

# Council Business Meeting

June 2, 2020

<b>Agenda Item</b>	Second 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	
<b>From</b>	Brandon Goldman	Senior Planner
<b>Contact</b>	<a href="mailto:Brandon.Goldman@ashland.or.us">Brandon.Goldman@ashland.or.us</a> ; (541) 552-2076	

## **SUMMARY**

An ordinance amendment is presented for City Council consideration that addresses current inconsistencies between Downtown and Large Scale Development Design Standards. If approved the amended code would no longer require 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**

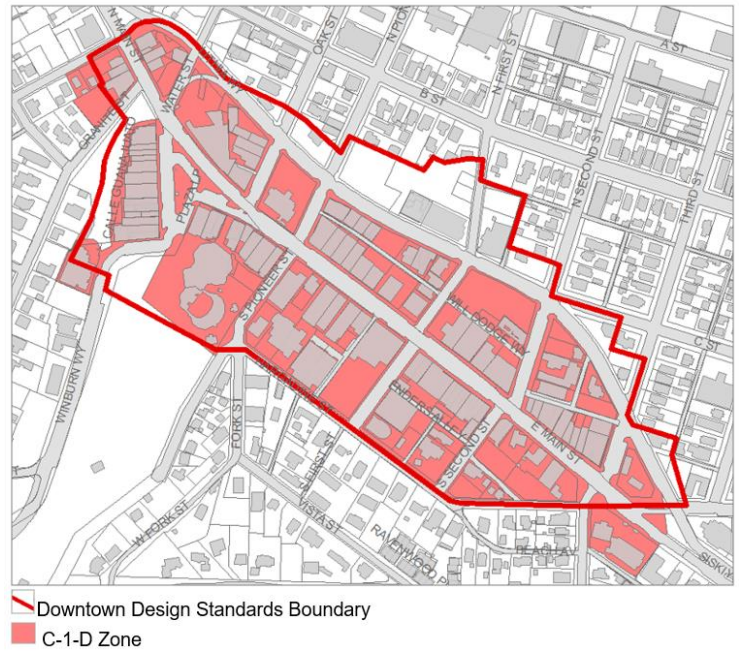
On October 15, 2019, the Ashland City Council directed staff and the Planning Commission to evaluate the existing plaza space requirements in consideration of how amending the standard could potentially encourage new multi-story development within downtown Ashland while preserving continuity of the historic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

On May 18, 2020, the City Council held a public hearing and first reading of the ordinance and scheduled the second reading for June 2, 2020.

## **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 ten percent 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 address current inconsistencies between Downtown and Large Scale Development Design Standards by 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). Existing downtown design standards relating to building width and setbacks require structures to be built to both the front and side lot lines with an only minor concession made for recessed entries. This presents a challenge to accommodating the required plaza space that is 1,000 square feet or greater in size.



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-foot maximum height limit; 55-foot 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 45,000 sq. 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 27<sup>th</sup>](#) and [December 10<sup>th</sup>, 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 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: Plaza Space Ordinance Amendments

Attachment 2: [Planning Staff Report PA#-L-2019-0007](#)

Attachment 3: Memorandum from Planning Commission Chair Roger Pearce

Attachment 4: Public Comment

- Thalden letter dated March 12, 2019
- Falkenstein letter dated October 13, 2019
- Fields letter dated December 6, 2019
- Thalden visual handout submittal dated December 10, 2019
- Stitham letter dated December 20, 2019
- Haines letter dated March 3, 2020

Meeting Minutes

- [Planning Commission Public Hearing DRAFT Minutes 2/11/2020](#)
- [Draft Historic Commission Minutes 01/08/2020](#)
- [Planning Commission Study Session Minutes 12/10/2019](#)

1 **ORDINANCE NO. 3184**

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

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

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

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

15 **WHEREAS**, the above referenced grant of power has been interpreted as affording all  
16 legislative powers home rule constitutional provisions reserved to Oregon Cities. City of  
17 Beaverton v. International Ass’n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293;  
18 531 P 2d 730, 734 (1975); and

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

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

29 **WHEREAS**, requirements for plaza space, as part of the design standards for new large scale  
30 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.

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Melissa Huhtala, City Recorder



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SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2020.

