. Instead, the City  
16 compared the impacts of this project to a long defunct Sam's Club. Given that, the City  
17 cannot reasonably claim that it rationally concluded that there will be no significant  
18 impacts as a result of this Project on any of those issues.

19 Most notably amongst those issues is noise. The City already concluded in 2003  
20 that the noise arising out of a Sam's Club required SEPA mitigation. There is no  
21 analysis, and no testimony, regarding specifically how and why that conclusion is no  
22 longer the case.

23 \_\_\_\_\_  
<sup>17</sup> See note #8 on why reliance on post hoc explanations is not appropriate.

1           There was testimony that the Code had changed, but there was no evidence  
2 about what changes were made, when those changes were made, and how those  
3 changes might relate to the cumulative impacts of adding the noise from a 24/7 Big Box  
4 to the already existing noise levels at the site from a very busy main City street. Since  
5 the City never did or required any baseline condition evaluation of current noise levels, it  
6 would not be possible to justify a “no significant impacts” conclusions under SEPA, even  
7 if the City had made one – which, of note, they did not.<sup>18</sup>

### 8           **Conclusion**

9           The City failed to comply with the requirements of SEPA. Where the City did  
10 some of the necessary analysis (ECA’s for example) the decision never showed or  
11 articulated that work. More notably, neither the City nor WinCo did any analysis of the  
12 current baseline conditions on the ground with regard to other critical issues such as  
13 traffic, noise, increased stormwater pollution, etc. As a result, the City had nothing to  
14 use to evaluate the potential impacts of the proposed project on the existing conditions.

15           Instead of pointing to actual analysis, the City’s and WinCo’s closing arguments  
16 rest on attempted post-hoc explanations for why the project could have been shown to  
17 have limited or minimal impacts had some proper analysis been done when it was  
18 required. Alternatively, they fall back on the theory that, because there was a Sam’s  
19 Club at this location almost a decade ago, this project will somehow not impact current  
20 conditions.

21           Without a baseline to compare to, the City’s conclusions regarding the intensity  
22 of impacts have no rational basis. As experts for WinCo and the City repeatedly testified

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23 <sup>18</sup> This is another instance where they City appears to have mistakenly just looked at its Code requirements, rather than doing the type of analysis that SEPA actually requires.

1 that they did not do any analysis of traffic, noise, or 6PPDQ, one thing became clear –  
2 this SEPA determination here is not based on a ‘hard look’ and does not meet the  
3 requirements of a basic SEPA analysis. The City’s permitting decision should be  
4 reversed, and the City should be directed to go back and actually perform (or require  
5 that the applicant perform) the analysis required by SEPA, a statute meant to keep  
6 every Washingtonian safer and healthier.

7  
8 Dated: February 18, 2026

9  
10 LAW OFFICE OF KARL G. ANUTA, P.C.

11 */s/ Karl G. Anuta*

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1 CERTIFICATE OF SERVICE

2 I hereby certify that I served a true copy of the foregoing **APPELLANT'S**

3 **CLOSING REPLY BRIEF** on:

4 Office of the Hearings Examiner  
5 PO Box 94729  
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14 by the following indicated method or methods:

- 15 ■ by **emailing** a full, true, and correct copies thereof at the email  
16 addresses shown above.

17 DATED: February 18, 2026

18 */s/ Karl G. Anuta*  
19 KARL G. ANUTA, WSBA # 21346  
20 Attorney for Appellant