



**AGENDA**  
**CITY OF THE DALLES PLANNING COMMISSION**

CITY HALL COUNCIL CHAMBERS  
313 COURT SREET

THE DALLES, OREGON 97058

*CONDUCTED IN A HANDICAP ACCESSIBLE MEETING ROOM*

**THURSDAY, OCTOBER 6, 2016**

**6:00 PM**

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES – September 15, 2016
- V. PUBLIC COMMENT (Items not on the Agenda)
- VI. QUASI-JUDICIAL HEARING  
**Application Number: CUP 182-16 by Victor Johnson:** This application is a request to reduce the parking requirements associated with the development of a mixed-use space. The request is to add a commercial coffee shop to the existing three residential-unit building. The property is located at 313 W 4<sup>th</sup> Street and is further described as 1N 13E 3BB tax lot 4100. Property is zoned CBC – Central Business Commercial.
- VII. LEGISLATIVE HEARING  
**Application Number: ZOA 93-16 by City of The Dalles:** This application is a request to amend the City's Land Use and Development Ordinance 98-1222 pertaining to the Processing, Production, and Wholesaling of Medical Marijuana, and to regulate the number of marijuana plants grown on residential properties. Review criteria for this zone are contained in City Ordinance 98-1222.
- VIII. **Resolution - #556-16 for CUP#182-16**  
**Resolution - #557-16 for ZOA#93-16**
- IX. STAFF COMMENTS
- X. FUTURE MEETING – October 20, 2016
- XI. COMMISSIONER COMMENTS/QUESTIONS
- XI. ADJOURNMENT

# City of The Dalles

## STAFF REPORT

Conditional Use Permit No. 182-16

**Victor Johnson**  
The Wall/Herbring House

Prepared by: Dawn Marie Hert, Senior Planner

Procedure Type: Quasi-Judicial

Hearing Date: October 6, 2016

Assessor's Map: Township 1 North, Range 13 East, Map 3 BB

Tax Lot: 4100

Address: 313 West 4<sup>th</sup> Street

Comprehensive Plan Designation/: "CBC" Central Business Commercial

Zoning District: "CBC" Central Business Commercial

Request: The applicant is requesting to reduce the parking requirements associated with the development of a mixed-use building. The proposal includes the addition of a coffee, tea and ice cream shop to the existing 3 unit residence.

### **BACKGROUND INFORMATION**

Victor Johnson's application for the historic Wall/Herbring House is being reviewed for a Site Plan Review and requesting a Conditional Use Permit to allow for a waiver of on-site parking. There are currently no off-street parking spaces provided to the property for the existing residential uses. The proposed use as a coffee, tea and ice cream shop is permitted outright in the Central Business Commercial zone. However, the off-street parking requirements cannot reasonably be met for a few reasons:

- 1) Due to the property being located in the Trevitt's National Historic District, any excavation that unearths artifacts is required, by ordinance and law, to be professionally evaluated. Other properties in the same historic district have run into artifacts and have been unable to continue with planned development.
- 2) Staff has looked at a number of parking options for the site with the applicant and have come to the conclusion that construction of parking spaces on-site would not only detract from the neighborhood characteristics, it would also not be able to meet

the historic design guidelines. The Historic Landmarks Commission would require that the Historic Design Guidelines ordinance be followed.

#### **NOTIFICATION**

Property owners within 300 feet, City Departments, franchise utilities, Mid-Columbia Fire & Rescue, Wasco County Health Department, and State Building Codes.

#### **COMMENTS RECEIVED**

No comments were received as of the date this report was written.

**RECOMMENDATION:** Approval, with conditions, based upon the following findings-of-fact.

#### **A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222:**

##### **Section 3.010.040 Applications:**

*Subsection B. Completeness.*

**FINDING A-1:** This application was found to be complete on September 23, 2016. The 120-day State mandated decision deadline is January 21, 2016.

##### **Section 3.020.050 Quasi-Judicial Actions:**

*Subsection A. Decision Types, (1)Site Plan Review:3. Conditional Use Permits:*

**FINDING A-2:** This application is for a Conditional Use Permit and Site Plan Review per Section 7.020.040 Allowed Motor Vehicle Parking Reductions, Waivers and Exemptions, Subsection C. (2). The decision criteria listed in this ordinance section is addressed in the body of this staff report.

*Subsection B. Staff Report. The Director shall prepare and sign a staff report for each quasi-judicial action, which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may also include a recommendation for approval with conditions, or denial.*

**FINDING A-3:** The staff report will detail criteria and standards relevant to a decision, all facts will be stated, and explanations given. This will be detailed through a series of findings directly related to relevant sections and subsections of the ordinance as they relate to this request.

*Subsection C. Public Hearings.*

**FINDING A-4:** The public hearing is scheduled for October 6, 2016.

*Subsection D. Notice of Hearing.*

**FINDING A-5:** Appropriate mailings to property owners within 300 feet and notice to affected departments and agencies have been completed.

##### **Section 3.050.030 Review Procedures:**

*Subsection A. Applications. Conditional Use Permit applications shall be accompanied by at least 15 copies of the concept site plan, and when required, two copies of the detailed*

landscape and construction/design plans, per the provisions of Section 3.030: Site Plan Review.

