



# MILWAUKIE

*Dogwood City of the West*

July 2, 2010

Troy Reichlein  
11074 SE 21<sup>st</sup> Ave  
Milwaukie, OR 97266

Subject: DR-10-02 –, 11050 SE 21<sup>st</sup> Ave.

Dear Mr. Reichlein,

The City of Milwaukie Planning Department has approved the permit for design review that you submitted on June 11, 2010. The permit has been processed as a Type I permit as outlined in Milwaukie Municipal Code (MMC) 19.1011.1. The approval on the date of this letter is subject to a 15-day appeal period, which will expire on July 17, 2010. The City will not provide a final inspection for any of the work done under this permit until the appeal period has expired.

The findings for the design review application are included as Attachment 1 of this letter. The project is approved as proposed, with the following conditions:

- 1) After removal of the deck from the west side of the building, any gaps in the exterior siding or materials shall be filled in with materials and colors that match the existing façade.
- 2) The materials proposed for the new steps shall be substantially similar to the materials proposed by the applicant. Any exposed structural portions of the stairs shall be painted in colors consistent with the colors of the existing façade.
- 3) The concrete patio area shall have a color and pattern similar to that proposed in the application materials.
- 4) The Planning Department may approve variations from the applicant's proposed materials upon finding that the variations are consistent with the downtown design standards and guidelines.

If you have any questions regarding this project, please contact me at 503-786-7658 or marquardtr@ci.milwaukie.or.us.

Sincerely,



Ryan Marquardt  
Associate Planner

Attachment:

1) Findings for Applicable Code Criteria

CC: File #DR-10-01

# Attachment 1: DR-10-01, Findings for Applicable Code Criteria

## 19.312.3 Uses.

*Response: No change in use is proposed with this development permit. The use remains an eating and drinking establishment. This is a non-conforming use in the Downtown Residential (DR) zone, but is a continuation of different tenants with the same non-conforming use that were in this location before.*

## 19.312.4 Development Standards.

- A. Purpose. The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.312.4 summarizes the development standards that apply in the downtown zones. Table 19.312.4 is supplemented by the explanation of the development standards provided in subsection B below, and the following figures:

Figure 19.312-2 — Required Retail Ground Floor Use Areas

Figure 19.312-3 — Maximum Building Heights

Figure 19.312-4 — Build-to Lines

Figure 19.312-5 — Ground-Floor Windows and Openings

**Table 19.312.4  
DOWNTOWN ZONES—  
DEVELOPMENT STANDARDS**

Standard	Downtown Residential
1. Minimum lot size	750/5,000 sf <sup>2</sup>
2. Floor area ratio Minimum Maximum	N/A N/A
3. Building height (see Figure 19.312-3) Minimum Maximum	None 45'-65'
4. Residential density Minimum Maximum	10-30 U/Acre None
5. Street setback (see Figure 19.312-4) Minimum Maximum	0' None
6. Other setbacks (side and rear)	15' <sup>3</sup>
7. Ground-floor retail (see Figure 19.312-2)	No
8. Ground-floor windows/doors (see Figure 19.312-5)	No
9. Drive-through facilities	No
10. Off-street parking required	Yes
11. Landscaping	15%

*Response: The proposed work complies with all standards for the DR zone where it is located. No setbacks are required, the building height will not increase, and it is not in any area where ground floor windows are required. This portion of the DR zone does not abut a lower density residential zone, and the 15 ft side and rear yard setbacks are not applicable.*

*No off-street parking improvements are required. There is not a change in use, and the parking and loading demand are not affected.*

*The rear area of the site has approximately 980 sq ft of landscaped area, which is 16% of the 6.037 sq ft site. The proposed work would not bring the site out of conformance with the 15% landscaping standard.*

#### **19.312.5 Public Area Requirements.**

- B. Applicability. All downtown development projects that meet the applicability provisions of Section 19.1402 are subject to Chapter 19.1400 in its entirety, with the exception of specified portions of Section 19.1408 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections shown in the public area requirements plan even when the development project is not in a downtown zone.