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John Stromberg, Mayor

Reviewed as to form:

\_\_\_\_\_  
David Lohman, City Attorney

# ASHLAND PLANNING DIVISION STAFF REPORT

February 11, 2020

**PLANNING ACTION:** PA-L-2019-00007

**APPLICANT:** City of Ashland

**ORDINANCE REFERENCES:** **AMC 18.4.2** Building Placement, Orientation, and Design  
**AMC 18.6.1** Definitions

**REQUEST:** An Ordinance amendment to the Site Design and Use Standards plaza space requirements (Chapter 18.4.2.040.D(2)) within the C-1-D (downtown) zone and Downtown Design Standards overlay, and to provide a new definition for Detail Site Review Plaza Spaces (Chapter 18.6.1). The proposal includes removing the requirement that large scale buildings (10,000 square feet or greater) within the downtown area provide an outdoor plaza space that is a minimum of 10% of the building's floor area.

## **I. Relevant Facts**

### **A. Background**

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.

The Planning Commission discussed the existing requirements for plaza space in the Detail Site Review (DSR) overlay and specific application within the downtown area on August 27<sup>th</sup> and December 10<sup>th</sup>, 2019 at Study Sessions.

The Historic Commission discussed the proposed amendments to the plaza space requirements at their regular meeting on January 8, 2020.

### **Public Notice**

Notification regarding the proposed plaza space ordinance public hearings was published in the Ashland Tidings on January 17, 2020. A direct mailing was sent to the owners of 149 properties within the downtown area that would potentially be affected by the proposed amendment. The newspaper notice and direct mailing included the Planning Commission and City Council hearing dates (February 11, 2020 and March 17, 2020 respectively), an outline of the proposed amendment including a list of common questions and answers, and a link to a dedicated webpage ([www.ashland.or.us/plazaspaces](http://www.ashland.or.us/plazaspaces)) where citizens can find additional background information about the proposed amendment. These two public hearings provide an opportunity for the public to review and comment on the proposed amendments, and for decision makers to consider those comments as they deliberate on the final amendments to

the Ashland Land Use Ordinance (ALUO).

Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on 12/27/2019, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) OAR 660- 018-0020.

Providing opportunities for public involvement as described above is consistent with citizen involvement goals and policies for land use actions in Comprehensive Plan Goal 1 [Citizen Involvement] and Chapter 18.5.1 of the ALUO. As of the date of this report, three written comments have been received by the Community Development Department and they are included as attachments to this report.

### **Type III Legislative Land Use Process**

Amendments to the ALUO are made through a Type III legislative land use review process. The Planning Commission will hold a public hearing to consider proposed amendments and will make a recommendation to the City Council. The City Council will hold a subsequent public hearing to consider the proposed amendments. After closing the public hearing, the City Council will deliberate and make a final decision. Within five days of the City Council's final action on the proposed amendments, the Community Development Director will provide written notice of the decisions to any parties entitled to notice. A City Council decision can be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of Intent to Appeal within 21 days of the date the decision is reduced to writing and bears the necessary signatures of the decision makers.

