

**DSG Policy Memorandum
Administrative Interpretation
#16-01**



DEVELOPMENT SERVICES GROUP
9611 SE 36TH St., Mercer Island, WA 98040
(206) 236-5300

TO: DSG Staff
FROM: Scott Greenberg, Development Services Group Director
DATE: July 5, 2016
RE: Code Interpretation Request DCI16-001: Building Pads
CC: City Attorney

.....

MICC SECTION(S) INTERPRETED

MICC 19.16.010, MICC 19.09.090, MICC 19.02.020(C)(3)(a)

AUTHORITY

This administrative interpretation is issued under the authority of Section 19.15.010(C)(5)(a) and 19.15.020.L of the Mercer Island City Code (MICC).

ISSUE

The purpose of this administrative interpretation is to clarify the MICC definition of “building pad” and what can be developed outside of the building pad.

BACKGROUND

The City received a formal request for code interpretation on January 13, 2016 (File No. DCI16-001). The applicant requested a code interpretation allowing a portion of the second or third floor of a proposed single-family residence to cantilever outside of the building pad.

FINDINGS

1. MICC 19.09.090(A) requires designation of a “building pad” for each lot within all new subdivisions.
2. Short Plat SUB09-002 (recording number 20110609900005) shows recorded “building pad” locations on both lots in the two-lot short plat.
3. MICC 19.16.010 defines “building pad” as: *“That portion of a lot on which a building may be located based on criteria set forth under the development code.” (emphasis added)*
4. MICC 19.16.010 defines “building” as: *“A structure having a roof, but excluding trailers, mobile homes, and all other forms of vehicles even though immobilized. Where this code requires, or where special authority granted pursuant to this code*

requires that a use shall be entirely enclosed within a building, this definition shall be qualified by adding “and enclosed on all sides.” (emphasis added)

5. MICC 19.16.010 defines “structure” as: *“That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.”*
6. MICC 19.16.010 defines “yard” as: *“An open, unoccupied space, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated, required to be kept open by the yard requirements prescribed herein.”*
7. MICC 19.02.020(C)(3)(a) allows minor building elements to intrude into required yards, including but not limited to chimney and fireplace extensions, and unroofed, unenclosed decks.
8. MICC 19.02.020(C)(3)(g), regarding “other structures,” states: *“...structures over 30 inches in height from existing grade or finished grade, whichever is lower may, not be constructed in or otherwise intrude into a required yard.”*

CONCLUSIONS

- A. The intent of a building pad requirement and a required yard are the same, that is, to limit or constrain the location of a building on a lot. Therefore, it is appropriate to consider allowances and restrictions related to required yards when determining what can be constructed outside of a designated building pad.
- B. The building pad designated on short plat SUB09-002 defines the location of where the building is allowed. Since a building is defined as a structure having a roof, any structure that has a roof must be contained within the building pad. A cantilevered portion of a building that contains a roof must be contained within the building pad.
- C. The list of allowed intrusions into required yards in MICC 19.02.020(C)(3) identifies predominantly unenclosed and unroofed structures. The exceptions, for chimney and fireplace extensions, are uninhabitable. Cantilevered floors would have a roof and be habitable, and are not expressly allowed as an intrusion into a required yard. Unroofed, unenclosed decks are habitable, but are not covered or enclosed like a building would be.

INTERPRETATION

Buildings, as defined in MICC 19.16.010, cannot project beyond the boundary of a designated building pad, except for minor building elements as allowed by MICC 19.02.020(C)(3)(a).