

Council Business Meeting

March 17, 2020

Agenda Item	Public Hearing and First Reading of an Ordinance amending Title 18 Land Use of the Ashland Municipal Code relating to plaza space requirements for large scale buildings within the C-1-D zone and Downtown Design Standards Overlay	
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SUMMARY

An ordinance amendment is presented for City Council consideration, which if approved would result in no longer requiring the inclusion of plaza space for new buildings or additions, with floor areas of 10,000 or greater, in the downtown on properties that are zoned C-1-D (Downtown-Commercial), or are within the Downtown Design Standards boundary.

POLICIES, PLANS & GOALS SUPPORTED

Ashland Comprehensive Plan

Comprehensive Plan Economy Element (Chapter VII)

Goal 7.03.3 Policy 2.c:

The City shall design the Land Use Ordinance to provide for specific development guidelines which will ensure that: 2) New development or redevelopment in the Historic District will be compatible with the character of the district.

Comprehensive Plan Historic Sites and Structures Element (Chapter I)

Goal: To preserve historically significant structures and sites in Ashland

Policy I-7: The City shall develop and implement through law design guidelines for new development as well as for alteration of existing structures within the historic interest areas for structures and areas that are historically significant.

PREVIOUS COUNCIL ACTION

On October 15, 2019, the Ashland City Council directed staff and the Planning Commission to evaluate the existing plaza space requirements in consideration of how amending the standard could potentially encourage new multi-story development within downtown Ashland while preserving continuity of the historic pattern of development.

BACKGROUND AND ADDITIONAL INFORMATION

Within the Detail Site Review overlay plaza spaces currently must be incorporated into projects when building's square footage is greater than 10,000 square feet. This required plaza space is to be equal to 10% of the building's total gross floor area and must incorporate four out of six listed design elements as outlined in [18.4.2.040.D.2\(b\)](#). This standard currently applies to large scale commercial developments within specific areas (Detail Site Review overlay) throughout the City including the downtown.

The draft ordinance amendment presented for consideration would result in no longer requiring the inclusion of plaza space for new buildings, with floor areas of 10,000 or greater, in the downtown for properties that are zoned C-1-D, or are within the Downtown Design Standards boundary (map right).

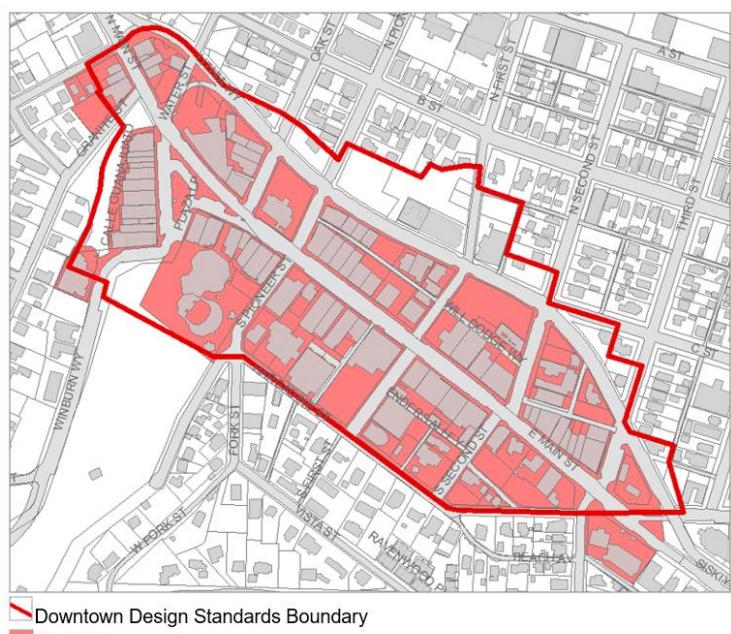
The proposed code amendment would remove the plaza space requirement in the downtown area, but it would still apply in other commercially zoned areas outside the downtown within the Detail Site Review Overlay (A Street, Ashland Street and Siskiyou Boulevard, North Main Street and sections of Hersey Street).