**FINDING A-6:** The required plans have been submitted. Criterion met.

**Section 3.050.040 Review Criteria**

*Subsection A. Permitted Conditional Uses. The proposed use is conditionally permitted in the zone district where it is proposed to be located.*

**FINDING A-7:** The proposed use is permitted outright in the Central Business Commercial district. A conditional use permit application is required due to the off-street parking reduction request.

*Subsection B. Standards. The proposed use conforms to all applicable standards of the zone district where the use is proposed to be located.*

**FINDING A-8:** The proposed use is permitted outright. This application is being reviewed as a conditional use permit for the parking waiver request.

*Subsection C. Impact. The proposed structure(s) and use(s) shall be designed and operated in such a way as to meet the standards of this section. Impacts caused by the construction of the conditional use shall not be considered regarding a decision on the validation of the application.*

*1. Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this section shall modify other noise ordinance standards as adopted by the City.*

**FINDING A-9:** The proposed use will be inside the existing building, however the applicant is proposing some outdoor seating areas that can be used when the weather is good. The applicant will be advised of the allowable noise levels. Criterion will be addressed as a condition of approval.

*2. Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)*

**FINDING A-10:** The applicant is proposing lighting that will be located on the building facing toward the landscaped courtyard area. Criterion can be addressed as a condition of approval.

*3. Dust and other particulate matter shall be confined to the subject property.*

**FINDING A-11:** The activities for the proposed coffee, tea and ice cream shop do not generate dust or particulate matter. The applicant will be required to confine dust and particulate matter to the subject property. Criterion can be addressed as a condition of approval.

*4. The following odors shall be completely confined to subject property:*

- a. industrial and/or chemical grade chemicals, solvents, paints, cleaners, and similar substances;*
- b. fuels, and*

*c. fertilizers, manure, or other animal waste products, other than for landscape installation and maintenance.*

**FINDING A-12:** The proposed use will not be using any of the listed items that cause odors. This proposal does not indicate that many of these nuisances need to be reviewed in depth for mitigation purposes. Trash receptacles should be sized to fully accommodate the needs of the business. Appropriate screening from the public right-of-way and adjacent neighbors and containment of trash receptacles should be required as a condition of approval. No outdoor storage of materials or supplies related to this proposed use will be allowed. Criterion will be addressed as a condition of approval.

*5. Vibrations shall not be felt across the property line.*

**FINDING A-13:** The proposed use does not include equipment that causes vibrations. The applicant will be made aware of the requirement. The criterion can be addressed as a condition of approval.

*6. The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are not limited to:*

- a. Street designations and capacities; and*
- b. On-street parking impacts.*

**FINDING A-14:** The new business will be accessed from 3<sup>rd</sup> Street which is an arterial street. The location of this proposed coffee, tea and ice cream shop is conducive to walking traffic from nearby residential districts as well as local businesses. Additionally, it should be noted that this structure is on the route for the historic walking tour of the City of The Dalles. It is anticipated that this use will serve a local population.

The applicant is providing 3 leased parking spaces on the neighboring property. It is not anticipated to result in any negative impact to the on-street parking as there currently is parking availability along the property frontage and in the vicinity. There is also the Urban Renewal public parking lot on the corner of 3<sup>rd</sup> and Lincoln that provides additional parking for the surrounding businesses. The applicant's customers are allowed to use the publically owned property for parking their vehicles.

The applicant does not anticipate large groups at any one time and is limited to occupancy set forth by the Building Codes Department and the Fire Marshal. On occasion, parking may become an issue with weddings at the neighboring St. Peters Landmark or bakery business across the street. As with any existing commercial or residential use in the surrounding area, parking is available on the public right-of-way. With a large number of the surrounding properties being of a residential nature, the impact of this small commercial use is minimal. If the surrounding area was entirely commercial, the impact of this expanded use may be greater. This neighborhood is familiar with the

mixed uses of the surrounding properties as well as the weekend uses and impacts of the church and other uses in the area.

7. *In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of the Historic Resources Ordinance (General Ordinance No. 94-1194.)*

**FINDING A-15:** The proposed new commercial use is in an existing residential structure located in Trevitt's National Historic District. Any exterior modifications are required to meet historic design guidelines. The applicant has indicated in their application that only painting, exterior lighting and signage are planned for exterior modifications. These types of minor modifications are allowed to be reviewed and approved by the Planning Director and do not require a formal review by the Historic Landmarks Commission. If the alterations exceed the definition of minor, they will be required to be reviewed by the Historic Landmarks Review. Criterion will be addressed as a condition of approval.

#### **Section 7.020.040 Allowed Motor Vehicle Parking Reductions, Waivers, and Exemptions.**

*Subsection C. Reductions for existing Uses. (2) Where pre-existing development is unable to accommodate off-street parking that is required by a proposed use change and/or an addition or modification to existing building(s), the applicant may request a conditional use approval for a parking reduction providing each of the following conditions is met. The conditional use permit shall be processed per the provisions of Section 3.050: Conditional Use Permits.*

- a) *The enlargement, modification or use change does not displace any existing off-street parking.*
- b) *The proposal is not for an existing non-conforming use.*
- c) *The applicant can demonstrate that an opportunity for shared or joint parking, as specified in this Chapter, is not reasonably available.*

**FINDING A-16:** This proposed use change is to add a commercial use to an existing three-unit residential building. The current site has no off-street parking provided, and is considered exiting non-conforming.