*Response: The project does not meet the applicability thresholds in MMC 19.1402. No Public Area requirements are required for the proposed project.*

#### **19.312.6 Design Standards.**

- A. Purpose. The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards, together with the public area requirements, will support the development of a cohesive, attractive, and safe downtown area and encourage private investment. The design standards do not prescribe a particular building or architectural style. The standards are intended to be clear and objective, and compliance with the standards is checked as part of building plan review.
- B. Applicability. The design standards are applicable to all new construction and to major exterior alterations in the downtown zones. Standards regarding prohibited materials are applicable to minor exterior alterations in the downtown zones. Exterior maintenance and repair of buildings in the downtown zones are exempt from compliance with the design standards. Definitions of exterior maintenance and repair, minor exterior alteration, and major exterior alteration follow.
1. Exterior maintenance and repair includes refurbishing, painting, and weatherproofing of deteriorated materials, and in-kind restoration or replacement of damaged materials. Exterior maintenance and repair does not include replacement of materials due to obsolescence or when associated with minor or major exterior renovation, as defined below. Exterior maintenance and repair does not include the placement of signs.  
  
The design standards are not applicable to exterior maintenance and repair as defined above.
  2. Minor exterior alterations include the exterior alterations of any portion of a structure that do not fall within the definitions of “exterior maintenance and repair” or “major exterior alterations.” Minor exterior alterations include, but are not limited to, the application or installation of finish building treatments, including windows and other glazing, doors, lintels, copings, vertical and horizontal projections including awnings, and exterior sheathing and wall materials. Minor exterior alteration does not include the placement of signs.

Additions not exceeding two hundred fifty square feet may be permitted under a minor exterior alteration only when the additional floor area is designed and used for utility, HVAC, other mechanical equipment, ADA upgrades, or egress required by applicable fire safety or building codes.

The design standards pertaining to prohibited exterior building materials (see subsection C below) are applicable to minor exterior alterations. No other design standards apply to minor exterior alterations.

*Response: The project to remove the existing deck, rebuild stairs, and pour new concrete constitutes a minor exterior alteration. The review of this project will be only for prohibited materials.*

3. Major exterior alterations include any of the following:
  - a. Alterations that do not fall within the definitions of “exterior maintenance and repair” or “minor exterior alterations”;
  - b. Demolition or replacement of more than twenty-five percent of the surface area of any exterior wall or roof;
  - c. Floor area additions that exceed two hundred fifty square feet or do not meet the limited purposes as defined under the minor exterior alteration (ADA upgrades, etc.).

The design standards are applicable to major exterior alterations as described below:

- i. Major exterior alterations involving a wall(s) shall comply with the design standards for walls and the design standards for windows for that wall(s).
- ii. Major exterior alterations involving a roof shall comply with the design standards for roofs.

*Response: The work falls within the description of minor exterior alterations. No additional floor area is being added with this project. It does not replace more than 25% of the surface area of any wall. This project does not constitute major exterior alteration.*

#### C. Design Standards.

1. Design Standards for Residential. The following standards are applicable to “stand-alone” residential buildings in the downtown residential and downtown commercial zones. Additional standards pertaining to walls, windows, and roofs are also applicable to residential buildings and are addressed in subsections (C)(2) through (4) below.
  - a. Residential Entries and Porches.
    - i. Porches, if provided, shall be a minimum of six feet deep by eight feet wide.
    - ii. Front entries must face a public street or a landscaped courtyard.
  - b. Garages and Parking Areas.
    - i. Garage entrances and parking areas shall not be located between the residential building(s) and the abutting public street.
  - c. Residential Courtyards, If Provided.
    - i. Courtyards shall have a minimum width of thirty feet.
    - ii. Up to fifteen percent of the courtyard area may be claimed as private space. The remainder shall be common space.

- iii. The courtyard shall be enclosed on a minimum of two sides by residential front entry doors.
    - iv. Garage doors shall not front onto the courtyard.
  - d. Residential Balconies.
    - i. Balconies for residential units shall have a minimum depth of six feet and minimum width of eight feet.

*Response: This is not a residential project, and none of the standards above are applicable.*

- 2. Design Standards for Walls. The following standards are applicable to the exterior walls of buildings facing streets, courtyards, and/or public squares in all of the downtown zones.
  - a. Exterior wall-mounted mechanical equipment is prohibited.

*Response: No exterior wall mounted equipment is proposed.*

- b. The following wall materials are prohibited at the street level of the building:
      - i. EIFS or other synthetic stucco panels;
      - ii. Split-face or other masonry block.

*Response: None of the prohibited materials listed in this section are proposed for the building..*

- c. The following wall materials are prohibited at all levels of the building in all downtown zones:
        - i. Plywood paneling;
        - ii. Brick with dimensions larger than four by eight by two inches;
        - iii. Spandrel glazing/curtain wall;
        - iv. Vinyl or metal cladding;
        - v. Composite wood fiberboard or composite cement-based siding, except as permitted in the downtown residential zone in subsection (C)(2)(d)(iii);
        - vi. Metal panels, except at penthouse level.