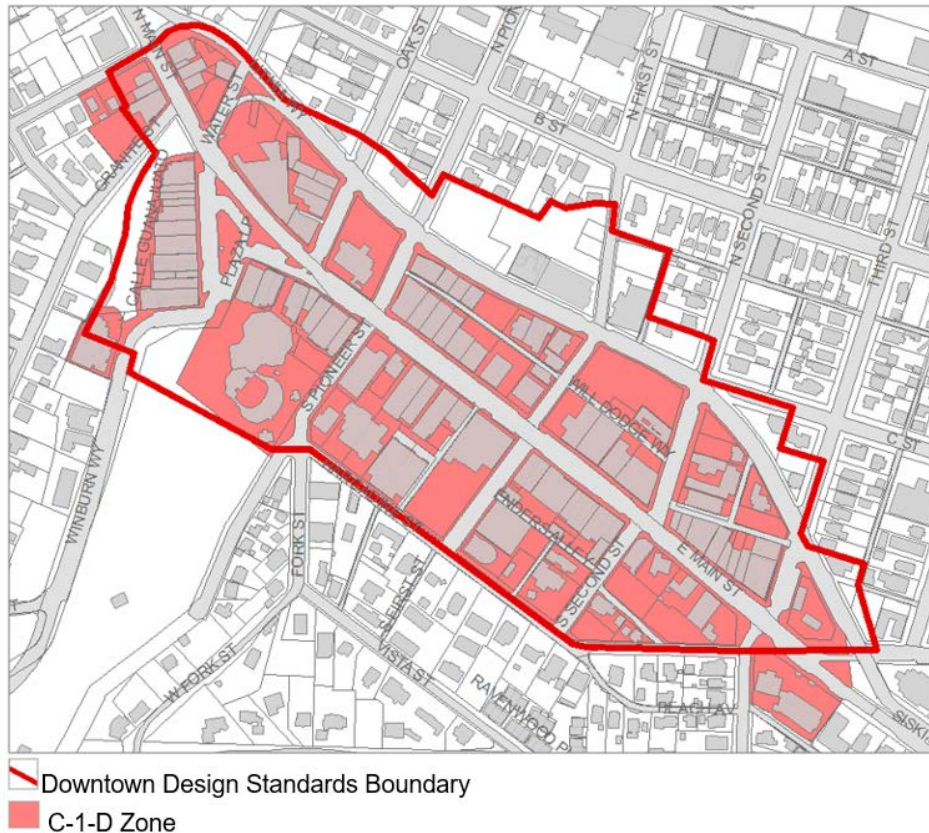
### **B. Ordinance Amendments**

The proposed ordinance amendments, as they would appear in the Ashland Land Use Ordinance (ALUO), are provided in full as an attachment to this report.

### **Summary of Proposed Amendments**

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.



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 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-foot maximum height limit; 55-foot 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.

### **Change in Circumstances or Conditions**

AMC 18.5.9.020.B permits legislative amendments to meet changes in circumstances and conditions. The Planning Commission makes a recommendation to the City Council and the City Council makes the final decision.

### **Statewide and Local Goals**

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.*

In review of the existing 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, it was 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.

The development of the plaza standards was initially considered to apply city wide in all Detail Ste Review overlay areas without special consideration of the downtown historic interest area. Most existing historic buildings in the downtown 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. Proposed amendments to the plaza space standards have been presented in the attached draft ordinance to more effectively

direct future development, and redevelopment, within the downtown to be compatible with the historic character of the district.

## **II. Procedural**

### **18.5.9.020 Applicability and Review Procedure**

Applications for Plan Amendments and Zone Changes are as follows:

**B. Type III.** It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

## **III. Conclusions and Recommendations**

Removing the existing requirement that plaza spaces be located on individual privately-owned properties associated with large scale developments, within the C-1-D and Downtown Design Standards, overlay will further the objective of protecting the historic character of the area while promoting appropriate mixed use developments within the Ashland's downtown area.

The historic characteristics of the downtown area are not present in other commercial areas of the City where the plaza standard applies. As a commercial area listed on the National Register of Historic Places, with considerable pedestrian activity due to its concentration of commercial uses, most historic buildings in the downtown are built up to the sidewalk edge. Opportunities for infill and redevelopment within the context of this historic area should develop consistent with the established historic pattern of development to protect the character of the area. A continuous "street-wall" provided by buildings constructed up to their front and side property lines promotes interaction between the commercial activity in the buildings and the people on the street. Incorporating a plaza space, to meet the existing requirement, often results in the need for offsets, jogs, or distinctive changes in a building's footprint. This can present design challenges, add to development costs and result in a less efficient building design.

Plaza spaces developed within the downtown area on individual private properties, as part of meeting site design standard requirements, do not necessarily function to provide the general public with opportunities for relief and respite from the urban fabric. Public open spaces used to

create a prominent civic component within the downtown area are best placed in identified central locations and highly visible focal points and should be open to the public at large.

The proposed amendments are consistent with applicable Comprehensive Plan goals, policies and implementation methods. Given this, the proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.

#### Historic Commission

The Historic Commission reviewed the draft ordinance on January 8, 2020 and recommend approval of the ordinance.

#### Planning Commission

The Planning Commission will review the proposed ordinance on February 11, 2020, and their formal recommendation to the Council regarding the ordinance will be presented to the City Council at the public hearing scheduled for March 17, 2020. A representative from the Planning Commission is invited to provide the Commission's recommendations to the during the public hearing before the City Council.

#### **Potential Motions:**

*I move to recommend that the City Council approve the proposed amendments to Chapter 18.4.2 of the Ashland Land Use Ordinance. 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.*

*I move to recommend that the City Council approve the proposed amendments to Chapter 18.4.2 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.*

#### **Attachments:**

- Draft Ordinance amending Plaza Space Standards
- Public Comment
  - [Thalden letter](#) dated March 12, 2019
  - [Falkenstein letter](#) dated October 13, 2019
  - [Stitham letter](#) dated December 02, 2019
  - [Fields letter](#) dated December 6, 2019
- Meeting Minutes
  - [Draft Historic Commission Minutes 01/08/2020](#)
  - [Planning Commission Study Session Minutes 12/10/2019](#)

## 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.<sup>1</sup> A "plaza" is defined as an "open public space."<sup>2</sup>

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.<sup>3</sup> 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.

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<sup>1</sup> 18.4.2.040; 18.4.2.040.D.

