

**STAFF REPORT
CITY OF DONALD PLANNING COMMISSION**

HEARING: February 22, 2024

FILE NO.: Conditional Use Permit #CU 2024-01

APPLICANT: Shawn Harbert (buyer)

OWNER: Leland Richeson (seller)

REQUEST: Conditional Use Permit approval to open a new firearms business in the former Rich’s Gun Shop facility. The new business will include a public shooting range, a law enforcement/military/tactical range, firearm repair, gunsmithing, retail, and light manufacturing of peripherals. Training services include gun owner safety, first responders, life-saving trainings including CPR, etc. No changes are proposed to the exterior of the building or the site.

ADDRESS: Formerly Rich’s Gun Shop. 10791 Oak Street NE in Donald, OR.

TAX LOT: 041W17BD00400

ZONE: I – Industrial

CRITERIA: Donald Development Ordinance (DDO) Sections: 2.106 Industrial Zone, 2.3 General Development Standards, 3.107 Conditional Use Permits.

EXHIBITS: A Land Use Application

PROCEDURE:

A Conditional Use Permit is a Type II action which requires a public hearing and decision by the Donald Planning Commission, in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Staff has an advisory role. Public notice is provided. Appeal of a Type II decision is to the City Council.

I. BACKGROUND:

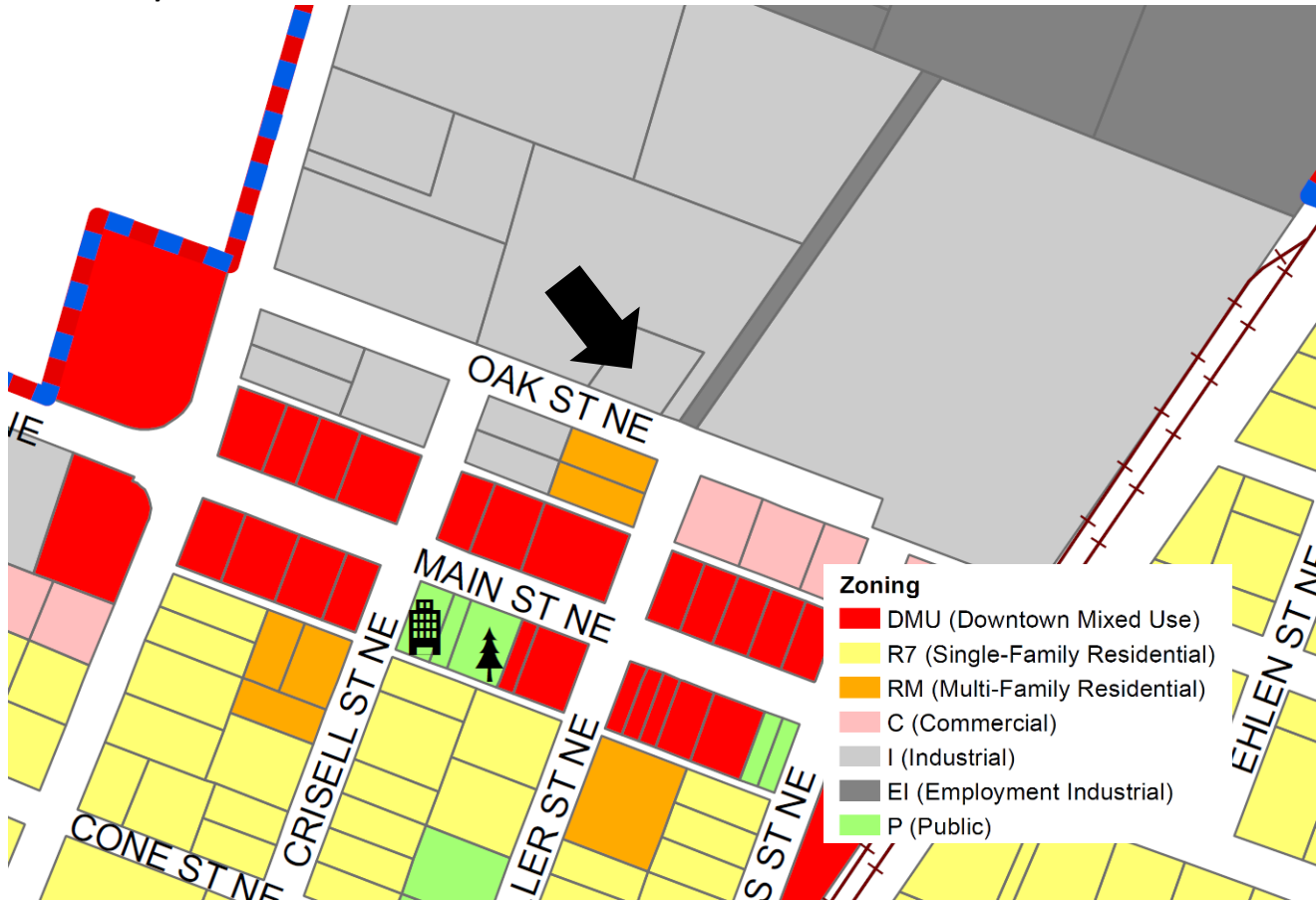
A. LAND USE HISTORY ON FILE:

The property owner (seller) received prior City land use approval with two concurrent files; Site Development Review #SDR 2014-01 and Conditional Use Permit #CUP 2014-01 for a two-story building expansion with improved parking, landscaping and utilities, as well as CUP approval for a shooting range in conjunction with the existing manufacturing and retail space. The 2014 CUP approval stated that the Conditional Use Permit approval “shall expire upon transfer of ownership, change of occupancy, or violation of any of the conditions of approval.” This is the purpose of the current CUP application.

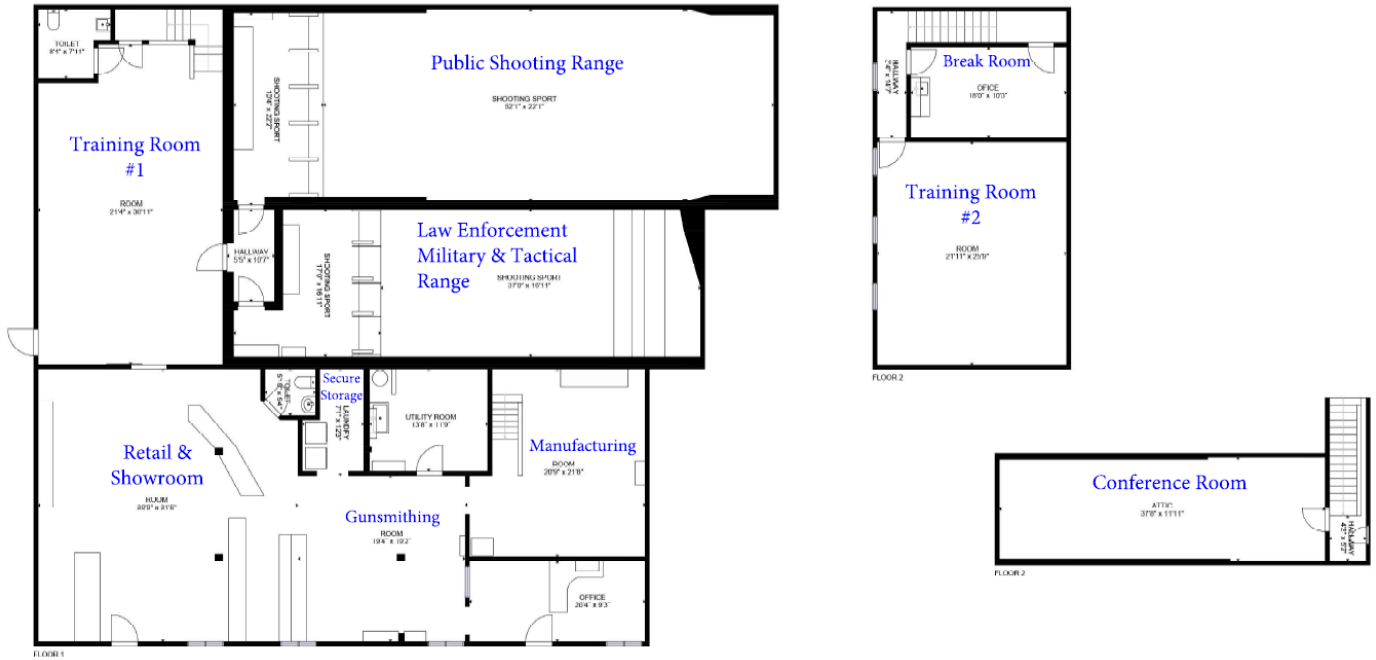
B. CURRENT CONDITIONS (Source: Google Streetview, July 2023)



