

TO: HEARINGS OFFICER
Joe Turner

Pre-App. Meeting: n/a
App. Submitted: February 6, 2014
App. Complete: February 21, 2014
120-Day Deadline: June 21, 2014
Hearing Date: March 17, 2014

From:



Michelle Miller, AICP
Senior Planner

Proposal: Threat Dynamics LLC, will soon open a weapons and self-defense training facility on SW Tualatin Sherwood Road. The applicant proposes to add a retail sales component that would be under 10 % of the total area of their facility, requiring a conditional use permit in the General Industrial zone. The entire area is 12,000 square feet and the retail will be approximately 1,050 square feet. The applicant proposes that this area for the sale of firearms and related accessories that are consistent and associated to support the primary facility.

I. BACKGROUND

A. Applicant: Threat Dynamics LLC.
8250 SW Tonka
Tualatin, OR 97062

Contact: Ryan Tuttle or Kim Tuttle-Kirk
503-896-7508 or 541-609-0343

Owner: Lanz Properties LLC
3025 W 7th PI
Eugene, OR 97402

B. Location: 2S128 BD Tax Lot 700

C. Address: 13565 SW Tualatin-Sherwood Road

D. Parcel Size: The subject property is approximately 5.72 acres in size.

E. Existing Development and Site Characteristics: The site under consideration contains an existing industrial building with several businesses including a cabinetmaker and custom-home building and remodeling company within the 85,000 square foot structure. There are several vacant spaces remaining. The site is fully developed and landscaped. There are approximately 148 parking spaces including six handicap spaces. The building is constructed of concrete tilt up panels with a metal roof. Windows are limited to the entry doors facing SW Tualatin Sherwood Road. There are five loading bays in the rear of the building. There are curb tight sidewalks along the frontage of the property.

The site contains an access and maintenance agreement for the west access to be shared with Tax Lot 600. There is signalized access intersection with Tualatin Sherwood Road at SW Oregon Street included with the original land use approval. There is another driveway access onto SW Tualatin Sherwood Road that allows for a right in, right out as there is a raised median along the frontage of the site.

- F. **Site History:** The site was originally developed in 1996, when Lanz Properties, (SP 96-02) received land use approval for an 85,000 square foot industrial warehouse building with lease space for eight tenants.
- G. **Zoning Classification and Comprehensive Plan Designation:** The zone is General Industrial (GI). Per § 16.31, the purpose of the general industrial zone is to provide for the manufacturing, processing, assembling, packaging and treatment of products from previously prepared or raw materials, providing such activities can meet and maintain minimum environmental quality standards and are situated so as not to create significant adverse effects to residential and commercial areas of the City. The minimum contiguous area of any GI zoning district shall be fifty (50) acres.
- H. **Adjacent Zoning and Land Use:** Surrounding uses include other general industrial developments and zoning that is exclusively general industrial.
- I. **Review Type:** Because this involves adding 10 % retail component to a permitted use in the industrial, a conditional use permit is required. This requires a Type III land use review, a decision made by the Hearing Officer after consideration of public comment. An appeal would be heard by the Planning Commission.
- I. **Public Notice and Hearing:** Notice of the application was mailed to property owners within 1,000 feet, posted on the property and distributed in five locations throughout the City on February 25, 2014 in accordance with Section 16.72.020 of the SZCDC. The notice was published in the Times on March 6 and March 13, 2014 (a newspaper of general circulation) in accordance with Section 16.72.020 of the SZCDC.
- J. **Review Criteria:** Sherwood Zoning and Community Development Code §16.31 (Industrial Use District); 16.58 (Clear Vision), § 16.82 (Conditional Use Permit), § 16.108.070 (Hwy 99W Capacity Allocation Program (CAP)), § 16.110 Sanitary Sewer, § 16.112 (Water), § 16.114 (Storm Water) § 16.116 (Fire Protection), § 16.118 (Public and Private Utilities)

II. PUBLIC COMMENTS

Public notice was mailed, posted on the property and in five locations throughout the City on February 25, 2014. Staff has received the following comment as of the date of this report; however comments are welcome up to the close of the public hearing.