<sup>2</sup> 18.6.3.030 (Definitions).

<sup>3</sup> 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.



March 12, 2019

To the Mayor and City Council  
20 E. Main Street  
City of Ashland, Oregon 97520  
cc: Kelly Madding, City Administrator

**Re: Ashland City Hall Proposal vs Ashland Land Use Ordinance**

Dear Mayor and City Council,

Ordinances have consequences. And, bad ordinances have negative consequences.

Currently, there is a downtown planning ordinance that is so onerous, even the city won't abide by it.

City Municipal Code 18.4.2.040 D 2 a (attached) requires "One square foot of plaza space shall be required for every ten square feet of gross floor area," which is 10% of the total square footage of the first three floors of a downtown building to be dedicated to public open space. For a three-story building, that would be 30% of the first-floor footprint of buildings on Main Street to be left in public open space.

The proposed downtown city hall plan provides an excellent opportunity to reconsider this grievous ordinance, as it is evident that the city has to violate its own ordinance to make any sense of a new city hall building.

This ordinance, which essentially is a forced taking of private land for public purpose without compensation, is totally inappropriate. Further, and more important, I believe this ordinance does the exact opposite of the city's intention for the character of downtown. What we want to encourage is a continuous downtown streetscape. The creation of more plazas (like the one in front of the Black Swan) or side alleyways (like the one between Starbucks and Earthly Goods) break the streetscape and replicate the biggest problem areas that we have downtown with regard to safety and gathering places for transients.

Even worse, I believe this ordinance makes it financially unfeasible to develop or re-develop any buildings in the downtown area. I know for a fact it has been a deterrent that has discouraged developers from developing in the downtown. I believe it has been substantially responsible for the lack of any development downtown beyond one condo building during the past unprecedented ten-year growth in the economy.

The city hall plan demonstrates the inappropriateness of this ordinance. As clarification I have attached ORW's proposed site plan for a new city hall building downtown, and in red I have shown the actual building footprint that would be allowed under this ordinance. It would reduce the proposed 4-story building square footage from 15,500 sf to under 11,700 sf, with a building footprint of approximately 3,000 sf, far smaller than the proposed at 4,000 sf or the existing 3,967 sf.

They say the best way to get rid of a bad ordinance is to enforce it. I for one, will insist that the city follow their ordinance. However, it would be far better to eliminate it completely, which is my strong recommendation and my request.

