

BEFORE THE CITY COUNCIL
CITY OF SUMAS, WASHINGTON

IN RE Floodplain Development Variance)	DRAFT REPORT OF DECISION
Application of:)	
)	
)	
Jordan and Ashleigh Johnson)	April 27, 2026 DRAFT
234 Morton St)	
Sumas, WA 98295)	

The matter having come before the City Council of the City of Sumas for public hearing on April 27, 2026, 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 Applicants are Jordan and Ashleigh Johnson. The Applicants' mailing address is 234 Morton St, Sumas, WA 98295.
2. The Applicant is proposing to build an accessory garage/storage structure in the rear yard of the property with an accessory dwelling unit on the second floor of the structure.
3. The site address is 234 Morton St. 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 410435 024042 0000.
4. The Project site's zoning designation is Residential, 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).
5. The Project includes construction of a two-story accessory structure with the lowest floor below the FEMA base elevation. Section 14.30.135 SMC allows one-story accessory structures less than 400 square feet in size that have the lowest floor below the FEMA base flood elevation to be constructed with approval of a floodplain development permit (no variance required), but requires approval of a floodplain development variance for accessory structures with the lowest floor below the FEMA base flood elevation that exceed the above size thresholds. Therefore, the Applicant has submitted an application for a Floodplain Development Variance.
6. The Project site plan shows the approximate location of the proposed shop and ADU, as well as improvements to be constructed as part of the Project.

Procedural Requirements

7. An application for approval of a floodplain development variance was submitted on March 13, 2026. The application was determined to be complete on March 25, 2026.
8. The application was processed as a Class III action pursuant to the provisions of Chapter 20.08 SMC. A *Notice of Application* was issued by the City on April 1, 2026. A public comment period was open from April 1 through April 15, 2026. No comments were received during the public comment period.
9. A duly advertised public hearing before the Sumas City Council was opened on April 27, 2026 where opportunity for public comment was provided and public testimony was received.

Floodplain Requirements

10. Section 14.30.135 SMC from the City's Flood Damage Prevention ordinance establishes the following regulations in relation to construction of an accessory structure:

Accessory structures constructed or substantially improved within the SFHA shall conform to the requirements set forth in this section.

(1) Accessory structures located in the SFHA with the lowest floor below the BFE may be wet floodproofed in lieu of being elevated or dry floodproofed without a variance, under the following conditions:

- a. The accessory structure should be small, one story and four hundred square feet or less in area, and represent a minimal investment; provided, that accessory structures of any size may be considered for a variance;
- b. The accessory structure must meet the definition of "structure," for floodplain management purposes, where "walled and roofed" shall be interpreted as having two outside rigid walls and a fully secured roof;
- c. The accessory structure must be anchored to resist flotation, collapse, and lateral movement;
- d. The portions of the accessory structure located below the BFE must be constructed with flood-resistant materials;
- e. Mechanical and utility equipment for the accessory structure must be elevated or dry floodproofed to two feet or more above the BFE;
- f. Where applicable, the accessory structure must comply with the special flood risk zone, special flood corridor and floodway encroachment provisions of this chapter;
- g. The accessory structure must be wet floodproofed to protect the structure from hydrostatic pressure. The design must meet the NFIP design and performance standards for openings as set forth in Section 14.30.130 and must allow for the

automatic entry and exit of floodwaters without manual operation or the presence of a person (or persons);

- h. If the accessory structure is converted to another use, it must be brought into full compliance with the standards governing such use set forth in this chapter; and
- i. The structure shall not be used for human habitation.

(2) Accessory structures located in the SFHA with the lowest floor below the BFE that do not meet all of the conditions set forth in subsection (1) of this section shall require approval of a variance; provided, that any accessory structure shall conform to the requirements set forth in subsections (1)(b) through (1)(h) of this section.

- 11. As identified in condition 4 in the conditions of approval set forth in Appendix A, the applicant will provide supplemental information demonstrating that the project will be consistent with all of the above criteria, subject to approval of a floodplain development permit to allow construction of two-story accessory structure.

