

BEFORE THE CITY COUNCIL
CITY OF SUMAS, WASHINGTON

IN RE Conditional Use Application of:)	REPORT OF DECISION
)	
Dennis Wilson)	
Nation Clean Energy)	Adopted on November 24, 2025
902-935 Marine Dr)	
West Vancouver, BC V7T 1A7)	

The matter having come before the City Council of the City of Sumas for public hearing on November 10, 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 Nation Clean Energy.
2. The Applicant seeks to establish a transloading operation for transferring petroleum products and petroleum by-products from rail cars to transport trucks.
3. The project site is located on the Sumas Development and Pacific Rim Reload properties. The properties are located in the Industrial District within the NE ¼ of SW ¼ of Section 34, T 41 N, R 04 E of W.M. The Whatcom County Assessor's parcel numbers are 410434 110168 and 410434 355207.
4. The parcels are 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 properties comprise approximately 60 acres. The proposed project area only consists of a portion of the total property area, comprising approximately 13 acres of that area.

Procedural Requirements

6. Applications for approval of a conditional use permit were submitted on October 8, 2025 and October 22, 2025 by the Applicant. The applications were determined to be complete on October 23, 2025.
7. Pursuant to Chapter 20.08 SMC, the consolidated applications were processed as a Class III action. A *Notice of Application* was issued on October 22, 2025. The notice publicized the public hearing date. A public comment period was held from October 22, 2025 through November 7, 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 10, 2025. The Applicant addressed the Council and provided comments, including proposing to pay to the City fees or charges that would contribute revenue to the City and benefits to the public and offset impacts to, or use of, public facilities. Opportunity for public comment was provided and no testimony was received from the public.
10. The public hearing was closed on November 10, 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) SMC – an operation “using significant quantities of the following materials and/or the following processes,” where the list of materials and processes includes in relevant part any of the following: “petroleum products, and petroleum by-products”, “[h]ighly flammable materials” or, “any combustible fuel”. 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. Pursuant to Chapter 20.66 SMC, the City Council has broad authority to grant, grant with conditions, or deny an application for a conditional use permit.
13. 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 an 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.

14. The Project meets the additional applicable criteria for issuance of a conditional use permit in the Industrial zoning district established at Section 20.44.035 SMC as follows:
- a. The proposed use is sufficiently consistent with the purpose established under Section 20.44.010.
 - b. The Project does not include benefits to the public that will result from permanent improvements associated with the proposed use that increase the city's tax base.
 - c. The Applicant indicated that the Project would initially create one new full-time job but would possibly create more as operations expanded.
 - d. The 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.
 - e. Given that the project does not include permanent improvements that increase the city's tax base, and given that the proposed use is not projected to generate a significant source of revenue for the City, the Applicant has offered to pay a fee to be agreed upon by both parties for the purpose of contributing revenue that will offset impacts to public facilities.

CONCLUSIONS OF LAW

1. With the mitigation measures incorporated in the Application and in Conditions 1 through 11 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 11 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 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 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

Dennis Wilson
Nation Clean Energy
902-935 Marine Drive
West Vancouver, BC V7T 1A7

APPENDIX A TO REPORT OF DECISION
CONDITIONS OF APPROVAL
NATION CLEAN ENERGY 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 must be located adjacent to a rail siding that has been properly constructed and approved by the Sumas Public Works Director prior to commencement of operations.
3. The trans-loading operation shall only be permitted to operate at the location as proposed in the Project application and as specifically shown on the Site Operations Plan. The placement of above-ground or below-ground, temporary or permanent storage tanks is not authorized. Access to the Site shall be from Bob Mitchell Avenue.
4. The Project shall comply with the noise standards established in Chapter 8.26 SMC.
5. The Project shall implement access improvements subject to approval by the Sumas Public Works Director which seek to reduce the spread of dirt, gravel and other debris onto adjacent properties and streets.
6. Prior to the commencement of use operations, the Applicant shall prepare and submit a detailed Site Operations Plan that shows the proposed locations of all trans-loading, parking, and vehicle turn-around areas and all vehicle access routes. Said Plan must be reviewed and approved by the Sumas Public Works Director.
7. The Project shall at all times comply with the performance standards established under Subsections 20.44.100 (1)-(4) SMC.
8. All construction-related plans shall be reviewed and approved by the Sumas Public Works Director prior to construction.
9. The Applicant proposed and shall pay a fee to the City of Sumas for the purpose of community development and to meet the criteria for issuance of a conditional use permit by offsetting the lack of benefits to the public from improvements that increase city's tax base and to contribute revenue that will offset impacts to, or use of, public facilities. The fee shall be paid monthly and shall be based on the number of rail cars transferred/transloaded. The fee shall be calculated at a rate of \$100 per rail car of petroleum products and petroleum by-products transferred/transloaded.
10. 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. Given that the Project site spans two properties, if the Project is not commenced in one year at either property, the permit shall lapse for that property.
11. Any finding of fact or conclusion of law that is also a condition of approval is hereby adopted as such.