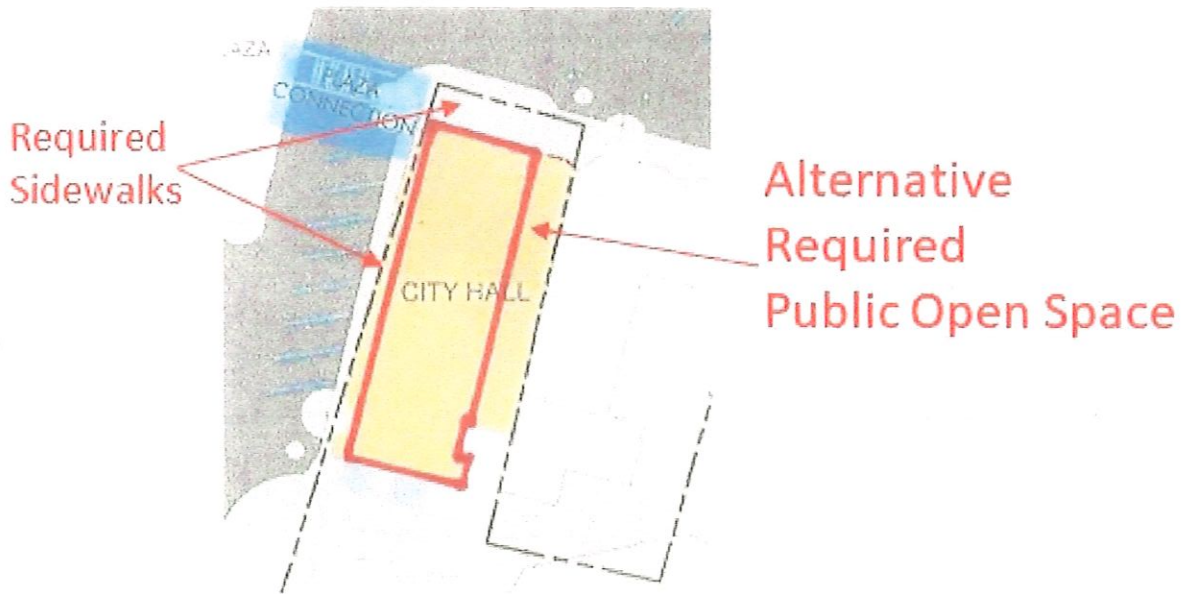
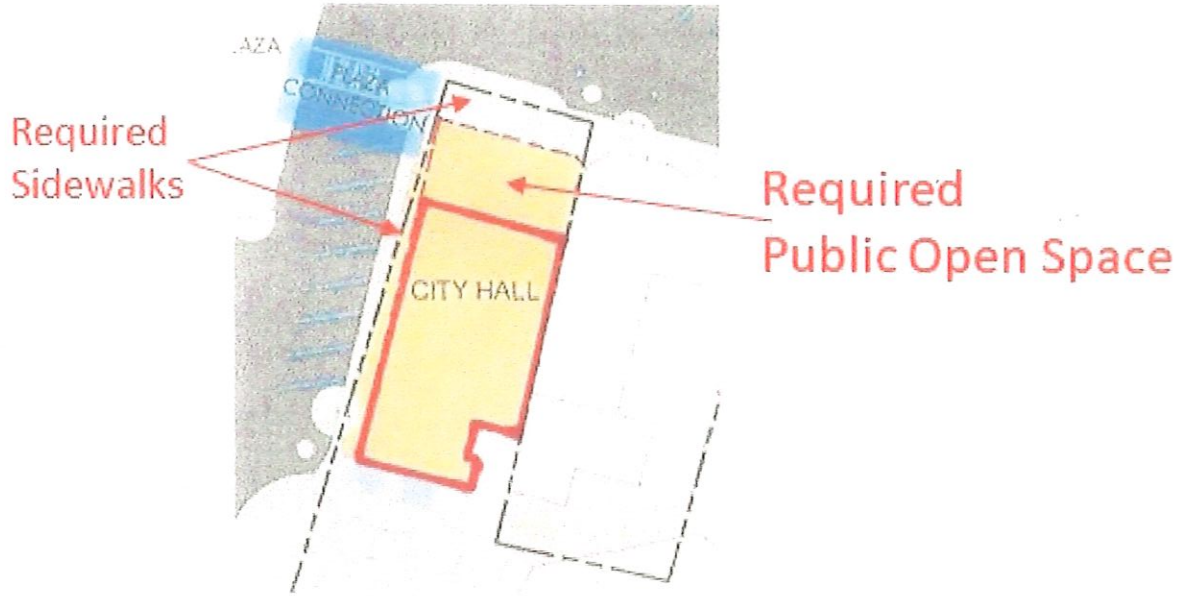
Sincerely,

A blue ink signature of Barry Thalden, written in a cursive style, with a long horizontal flourish extending to the right.

Barry Thalden, AIA, FASLA

550 Ashland Loop Road Ashland, Oregon 97520  
(702) 860-5000 bthalden@thalden.com

# City Hall Site Plan Alternatives per Land Use Ordinances



# What is the vision for Downtown Ashland?



A continuous Retail / Restaurant Streetscape

Or .....



A series of Public Alleyways and Transient Gathering Areas

**Chapter 18.4.2**  
**BUILDING PLACEMENT, ORIENTATION, AND DESIGN**

**18.4.2.040 Non-Residential Development**

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

1. Orientation and Scale.

.

2. Public Spaces.

a. One square foot of plaza or public space shall be required for every ten square feet of gross floor area, except for the fourth gross floor area.

b. A plaza or public spaces shall incorporate at least four of the following elements.

i. Sitting Space – at least one sitting space for each 500 square feet shall be included in the plaza. Seating shall be a minimum of 16 inches in height and 30 inches in width. Ledge benches shall have a minimum depth of 30 inches.

ii. A mixture of areas that provide both sunlight and shade.

iii. Protection from wind by screens and buildings.

iv. Trees – provided in proportion to the space at a minimum of one tree per 500 square feet, at least two inches in diameter at breast height.

v. Water features or public art.

vi. Outdoor eating areas or food vendors.

**From:** james falkenstein [<mailto:falkenprops@gmail.com>]  
**Sent:** Sunday, October 13, 2019 10:07 PM  
**To:** City Council <[council@ashland.or.us](mailto:council@ashland.or.us)>; John Stromberg <[john@council.ashland.or.us](mailto:john@council.ashland.or.us)>  
**Cc:** Kelly Madding <[kelly.madding@ashland.or.us](mailto:kelly.madding@ashland.or.us)>; Bill Molnar <[bill.molnar@ashland.or.us](mailto:bill.molnar@ashland.or.us)>; [cfowlkes@rosebudmedia.com](mailto:cfowlkes@rosebudmedia.com)  
**Subject:** Concent Agenda Item Falkenstein can't make it to.