To clarify that any such plaza spaces are on private property, and not technically “public”, the terminology in the draft ordinance has been changed to consistently refer to “plaza space” instead of “public plaza space”. Although private plaza spaces are seemingly accessible to members of the public, these sites are subject to private landowner restrictions, which may cause confusion regarding allowable use and access by the general public. The draft ordinance further proposes a change to the Ashland Land Use Ordinances Chapter 18.6.1 [Definitions] to newly provide the following definition for such plaza spaces to provide clarity on this subject:

Detail Site Review Plaza Space: An open area under private ownership intended to meet the requirements of Large Scale Project standards within the Detail Site Review Overlay.

Staff has received some general questions from the public as to whether the proposed changes to the plaza space requirement would allow for taller buildings in the downtown, increase the maximum size of buildings allowed, impact the central Plaza, or newly require buildings to be built up to the sidewalk’s edge. The following bullet points address these concerns:

- The proposed amendment does not change height limits in the downtown area. Those height limits will stay as is, which are: 40-feet maximum height limit; 55-feet maximum height limit when approved through a conditional use permit procedure.
- The proposed amendment does not change the maximum building size within the C-1 and C-1-D zones which is 45,000sq.ft.
- Public open spaces such as the central Plaza, the open space in front of the Black Swan Theatre, Calle Guanajuato, the public pedestrian corridor adjacent to the McGee-Fortmiller Building (142 East Main Street) extending from East Main Street to the Public Parking Structure, would be unaffected by the proposed amendment. Other public rights-of-way or parks properties within the downtown would also be unaffected by the proposed amendment.
- The existing downtown design standards ([18.4.2.060C.2](#)) currently require that buildings shall maintain a zero setback from the sidewalk or property line, although ground level entries should be recessed from the public right-of-way and have detailing and materials that create a sense of entry. These design standards would be unchanged by the proposed changes regarding plaza space within the downtown area.



In review of the existing requirements for plaza spaces associated with large scale buildings, the Planning Commission and Historic Commission each found that application of these standards within the downtown

could have the effect of disrupting the historic pattern of development and breaking the continuity of buildings having their front façades built to the sidewalk's edge and to the side lot lines. Additional conclusions and recommendations are more fully described in Section III of the attached [Planning Staff Report](#) for Planning Action PA-L-2019-00007. Additionally, the Planning Staff Report describes the public notification process and outreach that was conducted consistent with Comprehensive Plan Goal 1 [Citizen Involvement], and Chapter [18.5.1](#) for legislative amendments to the Ashland Land Use Ordinance.

FISCAL IMPACTS

Adoption of the proposed ordinance will have no financial impact to the City.

RECOMMENDATION

The Planning Commission reviewed the existing plaza space standards and heard public comment at two study sessions ([August 27th](#) and [December 10th, 2019](#)), and held a formal public hearing on the proposed ordinance amendments at their regular meeting on [February 11, 2020](#). The Planning Commission have forwarded a recommendation to the City Council to approve the ordinance as presented. In forwarding a recommendation to approve, the Planning Commission specifically noted that they found the ordinance amendment to be valuable in resolving potentially conflicting provisions within the Land Use Ordinance relating to maintaining the character of the downtown's historic development pattern. Further, the proposed amendment would not prevent a property owner from voluntarily integrating a small, private plaza space into the project, as long as the application as a whole complied with the City's Downtown Design Standards.

The Historic Commission reviewed the plaza space ordinance amendments at their regular meeting on [January 8, 2020](#) and have forwarded a recommendation to the City Council to approve the ordinance as presented.

Staff recommends approval of the draft ordinance as presented.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

I move to approve First Reading, and schedule Second Reading, of the proposed amendments to Chapter 18.4.2 and 18.61 of the Ashland Land Use Ordinance [*with the following changes...]*. This motion is based on findings and conclusions in the staff report, and findings in support of the application made during deliberations on this matter.