*Response: None of these materials are proposed to be used in the project.*

- d. The following wall materials are permitted only in the downtown residential zone where densities are less than thirty units per acre:
        - i. Board and batten cladding (limited to a maximum of twenty percent of the wall area);
        - ii. Wood shingles;
        - iii. Composite wood fiberboard or composite cement-based siding.

*Response: None of these materials are proposed to be used in the project.*

- 3. Design Standards for Windows. The following standards are applicable to building windows facing streets, courtyards, and/or public squares in all of the downtown zones.
  - a. Windows shall be “punched” openings recessed a minimum of two inches from the wall surface.
  - b. Window height shall be equal to or greater than window width.

- c. The following windows are prohibited:
  - i. Reflective, tinted, or opaque glazing;
  - ii. Simulated divisions (internal or applied synthetic materials);
  - iii. Exposed, unpainted metal frame windows.

*Response: No changes to the existing fenestration on the building are proposed.*

- 4. Design Standards for Roofs. The following standards are applicable to building roofs in all of the downtown zones.
  - a. Flat roofs shall include a cornice with no less than six inches depth (relief) and a height of no less than twelve inches.
  - b. Mansard or decorative roofs on buildings less than three stories are prohibited in all downtown zones.
  - c. Metal roofs are prohibited only in the downtown residential zone.

*Response: The project would remove the existing roof over the deck area. No changes are proposed for the roof on the structure itself..*

#### **19.312.7 Design Review.**

- A. Purpose. Design review is intended to achieve the following purposes:
  - 1. Preserve and enhance the character of downtown Milwaukie;
  - 2. Ensure a degree of order, harmony, and quality in the downtown zones, providing buildings and projects that are attractive individually yet contribute to a downtown that is unified and distinctive as a whole; and
  - 3. To ensure that new development and alterations or enlargement of existing development are consistent with the downtown design guidelines and downtown and riverfront land use framework plan.
- B. Applicability. All new construction and changes to buildings and/or properties in the downtown zones involving exterior maintenance and repair, minor exterior alterations, and major exterior alterations as defined in subsection 19.312.6(B) are subject to design review in accordance with the procedures as outlined below under subsection 19.312.7(E).
- C. Design Guidelines. Design guidelines shall be established for the downtown zones and shall be considered as part of design review applications in accordance with the provisions of Section 19.312. The design guidelines shall be adopted by resolution of the city council, in accordance with the procedures of subsection 19.1011.5.
- D. Duty to Review—Planning Director. The planning director shall review each application for a building permit or other approval in the downtown zones. The purpose of this review is to ensure that improvements within the downtown zones maintain consistent standards of design and to ensure that development is consistent with adopted design guidelines.
- E. Application Procedure. Applications for design review shall be processed in accordance with Chapter 19.1000 Type I, Type II, and minor quasi-judicial procedures as indicated in this section, as follows:
  - 1. Exterior maintenance and repair, as defined in subsection 19.312.6(B)(1). shall be processed as a Type I Review in accordance with the procedures in subsection 19.1011.1. Exterior painting, repair, and refurbishing of existing building materials that does not require a building permit shall be exempt from Type I Review.

*Response: This section is not applicable.*

2. Minor exterior alterations, as defined in subsection 19.312.6(B)(2), shall be processed as a Type I Review in accordance with the procedures in subsection 19.1011.1. The planning director may change a Type I Review to a Type II Review upon finding the following:
  - a. The work is visible from streets, courtyards, and/or public squares and significantly changes the architectural character of the building, which may include changes to exterior wall materials and changes in architectural style; and/or
  - b. The work is inconsistent with the downtown design guidelines.

*Response: As explained above, the project is a minor exterior alteration. The Planning Director does not elect to change this project from a Type I review to a Type II review. As discussed under MMC 19.312,7(G), the work is consistent with the downtown design guidelines. The project is being reviewed consistent with Type I procedures.*

3. Major exterior alterations, as defined in subsection 19.312.6(B)(3) shall be processed as Minor Quasi-Judicial Review in accordance with the procedures in subsection 19.1011.3. Applications for major exterior alterations shall be heard in a public hearing by and decided by the planning commission, except as follows:

The following major exterior alterations shall be processed by Type II Review:

- a. Additions not more than two hundred fifty (250) square feet in floor area that do not face streets, courtyards, and/or public squares and are not designed and used for utility, HVAC, or other mechanical equipment, building upgrades as needed to comply with the Americans with Disabilities Act, or egress required by applicable fire safety or building codes.
- b. Demolition or replacement of no more than twenty-five (25) percent of the surface area of any exterior wall or roof that does not face streets, courtyard, and or public squares.

