

# Council Communication

## June 20, 2016, Study Session

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### Proposed Changes Related to Public Art in Chapter 18

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**FROM:**

Ann Seltzer, management analyst, [seltzera@ashland.or.us](mailto:seltzera@ashland.or.us)

**SUMMARY**

This is a discussion of a proposal to remove public art from the Site Design Review requirement of AMC 18.5.2.020 and to add review by city commissions to AMC 2.29, the public art chapter of the municipal code. This change would remove public art from the land use process while allowing for review, as necessary, by the appropriate City commissions.

**BACKGROUND AND POLICY IMPLICATIONS:**

At the City Council study session on April 18, staff suggested removing public art from the Site Design Review process in Chapter 18 and to add new section to AMC 2.29 to include review of public art proposed concepts by all City commissions. The Council requested staff return with proposed changes.

**Rationale**

The change removes public art from the legal proscriptions to which development is subject, including the appeal process.

In addition, public art as part of a site design review requires a planning application using AMC 18.5.1.050 requirements written for development projects, and public art, as included in the Site Design Review process, is subject to the established planning fees.

The proposed change does not remove any codified or implicit power from any commission to review and provide input on proposed public art and expands the review to include all commissions. The proposed change continues to provide the Historic Commission with oversight of public art proposed for structures listed on the National Register and on contributing properties in a historic district.

**Proposed Changes**

*AMC 18.5.2.020 Applicability*

Site Design Review is required for the following types of project proposals.

A. Commercial, Industrial, Non-Residential and Mixed Uses

4. Any exterior change, ~~including installation of Public Art~~, *with the exception of public art*, to a structure which is listed on the National Register of Historic Places or to a contributing property within a Historic District on the National Register of Historic Places that requires a building permit.

Addition to 2.29.199



*The Public Art Commission will provide artist concept(s) to all City Commissions for review. City Commissions may review the artist concept(s) using their existing powers and criteria, and in their advisory role, provide written input for consideration by the City Council. City Commission may not participate in the creative design process. The Historic Commission shall review public art proposed on structures listed on the National Register of Historic Places and on contributing properties within a Historic District.*

### Background

As noted in the April 18 study session, public art is a square peg trying to fit into the round hole of the land use code Site Design Development Review. AMC 18.5.2.020 (see above) is written for development of commercial, industrial, non-residential and mixed use projects.

Public Art was added to the Site Design Development Review several years ago and the recent Calle mural is was subject to that review. While the review process went well, thanks in a large part to Planning staff, it also provided the opportunity to identify bumps in the process as it pertains to public art.

### What is gained with the change?

The change takes public art out of the legal parameters intended for development, removes the requirement for PAC to be a land use applicant and reduces staff time by removing the notice requirements and preparation of written findings.

The addition to AMC 2.29 ensures all City commissions have the opportunity to review public art and ensures the Historic Commission continues to review public art proposed on listed structures and on contributing properties.

### Future Issues to be addressed:

- 1) Councilor Marsh has requested a Council review of the Mural Guidelines developed by the Public Art Commission. At that review, staff will suggest incorporating language in the Mural Guidelines or into AMC 2.29 that addresses murals such as:
  - a. Murals should not be placed on building facades with a public entrance.
  - b. Murals should not be located on an unpainted façade surface (natural brick, stone) of a contributing historic structure.
  - c. Murals should be limited to one per block to avoid visual clutter.

This is a partial list suggested by Community Development Director Bill Molnar.

- 2) If the Council chooses not to remove the reference to public art in the Site Design Review Process, it is suggested that planning application requirements be written specifically for public art rather than using the current requirements written for commercial, industrial, non-residential and mixed use development and to identify a means to waive planning fees associated with public art. The planning fees increase the budget for public art and the current application process is challenging for the PAC to navigate.
- 3) Regardless of the direction provided by Council, the Historic Commission may wish to develop review criteria for public art that isn't attached to a building.



- 4) The proposed change will likely require a review of other sections of Chapter 18 which references public art.

Adding language to AMC 2.29 requiring the PAC to provide proposed public art concepts to all city commission for review ensures the Historic Commission and all commissions have an opportunity to provide input using the criteria they currently use to review projects, planning applications, proposals etc.

**COUNCIL GOALS SUPPORTED:**

*14. Encourage and/or develop public spaces that build community and promote interaction.*

**FISCAL IMPLICATIONS:**

None

**STAFF RECOMMENDATION AND REQUESTED ACTION:**

Staff recommends the changes above for future Council review at a regular City Council meeting.

**SUGGESTED MOTION:**

I move to direct staff to draft the proposed changes to AMC 18.5.2.020 and AMC 2.29.199 for Council review.

**ATTACHMENTS:**

Letter from the Historic Commission dated June 20, 2016



# CITY OF ASHLAND

June 20, 2016

Honorable Members of the City Council and Mayor  
City of Ashland  
20 E. Main St.  
Ashland, OR 97520

The Historic Commission understands that the City Council will be discussing the existing review process for public art, and specifically as it relates to Ashland's Historic Districts. The review process under discussion was implemented in 2009 when the City of Ashland amended the land use ordinance to exempt murals and other public art from being considered signs. These changes were supported by both the Public Arts Commission and the Historic Commission as they newly allowed for murals, sculptures, and other art installations that would have been prohibited if defined as signs. As part of this change installation of public art, upon contributing historic resource properties, was made subject to a land use application for Site Review. Attached are letters submitted by the Historic and Public Arts Commission that were supportive of this amendment in 2009.

