

January 25, 2021

**ADMINISTRATIVE INTERPRETATION  
DECISION AND FINDINGS  
PLNZAD2020-00982**



**REQUEST:**

A request from Ian Kaplan, representing the property owner and Modal Living, for an Administrative Interpretation regarding the allowed area of a deck attached to an Accessory Dwelling Unit (ADU) at approximately 2721 East 2100 South. The ADU is located on the slope of a lot where the habitable space is at ground level on one side of the structure and elevated above the foundation wall on the other side of the structure. In the same manner as the habitable space, the proposed deck is at ground level on one side but elevated above grade on other sides. Section 21A.40.200E3h of the Zoning Ordinance regulates decks and balconies on detached accessory dwelling units and states that a deck is limited to 80 square feet in size when located above the ground level of the building. The applicant claims that the proposed deck is on “the ground level” of the structure and has submitted this request for an Administrative Interpretation to clarify the above-referenced code and the intended definition of “the ground level”.

**DECISION:**

The Zoning Administrator finds that the proposed deck is located on “the ground level” of the proposed ADU and that a deck larger than 80 square feet is permitted. The proposed ADU and accompanying deck will still need to conform with all applicable standards found in section 21A.40.200 of the Salt Lake City Zoning Regulations.

**FINDINGS:**

The applicant’s request boils down to the definition of three words found in the balcony and deck standards for Accessory Dwelling units in Section 21A.40.200.E.3.h.(1):

*h. Balconies And Decks: Balconies and decks shall be designed as follows:*

*(1) Shall not exceed eighty (80) square feet in size when located above **the ground level** of the building;*

The ambiguity of the phrase “the ground level” can make it difficult to interpret this section of the code when the ground floor of an ADU is not at ground level on all sides of the structure. In most situations, the ground floor of an ADU usually sits at approximately ground level and there is little confusion about when a deck is above “the ground level.” In this case however, the proposed ADU will sit on a relatively steep slope, separating the ground floor from ground level at certain points of the structure. “The ground level” and “ground level” are not specifically defined by the zoning ordinance. However, we can glean a better understanding of the phrase from two definitions found in the zoning regulations that use the words “level” and “ground level.” The first is the definition for *Story (Floor)*:

*The vertical distance between the finished floor of one **level** and the finished floor of the **level** above or below.*

The other is *Yard*:

*On the same zoning lot with a use, building or structure, an open space which is unoccupied and unobstructed from its **ground level** to the sky, except as otherwise permitted herein. A yard extends along a lot line, and to a depth or*

*width specified in the yard requirements for the zoning district in which such zoning lot is located.*

From these two definitions we can see that “level” can have different meanings depending on the context of the phrase. In the case of *Story (Floor)*, “level” seems to mean the horizontal plane of any given story within a building. With *Yard*, “ground level” appears to mean the horizontal plane of the ground. Dictionary definitions of “level” only muddy the water further. The Oxford English Dictionary defines “level” as both “a horizontal plane or line with respect to the distance above or below a given point” and as “a floor within a multistory building.”

When interpreting the intent of the phrase “the ground level,” it is important to take the words together and not rely solely on their individual definitions. Note that the only definition in the zoning regulations that places “the” before “level” is *Story (Floor)*. In the case of section 21A.40.200.E.3.h.(1) regarding ADU decks, the fact that there is a “the” before “ground floor” is important. Without the preceding “the,” the regulation would clearly mean the surface of the ground. The inclusion of “the” appears intentional, meaning that “the ground level” was meant to be synonymous with *the first floor* of the ADU.

If you have any questions regarding this interpretation please contact Aaron Barlow at 385-386-2764 or by email at [aaron.barlow@slcgov.com](mailto:aaron.barlow@slcgov.com).

**APPEAL PROCESS:**

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <https://www.slc.gov/planning/applications/> along with information about the applicable fee. Appeals may be filed in person or by mail at:

<b>In Person:</b> Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT		<b>US Mail:</b> Salt Lake City Corp Planning Counter PO Box 145471 Salt Lake City, UT 84114-5417
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**NOTICE:**

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.

  
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Aaron Barlow, AICP  
Principal Planner

cc: Nick Norris, Planning Director  
Joel Paterson, Zoning Administrator  
Greg Mikolash, Development Review Supervisor  
Posted to Web  
Applicable Recognized Organizations