Neil Shannon, 23997 SW Redfern Drive submitted comments on March 1, 2014 indicating support for the project. He noted that this type of sporting goods retail activity was currently lacking within the City boundaries. His comments are attached as Exhibit B.

III. AGENCY COMMENTS

Staff sent e-notice to affected agencies on February 25, 2014. The following is a summary of the comments received. Copies of full comments are included in the record unless otherwise noted.

Sherwood Engineering Department: Craig Christensen, Engineering Associate, submitted comments regarding the Capacity Allocation Program that will be discussed further within this report. His comments are attached as Exhibit C.

Washington County, Pride Disposal, Kinder Morgan Energy, Clean Water Services, ODOT, METRO, NW Natural Gas and Portland General Electric did not respond or provided no comments to the request for agency comments by the date of this report.

IV. APPLICABLE CODE PROVISIONS

The applicable zoning district standards are identified in Chapter 16.31 below.

A. Division II– Land Use and Development

The applicable provisions of Division II include:

Chapter 16.31 INDUSTRIAL LAND USE DISTRICTS

16.31.020 Uses

A. The table below identifies the land uses that are permitted outright (P), permitted conditionally (C) and not permitted (N) in the industrial zoning districts. The specific land use categories are described and defined in Chapter 16.88

B. Uses listed in other sections of this code, but not within this specific table are prohibited.

C. Any use not otherwise listed that can be shown to be consistent or associated with the uses permitted outright or conditionally in the commercial zones or contribute to the achievement of the objectives of the commercial zones may be permitted outright or conditionally, utilizing the provisions of Chapter 16.88

Use Table .

**Commercial Trade Schools, commercial educational services and training facilities
(Permitted)**

FINDING: The primary purpose of the business is to operate a live firearm training facility, including three simulation rooms, a classroom and warehouse. Therefore, the applicant meets this criterion.

Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10 % of the total floor area of the business. (Conditional)

FINDING: The applicant proposes to use approximately 1,050 square feet of the total 12,000 square foot lease space for providing incidental retail sales to support the training facility included but not limited to targets, firearms, and other self-defense merchandise.

16.31.030 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84.

Development Standards by Zone	LI
Lot area- Industrial Uses:	10,000 SF
Lot area- Commercial Uses (subject to Section 16.31.050):	10,000 SF
Lot width at front property line:	100 feet
Lot width at building line:	100 feet
Front Yard Setback	20 feet
Side Yard Setback	None
Rear Yard Setback	None
Corner lot street side	20 feet
Height	

FINDING: The proposal does not include the creation of any new lots. This lot is pre-existing and there are no additions to the site. The building has been constructed under these dimensional and setback requirements and does not abut any residentially zoned property. Therefore, this criterion is not applicable.

C. Height

Except as otherwise provided, the maximum height of structures shall be fifty (50) feet, except that structures within one-hundred (100) feet of a residential zone shall be limited to the height requirements of that residential area. Structures over fifty (50) feet in height may be permitted as conditional uses, subject to Chapter 16.82.

FINDING: As shown on the plans, the height of the building is not changing and there will not be any addition to the height of the building. This criterion is not applicable to this proposal.

B. Division IV- Planning Procedures

Chapter 16.82 Conditional Uses

C. Use Criteria

No conditional use shall be granted unless each of the following is found:

- 1. All public facilities and services to the proposed use, including but not limited to sanitary sewers, water, transportation facilities, and services, storm drains, electrical distribution, park and open space and public safety are adequate; or that the construction of improvements needed to provide adequate services and facilities is guaranteed by binding agreement between the applicant and the City.**

The site currently has public facilities and services including sanitary sewer, water, transportation and the new use within the existing building will not require additional improvements to the site for public facilities.

FINDING: Based on the discussion above, the applicant meets this criterion.

- 2. Proposed use conforms to other standards of the applicable zone and is compatible with abutting land uses in regard to noise generation and public safety.**

The site is zoned general industrial and the surrounding uses are general industrial.