The standard parking requirement for the 3 residential units and the new coffee shop would be 12 parking spaces. (Calculated at 2 spaces for each residence and a minimum of 6 spaces for the new 800 square feet of commercial use.)

The LUDO allows reductions for mixed use developments per Section 7.020.070. The primary use is calculated at 100%; secondary use is calculated at 70%; and each subsequent use be calculated at 50%. This allowed reduction would bring the required parking down to 7 spaces. (Primary – residential -2 spaces, Secondary – residential 1.7 spaces, Subsequent – residential – 1 space and coffee shop -3. Total= 6.7, rounded up to 7 total.)

The use change does not displace any existing off-street parking because none exists. The proposal is for a permitted outright use in the Central Business Commercial zoning district.

In conclusion, with the allowed reductions, the total parking spaces required would be 7 for the residential and commercial uses. The applicant has a lease and is providing 3 off-street parking spots on an adjacent lot. And finally, a public parking lot is located within a block of this proposed site and is available for all to use. Staff believes that the applicant has diligently attempted to meet the parking and meets the requirements set forth in the LUDO for this parking exemption request. Criterion met.

### **Section 3.030.040 Review Criteria.**

A. **City Ordinance Provisions.** *All the provisions from the applicable City ordinances have been met or will be met by the proposed development.*

**FINDING A-17:** All provisions are met by this proposal or will be met as a condition of approval. This will be detailed in the staff report through a series of findings.

B. **Public Facilities Capacity.** *Adequate capacity of City facilities for water, sanitary sewer, storm sewer, and streets and sidewalks can and will be provided to, and were applicable, through, the subject property.*

**FINDING A-18:** Adequate capacity exists for facilities including water, storm sewer, and streets. The Dalles Public Works Department has verified this information.

C. Arrangement of Site Elements.

1. *Promote pedestrian, bicycle, and vehicular safety and welfare.*

**FINDING A-19:** Pedestrian safety and welfare is promoted by the access being provided from the sidewalk. No parking areas are proposed on-site.

2. Preserve and maintain public amenities and significant natural features.

**FINDING A-20:** There are no known significant archeological features on this site and no excavation is planned with the proposal. The applicant is familiar with the ordinance regulations and laws pertaining to archaeological discoveries. Criterion will be addressed as a condition of approval.

3. Avoid traffic congestion.

**FINDING A-21:** No on-site parking is proposed. Parking is available on the public right-of-way street, in the public owned parking lot. The applicant was able to secure 3 spaces on an adjacent parking lot which will assist in customers accessing the business with minimal traffic congestion. Criterion met.

4. Minimize potential adverse impacts on surrounding properties.

**FINDING A-22:** The range of uses for this site does not have a high potential for off-site impacts. Nuisance conditions that may develop are addressed on a complaint basis; this includes noise, dust, vibration, and odor. Criterion will be addressed as a condition of approval.

D. *Lighting. Proposed lighting shall not directly illuminate adjoining properties.*

**FINDING A-23:** General lighting of the site area and the buildings is not shown on the site plan. Lighting is not allowed to illuminate adjoining properties. A detailed site lighting/photometric plan shall be submitted and approved prior to the issuance of building permits. The plan shall demonstrate that the maximum illumination at the property line will not exceed an average horizontal foot candle of 0.3 for non-cut-off lights and 1.0 for cut-off lights. These items will be addressed as a condition of approval.

E. *City Engineer Approval. Detailed construction/design plans for public infrastructure, improvements, or rights of way affected by or located within a proposed development site shall be approved by the City Engineer as a condition of Site Plan Review approval.*

**FINDING A-24:** The detailed construction/design plans for all improvements located within the proposed development site shall be approved by the City Engineer prior to construction. Criterion will be addressed as a condition of approval.

F. *Waiver of Remonstrance. Where applicable, the applicant shall agree to waive any future rights to remonstrate against future improvements, per the provision of Section 6.110: Waiver of Right to Remonstrate of this ordinance.*

**FINDING A-25:** All improvements adjacent to the site exist. A waiver or remonstrance is not necessary with this application. Criterion met.

Section 5.050.020 Permitted Uses

A. Primary Uses Permitted Outright

**5. Food Services (including restaurants, cafeterias, bakeries, catering, and take-out operations.)**

**FINDING A-26:** As indicated on the application submitted by the applicant, the proposed use is to add a coffee, tea and ice cream shop, which is a food service type use. The use is therefore allowed in the zone. Criterion met.

**Section 5.050.050 Development Standards:**

The following table specifies Central Business Commercial development standards applicable to this application.

<b>Central Business Commercial</b>	<b>Standard</b>	<b>Proposal</b>	<b>Meets Requirements</b>
Lot Size	<i>No minimum, one City block maximum</i>	Existing lots	Yes, existing lots.
Setbacks	<b>Front</b> <i>0 feet maximum</i> <b>Historic Design guidelines:</b> <i>15 feet minimum.</i> <b>Side Yard:</b> <i>no minimum /maximum.</i> <b>Rear Yard:</b> <i>No minimum/maximum.</i>	Existing structure no change in footprint.	Yes, when using the historic guidelines.