*Response: This section is not applicable.*

4. Residential.
  - a. “Stand-alone” residential buildings that do not include nonresidential uses are exempt from design review, but shall be subject to the clear and objective design standards under subsection 19.312.6. Applicants may elect to process a stand-alone residential building design review.
  - b. Mixed-use Buildings. The residential portion of mixed-use buildings shall be subject to the clear and objective standards under subsection 19.312.6. The nonresidential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed-use building through design review.

Any change in use of the residential portion of a mixed-use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the planning commission.

*Response: This section is not applicable.*

- F. Application. Applications for design review shall be filed with the planning department on forms prescribed by the planning director. Design review applications shall include a narrative



explaining how the development considered each of the downtown design guidelines. The applicant shall demonstrate consistency with the design guidelines and compliance with applicable zoning criteria. In addition to all information specified on the “Submission Requirements” and “Site Plan Checklist” forms, each application for design review shall be accompanied by the following information:

1. Completed design review checklist.
2. Written statement that describes how the proposal meets applicable design guidelines. Where a guideline is not met, the applicant shall provide justification indicating why it is not applicable or demonstrate other site or project characteristics that warrant an exception.
3. Show footprints of surrounding buildings, including driveways and pedestrian connections.
4. Location, dimension, and setbacks of all proposed buildings, structures, walls and fences.
5. Dimensioned building elevations indicating height, exterior materials, colors and details of exterior architectural features, such as cornices, windows and trim.
6. A streetscape drawing showing the relationship of the proposed project to adjacent buildings.
7. Frontage improvements in the public right-of-way per the public area requirements.

*Response: The application for this project has included all the necessary information required for a design review application.*

G. Approval Criteria for Design Review.

The approval authority may approve, approve with conditions, or deny design review based on the following approval criteria:

1. Compliance with Title 19;
2. Substantial consistency with the downtown design guidelines; and
3. Submission of a complete application and applicable fee as adopted by the city council.

*Response: The project complies with the use and design standards for the Downtown Residential zone in MMC 19.312. MMC 19.500 is not applicable to this project. MMC 19.1400 is not applicable.*

*The proposed changes to the building are substantially consistent with the intent of the downtown design guidelines with respect to improving the pedestrian environment and integrating well with the site's surroundings.*

*The applicant submitted a complete application and application fee for design review.*

H. Report and Recommendation by Design and Landmarks Committee.

When an application also requires planning commission approval, the planning director for Type II Reviews, or design and landmarks committee for Minor Quasi-Judicial Reviews, shall make a written report of its recommendation concerning the design to the planning commission. After receiving the planning director's or design and landmarks committee's recommendation, the planning commission shall consider the design review recommendation and integrate it with the land use application process applicable to the project.

*Response: Because this is a Type I application, Design and Landmarks Committee review is not required.*

- I. Variances to Development Standards. The planning commission may authorize variances to the development standards under subsection 19.312.4 in accordance with procedures of Chapter 19.700.
- J. Modification of Design Standards. The planning commission may authorize modification of the design standards under subsection 19.312.6(C), in accordance with the following procedures.

A modification to a design standard may be granted at a public hearing in accordance with subsection 19.1011.3 when all of the following criteria are satisfied:

  - 1. The modification is integral to the overall design concept for the building;
  - 2. The modification:
    - a. Substantially meets the intent of the design standard; or
    - b. In combination with other design elements of the project, the modification meets the intent of the design standard; and
  - 3. The project is substantially consistent with the downtown design guidelines applicable to the design standard.
- K. Consideration of prohibited material or design features. The planning commission may authorize the use of prohibited materials or design features specified in subsection 19.312.6(C) subject to the following criteria:
  - 1. The applicant demonstrates that the prohibited material is substantially comparable to an allowed material with regards to quality, appearance, style, architectural effect, and durability.
  - 2. Use of the prohibited materials is consistent with design considerations specified for the particular design element in the Milwaukie downtown design guidelines.

*Response: The project does not seek any variance of development standards, modification of design standards, or use of prohibited materials.*