C. ZONING/VICINITY MAP:



D. FLOORPLAN (Source: Submitted in application package)



II. CUP REVIEW AND DECISION CRITERIA:

DONALD DEVELOPMENT ORDINANCE (2021)

3.107 CONDITIONAL USE PERMITS.

3.107.04 Criteria for approval. *Conditional use permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Development Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:*

A. The use is listed as a conditional use in the underlying district.

FINDINGS: The subject property is zoned I – Industrial. Land uses and development in this zone are subject to DDO section 2.106 Industrial Zone Standards. The purpose of the Industrial Zone is “*The purpose of the I Zone is to provide areas suitable for warehousing, primary and secondary processing, packaging, fabricating of finished goods and equipment with related outdoor storage and incidental sales. The Industrial Zone is appropriate in those areas designated Industrial in the Comprehensive Plan where the location has access to an arterial street or highway and where the noises, lights, odors, and traffic will not conflict with residential areas.*” Land uses permitted both outright and conditionally are listed below.

2.106.02 Permitted uses. The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the I Zone:

B. Commercial activities.

2. Warehouse for short term storage, including mini-warehouse.

7. Welding and blacksmith shop.

9. Retail sales or office use, directly related and accessory to an industrial use, with the following limitations:

a. The retail sales and office uses combined shall not occupy more than 40% of the gross floor area occupied by the associated industrial use.

b. The retail sales or office use shall be located on the same lot as the associated industrial use.

c. Development requirements in subchapters 2.3 and 2.4 shall apply to the retail sales or office use.

d. For purposes of this section, retail sales shall mean sales of goods, materials, and services to daily general public customers. Retail sales does not include "wholesale sales" businesses which sell and distribute merchandise to retailers, industrial, commercial and professional business users, but not the general public.

C. Industrial uses.

7. Machine shop, and sales, service and repair of machinery.

9. Manufacture of metal products including metal plating.

2.106.04 Conditional uses. The following uses shall require a conditional use permit:

E. Other industrial type of activities not specifically, or generally, identified in §§ 2.106.02 or 2.106.03.

In summary, the proposed land uses of gunsmithing, manufacturing, repair, storage, and limited retail are permitted outright. The proposed use of a shooting range is subject to Conditional Use Permit approval, pursuant to DDO 2.106.04(E) "Other industrial type of activities not specifically identified." This criterion is satisfied.

B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.

FINDINGS: The subject property is fully developed. A floor plan of the proposed business is provided above and in the exhibit application. The existing building was remodeled to serve a firearms manufacturing, repair, retail, range, and training room business "Rich's Gun Shop." There is customer and employee parking as well as landscaping along the Oak Street frontage of the business. There are no notable topographic or natural features on site. Following a request for comments (RFC) to City Departments and partner agencies, the Aurora Rural Fire Department commented that there is an occupancy limit of 50 people in the training room #2 until a second egress door is installed. The

applicant indicated that the occupancy limit is not a problem for their business model. The site characteristics are suitable for the proposed use. This criterion is satisfied.

