

BEFORE THE CITY COUNCIL
CITY OF SUMAS, WASHINGTON

IN RE Conditional Use Permit)	REPORT OF DECISION
Applications of:)	
)	
Andy White)	
8758 Vinup Road)	Adopted On September 22, 2025
Lynden, WA 98264)	

The matter having come before the City Council of the City of Sumas for public hearing on July 14, 2025, and the public hearing having been continued on July 28 and on August 25, 2025, the Council having duly considered all matters in the record and all testimony given for and against the application, makes the following Findings of Fact, Conclusions of Law, and Decision:

FINDINGS OF FACT

1. The Applicant is Andy White. The Applicant's mailing address is 8758 Vinup Rd, Lynden, WA 98264.
2. The Applicant submitted a conditional use permit application to allow construction of a two-story residential, three-unit condominium complex.
3. The site address is 1116 Sumas Ave. It is situated in the SW ¼ of the SW ¼ of Section 35, Township 41 North, Range 04 East of W.M. within Sumas WA. The Whatcom County Assessor's tax parcel number is 410434 580043.
4. The Site previously contained a single-family residence that had been vacant since it was damaged by the November 2021 flood and a subsequent fire. The residence was demolished in April 2024.
5. The Project site's zoning designation is Residential (RS-6) District, High Density, which is consistent with the site's designation within the *City of Sumas Comprehensive Plan*. Therefore, the Site is subject to the zoning regulations established in Chapter 20.32 of the Sumas Municipal Code (SMC).
6. Construction of a multifamily residence is listed as a conditionally permitted use under Section 20.32.030 SMC, and such development is consistent with the general and specific objectives of the *Comprehensive Land-Use Plan*.

Procedural Requirements

7. The application was processed as a Class III action pursuant to the provisions of Chapter 20.08 SMC. A *Notice of Completeness* was issued by the City on June 12, 2025; therefore, the Project applications are considered vested to the regulations in place on the date the application was received. A *Notice of Application* was issued by the City on June

18, 2025. A public comment period was open from June 18 through July 3, 2025. No comments were received during the public comment period.

8. A duly advertised public hearing before the Sumas City Council was opened on July 14, 2025 and was continued to July 28, 2025. Opportunity for public comment was provided and comment was received.
9. The public hearing was reopened on July 28, 2025. Additional opportunity for public comment was provided and comment was received.
10. Following receipt of additional public comment, the public hearing was continued to August 25, 2025.
11. The public hearing was reopened on August 25, 2025. Additional opportunity for public comment was provided and comment was received.
12. Following receipt of additional public comment, the public hearing was closed on August 25, 2025.

Zoning Requirements

13. The subject parcel has an area of approximately 7,580 square feet, which exceeds the standard minimum lot size of 6,000 square feet in the Residential, High Density district.
14. Section 20.32.060 SMC establishes that the rear yard setback applicable in the Residential, High-Density district is five feet. Section 20.32.070 SMC establishes that the side yard setback applicable in the Residential, High Density district is eight feet. Section 20.32.080 SMC establishes that the front yard setback applicable in the Residential, High-Density district is twenty feet. Based on the site plan submitted with the application, the Project conforms to the applicable yard setback depth standards.
15. The Project application proposes the construction of a two-story residential, three-unit condominium structure that would cover an area of approximately 2,614 square feet, which is approximately 34.49 percent of the lot area. Section 20.32.100 SMC establishes a maximum lot coverage of 35 percent. Based on the site plan submitted with the application, the Project conforms to the applicable lot coverage requirements.
16. Section 20.56.060 SMC requires the provision of at least two on-site parking spaces per multi-family dwelling unit; however pursuant to sub-Section 20.56.080(1), for multifamily development of at least three units, such parking spaces cannot be located within setback areas adjacent to public streets. As this property is located at the intersection of Sumas Avenue and Morton Street, the yard setback for either street may not be used for parking. To accommodate this requirement, Condition 11 from Appendix A requires that the Project be reduced to have a maximum of two units. Condition 3 from Appendix A ensures that adequate parking is provided for these two units.
17. The Project is located in an Area of Special Flood Hazard as identified on the City Flood Insurance Rate Map (FIRM). Condition 7 from Appendix A ensures that approval of a

floodplain development permit will be obtained in conjunction with building permit approval for the proposed structure.

18. Chapter 20.57 SMC establishes landscaping requirements applicable to multifamily development. This includes the planting of street trees, screening of refuse containers, and screening between multifamily and single-family residential uses. Conditions 8 and 9 from Appendix A require approval of a landscaping plan from the Public Works Director.
19. Consistent with the requirement set forth in sub-Section 20.66.010(e) SMC, Condition 5 from Appendix A ensures that the Project will be commenced within a period of one year from the date of approval of the conditional use permit.

Conditional Use Requirements

20. Section 20.66.020 SMC provides additional criteria for conditional use applications beyond those criteria provided in the zoning district. Below are the list of applicable criteria required of conditional use applications:

Before approving a conditional use permit, the city council shall find that the applicable standards of the use district are met by the proposal and shall also find that the proposed conditional use at the location specified in the application will:

- a. Be harmonious and in accordance with the general policies and specific objectives of the city comprehensive plan.
 - b. Be designed to be compatible with the essential character of the neighborhood and not be hazardous or disturbing to persons, property, or existing neighboring uses.
 - c. Be adequately served by public facilities and utilities including drainage facilities.
 - d. Not create excessive vehicular congestion on neighborhood collector or residential access streets.
 - e. Not create conditions substantially detrimental to persons, property, or neighboring uses by reason of the production of excessive amounts of traffic, noise, smoke, fumes, glare, electrical interference, mechanical vibration, or odor.
 - f. Not result in the destruction, loss, or damage to any natural, scenic, or historic feature of major consequence.
21. Condition 12 of the Conditions of Approval requires that these criteria are met to receive approval of the Conditional Use application.

