

BEFORE THE CITY COUNCIL
CITY OF SUMAS, WASHINGTON

IN RE Conditional Use Permit, Zoning)	DRAFT REPORT OF DECISION
Variance Applications of:)	
)	
)	
Charles (Chuck) Beardslee)	November 24, 2025 DRAFT
PO Box 122)	
<u>Sumas, WA 98295</u>)	

The matter having come before the City Council of the City of Sumas for public hearing on November 24, 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 Charles (Chuck) Beardslee. The Applicant's mailing address is PO Box 122, Sumas, WA 98295.
2. The Applicant is proposing to build a single-family residence. A single-family residence previously existed on the site, but was removed due to extensive damages following the 2021 Nooksack River Flood.
3. The site address is 132 Morton St. It is situated in the SE ¼ of the SE ¼ of Section 34, Township 41 North, Range 04 East of W.M. within Sumas WA. The Whatcom County Assessor's tax parcel number is 410434 549042.
4. The Project site's zoning designation is Business - General, 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 20.40 of the Sumas Municipal Code (SMC).
5. A single-family residence is not listed as a permitted use under Section 20.40.020 SMC, nor is it listed as a conditionally permitted use under Section 20.40.030 SMC; therefore, any existing residence would be considered a legally existing, nonconforming use within the Business – General zoning district.
6. Pursuant to subsection 20.54.030(8) SMC, if a nonconforming use is damaged in such a way that the cost to repair the nonconforming use exceeds 60 percent of the cost of replacing said use with new materials, the structure may only be repaired or reconstructed following approval of conditional use permit.
7. The applicant also submitted a consolidated application for a zoning setback variance to seek relief from applicable setback restrictions.

Procedural Requirements

8. The City received applications for a Conditional Use Permit and a zoning variance on October 27, 2025.
9. 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 October 28, 2025; therefore, the Project applications are considered vested to the regulations in place on the date the applications were received. A *Notice of Application* was issued by the City on November 5, 2025. A public comment period was open from November 5 through November 20, 2025. No comments were received during the public comment period.
10. A duly advertised public hearing before the Sumas City Council was opened on November 24, 2025 where opportunity for public comment was provided and public testimony was received.

Nonconforming Use Requirements

12. Section 20.54.010 SMC establishes that a legally existing use that has become nonconforming due to the adoption of amended land use regulations that do not permit such a use may continue subject to certain limitations.
13. Subsection 20.54.010(a) states the following: “Expansion of a nonconforming use of land onto other areas of the property may be permitted as a conditional use. The expansion must be on a parcel as it existed at the time the use became nonconforming and not onto other parcels.” The residential use of the subject property was in existence on the parcel at the time the current zoning regulations went into effect and, therefore, the Project is consistent with the above requirement.

Conditional Use Requirements

16. The Project meets the applicable criteria for issuance of a conditional use permit established at Section 20.66.020 SMC as follows:
 - a. The Project is harmonious and in accordance with the general policies and specific objectives of the *Comprehensive Land-Use Plan* given that such uses are authorized through the nonconforming uses and structures chapter of the City development regulations that implement the comprehensive plan.
 - b. The Project has been designed to be compatible with the essential character of the neighborhood and is not hazardous or disturbing to persons, property, or existing neighboring uses. Although the subject property is zoned Business – General, the surrounding area is predominantly residential in character.
 - c. The Project will be adequately served by public facilities and utilities. Water, sewer, electric, cable TV, and phone utilities are available to the subject property and to the existing residence. Stormwater will be addressed consistent with City requirements.

- d. The Project will not create excessive vehicular congestion on neighborhood, collector, or residential access streets. The subject property contains ample room for off-street parking meeting City parking requirements.
- e. The Project will not create conditions substantially detrimental to persons, property or neighboring uses by reason of the production of excessive amounts of traffic, fumes, glare, electrical interference, mechanical vibration, or odor.
- f. The Project will not result in destruction, loss, or damage to any natural, scenic, or historic feature of major consequence. There are no specific natural or scenic features of importance on the Site, and no adverse comments have been received by the City regarding natural, scenic, or historic features.

