
COMMUNITY PLANNING & DEVELOPMENT

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DESIGN COMMISSION
FINDINGS OF FACT AND CONCLUSIONS OF LAW

Project No:	DSR24-013
Description:	A Public Hearing with the Design Commission to discuss the repainting of five separate existing buildings that are suffering from discoloration, peeling, flaking, and general aging.
Applicant/ Owner:	Dustin Miller (United Dominion Realty, Inc.)
Site Address:	2758 78th Avenue SE, Mercer Island WA 98040 King County Assessor tax parcel number: 531510124
Zoning District	Town Center, Subarea 4 (TC-4)
Staff Contact:	Molly McGuire, Planner
Exhibits:	1. Project Narrative 2. Plan Set

I. INTRODUCTION

On May 23, 2024, the applicant applied for a Design Commission Design Review application to review a proposal to paint the Island Square Apartments, which are comprised of five separate buildings connected by a street level and subterranean parking garage, and a second level podium deck. The scope includes the removal of all discolored, peeling, flaking, and aging paint. The existing materials on the five subject buildings would not be modified or altered. The proposal would enhance the property's external appearance by painting and changing the color on significant portions of the elevations.

Applicants for Design Commission Design Review are required to take part in a study session with the Design Commission prior to public hearing pursuant to MICC 19.15.220(C)(2)(a). The applicant took part in a study session with the Design Commission on May 16, 2024. During the study session, the applicant received the following recommendation:

Replace color (C) "SW 7050 Useful Gray" on Building C with color (A) "SW 9164 Illusive Green" to create an overall darker palette for this building in relation to the surrounding buildings.

The subject property is located at 2758 78th Avenue SE, in the Town Center, Subarea 4 (TC-4) zone. The neighboring properties are also within the Town Center zone.

The subject property is developed with the existing Island Square Apartments. Neighboring developments include Chase Bank to the east, and mixed use to the west.

Pursuant to MICC 19.15.030 Table A, an application for Design Commission Review is a Type IV permit, and pursuant to MICC 19.15.030 Table B, a public hearing is required for Type IV permits. At the public hearing, the Design Commission must review the project to determine if the project meets the criteria listed in MICC Section 19.11, Town Center Development and Design Standards.

II. FINDINGS OF FACT

MICC 19.15.220 – Design review and the design commission.

The code official has determined that this application shall require design commission review and approval pursuant to MICC 19.15.220(C)(1)(c)(ii).

Planning staff conducted a review of the project and provides the following analysis detailing compliance with the criteria listed in MICC Section 19.11, Town Center Development and Design Standards, as well as the design review process found in MICC 19.15.220.

Many of the Town Center design standards are intended to be applied to major new construction projects.

Based on the small scale of the proposed addition, staff review and analysis considers the direction provided in MICC 19.11.150(A)(1):

The design commission or the code official shall review the applicability of the development and design standards and determine the project's conformance with this chapter. The degree of conformance with all of the development and design standards will vary on a project-by-project basis. The design commission shall review each project on the project's degree of overall conformity with the objectives, standards and the comprehensive plan.

As a result, the review and analysis are limited to those Town Center design standards that apply based on the scope of the project. Those standards that do not apply are not included.

The following is an analysis of the proposal regarding the criteria for approval:

1. **MICC 19.15.220(B)(1), Powers of the Design Commission, states that:** No building permit or other required permit shall be issued by the city for any major new construction or minor exterior modification of any regulated improvement without prior approval of the Design Commission or Code Official as authorized pursuant to MICC 19.15.010(E). Certain development and activities that do not require a permit are subject to design review as provided in MICC 19.15.220(C)(1)(c).

Staff Finding: The proposal is for a minor exterior modification as defined in MICC 19.16.010. As such, the proposal is subject to design review by either the Code Official or the Design Commission.

2. **MICC 19.15.220(C)(1)(c)(ii), Design Review Procedure, Review Authority:** All other development proposals requiring design review and not requiring design commission review under subsection (C)(1)(c)(i) of this section shall be reviewed by the code official. The code official shall have the authority to determine that an application normally reviewed by code official shall require design commission review and approval, based on factors such as scope, location, context, and visibility of the proposed change or modification.