C. The proposed development is timely, considering the adequacy of transportation systems, Public facilities and services, existing or planned development for the area affected by the use.

FINDINGS: This land use application does not propose any new development. The subject property is fully built-out and developed with parking, landscaping, sidewalk, parking, and Oak Street public street access. The number of vehicle trips is expected to be similar to the prior gun shop. Following a request for comments (RFC) to City Departments and partner agencies, the Public Works Director and the City Engineer had no concerns regarding the existing utility connections, utility usage, or built public improvements. This criterion is satisfied.

D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.

FINDINGS: The subject property is surrounded predominantly by properties zoned and developed for industrial-related businesses. The exception to this being a couple properties to the south and southeast, zoned RM – Multi-Family Residential and C – Commercial respectively. The properties zoned RM and C are developed with non-conforming single-family dwellings constructed between roughly 1910-1940. The dwellings are separated from the subject property by the Oak Street public right-of-way. The proposed gun shop is an existing building which was initially used for the same proposed purpose beginning in 2014. All business activities are proposed to be conducted indoors. No improvements or changes are proposed to the exterior of the property. The proposed use is not anticipated to alter the character of the surrounding area in a manner which might limit, impair, or preclude the use of surrounding properties for the uses listed in the underlying district(s). This criterion is satisfied.

III. STAFF SUMMARY & RECOMMENDATION:

The land uses proposed with this application can be found to comply with the adopted Conditional Use Permit criteria contained in DDO 3.107. Staff recommends the Planning Commission approve the requested Conditional Use Permit application, subject to the following conditions of approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL:

- A. Conditional Use Permit approval shall expire upon transfer of ownership, change of occupancy, or violation of any of the conditions placed upon the conditional use permit.
- B. Permitting: The applicant shall be responsible for obtaining and maintaining all applicable State and Federal permits related to firearm storage, retail, manufacturing, repair, and use on site.
- C. Business License: The applicant shall secure and maintain a business license with the City of Donald prior to operating the food cart.
- D. Nuisance: Operation of the Conditional Use Permit shall remain in compliance with the applicable sections of the City of Donald Municipal Code.
- E. Signage: The applicant shall secure approval for all new external signage, in compliance with Section 2.310 of the Donald Development Ordinance.

V. PLANNING COMMISSION ACTION OPTIONS:

- A. Motion to APPROVE Conditional Use Permit file #CU 2024-01 and adopt the findings and recommended conditions of approval contained in the staff report dated February 15, 2024.
- B. Motion to APPROVE Conditional Use Permit file #CU 2024-01 and adopt the findings and recommended conditions of approval contained in the staff report dated February 15, 2024, as REVISED by the Planning Commission (stating desired revisions).
- C. Motion to DENY the Conditional Use Permit file #CU 2024-01 (stating findings for the denial).
- D. Motion to CONTINUE the Conditional Use Permit public hearing to a time and date certain.

CITY OF DONALD

10710 Main Street N.E. • P.O. Box 388 • Donald, OR 97020-0388

Phone 503-678-5543 • Fax 503-678-2750

www.donaldoregon.gov

Emergency pager for Water and Sewer: 503-301-6479



Office Use Only:

Permit No. _____

Date _____

Fee _____

LAND USE ACTION APPLICATION

Donald Development Code Section 3.1

Applicant:

Shawn Harbert

Name

4620 SW Beaverton Hillsdale Hwy, Suite C2

Mailing Address

Portland

OR

97221

City

State

Zip

503-360-8177

Phone

Fax

numonekeeper@gmail.com

Email

Property Owner:

(if different than Applicant)

Leland J Richeson (Seller)

Name

1881 Pikes Dr,

Mailing Address

St. George

UT

97007

City

State

Zip

Phone

Fax

Email

Contractor:

(if applicable)

N/A

Name

Mailing Address

City

State

Zip

Phone

Fax

Email

Location:

Street Address: 10971 Oak St. NE Donald OR 97020

Map and Tax Lot No: 041W17BD00400

Legal Description: _____

Property Size: 0.25 AC

Existing Structure/Use: Firearm repair, sales & training

Description: Comp. Plan Designation: INDUSTRIAL
Current Zoning: INDUSTRIAL

Proposed Action: Resurrect previous business model and workflows

Purpose and Description of Proposed Action:

Engage in the business of firearm services (repair, gunsmithing etc.). Firearm sales and light manufacturing of peripherals.
Business focus on educate & train Oregon gun owners with emphasis on Security professionals, law enforcement, first responders
and veterans. Life saving training to include CPR, BLS, Workplace Violence prevention. Corporate event venue.

Number of proposed parcels/lots: No land division is proposed

Are you applying for an Expedited Land Division?

Yes (If yes, attach a written description of how the proposal satisfies ORS 197.360)
 No

Applicant Name: _____ Phone: _____

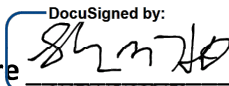
Applicant Mailing Address: _____

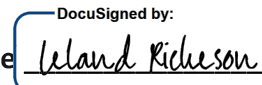
Site Address: _____

Signature Print Name Date

Authorization and Finalization Signatures

I am the owner/authorized agent of the owner empowered to submit this application and affirm that the information submitted with this application is correct to the best of my knowledge. I further acknowledge that I have read the applicable standards for review of the land use action I am requesting and understand that I must demonstrate to the City review authorities compliance with these standards prior to approval of my request. I understand that the filing fee is nonrefundable and that I am responsible for all additional costs of processing this application in excess of the filing fee, including but not limited to, all planning, engineering, city attorney, and city administration fees and costs. I understand that no final application approval shall be given and/or building permit shall be issued until all actual costs for processing this application are paid in full.

Applicant's Signature  **Date** Jan-18-2024 | 4:11 AM PST
DocuSigned by: 9A979A1513CD4F8...

Owner's Signature  **Date** Jan-17-2024 | 9:30 PM PST
DocuSigned by: 14ECA80463744EA...

See Attached: Supplemental Materials



CITY OF DONALD

Supplemental Materials Must Be Submitted With Application

In order to complete the processing of this application, the City of Donald requires that all pertinent material required for review of the application is submitted at the time application is made along with the application fee. If the application is found to be incomplete, review and processing of the application will not begin until the application is made complete. The submittal requirements relative to the application may be obtained from the specific sections of the Donald Development Ordinance pertaining to the application but include, at a minimum, those items outlined below.

In submitting this application, the applicant must be prepared to give evidence and information which will justify the request and satisfy all the required applicable criteria. The filing fee must be paid at the time of submission. This fee in no way assures approval of the application.

Submit one paper copy and one electronic version of the following:

- A brief statement describing how the proposed action satisfies the required findings criteria contained in the Land Development Ordinance for the action requested. (Mark "Exhibit A").
- Plans, with dimensions, of the proposed action (if applicable). These would include vicinity maps, plot plans, development plans, etc. For maps larger than 11x17, include 10 copies (Mark "Exhibit B").
- An accurate list of names and addresses of all owners of property within 100 feet of all boundaries for a Type I action and 200 feet of all boundaries for a Type II or Type III action. The applicant assumes notification problems associated with notification lists which are more than 30 days old. (Mark "Exhibit C").
- A copy of the applicable County Assessor's map. (Mark "Exhibit D").
- Applicable existing conditions and proposed development plan information. (Mark "Exhibit E")

Office Use Only:	
Application Received by _____	Date _____
Planning Dept. Review by _____	Date _____
Public Works Review by _____	Date _____
Engineer Review by _____	Date _____
Legal Review by _____	Date _____
Fire Dept. Review by _____	Date _____
School Dist. Review by _____	Date _____
Marion Co Sheriff Office Review by _____	Date _____
Level of Decision	
Staff Approval by _____	Date _____
Planning Commission Approval _____	Public Hearing Date _____
Council Approval - 1 st Public Hearing Date _____	2 nd Public Hearing Date _____



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LAND USE FEE SCHEDULE ACKNOWLEDGMENT

Resolution No. 515-20 requires a fee for land use applications. The City of Donald staff will collect the non-refundable fee at the time of application.