Building Height	55 ft. maximum	Existing structure is under 30 feet in height.	Yes
Building Orientation	<i>New buildings shall be oriented primarily toward a street or designated accessway. Building orientation shall include an entrance.</i>	The existing building is oriented towards the street.	Yes
Pedestrian Access	<i>All building entrances shall have a clear pedestrian connection to the street/sidewalk in accordance with subsection 5.050.060{C}: Pedestrian Walkways</i>	Detailed below.	Detailed below.
Off-Street Parking	<i>Allowed Parking Exemptions. Per Section 7.020.040 C. 2.</i>	No on-site parking is proposed.	See parking exemption finding A-16.
Landscaping	<i>Detailed Below</i>	Detailed Below	Detailed Below

**FINDING A-27:** This proposal meets the development standards. Criterion met.

**Section 5.050.060 Design Standards:**

**Subsection C. Pedestrian Walkways.** *Each developed site shall include pedestrian walkway(s) designed to connect buildings and other accessible site facilities clearly and directly to adjacent public street/sidewalk(s). Walkways shall meet City standards for sidewalk construction, and be the shortest practical distance between the main entry(ies) and the public right-of-way. If adjacent to parking where vehicles overhang the walkway, then the walkway shall be to the City standard plus 2 ½ feet in width for each side vehicles overhang. Walkways shall be distinguished from internal driveways and accessways using at-grade distinctive paving materials or other appropriate surfaces which contrast visually with adjoining surfaces. Walkways, including driveway and accessway crossings, shall be constructed and maintained for pedestrian safety, and shall meet the requirements of the Oregon Americans With Disabilities Act, the State of Oregon Structural Specialty Code, and the Oregon Revised Statutes.*

**Section 10.040 Pedestrian Requirements:**

**Subsection B. Connectivity.**

- (3) (a) *The on-site pedestrian circulation system shall connect the sidewalk on adjacent street(s) to the main entrance of the primary structure on the site to minimize out-of-direction pedestrian travel.*
- (b) *Walkways shall be provided to connect the on-site pedestrian circulation system with existing or planned pedestrian facilities which abut the site but are not adjacent to the streets abutting the site.*
- (c) *Walkways shall be as direct as possible and avoid unnecessary meandering.*
- (d) *Walkway/driveway crossings shall be minimized, and internal parking lot circulation design shall maintain ease of access for pedestrians from abutting streets and pedestrian facilities.*
- (e) *Walkways shall be separated from vehicle parking or maneuvering areas by grade,*

*different paving material, or landscaping. They shall be constructed in accordance with the sidewalk standards adopted by the City Engineer. (This provision does not require a separated walkway system to collect drivers and passengers from cars that have parked on site unless an unusual parking lot hazard exists).*

**FINDING A-28:** A pedestrian walkway will be required to be provided to the proposed building from the sidewalk on 3<sup>rd</sup> Street. The ADA access to the building will be constructed from the leased parking spaces on the adjacent lot. Both walkways will be required to meet the standards set forth in the ordinance. Criterion will be addressed as a condition of approval.

**Section 6.010 Landscaping Standards:**

**6.010.030 General Provisions, Subsection B. Landscape Plans;** *where landscaping is required by this Ordinance, detailed landscape plans may be submitted with the development application. If not submitted for approval with the application, approval of detailed landscape plans shall always be a condition of the concept plan approval of the Site Plan Review process.*

**FINDING A-29:** The “CBC” Central Business Commercial zone requires that landscaping follow the design guidelines for the historic district that it is located. The design guidelines state that landscaping should keep low near the building using flowers and low shrubs with larger plants and trees further away from the building. The applicant provided a basic site plan with landscaping. Detailed landscaping plans will be addressed as a condition of approval.

**Section 7.030.110 Refuse Collection** *Where refuse collection is provided in, or adjacent to a parking area the following shall be required:*

- A. Screening. *Refuse storage facilities shall be screened by a solid wall, fence, evergreen hedge, or a combination of these methods. Screening shall be designed to screen the refuse storage area from streets, accessways, and adjacent properties.*

**FINDING A-30:** There is no proposed refuse collection area shown on the plan. This will need to be added to the revised site plan, or state that the refuse will remain indoors. Criterion can be met as a condition of approval.

**IF APPROVED, RECOMMENDED CONDITIONS OF APPROVAL:**

1. All onsite and offsite improvements must be installed by the applicant in accordance with the Land Use Development Ordinance and the AWP standards, specifications, and drawings, as amended and adopted by the City, and approved by the City Engineer, or otherwise guaranteed to be completed by the applicant to the satisfaction of the City.
2. Proposed development and final detailed construction plans will be required to be reviewed and approved by the City Engineer per established standards.
3. Signs are to be applied for under a separate permit process and will be required to meet the historic design guidelines.
4. All materials and supplies must be stored within the structure. No outside storage of business materials or supplies will be allowed.

