

BEFORE THE CITY COUNCIL
CITY OF SUMAS, WASHINGTON

IN RE Conditional Use Application of:)	REPORT OF DECISION
)	
Tony Freeland)	
Freeland & Associates)	Adopted on February 23, 2026
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 hearing having been continued to December 8, 2025, January 12, 2026, and January 26, 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 Applicant is Freeland & Associates, applying on behalf of Oleo Energies, Inc.
2. The Applicant seeks to establish a transloading operation for storage, transfer, mixing, 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 testimony was received.
10. During the public hearing, Jacob Williams, 207 Lincoln Circle, asked if any new rail tracks would be added for the project. In response, the Applicant explained that no new rail tracks are to be added as part of the proposed Project.
11. Following receipt of public testimony, the public hearing was continued to December 8, 2025.
12. The public hearing was reopened on December 8, 2025. Opportunity for public comment was provided, and no testimony was received. The public hearing was continued to January 12, 2026.
13. The public hearing was reopened on January 12, 2026. Opportunity for public comment was provided, and no testimony was received. The public hearing was continued to January 26, 2026.
14. The public hearing was reopened on January 26, 2026. Opportunity for public comment was provided, and public testimony was received.
15. During the public hearing, Darrell VanWeerdhuizen, Oat Coles Road, commented on his concern of development in the Industrial district and potential impact on flood levels. He also asked about the proposed retention pond. The Applicant explained that the storage tanks would have a secondary containment area surrounding them in the case of a leak or flood.
16. Following receipt of public testimony, the public hearing was closed on January 26, 2026.

Zoning Requirements

17. 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

18. The Project addresses 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, with the exception of potential impacts to adjacent residential areas due to odor.
 - 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, with the exception of potential impacts to adjacent residential areas due to 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.
19. 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.
20. The Project addresses the conditional use permit criteria set forth in Section 20.44.035 SMC 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 is presented primarily be a transloading operation.
 - (b) The Project may generate some benefit to the City's tax base, however the revenue generated would be based on minimal improvements and will not generate benefits or contribute revenue that will offset impacts to or use of public facilities, such as streets, police and fire services, or other public facilities.
 - (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. The number, duration, and quality of potential jobs provided by this Project are minimal and do not offset the potential impacts brought on by the Project or inconsistency with other criteria established in Section 20.44.035 SMC.

- (d) The Applicant indicated that a slight ammonia odor would emanate from the storage and transfer facilities, but that the odor would be harmless. The proposed location of the Project provides a disadvantageous position for the residential developments due east and directly across the road from the property and the potential for negative impacts on those adjacent residential areas due to odor.
 - (e) The Project proposes to use approximately 1.5 million gallons of water as part of the operation, generating revenue for the City's water utility through water usage rates. However, the City is not able to operate its water/sewer utility in a proprietary manner and revenue generated from the sale of water is restricted to the operation of that utility and can only go to fund services provided by that facility.
21. Given the information provided by the Applicant, the City Council finds that this Project is inconsistent with, and does not sufficiently meet, the criteria provided in Section 20.44.035 SMC. Specifically, the Applicant has not sufficiently met the requirements of subsection (e) of this section. The amount of excise tax revenue generated from this Project would not be beneficial to the City and does not offset the potential impacts that this Project would create for services such as Police and Fire Protection.

CONCLUSIONS OF LAW

1. The Application is consistent with the application requirements set forth in Titles 20 SMC.
2. The Application is not consistent with the zoning requirements set forth in Chapter 20.44 SMC.
3. 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 **DENIED**.

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:

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