

BEFORE THE CITY COUNCIL
CITY OF SUMAS, WASHINGTON

IN RE Conditional Use Application of:)	REPORT OF DECISION
)	
Tony Freeland)	
Freeland & Associates)	November 24, 2025 DRAFT
2500 Elm Street)	
Bellingham, WA 98225)	

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 Freeland & Associates, applying on behalf of Oleo Energies, Inc.
2. The Applicant seeks to establish a transloading operation for storage, transfer, and delivery of Diesel Exhaust Fluid (DEF) from rail cars to transport trucks.
3. The project site is located on the Martin's Feed property at 191 W Front St, Sumas. The properties are located in the Industrial District within the NE ¼ of NE ¼ of Section 03, T 40 N, R 04 E of W.M. The Whatcom County Assessor's parcel number is 400403 515532.
4. The parcel is located within the Industrial zoning district and is, therefore, subject to the regulations set forth in Chapter 20.44 of the Sumas Municipal Code (SMC).
5. The Site is currently owned and operated by Martin's Feed LLC, who uses the site for storage, transfer, and delivery of animal feed from transport trucks to rail cars. The new proposed use would be an addition to the existing uses on the property.

Procedural Requirements

6. An application for approval of a conditional use permit were submitted on September 25, 2025 by the Applicant. Additional materials were received from the Applicant on October 13, 2025. The application was determined to be complete on October 13, 2025.
7. Pursuant to Chapter 20.08 SMC, the application was processed as a Class III action. A *Notice of Application* was issued on November 5, 2025. The notice publicized the public hearing date. A public comment period was held from November 5, 2025 through November 24, 2025. No comments were received during the public comment period.
8. Pursuant to WAC 197-11-355 (the Optional DNS Process), the Notice of Application also notified the public that the City anticipated the issuance of a Determination of Nonsignificance (DNS) under the State Environmental Policy Act (SEPA). The SEPA

comment period ran concurrently with the comment period identified in the Notice of Application.

9. A public hearing regarding the consolidated applications was held before the Sumas City Council on November 24, 2025. Opportunity for public comment was provided and no testimony was received.
10. The public hearing was closed on November 24, 2025.

Zoning Requirements

11. The Project is identified as being permitted as a conditional use in the Industrial District under subsection 20.44.030(1) – an operation “using significant quantities of the following materials and/or the following processes SMC,” where the list of materials and processes includes in relevant part any of the following: “[c]hemicals such as acid, ammonia, bleach, chlorine, dye stuff, glue, gelatin, or size” or “[h]ighly flammable materials.” Additionally, Sumas Ordinance No. 1822 (2025) established a moratorium against all permitted use involving hazardous, toxic, and/or flammable materials, except where such uses are allowed and permitted as a conditional use pursuant to section 20.44.030 SMC. Thus, Council approval of a Conditional Use Application is required.

Conditional Use Requirements

12. 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* as it is allowed under the Industrial zoning district.
 - b. The Project has been designed to be compatible with the essential character of the area and is not hazardous or disturbing to persons, property, or existing neighboring uses.
 - c. The Project Site is already served by public facilities and utilities. Water, sewer, electric, and phone utilities are available at the Site.
 - d. The Project will not create excessive vehicular congestion on neighborhood, collector, or residential access streets. Access to and from the site will occur on industrial-grade roads and/or roads which meet Canadian weight standards.
 - 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.
13. Section 20.44.035 SMC establishes zone-specific conditional use permit criteria to be considered by the City Council when reviewing proposed conditional uses in the Industrial District. These criteria are as follows:
 - (a) The extent to which the proposed use is consistent with the purpose established under Section 20.44.010;

- (b) The benefits to the public that will result from permanent improvements associated with the proposed use that increase the city's tax base;
 - (c) The number, duration, and quality of jobs that will result from establishment of the proposed use;
 - (d) The extent to which potential impacts to the public and neighboring properties and resources, including to neighboring zoning districts, will be mitigated to within acceptable levels such that the use will not result in adverse impacts to private property, property values, quality of life, and community and environmental health; and
 - (e) The extent to which the use will generate benefits or contribute revenue that will offset impacts to or use of public facilities.
14. The Project is consistent with the supplemental conditional use permit criteria set forth in Section 20.44.035 as follows:
- (a) Section 20.44.010 SMC establishes that the purpose of the Industrial District is "to encourage the development of manufacturing, wholesale and selected retail business establishments." The Project would support the wholesale of DEF, which reduces nitrogen oxide emissions levels in diesel engines, promoting better air quality in the region.
 - (b) The Project would likely generate a certain amount of excise tax from the revenue generated from the use, but the funds from the excise tax would be distributed at a state-wide level, not remotely.
 - (c) The Applicant indicated that approximately four (4) permanently full time jobs would result from the proposal, with the possibility of short-term jobs during construction and some other non-local jobs.
 - (d) The Applicant indicated that a slight ammonia odor would emanate from the storage and transfer facilities, but that the odor would be harmless. Condition 6 of Appendix A requires the Applicant to control emissions of noxious or offensive odors emanating from the Project site. The Applicant also indicated that noise emissions would occur during normal business hours, and they would not exceed current noise levels.
 - (e) The Project proposes to generate an additional 2 truck trips per day through Sumas, potentially increasing revenue for local retail establishments. The Project also proposes to use approximately 1.5 million gallons of water as part of the operation, generating revenue for the City through water usage rates.
15. Section 20.44.100 SMC establishes improvement and performance standards applicable in the Industrial District. Condition 5 from Appendix A ensures that the Project will conform to all applicable improvement and performance standards established under this section.

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 application requirements set forth in Titles 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 requirements established for approval of a conditional use permit established at Chapter 20.66 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 also a conclusion of law is hereby adopted as such.

DECISION

Based upon the aforementioned findings of fact and conclusions of law, the application for approval of a conditional use permit 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 must be filed with the Superior Court and served on the following parties within twenty-one days of the issuance of the decision:

City of Sumas
433 Cherry Street
PO Box 9
Sumas, WA 98295

Tony Freeland
Freeland & Associates
2500 Elm Street
Bellingham, WA 98225

**APPENDIX A TO REPORT OF DECISION
CONDITIONS OF APPROVAL
OLEO ENERGIES CONDITIONAL USE PERMIT**

1. 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 commencement of operations. All permits and approvals required for the operation of the Project from either the City of Sumas 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 jurisdictions, including stormwater pollution prevention plans, spill and containment contingency plans, and operations and maintenance plans for Project facilities and equipment.
2. The trans-loading operation shall only be permitted to operate at the location as proposed in the Project application.
3. The Project shall comply with the noise standards established in Chapter 8.26 SMC.
4. Prior to commencement of operations, the Applicant shall prepare and submit a detailed Site Operations Plan that shows the proposed locations of all trans-loading, storage, parking, and vehicle turn-around areas and all vehicle access routes.
5. The Project shall at all times comply with the performance standards established under Section 20.44.100 SMC.
6. The Applicant shall take proper measures to reduce the emissions of noxious or offensive odors emanating from the Project site. In the event of a reasonable complaint to the City regarding noxious or offensive odors emanating from the Project site, the Applicant shall take immediate and proper action to address the complaint.
7. All construction-related plans shall be reviewed and approved by the Sumas Public Works Director prior to construction.
8. The Project shall be commenced within a period of one year from the date of council approval; otherwise, the permit shall lapse unless a one-year extension is granted in advance by the City Council.
9. Any finding of fact or conclusion of law that is also a condition of approval is hereby adopted as such.