REFERENCES & ATTACHMENTS

Attachment 1: Draft Ordinance; an Ordinance Amending the Site Design and Use Standards for Large Scale Projects to Address Plaza Space Requirements within the C-1-D zone and Downtown Design Standards Overlay

Attachment 2: Memo from Roger Pearce, Planning Commission Chair

[Planning Staff Report PA#-L-2019-0007](#)

Public Comment: [Thalden letter dated March 12, 2019](#)

[Falkenstein letter dated October 13, 2019](#)

[Fields letter dated December 6, 2019](#)

[Thalden submittal dated December 10, 2020](#)

[Stitham letter dated December 20, 2019](#)

[Haines letter dated March 3, 2020](#)

Meeting Minutes: [Draft Planning Commission Public Hearing Minutes February 11, 2020](#)

[Draft Historic Commission Minutes January 8, 2020](#)

[Planning Commission Study Session Minutes December 10, 2019](#)

ORDINANCE NO. 3184

**AN ORDINANCE AMENDING THE SITE DESIGN AND
USE STANDARDS FOR LARGE SCALE PROJECTS TO ADDRESS PLAZA SPACE
REQUIREMENTS WITHIN THE C-1-D ZONE AND DOWNTOWN DESIGN
STANDARDS OVERLAY**

Annotated to show deletions and additions to the Ashland Municipal Code sections being modified. Deletions are **bold lined through**, and additions are **bold underlined**.

WHEREAS, Article 2, Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975); and

WHEREAS, the City of Ashland Comprehensive Plan includes policy I-7 which states that, "The City shall develop and implement through law design guidelines for new development as well as for alteration of existing structures within the historic interest areas for structures and areas that are historically significant."

WHEREAS, the downtown area is a historically significant commercial area with considerable pedestrian activity due to its concentration of commercial uses. Most existing historic buildings have frontage directly at the sidewalk edge. Opportunities for infill and redevelopment within this area should develop consistent with this established historic pattern to protect the historic character of the area and promote interaction between the activity in the building and the people on the street.

WHEREAS, requirements for plaza space, as part of the design standards for new large scale development and alterations to existing large scale buildings within the downtown, can have the

1 effect of disrupting the historic pattern of development and breaking the continuity of buildings
2 having their front façades built to the sidewalk's edge and to the side lot lines.

3 **WHEREAS**, public plaza spaces used to create a prominent civic component within the
4 downtown area are best placed in identified central locations and highly visible focal points, to
5 provide opportunities for relief and respite from the urban fabric.

6 **WHEREAS**, plaza spaces developed within the downtown area on individual private properties,
7 as part of meeting site design standard requirements, do not function to provide the general
8 public with opportunities for relief and respite from the urban fabric.

9 **WHEREAS**, the City of Ashland Historic Commission considered the proposed amendments to
10 the Ashland Municipal Code, Land Use Ordinances and Site Design and Use Standards at a
11 regular meeting on January 8, 2020, and following deliberations recommended approval of the
12 amendments;

13 **WHEREAS**, the City of Ashland Planning Commission considered the proposed amendments to
14 the Ashland Municipal Code, Land Use Ordinances and Site Design and Use Standards at a duly
15 advertised public hearing on February 11, 2020, and following deliberations recommended
16 approval of the amendments;

17 **WHEREAS**, the City Council of the City of Ashland conducted a duly advertised public hearing
18 on the above-referenced amendments on March 17, 2020; and

19 **WHEREAS**, the City Council of the City of Ashland, following the close of the public hearing
20 and record, deliberated and conducted first and second readings approving adoption of the
21 Ordinance in accordance with Article 10 of the Ashland City Charter.

22 **WHEREAS**, the City Council of the City of Ashland has determined that in order to protect and
23 benefit the health, safety and welfare of existing and future residents of the City, it is necessary
24 to amend the Ashland Municipal Code and Land Use Ordinance in manner proposed, that an
25 adequate factual base exists for the amendments, the amendments are consistent with the
26 comprehensive plan and that such amendments are fully supported by the record of this
27 proceeding.

28 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

29 **SECTION 1.** The above recitations are true and correct and are incorporated herein by this
30 reference.

1 **SECTION 2.** The Additional Standards for Large Scale Projects within the Site Design and Use
2 Standards [Building Placement, Orientation, and Design] section of the Ashland Land Use
3 Ordinance is hereby amended as follows:

4 18.4.2.040.D. Additional Standards for Large Scale Projects. In the Detail Site Review
5 overlay, developments that are greater than 10,000 square feet in gross floor area or contain
6 more than 100 feet of building frontage shall, in addition to complying with the standards for
7 Basic (18.4.2.040.B) and Detail (18.4.2.040.C) Site Review, above, conform to the following
8 standards. See conceptual elevation of large scale development in Figure 18.4.2.040.D.1 and
9 conceptual site plan of large scale development in Figure 18.4.2.040.D.2.