FINDING: Based on the above discussion, the applicant meets this criterion.

3. The granting of the proposal will provide for a facility or use that meets the overall needs of the community and achievement of the goals and/or policies of the Comprehensive Plan, the adopted City of Sherwood Transportation System Plan and this Code.

The applicant has an existing business in Tualatin and wishes to move into Sherwood believing it would better serve its customers due to its location on SW Tualatin Sherwood Road. Therefore, a need is being served within the area and the applicant believes this facility is necessary to serve the Sherwood community and will draw customers from around the region. There are no other indoor training facilities similar to this in Sherwood. Additionally, there are limited sales of firearms and firearm accessories in the Sherwood area.

FINDING: Based on the above discussion, the applicant meets the criterion.

4. Surrounding property will not be adversely affected by the use, or that the adverse effects of the use on the surrounding uses, the neighborhood, or the City as a whole are sufficiently mitigated by the conditions proposed.

Other businesses along SW Tualatin Sherwood Road also have a retail component of under 10 % similar to the surrounding uses in the vicinity. The proposed new business location has access to an arterial roadway and the traffic impact analysis shows that this business will have a minimal or negligible impact to the number of vehicle trips on the roadway as the percentage of the site dedicated to the retail aspect of the business is incidental to the primary use.

FINDING: Based on the above discussion, the applicant meets this criterion.

5. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography and natural features.

FINDING: The applicant proposes to locate the training facility and retail component on the existing developed site, indoors and on existing pavement, thus the impact is minimal as to the proposed use of the site and the impact to natural features.

6. The use as proposed does not pose likely significant adverse impacts to sensitive wildlife species or the natural environment.

The site is already developed and there is no proposal to expand the business in a manner that would affect any natural environment. The applicant proposes to conduct all operations indoors.

FINDING: Based on the above discussion the applicant meets this criterion.

7. For a proposed conditional use permit in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 16.108.070 Highway 99W Capacity Allocation Program, unless excluded herein.

According to the Trip CAP Compliance letter submitted by the applicant, the business at its existing location generates approximately 37 weekday p.m. peak hour trips. Since the applicant is generating under eight trips per acre, mitigation will not be required. This has been confirmed by the Engineering Department, howh

FINDING: As discussed above, the CAP is satisfied, however the applicant will still need to verify the information with a Trip Allocation Certificate, which can be met with the following condition.

RECOMMENDED CONDITION: Prior to final occupancy, obtain a Trip Allocation Certificate from the City Engineer.

D. Additional Conditions

In permitting a conditional use or modification of an existing conditional use, additional conditions may be applied to protect the best interests of the surrounding properties and neighborhoods, the City as a whole, and the intent of this Chapter. These conditions may include but are not limited to the following:

1. Mitigation of air, land, or water degradation, noise, glare, heat, vibration, or other conditions which may be injurious to public health, safety or welfare in accordance with environmental performance standards.

2. Provisions for improvement of public facilities including sanitary sewers, storm drainage, water lines, fire hydrants, street improvements, including curb and sidewalks, and other above and underground utilities.

3. Increased required lot sizes, yard dimensions, street widths, and off-street parking and loading facilities.

The applicant’s proposal does not necessitate public improvements, mitigation of air, land or water degradation, noise, glare, heat, vibration or other conditions or changes to the street width or lot sizes that require the special conditions of these additional measures or conditions.

FINDING: Based on the above discussion, these additional conditions are not necessary.

4. Requirements for the location, number, type, size or area of vehicular access points, signs, lighting, landscaping, fencing or screening, building height and coverage, and building security.

There is one signalized access drive onto SW Tualatin Sherwood Road that is adequate to serve the proposed use of the business. There is also a right in, right out access drive onto SW Tualatin Sherwood Road. The developed site is over fifteen years old, and based on a visual inspection, the landscaping is mature and no additional screening is necessary.

FINDING: Based on the above discussion, these standards are already met and are not needed with this application.