This fee will cover the actual costs of technical services including but not limited to planning, engineering, legal, surveying and other related technical services. Administrative overhead shall be billed at 30% of the City's actual costs for technical services. In the event the actual costs of these services exceed the application fee, the applicant shall make payment of this deficiency within fifteen (15) days of notification by the City Manager. The City shall discontinue processing the application until the deficiency is paid.

Hourly Rate for Land Use Services: Zoning confirmations, interpretations of development code criteria, land use compatibility statements or other services/assistance related to the development ordinance not listed above shall be the responsibility of the interested party/applicant. Services requiring in excess of fifteen (15) minutes of staff time shall require the payment of a Technical Review Fee.

The following are types of charges and amounts per hour. ***The Contracted Service provider fees are subject to change and may include their hired staff time.***

City Planner	\$ 99.00
City Engineer	\$180.30
City Attorney	\$200.00

I have read the above information and understand that the actual costs for service may exceed the Land Use Application Fee.

Applicant Signature

1/5/2024

Date

LAND USE APPLICATION FEE SCHEDULE

All development permits and land use actions are processed under the City’s administrative procedures. There are four types of actions, each with its own procedures. Below is a summary of each type of action and the required fees. See Section 3.1 in the Donald Development Ordinance for detailed descriptions.

TYPE I Actions – City staff decision; no public hearing	FEE
A. MINOR VARIANCE	\$500
B. LOT LINE ADJUSTMENT	\$400
C. PARTITION	\$1,000
TYPE II Actions – Planning Commission decision with public hearing	
A. SITE DEVELOPMENT REVIEW	\$1,500
B. CONDITIONAL USE	\$1,000
C. MAJOR VARIANCE	\$1,000
D. SUBDIVISION (+\$200/lot)	\$1,000
E. PLANNED UNIT DEVELOPMENT (PUD)	\$1,500
TYPE III Actions – City Council final decision with public hearings by Commission and Council	
A. COMPREHENSIVE PLAN MAP AMENDMENT	\$1,000
B. ZONE CHANGE	\$1,500
TYPE IV Actions – Legislative; City Council final decision with public hearings	
A. TEXT AMENDMENT	\$1,500