10 1. Orientation and Scale.

11 a. Developments shall divide large building masses into heights and sizes that relate
12 to human scale by incorporating changes in building masses or direction, sheltering
13 roofs, a distinct pattern of divisions on surfaces, windows, trees, and small scale
14 lighting.

15 b. Outside of the Downtown Design Standards overlay, new buildings or expansions
16 of existing buildings in the Detail Site Review overlay shall conform to the following
17 standards.

18 i. Buildings sharing a common wall or having walls touching at or above grade
19 shall be considered as one building.

20 ii. Buildings shall not exceed a building footprint area of 45,000 square feet as
21 measured outside of the exterior walls and including all interior courtyards. For
22 the purpose of this section an interior courtyard means a space bounded on three
23 or more sides by walls but not a roof.

24 iii. Buildings shall not exceed a gross floor area of 45,000 square feet, including
25 all interior floor space, roof top parking, and outdoor retail and storage areas, with
26 the following exception.

27 Automobile parking areas located within the building footprint and in the
28 basement shall not count toward the total gross floor area. For the purpose of this
29 section, basement means any floor level below the first story in a building. First
30 story shall have the same meaning as provided in the building code.

- 1 iv. Buildings shall not exceed a combined contiguous building length of 300 feet.
2 c. Inside the Downtown Design Standards overlay, new buildings or expansions of
3 existing buildings shall not exceed a building footprint area of 45,000 square feet or a
4 gross floor area of 45,000 square feet, including roof top parking, with the following
5 exception.

6 Automobile parking areas locate within the building footprint and in the basement
7 shall not count toward the total gross floor area. For the purpose of this section,
8 basement means any floor level below the first story in a building. First story shall
9 have the same meaning as provided in the building code.

10 2. **Public Detail Site Review Plaza Spaces Standards.**

- 11 a. One square foot of plaza ~~or public~~ space shall be required for every ten square feet of
12 gross floor area, except for the fourth gross floor area.
- 13 b. **Within the C-1-D zone, or Downtown Design Standards Overlay, no plaza space**
14 **shall be required.**
- 15 b.c. A plaza ~~or public~~-spaces shall incorporate at least four of the following elements.
- 16 i. Sitting Space – at least one sitting space for each 500 square feet shall be
17 included in the plaza. Seating shall be a minimum of 16 inches in height and 30
18 inches in width. Ledge benches shall have a minimum depth of 30 inches.
- 19 ii. A mixture of areas that provide both sunlight and shade.
- 20 iii. Protection from wind by screens and buildings.
- 21 iv. Trees – provided in proportion to the space at a minimum of one tree per 500
22 square feet, at least two inches in diameter at breast height.
- 23 v. Water features or public art.
- 24 vi. Outdoor eating areas or food vendors.

- 25 3. Transit Amenities. Transit amenities, bus shelters, pullouts, and designated bike lanes
26 shall be required in accordance with the Ashland Transportation Plan and guidelines
27 established by the Rogue Valley Transportation District.

28 **SECTION 3.** The Definitions Chapter of Ashland Land Use Ordinance is hereby amended as
29 follows:

1 Definitions

2 18.6.1.P

3 Plaza. An open public space.

4 **Detail Site Review Plaza Space: An open area under private ownership intended to**
5 **meet the requirements of Large Scale Project standards within the Detail Site**
6 **Review Overlay.**

7 **SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this ordinance
8 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the
9 validity of the remaining sections, subsections, paragraphs and clauses.