5. Trash receptacles should be sized appropriately to accommodate the business and the residential uses. Appropriate screening from the public right-of-way and adjacent neighbors as well as containment of trash is required. This will need to be shown on a revised site plan.
6. A bicycle rack with one space will be required.
7. All materials and supplies must be stored within the structure. No outside storage of business materials or supplies will be allowed.
8. If additional lighting is planned for the site, a detailed site lighting/photometric plan shall be submitted and approved prior to the issuance of building permits. The plan shall demonstrate that the maximum illumination at the property line will not exceed an average horizontal foot candle of 0.3 for non-cut-off lights and 1.0 for cut-off lights.
9. Prior to the issuance of a building permit, the applicant shall submit a completed Wastewater Survey Questionnaire to the City Planning Department.
10. Any activity that produces radio or television interference, noise, glare, dust or particulate matter, vibration, smoke or odor beyond the site, or beyond allowable levels as determined by local, state, and federal standards shall not be allowed.
11. The proposed refuse collection area will need to be added to the revised site plan and meet the requirements. Or a statement needs to be made that the refuse will remain indoors.
12. Pedestrian walkways are required to meet the standards set forth in the LUDO.
13. Any exterior modifications are required to meet historic design guidelines. Minor modifications are allowed to be reviewed and approved by the Planning Director and do not require a formal review by the Historic Landmarks Commission. If the alterations exceed the definition of minor, they will be required to be reviewed by the Historic Landmarks Review.
14. A detailed landscape plan will be required to be submitted prior to issuance of a building permit.
15. Details of the irrigation system with a backflow prevention device will need to be shown on a revised site plan. The backflow prevention device will need to be permitted through the City of The Dalles.

CONDITIONAL USE PERMIT APPLICATION

CITY OF THE DALLES

Planning Department

313 Court Street  
The Dalles, OR 97058  
(541) 296-5481, ext. 1125  
www.ci.the-dalles.or.us

Date Filed \_\_\_\_\_

File# 182-16

Date Deemed Complete \_\_\_\_\_

Hearing Date \_\_\_\_\_

Approval Date \_\_\_\_\_

Permit Log # \_\_\_\_\_

Other Cross Reference# \_\_\_\_\_

JAN 18 2016

APPLICANT

Name Victor Johnson

Address P.O. box 398  
The Dalles OR 97058

Telephone # 541-980-1482

E-mail address: victor@victorjohnson.com

LEGAL OWNER (If Different than Applicant)

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone # \_\_\_\_\_

PROPERTY INFORMATION

Address 313 W 4th The Dalles, OR 97058

Map and Tax Lot Lot 4, Block 5 Trevitt's Addition to Dalles City

Size of Development Site .1728 acres (7,527 SF)

Zone District/Overlay CBC In City Limits: Yes  No

Comprehensive Plan Designation CBU Geohazard Zone: Non

IN 13E 3BB  
H 4100

PROJECT INFORMATION

New Construction     Expansion/Alteration     Change of Use     Amend Approved Plan

Current Use of Property Multi-Family

Proposed Use of Property Mixed use residential/commercial

Briefly Explain the Project \_\_\_\_\_

See Attached Narrative

**PROPOSED BUILDING(S) FOOTPRINT SIZE (in square feet)** 3100

**PARKING INFORMATION**

Total Number of Spaces Proposed 3 on adjacent lot, requesting no on-site parking

Square Footage of Parking Lot Landscaping Proposed N/A

**LANDSCAPING INFORMATION**

Total Square Footage Landscaping Proposed approx 5,000 Percent of Landscaping Irrigated 50%

**ECONOMIC DEVELOPMENT INFORMATION**

Proposed Project is located in the Enterprise Zone

NA Full Time Equivalent (FTE) jobs are currently provided.

NA FTE jobs are expected to be created by the proposed project.

Signature of Applicant

[Signature] 9/15/16  
Date

Signature of Property Owner\* or Owners Agent

\_\_\_\_\_  
Date

\* Notarized Owner Consent Letter may substitute for signature of property Owner

**NOTE:** This application must be accompanied by the information required in Section 3.050: Conditional Use Permits, contained in Ordinance No. 98-1222, The City of The Dalles Land Use and Development Ordinance.

**PLANS REQUIRED:**

At least 6 copies of concept site plan.

At least one 11 x 17 concept site plan.

2 copies detailed landscape plans

2 full size copies construction detail plans

1□ = approx 2.5 feet

3<sup>rd</sup> Place ↑ N  
sidewalk

Parking  
lot  
additional  
spaces  
to be  
determined

Stair  
Entry →

Future  
Access  
to  
St. Peter's  
Landmarks

Large  
A/Bor

Courtyard

ADA  
Access  
←

Existing  
Shed

ADA  
van parking →

Brick  
Buildings

stairs

Neighbor  
Residence

Deck

313 W4th

Res  
Parking  
spot

Vost Hall

Proposed  
curb cut

Sidewalk

4th street



313 W 4th Street in The Dalles Oregon

We are restoring the historic downtown property known as the Wall/ Herbring House and plan to redevelop it into a mixed use space with a residence, two studio apartments and a commercial space housing a coffee/tea/ice cream shop.

The original home built in 1864 is wood construction. It is ground level fronting 4th street with a downstairs at ground level on 3rd place due to the different grading and levels of the streets. A brick addition was constructed in 1890 and is also two levels.