Additional Land Use Fees

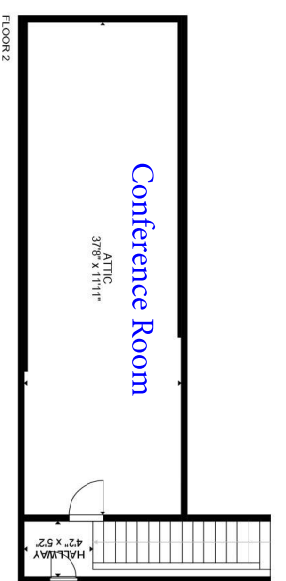
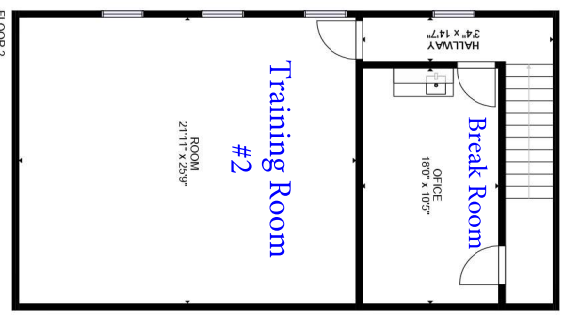
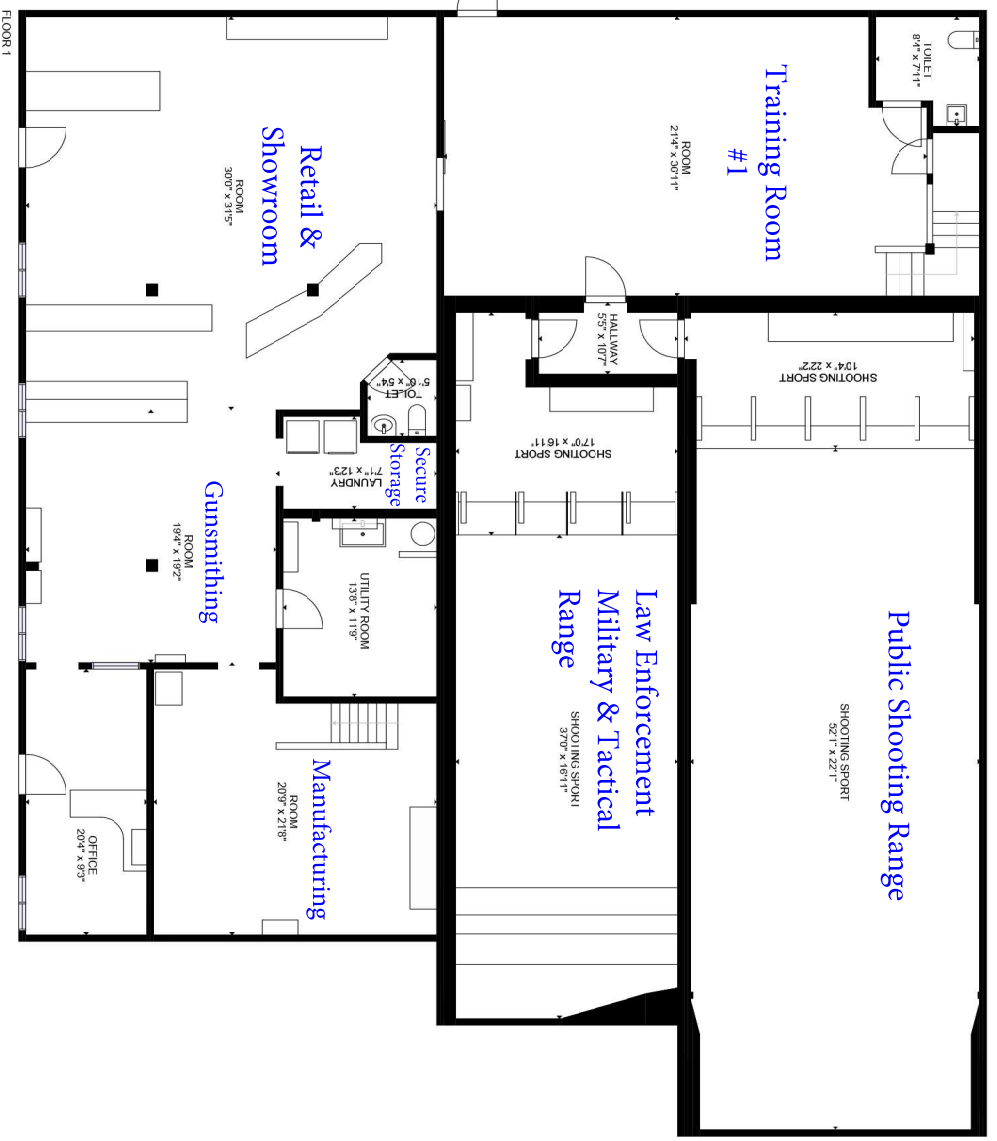
ANNEXATION	\$1,500
APPEAL	\$400
EXPEDITED LAND DIVISION (per ORS 197.370) – addition to Partition, PUD or Subdivision	\$500
HOME OCCUPATION PERMIT	\$100
MANUFACTURED HOME PARK	\$1,200
PRE-APPLICATION CONFERENCE	\$600
SIGN PERMIT	\$75
TECHNICAL REVIEW	\$150
VACATION	\$1,000