5. Submittal of final site plans, land dedications or money-in-lieu of parks or other improvements, and suitable security guaranteeing conditional use requirements.
6. Limiting the number, size, location, height and lighting of signs.

7. Requirements for the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.

8. Requirements for design features which minimize potentially harmful environmental impacts such as noise, vibration, air pollution, glare, odor and dust.

FINDING: The provisions listed above have been considered for this conditional use permit, but are not necessary for the use proposed or are addressed or in other sections of this report including mitigation in compliance with the CAP ordinance.

C. Division V-. Community Design

16.94. Off-Street Parking and Loading (relevant sections)

16.94.010 Generally

A. Off-Street Parking Required.

No site shall be used for the parking of vehicles until plans are approved providing for off-street parking and loading space as required by this Code. Any change in uses or structures that reduces the current off-street parking and loading spaces provided on site, or that increases the need for off-street parking or loading requirements shall be unlawful and a violation of this Code, unless additional off-street parking or loading areas are provided in accordance with Section 16.94.020, or unless a variance from the minimum or maximum parking standards is approved in accordance with Chapter 16.84 Variances.

The site has been developed previously to accommodate an industrial business and contains approximately 148 existing off-street parking spaces. The applicant proposes to retain all of the parking areas for the use proposed. A building of this size for industrial purposes requires approximately 136 parking spaces. The amount of existing on-site parking exceeds the minimum requirements.

FINDING: Based on the above discussion, the applicant has met the criterion.

J. Parking and Loading Plan

An off-street parking and loading plan, drawn to scale, shall accompany requests for building permits or site plan approvals, except for single and two-family dwellings, and manufactured homes on residential lots. The plan shall show but not be limited to:

1. Delineation of individual parking and loading spaces and dimensions.
2. Circulation areas necessary to serve parking and loading spaces.
3. Location of accesses to streets, alleys and properties to be served, and any curb cuts.
4. Landscaping as required by Chapter 16.92.
5. Grading and drainage facilities.
6. Signing and bumper guard specifications.
7. Bicycle parking facilities as specified in Section 16.94.020.C.

As discussed above, the applicant proposes no changes to the exterior of the site. The existing parking lot is not affected by this proposal, and meets the dimensional standards of the code. There are clearly identified loading areas, and bicycle parking onsite. Additionally, the landscaping standards are met for the site. The existing landscaping on site met the standards at the time of original site plan approval, and that this proposal does not affect any exterior amenities already provided for the site.

FINDING: Based on the above discussion, the applicant meets this criterion.

D. Division VI - Public Improvements

16.108– Streets

16.108.030.01 – Required Improvements

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits.

FINDING: The site is fully developed and located adjacent to an arterial with direct signalized access; the City Engineering Department has not required any additional improvements or right-of-way dedication. Washington County has reviewed this application and did not have any comment. This standard is met.

16.108.040.03 - Underground Utilities

All public and private underground utilities, including sanitary sewers and storm water drains, shall be constructed prior to the surfacing of streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

FINDING: There are existing public and private utilities already underground. The conditional use will not require that any new utilities are installed. This standard is not applicable to the proposed development.

16.108.050.11-Transit Facilities

Developments along existing or proposed transit routes, as illustrated in Figure 7-2 in the TSP, shall be required to provide areas and facilities for bus turnouts, shelters, and other transit-related facilities to Tri-Met specifications. Transit facilities shall also meet the following requirements:

- 1. Locate buildings within 20 feet of or provide a pedestrian plaza at major transit stops.**
- 2. Provide reasonably direct pedestrian connections between the transit stop and building entrances on the site.**
- 3. Provide a transit passenger landing pad accessible to disabled persons (if not already existing to transit agency standards).**
- 4. Provide an easement or dedication for a passenger shelter and underground utility connection from the new development to the transit amenity if requested by the public transit provider.**
- 5. Provide lighting at a transit stop (if not already existing to transit agency standards).**

There is an existing transit line with a stop nearby on SW Tualatin Sherwood Road. There is a connection between the transit line and the site via existing sidewalks and pathways. The site is fully developed; therefore, additional design changes to accommodate transit are not necessary.