It's easiest to envision the proposed use in four parts:

- A. The upstairs of the wood structure- a residence
- B. The downstairs of the wood structure- coffee/tea/ice cream shop
- C. The upstairs of the brick addition- studio apartment
- D. The downstairs of the brick addition- studio apartment, equipment, storage.

The Wall Herbring house is on the National Historic Register. The Preservation Plan with State Historic Preservation Office has been modified to include the new change in use.

The property was awarded an urban renewal grant for fire suppression required by state building codes for any new mixed use properties.

The backyard will be transformed into a courtyard with tables and bench seating for customers as well as an open space area for small gatherings and events. We recently received several photos of the backyard from around 1910 that shows an ornate walkthrough arbor beginning at the steps on 3rd place that we will be recreating. The space will be a park like setting to anchor the west end of downtown The Dalles.

### **Phases -**

The project will consist of four main phases.

Phase one upstairs apartment by end of 2016

Phase two downstairs apt by Spring 2017

Phase three commercial space and courtyard in late 2017/ early 2018.

Phase four will be the ongoing restoration of the residence and building exterior over several years in accordance with the preservation plan with SHPO.

### **Parking-**

Street parking is available on 4th street, Third Place and Pentland between 3rd Place and 2nd street. We are a half block away from the city public parking lot and have a verbal shared parking agreement with Meadow Outdoor, owners of the parking lot contiguous to the west on 3rd place for 3 spaces including handicap access from the West side entrance of the courtyard.

**Bike racks.**

We will have ample bicycle parking on the property with bikes racks made in partnership with the high school welding class.

**Access-**

The commercial space will be accessed from the north by an existing staircase off the sidewalk on 3rd place as well as handicap access by a gently sloped walkway from the adjacent parking lot. St. Peters Landmark borders the courtyard to the East. We will be partnering with them for events such as wedding receptions and plan to have access directly from their property at some point in the future. The residence uses the front door fronting 4th street. The apartments have their own entrances on the North side of the building.

We believe this to be the oldest commercially viable building in The Dalles and very important to the historic branding of The Dalles. It will be a magnet for tourism and a community and social center for all.

Thank you for your time and consideration.

Victor Johnson



OUTDOOR ADVERTISING

[meadowoutdoor.com](http://meadowoutdoor.com)

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*P. O. Box 331 (mailing) • 1201 Bargeway Road (shipping) • The Dalles, Oregon 97058  
541-296-9684 • FAX 541-296-1855*

September 22, 2016

City of The Dalles  
313 Court Street  
The Dalles, OR 97058

To whom it may concern,

This letter is to acknowledge that Victor Johnson does have our permission to park up to three (3) vehicles at a time in our parking lot that is adjacent to his property, located at 320 W. 3<sup>rd</sup> Street in The Dalles.

Sincerely,

J. Chris Zukin  
General Manager

JCZ/bm

**City of The Dalles  
Staff Report  
LUDO Changes – Marijuana  
ZOA 93-16  
Public Hearing**

Prepared by: Richard Gassman, Planning Director

Procedure Type: Legislative

Hearing Date: October 6, 2016

Issue: To consider proposals to change the Land Use and Development Ordinance (LUDO) regarding medical marijuana growing and processing, growing for personal use, and related activities.

**BACKGROUND INFORMATION**

The City has now adopted regulations for the retail sale of medical marijuana, for the retail sale and processing and production of recreational marijuana. This round of amendments will consider two remaining aspects of marijuana regulations. First, the amendment cover processing, production and wholesaling of medical marijuana, and second, what amount of both medical and recreational marijuana growing will be allowed on residential property. These will be the last of the major proposal relating to marijuana.

**PROCEDURE**

This is a legislative type hearing. The Planning Commission’s role is to hold a public hearing, review the proposals and make a recommendation to the City Council. The Council will also hold a public hearing, and any recommendations adopted by the Council would be formalized in an ordinance and become part of the LUDO.

## **NOTIFICATION**

These proposed code changes require a 35 day notice to the Department of Land Conservation and Development. That notice was sent on August 31, 2016, more than 35 days before this hearing. A notice was also published in The Dalles Chronicle on September 25, 2016.

## **COMMENTS**

As of the date of the preparation of this report, no comments have been received from the public for this hearing.

## **DISCUSSION**

The proposed changes are attached. For the medical marijuana production, processing and wholesaling, staff is proposing the same framework of regulations as for the recreational marijuana.

The growing of marijuana on residentially zoned property is more complicated. The State has two sets of regulations, one for recreational, and one for medical. For recreational, the state allows a total of 4 plants per household, for personal use. Staff is recommending that we follow the State for the recreational marijuana. For medical marijuana the State allows a medical marijuana cardholder to grow 6 plants per person, but also allows a property within a city to grow for two card holders, a total of 12 mature plants. Staff is recommending that the medical marijuana limit be for only one person, a total of 6 plants. Outside the City limits, the State allows up to 48 mature plants. That means that property outside the City limits, but under the jurisdiction of the City of The Dalles, would be allowed to grow up to 48 plants, unless Wasco County adopts these changes also.

## **RECOMMENDATION**

Hold a public hearing to receive testimony. At the end of the public hearing, the Commission may approve, modify, or delete the proposed changes as they deem appropriate. Usually only recommended amendments to the LUDO are forwarded to the Council for their review.