Floodplain Development Variance Criteria

- 12. Subsection 14.30.180(d) SMC establishes the following criteria that are applicable to the approval of a floodplain development variance;
 - d. In passing upon such applications, the Sumas city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - 1. The danger that materials may be swept on other lands to the injury of others;
 - 2. The danger to life and property due to flooding or erosion damage;
 - 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 4. The importance of the services provided by the proposed facility to the community;
 - 5. The necessity to the facility of a waterfront location, where applicable;
 - 6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - 7. The compatibility of the proposed use with existing and anticipated development;
 - 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, expected at the site; and
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
13. Section 14.30.190 SMC establishes the following additional conditions that are applicable to the approval of a floodplain development variance:
- a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acres or less in contiguous and surrounded by lots with existing structures constructed below the base flood level, providing items in Sections 14.30.180(d)(1) through (11) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
 - b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth this section, provided the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - c. Variance shall not be issued within the special flood risk zone if any increase in flood levels during the base flood damage would result.
 - d. Variances shall only be issued upon a determination that the variance is the minimum necessary.
 - e. Variances shall only be issued upon:
 1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 3. A demonstration that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 14.30.180(d), or conflict with existing local laws or ordinances.

- f. Variances as interpreted in the National Flood Insurance Program (NFIP) are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
 - g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (a) of this section and otherwise complies with Sections 14.30.120(1) and (2).
 - h. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
14. Based on consideration of the information presented by the Applicant, the information included in the public record, and the conditions of approval set forth in Appendix A, the Council finds that the project **is/is not** generally consistent with the criteria for approval of a floodplain development permit variance set forth under Sections 14.30.180 and 14.30.190 SMC.
15. Approval of the subject application **will/will not** allow reasonable use of the Site, consistent with applicable zoning requirements, while avoiding and minimizing risks associated with development in the 100-year floodplain.

Other Requirements

16. Sumas Ordinance No. 1832, approved on December 22, 2025, identified accessory dwelling units (ADUs) as a permitted use in the Residential (RH) District, High Density zone, pursuant to the provisions of Chapter 20.55 SMC, which was adopted with the approval of Ordinance No. 1832. Condition 8 of the conditions of approval set forth in Appendix A requires the Applicant to meet all requirements of Chapter 20.55 SMC as adopted in Ordinance No. 1832.

CONCLUSIONS OF LAW

1. With the mitigation measures incorporated in the Application and in Conditions 1 through 9 from Appendix A, the Application **is/is not** consistent with the Sumas Comprehensive Plan and with Title 14 SMC.
2. With the mitigation measures incorporated in the Application and in Conditions 1 through 9 from Appendix A, the Project **complies/does not comply** with the criteria for approval of floodplain development variance established at Section 14.30.180 and Section 14.30.190 SMC.
3. The conditions of approval set forth in Appendix A **are/are not** adopted under authority of Title 14 SMC as measures necessary to reach Conclusion 2, above.
4. Any conclusion of law that is also a finding of fact **is/is not** 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 floodplain development variance application is **APPROVED/DENIED**, 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 floodplain development variance 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

Jordan and Ashleigh Johnson
234 Morton St
Sumas, WA 98295

APPENDIX A TO REPORT OF DECISION

CONDITIONS OF APPROVAL JOHNSON FLOODPLAIN DEVELOPMENT 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. Prior to the start of construction, the Applicant shall provide a final site plan to the City demonstrating that the completed Project will be in conformance with the open space requirement established under Chapter 20.32 SMC, Residential (RH) District, High Density.
3. 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.
4. Prior to approval of a floodplain development permit, the Applicant shall provide supplemental information demonstrating that the project will be consistent with subsections 14.30.135(1)(b) through 14.30.135(1)(h) SMC.
5. Those portions of the structure below the FEMA base flood elevation shall be constructed of flood-resistant materials and with proper flood ventilation, subject to the requirements of Chapter 14.30 SMC.
6. All mechanical equipment shall be elevated at least two feet above the FEMA base flood elevation.
7. The lowest floor of the proposed accessory structure shall be used solely for parking of vehicles and limited storage and shall not be used for human habitation.
8. The second-floor accessory dwelling unit shall comply with all requirements of Chapter 20.55 SMC as adopted in Ordinance No. 1832 (2025).
9. Any finding of fact or conclusion of law that is also a condition of approval is hereby adopted as such.