*Initiation of an Ordinance Amendment Relating to Plaza and Public Space Standards*

I am attaching my response to Barry Thalden's letter to the Planning Commission. I don't know Barry, but I do love the hanging flower baskets that I hear he is a major supporter of. But... he shouldn't be telling the city that The Plaza needs looser development standards so that more, and bigger, buildings can be built more easily and cheaper in The Plaza.

This is absolutely not a Consent Agenda Item.

Jim Falkenstein

# Jim Falkenstein

October 13, 2019

To the Mayor and City Council  
20 E. Main Street  
City of Ashland, Oregon 97520  
Cc: Kelly Madding, City Administrator

Re: Consent Agenda Item to prepare amendments of the Land Use Ordinance to address the applicability of the public space (plaza) standards for large scale buildings within the Downtown Design Standard Overlay.

Dear Mayor and City Council,

Ordinances are important and should not be dismissed by one SOU board member with architecture credentials.

Currently, there is a downtown planning ordinance (18.4.2.040) that restricts large scale building because – “As the historic scale of buildings was, and remains, a key element that defines community character, there was concern that large buildings could potentially undermine Ashland’s charm.” This ordinance is NOT a “forced taking of private land for public purpose without compensation,” as stated by Barry Thalden.

“What we want to encourage is a continuous downtown streetscape,” is the overarching assumption of Mr. Thalden’s personal opinion, but in no way a fact, or a community request, or an op-ed written by anyone ever.

However, it seems that the Director of Community Development wants to fast track this. “Although the Planning Commission’s discussion explored how this public space standard could be reconsidered throughout the City’s Detail Site Review Zones, staff believes the issue raised relating to downtown property could be addressed more expeditiously by focusing on its application within the downtown and historic district areas at this time. This would allow the code amendments to specifically consider the impact on proposed multi-story developments within the context of the downtown historic district. A review of the application of the plaza requirement in other areas of the City could be undertaken as a separate action as a future date.”

That mumbo-jumbo means that Ashland City Staff wants to “prepare amendments to the Land Use Ordinance to address the applicability of the public space (plaza) standards for large scale buildings within the Downtown Design Standard Overlay.”

The preparation of amendments before any public awareness of an issue is the reason for public outrage and public forum declarations of “we feel blindsided” comments. **Following this broken process is a major cause of our present scenario of animosity and public disillusionment.**

This is a substantial change in construction and development regulations in Ashland’s most public space. To bury it as a Consent Agenda item is the root of all evil. My strong recommendation is to forcefully deny this item. Remove it from the consent agenda, and require significant public outreach before it is even discussed by council again.

Sincerely,

  
Jim Falkenstein, BS Forestry, MA Communications, Blossom View Estates HOA VP,  
Firewise MoTo, AshlandTrails.com founder, Razzie nominee, BRAG, IMPORTANT-  
NESS, BS

540 Lakota Way Ashland, Oregon 97520  
541-708-0185 falkenprops@gmail.com

# What is the vision for Downtown Ashland?



**A continuous Retail/Restaurant Streetscape  
Or.....**



**A series of Public Alleyways and Transient Gathering Areas**



## John Fields Plaza Space Requirements Letter 12/06/2019

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**From:** John Fields <[goldenfields22@gmail.com](mailto:goldenfields22@gmail.com)>  
**Sent:** Friday, December 06, 2019 10:02 AM  
**To:** Brandon Goldman <[brandon.goldman@ashland.or.us](mailto:brandon.goldman@ashland.or.us)>

**Subject:** Re: Ashland Planning Commission meeting - private plaza spaces topic

Hi Brandon

You can lead a horse to water but you can't make him drink. Plaza space is either beneficial to the developer's intended use or the city should figure out how create public space.

The Mahar building, First place, is a good example of a fenced in private plaza that serves no positive purpose. If it's public it can serve the general population and really get some use. As private space it is only useable for the one building. I never see it being used. If there is no a dining area or open invitation to enjoy the plaza area it's gratuitous. I don't find all the security railing and no trespassing signs around this private space as a Positive contribution to the streetscape or beneficial to the building or downtown.

That area probably cost \$100,000 in the lost street frontage and improvements. The patrons prefer sitting on the sidewalk.

I think public mini park/plaza space is great within dense, urban core but mandating design standards takes a lot of freedom away from the designers that could actually make the intended design better.