Marijuana regulations for residential property and for growing and processing of medical marijuana.

Section 1. Amend LUDO Section 2.030 to add new definitions for Medical Marijuana Processing, Medical Marijuana Production, and Medical Marijuana Wholesaling.

**Medical Marijuana Processing** – The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Health Authority.

**Medical Marijuana Production** – the manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Health Authority.

**Medical Marijuana Wholesaling** – The purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Health Authority.

Section 2. Amend LUDO Section 5.010 by adding new paragraph 5.010.140 as follows:

**Marijuana.** Marijuana shall not be grown on any residentially zoned property except as follows:

- A. For the personal use of those inhabitants living on the property, as allowed by state regulations.
- B. Medical marijuana may be grown only for the personal use of persons inhabiting the property.

Section 3. Amend LUDO Section 5.020 by adding new paragraph 5.020.090 as follows:

**Marijuana.** Marijuana shall not be grown on any residentially zoned property except as follows:

- A. For the personal use of those inhabitants living on the property, as allowed by state regulations.
- B. Medical marijuana may be grown only for the personal use of persons inhabiting the property.

Section 4. Amend LUDO Section 5.030 by adding new paragraph 5.030.090 as follows:

**Marijuana.** Marijuana shall not be grown on any residentially zoned property except as follows:

- A. For the personal use of those inhabitants living on the property, as allowed by state regulations.
- B. Medical marijuana may be grown only for the personal use of persons inhabiting the property.

Section 5. Amend LUDO Section 5.040 by adding new paragraph 5.040.080 as follows:

**Marijuana. Marijuana shall not be grown on any residentially zoned property except as follows:**

- A. **For the personal use of those inhabitants living on the property, as allowed by state regulations.**
- B. **Medical marijuana may be grown only for the personal use of persons inhabiting the property.**

Section 6. Amend LUDO Section 5.070.020(A)(27) by adding a new permitted use concerning marijuana facilities, which would read as follows:

27. Recreation **or medical** marijuana production, processing, storage, and wholesaling. An application for a marijuana production, processing, storage, or wholesaling facility shall also comply with the following criteria:

- a) The facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
- b) The facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the facility's exterior refuse containers.
- c) The production or processing facility shall be licensed by the Oregon Liquor Control Commission or the Oregon Health Authority and comply with the requirements of any applicable administrative rule adopted by the Oregon Liquor Control Commission or Oregon Health Authority.
- d) A building used for marijuana production, processing, storage, or wholesaling shall be equipped with a carbon filtration system for odor control.
  - 1. The system shall consist of one or more fans and filters.
  - 2. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the square footage of the building floor space (i.e., one CFM per square feet of building floor space).
  - 3. The filter(s) shall be rated for the required CFM.
  - 4. The filtration system shall be maintained in working order and shall be in use.
  - 5. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.

- e) The marijuana production, processing, storage, or wholesaling business's state licensing or authority must be in good standing with the Oregon Health Authority or the Oregon Liquor Control Commission and the business must comply with all applicable rules and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.

Section 7. Amend LUDO Section 5.070.030 G by adding the words "or medical" between the words "recreational" and "marijuana" in the first sentence. The new language would read "The production, processing, storage, and wholesaling of recreational or medical marijuana."

Section 8. Amend LUDO Section 5.090.020(A)(22) by adding a new permitted use concerning marijuana facilities, which would read as follows:

22. **Recreational or medical** marijuana production, processing, storage, and wholesaling. An application for a recreational or medical marijuana production, processing, storage, or wholesaling facility shall also comply with the following criteria:

- a) The facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
- b) The facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the facility's exterior refuse containers.
- c) The production or processing facility shall be licensed by the Oregon Liquor Control Commission or Oregon Health Authority and comply with the requirements of any applicable administrative rule adopted by the Oregon Liquor Control Commission or Oregon Health Authority.
- d) A building used for marijuana production, processing, storage, or wholesaling shall be equipped with a carbon filtration system for odor control.
  - 6. The system shall consist of one or more fans and filters.
  - 7. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the square footage of the building floor space (i.e., one CFM per square feet of building floor space).
  - 8. The filter(s) shall be rated for the required CFM.
  - 9. The filtration system shall be maintained in working order and shall be in use.

10. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.

- e) The marijuana production, processing, storage, or wholesaling business's state licensing or authority must be in good standing with the Oregon Health Authority or the Oregon Liquor Control Commission and the business must comply with all applicable rules and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.

Section 9. Amend LUDO Section 5.090.030 J by adding the words "or medical" between the words "recreational" and "marijuana" in the first sentence. The new language would read "The production, processing, storage, and wholesaling of recreational or medical marijuana."



## **RESOLUTION NO. P.C. 556-16**

Adopting Conditional Use Permit Application #182-16 of Victor Johnson to reduce the parking requirements associated with the development of a mixed-use space. The request is to add a commercial coffee shop to the existing three residential-unit building. The property is located at 313 W 4<sup>th</sup> Street and is further described as 1N 13E 3BB tax lot 4100. Property is zoned CBC – Central Business Commercial.