FINDING: Based on the above discussion, the applicant meets this criterion.

16.110 - Sanitary Sewers

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. Sanitary Sewers shall be constructed, located, sized and installed at standards consistent 16.110.

FINDING: The site has an existing sanitary sewer system that serves the site. The conditional use will not impact this utility. This standard is met.

16.112– Water Supply

Water lines and fire hydrants conforming to City and Fire District standards shall be installed to serve all building sites in a proposed development in compliance with 16.112.

FINDING: The site has an existing water system that serves the site. The conditional use will not impact this utility. This standard is met.

16.114 - Storm Water

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage

system consistent with the Comprehensive Plan, the requirements of the Clean Water Services water quality regulations and section 16.114.

The site has an existing storm water system that serves the site. The conditional use will not affect this utility.

FINDING: Based on the above discussion, this provision has been met.

16.116.010 - Fire Protection

When land is developed so that any commercial or industrial structure is further than 250 feet or any residential structure is further than 500 feet from an adequate water supply for fire protection, as determined by the Fire District, the developer shall provide fire protection facilities necessary to provide adequate water supply and fire safety. In addition capacity, fire flow, access to facilities and number of hydrants shall be consistent with 16.116.020 and fire district standards.

John Wolff, Deputy Fire Marshall from Tualatin Valley Fire and Rescue (TVF&R) reviewed the plans after receiving notice and indicated that any requirements would be established through the building permit application process.

FINDING: All Tualatin Valley Fire and Rescue (TVF&R) requirements apply to this development. Compliance with the standard TVF&R requirements is required throughout the development of this project. The applicant meets this criterion.

16.118.020 – Public and Private Utilities Standard

A. Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with this Code, Chapter 7 of the Community Development Code, and applicable utility company and City standards.

B. Public utility easements shall be a minimum of eight feet in width unless a reduced width is specifically exempted by the City Engineer.

C. Where necessary, in the judgment of the City Manager or his designee, to provide for orderly development of adjacent properties, public and franchise utilities shall be extended through the site to the edge of adjacent property(ies).

D. Franchise utility conduits shall be installed per the utility design and specification standards of the utility agency.

E. Public Telecommunication conduits and appurtenances shall be installed per the City of Sherwood telecommunication design standards.

F. Exceptions: Installation shall not be required if the development does not require any other street improvements. In those instances, the developer shall pay a fee in lieu that will finance installation when street or utility improvements in that location occur.

FINDING: There are no new utility connections proposed to serve the existing building therefore this standard is not applicable.

E. Division VIII. Environmental Resources

16.142.060 - Trees on Property Subject to Certain Land Use Applications

All site developments subject to Section 16.92.020 shall be required to preserve trees or woodlands to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. Review and mitigation shall be consistent with 16.142.060 A, B, C and D.

FINDING: The applicant has not proposed to remove any trees on site and thus this criterion is not applicable.

DECISION

Based upon review of the applicant's submittal information, review of the code, and agency, staff finds that the application does not fully comply with the standards but can be conditioned to comply. Therefore, staff recommends **approves the proposal subject to the conditions below.**

V. CONDITIONS OF APPROVAL

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. This land use approval shall substantially comply with the submitted preliminary site plans and narrative dated February 6, 2014 prepared by the applicant except as indicated in the following conditions of the Notice of Decision. Additional development or change of use may require a new development application and approval.
3. **This approval is valid for a period of two (2) years from the date of the notice of decision.** Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
4. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.
5. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies even if not specifically required by this decision.

B. Prior to Issuance of the Certificate of Final Occupancy:

1. Receive a Trip Allocation Certificate from the City Engineer.

VI. Exhibits

- A. Applicant's submittal with narrative and supporting documents dated February 6, 2014.
- B. Citizen comments submitted by Neil Shannon on March 1, 2014
- C. Engineering Comments submitted by Craig Christensen, Engineering Associate on March 7, 2013

End of Report