10 **SECTION 5. Codification.** Provisions of this Ordinance shall be incorporated in the City
11 Comprehensive Plan and the word “ordinance” may be changed to “code”, “article”, “section”,
12 or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided
13 however that any Whereas clauses and boilerplate provisions (i.e. Sections 1, 4-5) need not be
14 codified. In preparing this ordinance for publication and distribution, the City Recorder shall not
15 alter the sense, meaning, effect, or substance of the ordinance, but within
16 such limitations, may:

- 17 (a) Renumber sections and parts of sections of the ordinance;
- 18 (b) Rearrange sections;
- 19 (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
- 20 (d) Delete references to repealed sections;
- 21 (e) Substitute the proper subsection, section, or chapter numbers;
- 22 (f) Change capitalization and spelling for the purpose of uniformity;
- 23 (g) Add headings for purposes of grouping like sections together for ease of reference; and
- 24 (h) Correct manifest clerical, grammatical, or typographical errors.

25 The foregoing ordinance was first read by title only in accordance with Ashland Municipal Code
26 §2.04.090 on the _____ day of _____, 2020,

27 and duly PASSED and ADOPTED this _____ day of _____, 2020.

30 Melissa Huhtala, City Recorder

1 SIGNED and APPROVED this ____ day of _____, 2020.
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John Stromberg, Mayor
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7 Reviewed as to form:
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David Lohman, City Attorney
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Memorandum

To: Honorable Mayor Stromberg and Councilors Slattery, Graham, Akins, Seffinger, Rosenthal, and Jensen, Ashland City Council

From: Roger Pearce, Chairperson, Ashland Planning Commission

Date: March 17, 2020

Re: Proposed amendment to Land Use Code to eliminate public plaza requirements for private projects in the Downtown zone and Downtown Design Standards Overlay

1. Introduction

I apologize that I will be out of town and unable to attend the March 17 Council Business Meeting where the above-referenced code change will be under consideration. Staff suggested that a memorandum outlining the Planning Commission's recommendation might be helpful.

2. Background

The Land Use Code currently requires a large, public plaza for certain projects in the Downtown area. This requirement applies to buildings constructed or expanded to be over 10,000 gross square feet or that have over 100 feet of street frontage. One (1) square foot of "plaza or public space" is required for every ten (10) square feet of gross floor area.¹ A "plaza" is defined as an "open public space."²

In Downtown, no front, side or rear setbacks are required. This means that a three-story building on a five thousand square foot lot would have to devote about 25% of the lot area to plaza space. While theoretically possible to put the plaza space on an upper floor, it is impracticable, so the plaza would need to be in front of, or to the side of, the building.

As pointed out in the Staff Report, this plaza requirement conflicts with the required Land Use Code historic district design standards for buildings in the Downtown area. Those design standards require zero setbacks both from the street (except small arcades/alcoves) and from side property lines.³ This conflict is probably explained by the fact that the plaza standards were enacted in the early 1980s, when the City was concerned about big-box building development, and the plaza standards did not focus on Downtown. The historic district design standards for Downtown were enacted later. Those standards focus specifically on Downtown and require a continuous façade at the sidewalk, which is consistent with the Ashland's historic Downtown development pattern.

¹ 18.4.2.040; 18.4.2.040.D.

² 18.6.3.030 (Definitions).

³ 18.4.2.050.C.2.

3. Proposal

The proposed legislation would clean up the definitions for “plaza” to make it clear that these plazas for private development on private lots are not public easements. Even though the definition of plaza is an “open public space,” the plaza requirement has never been applied to require an actual public dedication. To do so would require, at a minimum, a *Nollan/Dolan* takings analysis under the Fifth Amendment of the U.S. Constitution. So the definitional changes merely make it clear that plazas are private spaces on private property, which are used by the public who patronize the development on that property.

With respect to Downtown, the proposed legislation would eliminate the plaza requirement for private development in Downtown. The Planning Commission felt there were already a lot of high-quality public spaces in Downtown. More importantly, the private plaza requirement for Downtown is inconsistent with the type of development that should be encouraged in that Downtown historic district – with facades that come out to the sidewalk and buildings that are developed lot line to lot line along the Downtown streets.

The legislative changes do not affect any public spaces, such as the publicly-owned Plaza. These Land Use Code sections only regulate private development on privately-owned lots.

The Ashland Planning Commission considered this proposed legislation at several study sessions and at one public hearing. The citizen testimony at the hearing supported the proposed land use changes. Both the Planning Commission and the Ashland Historic Commission unanimously recommend this proposal for passage by the City Council.

I hope the explanation in this memorandum assists the City Council in its deliberations.