Buildings "learn" over time. They will either be modified to better accommodate real needs or if so poorly designed they will be redeveloped. That's how cities grow and great cities are created. It's a layered cake. I find our mandatory standards are filled with unintended consequences. Guidelines and education are quite beneficial. Social engineering is a a mixed bag and has a very high governmental cost.

Even with all our over-site, bad buildings happen. How much worse would they be if we had fewer specific requirements. I guess that's the risk.

I see a major obstacles in how our downtown and city can thrive. Ashland's marginal and seasonal economy cannot support the quality of buildings required by the growing building code demands, and planning standards.

I think plazas need to be public or a space that the building developer sees as intrinsic to the value of their design. Otherwise we are just encouraging superfluous amenities that just drive up cost.

I had foot surgery Wednesday and will be out of commission for the next six weeks so I won't be available to come to the PC study session. My opinion is that we should encourage great building designs and look for opportunities for public space but back off of the mandatory requirements for private space. Our downtown is small enough that we should identify where we want it and look for opportunities for public space and work towards acquiring it.

Thanks,

John Fields  
Golden-Fields Construction and Design Ltd.  
541-944-2262

Thalden - Plaza Space Reg.  
12-10-2019

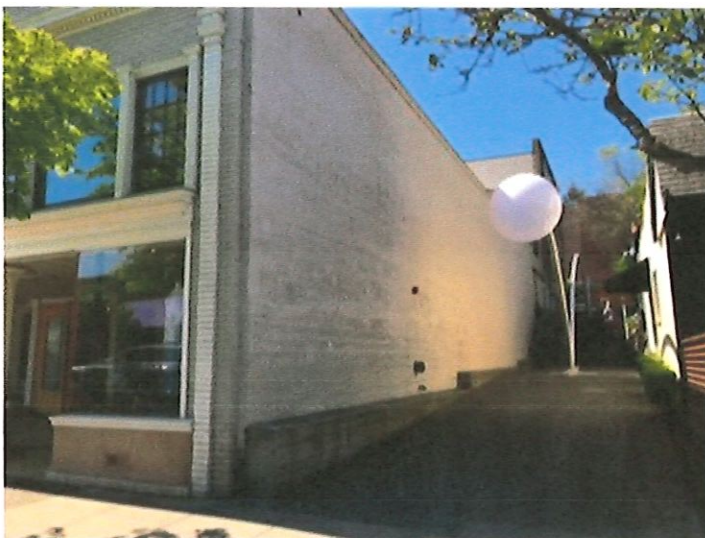
## What is the vision for Downtown Ashland?

[Submitted on 12/10/2019 by  
Barry Thalden to the Ashland  
Planning Commission]

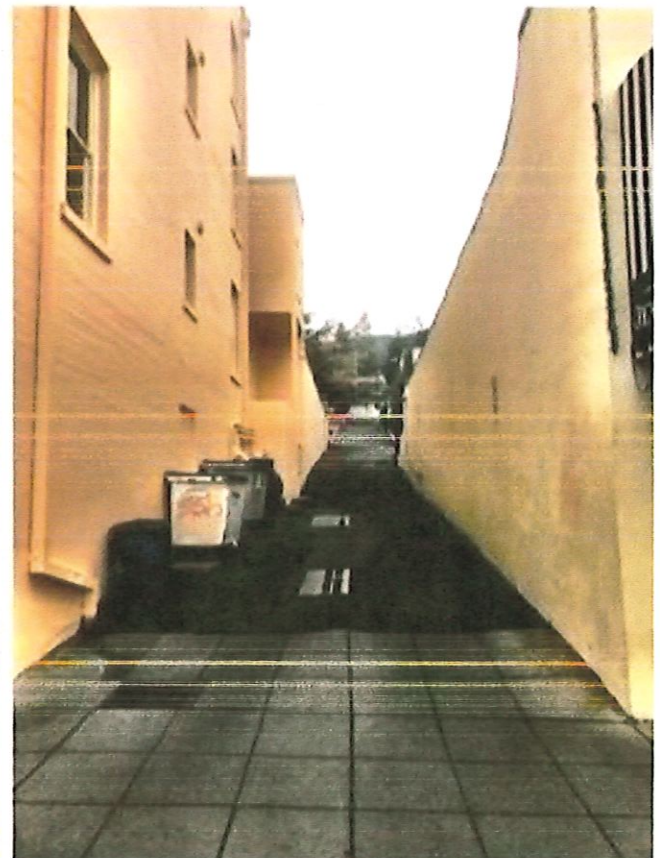
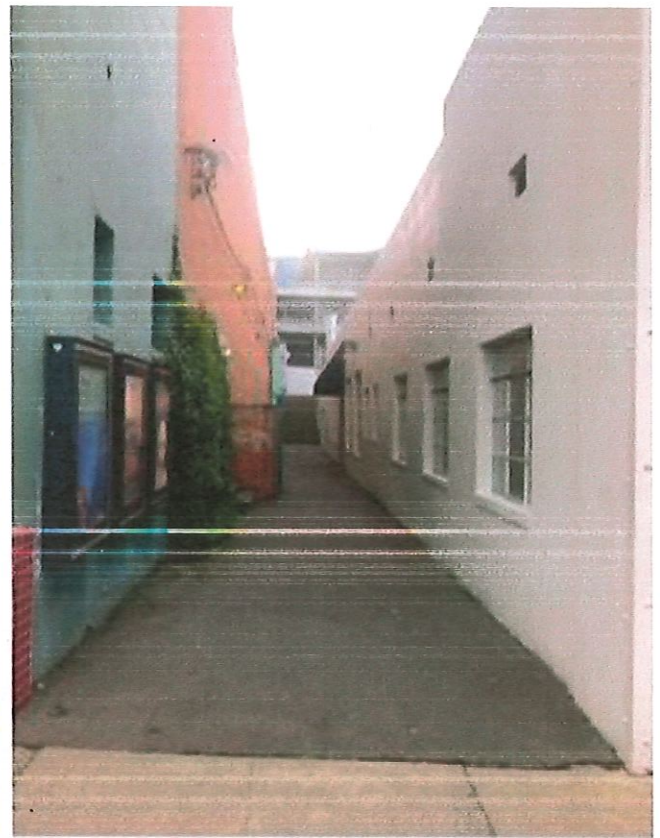