Fee In-Lieu Programs

LANDSCAPING FEE IN-LIEU: Land-use applicant is to secure a bid from a professional landscaping company for the shortfall in landscaped area. The City will collect 80% of the bid for the landscaping fee. The fee is to be expended as per Donald Development Ordinance Section 2.306.07.

FRONTAGE IMPROVEMENT FEE IN-LIEU: See Donald Development Ordinance Section 2.302.09

	<i>Construction Cost</i>	<i>Engineering 15%</i>	<i>Total Per Foot</i>
6" Curb , including excavation and 4" base rock, per foot	\$22	\$3	\$25
5' Sidewalk , including excavation and 4" leveling rock, per foot	\$52	\$8	\$60
Street Improvement , 17' half street with excavation, 12" base rock, and 4" HMA, per foot	\$100	\$15	\$115



10791 OAK ST., DONALD OR 97020
 FLOOR 1: 5552 sq.ft, FLOOR 2: 1421 sq.ft
 TOTAL: 6973 sq.ft

SIZES AND DIMENSIONS ARE APPROXIMATE, ACTUAL MAY VARY.



§ 2.106 INDUSTRIAL (I)

2.106.01 Purpose. The purpose of the I Zone is to provide areas suitable for warehousing, primary and secondary processing, packaging, fabricating of finished goods and equipment with related outdoor storage and incidental sales. The Industrial Zone is appropriate in those areas designated Industrial in the Comprehensive Plan where the location has access to an arterial street or highway and where the noises, lights, odors, and traffic will not conflict with residential areas.

2.106.02 Permitted uses.

B. Commercial activities.

7. Welding and blacksmith shop.

9. Retail sales or office use, directly related and accessory to an industrial use, with the following limitations:

a. The retail sales and office uses combined shall not occupy more than 40% of the gross floor area occupied by the associated industrial use.

b. The retail sales or office use shall be located on the same lot as the associated industrial use.

c. Development requirements in subchapters 2.3 and 2.4 shall apply to the retail sales or office use.

d. For purposes of this section, retail sales shall mean sales of goods, materials, and services to daily general public customers. Retail sales does not include “wholesale sales” businesses which sell and distribute merchandise to retailers, industrial, commercial and professional business users, but not the general public.

C. Industrial uses.

7. Machine shop, and sales, service and repair of machinery.

9. Manufacture of metal products including metal plating.

2.106.04 Conditional uses. The following uses shall require a conditional use permit:

E. Other industrial type of activities not specifically, or generally, identified in §§ 2.106.02 or 2.106.03. (EXAMPLE: shooting range/gallery)

§ 3.107 CONDITIONAL USE PERMITS.

3.107.01 Purpose. A conditional use is a use which is generally acceptable as a land use activity in a particular Zone, but due to certain aspects of the activity, buffering, screening, time limitations or other conditions are necessary to ensure compatibility with adjacent property. Conditional uses are assumed permitted uses unless conditions to ensure their compatibility cannot be established.

3.107.02 Review and approval process. Conditional use Applications shall be reviewed in accordance with the Type II review procedures specified in § 3.201.

3.107.03 Application and fee. An Application for a conditional use permit shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete Application which addresses the review criteria of this section.

3.107.04 Criteria for approval. Conditional use permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Development Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

A. The use is listed as a conditional use in the underlying district. (LISTED ABOVE)

YES

B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.

YES

C. The proposed development is timely, considering the adequacy of transportation systems, Public facilities and services, existing or planned development for the area affected by the use.

YES

D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.

It will not