### **I. RECITALS:**

- A. The Planning Commission of the City of The Dalles has conducted a public hearing to consider the above request on October 6, 2016. A staff report was presented, stating the findings of fact, conclusions of law, and a staff recommendation.
- B. Staff's report of Conditional Use Permit #182-16 and the minutes of the October 6, 2016 Planning Commission meeting, upon approval, provide the basis for this resolution and are incorporated herein by reference.

### **II. RESOLUTION:**

Now, therefore, be it FOUND, DETERMINED, and RESOLVED by the Planning Commission of the City of The Dalles as follows:

- A. In all respects as set forth in Recitals, Part "I" of this resolution.  
CUP #182-16 is hereby *approved* with the following conditions of approval:
  - 1. All onsite and offsite improvements must be installed by the applicant in accordance with the Land Use Development Ordinance and the AWP standards, specifications, and drawings, as amended and adopted by the City, and approved by the City Engineer, or otherwise guaranteed to be completed by the applicant to the satisfaction of the City.
  - 2. Proposed development and final detailed construction plans will be required to be reviewed and approved by the City Engineer per established standards.
  - 3. Signs are to be applied for under a separate permit process and will be required to meet the historic design guidelines.
  - 4. All materials and supplies must be stored within the structure. No outside storage of business materials or supplies will be allowed.
  - 5. Trash receptacles should be sized appropriately to accommodate the business and the residential uses. Appropriate screening from the public right-of-way and adjacent neighbors as well as containment of trash is required. This will need to be shown on a revised site plan.
  - 6. A bicycle rack with one space will be required.
  - 7. All materials and supplies must be stored within the structure. No outside storage of business materials or supplies will be allowed.

8. If additional lighting is planned for the site, a detailed site lighting/photometric plan shall be submitted and approved prior to the issuance of building permits. The plan shall demonstrate that the maximum illumination at the property line will not exceed an average horizontal foot candle of 0.3 for non-cut-off lights and 1.0 for cut-off lights.
9. Prior to the issuance of a building permit, the applicant shall submit a completed Wastewater Survey Questionnaire to the City Planning Department.
10. Any activity that produces radio or television interference, noise, glare, dust or particulate matter, vibration, smoke or odor beyond the site, or beyond allowable levels as determined by local, state, and federal standards shall not be allowed.
11. The proposed refuse collection area will need to be added to the revised site plan and meet the requirements. Or a statement needs to be made that the refuse will remain indoors.
12. Pedestrian walkways are required to meet the standards set forth in the LUDO.
13. Any exterior modifications are required to meet historic design guidelines. Minor modifications are allowed to be reviewed and approved by the Planning Director and do not require a formal review by the Historic Landmarks Commission. If the alterations exceed the definition of minor, they will be required to be reviewed by the Historic Landmarks Review.
14. A detailed landscape plan will be required to be submitted prior to issuance of a building permit.
15. Details of the irrigation system with a backflow prevention device will need to be shown on a revised site plan. The backflow prevention device will need to be permitted through the City of The Dalles.

**III. APPEALS, COMPLIANCE, AND PENALTIES:**

- A. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to Section 3.020.080 of the Land Use and Development Ordinance, and must be filed with the City Clerk within ten (10) days of the date of mailing of this resolution.
- B. Failure to exercise this approval within the time limits set either by resolution or by ordinance will invalidate this permit.
- C. All conditions of approval must be met within the time limits set by this resolution or by ordinance. Failure to meet any condition will prompt enforcement proceedings that can result in: 1) permit revocation; 2) fines of up to \$500.00 per day for the violation period; 3) a civil proceeding seeking injunctive relief.

The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 7<sup>th</sup> DAY OF October, 2016.

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Bruce Lavier, Chairman  
Planning Commission

I, Richard Gassman, Planning Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 6<sup>th</sup> day of October, 2016.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
Richard Gassman, Planning Director  
City of The Dalles



**RESOLUTION NO. P.C. 557-16**

A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING CITY COUNCIL APPROVAL OF VARIOUS AMENDMENTS TO THE LAND USE AND DEVELOPMENT CODE, ORDINANCE 98-1222, AS AMENDED.

**WHEREAS**, an application was submitted for Zoning Ordinance Amendment #93-16 proposing various amendments to the City's Land Use and Development Ordinance; and

**WHEREAS**, the City Planning Commission conducted a public hearing on October 6, 2016 to take public testimony on the proposed Zoning Ordinance Amendment #93-16; and

**WHEREAS**, the Planning Commission has considered the public testimony and reviewed the proposed legislative amendments set forth in Zoning Ordinance Amendment #93-16, and based upon the proposed findings of fact and conclusions of law in the staff report and testimony presented during the hearing, the Planning Commission voted to recommend the legislative amendments be forwarded to the City Council for their review and adoption;

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION AS FOLLOWS:**

Section 1. The Planning Commission recommends that the proposed Zoning Ordinance Amendments #93-16 be approved and forwarded to the City Council for its review and adoption.

Section 2. This Resolution shall be effective upon its passage and approval. The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution to the Applicant.

APPROVED AND ADOPTED THIS 7<sup>TH</sup> DAY OF OCTOBER, 2016

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Bruce Lavier, Chairman  
Planning Commission

I, Richard Gassman, Planning Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Planning Commission, held on the 6<sup>th</sup> day of October, 2016.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
Richard Gassman, Planning Director  
City of The Dalles

DRAFT