CONCLUSIONS OF LAW

1. With the mitigation measures incorporated in the Application and in Conditions 1 through 9 from Appendix A, the Application is consistent with the Sumas Comprehensive Plan and with Title 20 SMC.
2. With the mitigation measures incorporated in the Application and in Conditions 1 through 9 from Appendix A, the Project complies with the criteria for approval of conditional uses established at Section 20.66.020 SMC.
3. The conditions of approval set forth in Appendix A are adopted under authority of Title 20 SMC as measures necessary to reach Conclusion 2, above.
4. Any conclusion of law that is also a finding of fact is hereby adopted as such. Any finding of fact that is deemed a conclusion of law is hereby adopted as such.

DECISION

Based upon the aforementioned findings of fact and conclusions of law, the zoning conditional use permit application is **APPROVED**, subject to the Conditions of Approval established in Appendix A.

City of Sumas, Washington

Bruce Bosch, Mayor

Date

METHOD OF APPEAL

There is no administrative appeal of the Council's decision. Pursuant to Chapter 36.70C Revised Code of Washington, any land use petition challenging the decision regarding the conditional use permit must be filed with the superior court of Whatcom County and served on the following parties within twenty-one days of the issuance of the decision:

City of Sumas
433 Cherry Street
P.O. Box 9
Sumas, WA 98295

Andy White
8758 Vinup Rd
Lynden, WA 98264

APPENDIX A TO REPORT OF DECISION

CONDITIONS OF APPROVAL WHITE CONDITIONAL USE PERMIT

1. Approval is granted only for the use and development described in the Project Application, as conditioned herein. All mitigation measures described in the Application are hereby incorporated as conditions of the Project, unless specifically excluded below. All permits and approvals required for the construction of the Project from either the City of Sumas or other agencies shall be obtained prior to the issuance of building permits by the City for the Project. All permits and approvals required for the operation of the Project from either the City or other agencies shall be obtained in conformance with the requirements of such agencies.
2. Prior to the start of construction, the Applicant shall provide a final site plan and to the City demonstrating that the completed Project will be in conformance with the lot coverage requirement established under Chapter 20.32 SMC, Residential (R-6) District, High Density.
3. Prior to receiving a building permit for this Project, the Applicant shall provide plans which show a garage which provides sufficient width to hold two vehicles per unit, as well as a driveway which provides sufficient width to hold two vehicles per unit. Garage and driveway widths shall be subject to approval from the Public Works Director.
4. A concrete sidewalk with a minimum width of 5 feet shall be constructed within the public right-of-way of Sumas Avenue, directly adjacent to the property line.
5. The project must be commenced within a period of twelve months from the date of approval of the conditional use permit or the permit will become void, unless a one-year extension has been requested in writing by the applicant and granted by the City Council.
6. The project shall be constructed to meet all applicable requirements set forth in Chapter 14.30 SMC, Flood Damage Prevention.
7. In congruence with a building permit application, the applicant must apply for and receive a floodplain development permit in conformance with Chapter 14.30 SMC and to the satisfaction of the Public Works Director.
8. Prior to the start of construction, a landscaping plan for the project shall be submitted to the Public Works Director of the City for approval. The landscaping plan shall comply with all requirements detailed in Chapter 20.57 SMC.
9. Included in the landscaping plan, the applicant must identify a designated area where garbage and recycling receptacles may be stored where they are away from public view.
10. To address the Applicant's expressed intent to develop the subject Site as a condominium property to include separately owned units, the Applicant shall complete the following actions:
 - 10.1. Prior to issuance of a City building permit for the proposed structure, the Applicant shall submit to the City Public Works Director a draft of formation, organization and governing documents (including, but not limited to: articles of incorporation, covenants, conditions, and restrictions ("CCR's"), and bylaws) setting forth the proposed provisions forming, organizing and governing the ownership, use and maintenance of the subject property and improvements thereon (collectively "Governing Documents") for review and preliminary approval by the City staff and the City Council.

- 10.2. Prior to issuance by the City of the occupancy certificate for the proposed structure, the Applicant shall submit to the City Public Works Director the proposed Governing Documents for City staff and the City Council for review and approval. In all such reviews, City approval shall not be unreasonably withheld.
- 10.3. Following the City's review and approval of the final form of the proposed Governing Documents but prior to the issuance of an occupancy certificate, the Applicant shall have the proposed Governing Documents properly filed and recorded with the appropriate government agency, office or department, and a copy submitted to the City.
- 10.4. Following the Applicant's proper filing and recording of the proposed Governing Documents, and submission to the City, and compliance with any other applicable conditions or requirements, the City of Sumas shall issue an occupancy certificate for the proposed structure.
11. The Project design shall be modified to include a maximum of two residential units to comply with the requirements of Title 20 SMC, including those imposed in Section 20.56.060 and sub-Section 20.56.080(1), and Section 20.66.020, including ensuring compatibility with the surrounding neighborhood and consistency with the density of recent development in the surrounding area and mitigating against impacts from increased vehicle parking and traffic.
12. Prior to the issuance of a building permit, plans for the Project shall show conformance to the conditional use permit criteria listed in Chapter 20.66 SMC.
13. Any finding of fact or conclusion of law that is also a condition of approval is hereby adopted as such.