The Site Review process allows the Historic Commission to fulfill their responsibility to consider the proposed artwork's impact upon historic buildings and to make recommendations to protect and preserve architectural resources within Ashland's historic districts. The Historic Commission's applies specific criteria related to external changes to historic structures and properties. These criteria do not allow the Historic Commission to review the content of the artwork, but rather focus explicitly upon the proposed artwork's relationship to the historic resource including location, scale, and potential alterations to architectural features.

In the last seven years only two public art projects have been subject to this Site Review process, including the mural on the alley at 27 S. Second Street and the recent Calle Guanajuato mural. On May 4, 2016 the Historic Commission reviewed the proposed Calle Guanajuato mural and was unanimous in its strong support of the art installation, noting that the *"location was appropriate given it was a subordinate façade that lacked any character defining architectural features."* Having this expeditious review opportunity enabled the Historic Commission to find that the public art not detract from any significant historic features.

The City's current public art selection guidelines state *"the artwork should consider the historical and cultural features of the site, as well as the relationship to the existing architecture and landscaping of the site (2.29.130.A3)"*. Such recognition of the importance of carefully considering historic resources in siting public art is a value shared by both the Public Art and Historic Commissions. We believe the Historic Commission is particularly well suited to evaluate the historic context and architectural significance of a building and the City Council in making its final selection. Through recommendations from the Historic Commission provided during the



site review process we can mitigate the risk of negatively impacting architectural features and help ensure damage to the physical structure of the building is avoided.

The Historic Commission believes the current code language requiring site review provides the opportunity to critically evaluate the impacts of placement of public art in relation to designated historic properties. This is an important responsibility of the Commission that should be not be diminished. The Oregon State Historic Preservation Office has designated Ashland as a Certified Local Government (CLG) given the preservation duties undertaken by the City and the qualifications of the Historic Commission. We believe commission review of public art installed on contributing historic resources is consistent with the CLG requirements to ensure historic preservation issues are fully considered in actions undertaken by the City.

At this time, the Commission would recommend retaining the language requiring site review for the installation of public art upon contributing historic structures and those properties listed on the National Register of Historic Places. If future changes are considered, the Commission would welcome the opportunity to work closely with the Public Arts Commission and the City Council to establish specific review criteria that ensure that the integrity of Ashland's Historic Districts is maintained or enhanced through the addition of public art. Thank you for your continuing support and stewardship of Ashland's historic resources and four nationally recognized Historic Districts.

Sincerely,



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Dale Shostrom, Chairman  
Ashland Historic Commission



April 27, 2009

Ann J. Seltzer, Management Analyst  
City of Ashland  
20 East Main Street  
Ashland, OR 97520

Dear Ann:

As discussed during our April 24, 2009 meeting, the City of Ashland Public Arts Commission supports the proposed amendment to the Site Design Review Chapter of the Ashland Municipal Code (18.72.030), as it relates to the installation of Public Art on buildings listed as contributing resources within a Historic District.

We understand that Public Art projects that fall under this section of the Code would be handled as a Land Use application under the city's current review procedures. We also understand that the Historic Commission's review of Public Art projects would be limited to the standards outlined in the Site Design & Use Guidelines, and that the content of the public art project would not be subject to review. We further understand that Community Development staff will work with the Public Arts Commission to identify the salient issues for further discussion and dialogue with the Historic Commission.

The PAC expresses this support for the proposed amendment recognizing that the aesthetic integrity of Ashland's historic districts is in keeping with the PAC's mission.

Sincerely,

City of Ashland Public Arts Commission

# CITY OF ASHLAND

April 22, 2009

Honorable Members of the City Council and Mayor  
City of Ashland  
20 East Main Street  
Ashland, OR 97520

The Historic Commission has reviewed in depth the proposed changes to the Sign Code and wishes to extend our support for the inclusion of the amendment of the following section:

**SECTION 18.72.030 Applicability.**

*g. Any exterior change to a structure which ~~requires a building permit,~~ and is listed on the National Register of Historic Places or to a contributing property within an Historic District on the National Register of Historic Places that requires a building permit, or includes the installation of Public Art.*

The primary role of the Historic Commission is the protection of architectural and cultural resources in the city. Historic and historic contributing structures within the four national register districts in the city deserve the highest level of citizen review that we can provide to ensure that the stewardship of these resources is maintained.

While we share in the concerns of the Public Arts Commission that public art be separated from the Sign Code and afforded special consideration-that consideration must be subject to reasonable and prudent citizen review. The Historic Commission seeks solely to maintain our ability to protect the historic resources of the districts. We do not seek to be the arbitrator of what is or is not public art.

We do however, take seriously the responsibility of carefully reviewing any alteration or modification of historic or historic-contributing structures. This would include the proposed application or installation of public art projects directly to these structures. Historic structures are recognized public resources, arguably a form of public art in themselves, directly enhancing our community, its value, and its overall sense of place. Altering or otherwise changing the building by adjoining or mounting an additional piece of art to these structures has tremendous implications. If the project is not carefully reviewed, we risk the possibility of impacting the architectural features of the building as well as actually damaging the physical structure of the building. This level of review is a recognized standard within national historic register districts, and it is our responsibility to ensure that we maintain that standard.

The Historic Commission continues to be committed to working closely with the Public Arts Commission in partnership to ensure that they can fulfill their responsibilities to the citizens of Ashland with regard to the selection and placement of public art. We look forward to continuing in our ability to be strong advocates for these very public resources. Your adoption of this amendment will be of great assistance towards that end.

Sincerely,



Dale Shostrom, Chairman  
Ashland Historic Commission