Staff Finding: The proposal meets (ii) above because the code official determined the application shall be reviewed and approved by the design commission based on the scope of the proposed work, location of the building in the Town Center, and visibility of the proposed change.

3. **MICC 19.11.100(B)(12), Building Design Development and Design Standards: Harmony.** The elements of a building should relate logically to each other, as well as to the surrounding buildings. A single building or complex should be stylistically consistent; architectural style, materials, colors and forms should all work together.

Staff Finding: The proposed color scheme would be consistent across the five existing buildings. The applicant received feedback from the Design Commission during the Study Session regarding the color of Building C. The feedback has been applied to the proposed design.

4. **MICC 19.11.110(B), Materials and Color:**

- i. Building exteriors. Building exteriors should be constructed from high quality and durable materials. It is important that the materials and colors weather well and that the building exteriors need minimal maintenance.

Staff Finding: The proposed paint is high quality and durable. The color will weather well and needs minimal maintenance.

- ii. Regional focus. Materials and colors should reflect the city’s regional setting.

Staff Finding: The proposed colors are greens and blues that reflect the city’s regional setting.

- iii. Attention to all sides. Materials and colors should be used with cohesiveness and compatibility on all sides of a building.

Staff Finding: The proposed colors are cohesive and compatible on all sides of the buildings.

- iv. Concrete walls. Concrete walls should be architecturally treated. The treatment may include textured concrete such as exposed aggregate, sand blasting, stamping or color coating.

Staff Finding: The proposed scope of work does not include changes to the existing materials.

- v. Harmonious range of colors. A harmonious range of colors should be used within the Town Center. Neon or very bright colors, which have the effects of unreasonably setting the building apart from other adjacent buildings on the street should not be used.

Staff Finding: The proposed range of colors are harmonious within the Town Center. The proposal does not include neon or very bright colors.

- vi. Bright colors. Bright colors should be only used for trim and accents if the use is consistent with the building design and other design requirements.

Staff Finding: The proposal does not include bright colors.

- vii. Undesired materials. Beveled metal siding, mirrored glass, and vinyl siding should not be used. EIFS, stucco and similar materials should be limited to use as a minor building façade element.

Staff Finding: The proposed scope of work does not include changes to the existing materials.

- viii. Variation of materials. A variation of building materials should be used to assist in the creation of a visually interesting experience.

Staff Finding: The proposed scope of work does not include changes to the existing materials.

III. CONCLUSIONS OF LAW

Based on the above Findings of Fact, the following Conclusions of Law have been made:

1. The application has undergone a Type IV review by the Design Commission at an open record hearing under MICC 19.15.140.
2. The Design Commission concludes that the proposal complies with the Mercer Island City Code, provided that the following conditions are met.

IV. CONDITIONS OF APPROVAL

The City of Mercer Island Design Commission hereby grants the applicant design approval for the repainting of the five existing Island Square Apartment buildings located at 2758 78th Avenue SE, as shown in **Exhibit 1**.

The Design Commission Chair is authorized to sign the Findings of Fact and Conclusions of Law on behalf of the Commission. The Design Commission conditions the approval as follows:

1. All aspects of the proposed project shall be consistent with the detail information submitted with this application (including, but not limited to, elevations, perspective drawings, colors, and materials), as depicted by **Exhibit 1**.
2. The applicant shall apply for and obtain a building permit from the City of Mercer Island prior to construction of any site or building improvements.
3. The applicant shall submit a complete application for a building permit within three years from the date of this decision, or within two years from the decision on appeal from the final design review decision. Failure to submit a complete building permit application within these time limits shall require a new design review application.

V. RECOMMENDATION

Based upon the above noted Findings of Fact and Conclusions of Law, design review application DSR24-013, as depicted in **Exhibit 1**, staff recommends the Design Commission adopts the staff findings and conclusions contained within this staff report and **APPROVE** the proposed development subject to the recommended conditions of approval also contained within this staff report. This decision is final, unless appealed in writing consistent with adopted appeal procedures, MICC 19.15.130, and all other applicable appeal regulations.

Recommended this 3rd day of July, 2024



Molly McGuire
Senior Planner