**A continuous Retail / Restaurant Streetscape**

Or .....



**A series of Public Alleyways and Transient Gathering Areas**



**Downtown Ashland Public Spaces**

**From:** Susan Stitham [mailto:[omm1961@gmail.com](mailto:omm1961@gmail.com)]  
**Sent:** Friday, December 20, 2019 2:12 PM  
**To:** Bill Molnar <[bill.molnar@ashland.or.us](mailto:bill.molnar@ashland.or.us)>  
**Cc:** [paulabrown@ashland.or.us](mailto:paulabrown@ashland.or.us)  
**Subject:** Proposed Change in Downtown Zoning

Good afternoon, after reading the column by Jim Falkenstein in today's ASHLAND TIDINGS, I have a number of questions that I was unable to answer by visiting your website.

What exactly would be permitted within the designated downtown area that is now prohibited in terms of new construction? Would there be any limits to the heights of buildings? Could existing public space be eliminated by renovation of an older building?

I am confident that the members of the Ashland Planning Council are well aware that the charm of Ashland didn't stop being a serious factor in 1993 and that it doesn't come from tall buildings crammed cheek to jowl in uniform lines along the street. And that "charm" is what brings tourists and their money to Ashland businesses, not to mention folks who chose to live here. As a citizen and taxpayer, I would have to hear something a lot more substantial than one commissioner's alleged, very naive, statement: *"I feel comfortable that the developers will provide [public spaces] at the right spot"* in order to support removing the existing requirements which appear to have served Ashland well.

I am familiar with the (often undue) influence that developers have on planning commissions in other locations where I have lived; I would not like to think that this is the case here in Ashland.

I would appreciate any specific information you could send me in response to my questions at the beginning of this email.

Thank you for your attention, Susan Stitham

622 Helman St.

**From:** [lloyd haines](#)  
**To:** [planning](#)  
**Subject:** March 17th Planning Commission meeting/"Public Space" requirement  
**Date:** Saturday, March 07, 2020 10:02:06 AM

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Ladies and Gentlemen,

I am unable to attend the March 17th Planning Commission meeting and therefore submit this email as testimony in lieu of a personal appearance. Please make certain this email is placed in the Planning Commissioner's packet.

I have my office at 51 Water Street, am a property owner, and have developed downtown property in the past.

I support modification of the ordinance to remove the "Public Space" requirement for downtown developments over 10,000 sq. ft. As a practical matter, the ordinance makes the development of any larger downtown project unfeasible. The amount of "Public Space" required is determined by the square footage of the entire building (all floors). As such, it removes way too much land from development and adversely impacts the economic feasibility of the project. Further, large "public space" conflicts with current design standards that direct zero lot line facades.

I appreciate the opportunity to present this public testimony. Thanks and best regards,

Lloyd M. Haines

Lloyd Matthew Haines  
51 Water Street # 222  
Ashland, OR. 97520  
Office-541-482-9300  
Fax-541-482-9334