Variance Requirements

- 17. Chapter 20.40 of the Sumas Municipal Code does not contain any development requirements related to setbacks from property lines, lot size and coverage, or uniform design standards. For existing nonconforming residential uses, the City defers to those requirements found in Chapter 20.32 SMC, related to the Residential, High Density zoning district.
- 18. Section 20.32.100 SMC establishes a minimum lot area of six thousand (6,000) square feet. The Applicant identifies the Project site as being only 5,389 square feet. As there was previously a nonconforming use located on the site, a continuation of residential use of the Project site may not be disallowed based on the finding that the existing property does not meet size requirements.
- 19. Section 20.32.070 SMC establishes a minimum side yard setback of eight (8) feet. The Project site plan shows only 6 feet of setback between the building foundation and each of the side property lines. The Applicant is seeking a variance from the site yard setback requirement on the basis that the small size of the property restricts the Applicant's ability to meet the side yard setback requirements.
- 20. The Project meets the applicable criteria for issuance of a zoning variance established at Section 20.64.020 SMC as follows:
 - a. Approval of this variance does not constitute a grant of special privilege, is not based upon reasons of hardship caused by previous actions of the property owner, and will not be granted for pecuniary reasons alone.
 - b. Because of special circumstances related to size and shape, the strict application of the zoning ordinance is found to cause a hardship and deprive the subject property of a use otherwise allowed through the application of the preexisting nonconforming uses chapter of this Title.
 - c. The approval of this variance will not be materially detrimental to the public welfare, nor injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

Floodplain Requirements

21. The Project site is located within the Special Flood Hazard Area (SFHA). The City's Flood Damage Prevention Ordinances identifies specific requirements for residences located within the SFHA, codified in subsection 14.30.130(1). Those specific requirements are as follows:
 - a. New construction and substantial improvement of any residential structure shall have the lowest flood, including basement, elevated to two or more feet above the base flood elevation. Mechanical equipment and utilities shall be waterproof or elevated at least one foot above the BFE.
 - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be usable solely for parking of vehicles, building access or storage and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
 - iv. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.
22. Condition 3 from Appendix A will ensure that the project will be constructed consistent with all requirements set forth in Chapter 14.30 SMC, Flood Damage Prevention.
23. Approval of the subject application will allow reasonable use of the Site, consistent with applicable zoning requirements, while avoiding and minimizing risks associated with development in the 100-year floodplain.

CONCLUSIONS OF LAW

1. With the mitigation measures incorporated in the Application and in Conditions 1 through 6 from Appendix A, the Application is **consistent/inconsistent** with the Sumas Comprehensive Plan and with Title 20 SMC.
2. With the mitigation measures incorporated in the Application and in Conditions 1 through 6 from Appendix A, the Project **complies/does not comply** with the criteria for approval of conditional uses established at Section 20.66.020 SMC.
3. With the mitigation measures incorporated in the Application and in Conditions 1 through 6 from Appendix A, the Project **complies/does not comply** with the criteria for approval of zoning variances established at Section 20.64.020 SMC.
4. 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.
5. 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 _____, subject to the Conditions of Approval established in Appendix A.

Based upon the aforementioned findings of fact and conclusions of law, the zoning variance application is _____, 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

Charles (Chuck) Beardslee
PO Box 122
Sumas, WA 98295

APPENDIX A TO REPORT OF DECISION

CONDITIONS OF APPROVAL

BEARDSLEE CONDITIONAL USE PERMIT AND ZONING VARIANCE

1. 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. The Applicant shall provide to the City copies of all plans and reports prepared under the regulatory requirements of other regulatory agencies.
2. 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.
3. The project shall be constructed to meet all applicable requirements set forth in Chapter 14.30 SMC, Flood Damage Prevention.
4. Those portions of the structure below the FEMA base flood elevation shall be constructed of flood-resistant materials.
5. All mechanical equipment shall be elevated at least two feet above the FEMA base flood elevation.
6. Any finding of fact or conclusion of law that is also a condition of approval is hereby adopted as such.