



Requested Interpretation		Case Number
See attached <b>Exhibit A</b> .		<b>UI-15-17</b>
<b>Site Address/PIN: NA</b>		
<b>Date Submitted:</b> November 2, 2017	<b>Date Issued:</b> December 1, 2017	<b>Code Sections</b> 1.5.4.D; 12.1

## STAFF ANALYSIS

The applicant has asked if a described building feature can encroach into the setback, given the allowance cited in section 1.5.4.D of the UDO. This section identifies multiple features that may extend into the required setbacks for primary structures. The following specific elements are listed in this section:

1. porches;
2. stoops;
3. balconies;
4. galleries;
5. chimneys and flues;
6. building eaves, overhangs awnings and light shelves;
7. bay windows, oriels, vestibules;
8. unenclosed fire escapes or stairways;
9. unenclosed patios, decks or terraces;
10. cornices, belt courses, sills, buttresses or other similar architectural features; and
11. handicap ramps

The applicant has described a building feature that is an “unenclosed building appurtenance that serves as a covered entry to a side entrance to the main house, and under which a vehicle may drive to access the detached garage and parking area behind the primary home.”

In determining whether or not this feature is allowed to encroach into a setback, staff must compare the described feature to the list of specific elements above. The applicant states that this described element is most like a porch, balcony, building eave, roof overhang, awning or lightshelf and unenclosed patio, deck or terrace.

The UDO provides a definition of a porch (raised structure attached to a building forming a covered entrance) and a balcony (platform projecting from the wall of a building with a railing along its outer edge, often accessible from a door or window). A porch is typically a raised structure that provides a landing area that connects steps to a door. A balcony is typically an elevated structure that provides egress from a door or window. A balcony typically does not provide egress from the platform to the ground by way of steps.

A building eave or roof overhang are generally considered projections of a roof form that are comprised of roof truss elements. These elements typically do not have any supporting features that extend to the ground. An awning is typically a cover that extends above a window to provide shade or visual interest on a building façade, most commonly found in non-residential buildings located within an urban environment. A lightshelf is an element attached to a building façade above a window that is used to transmit light to the interior of a building. Staff can find no commonality between the described element and a lightshelf.

The final category of element identified by the applicant is unenclosed patio, deck or terrace. These elements can be elevated or located at grade. Patios and decks are most commonly used for human congregation or activity. A terrace can be used in a similar fashion. The key descriptor for this grouping of elements is “unenclosed”, which is an indicator that walls are not contemplated with these elements.



Staff did not provide a full analysis of the remaining features, as they all have common meaning that in no way relate to the applicant's description. The applicant did not analyze these remaining features either. The elements not analyzed are chimney and flue; bay window, oriels and vestibules; unenclosed fire escape or stairway; cornices belt courses, sills, buttresses or other similar architectural features; and handicap ramps.

The applicant states that this feature would be attached to the house that provides a covered entry into a side entrance to the main house. The area under the cover could be used for short-term vehicular parking, although the applicant states it would be unlikely that parking would occur long term as it would block access to a garage behind the house. The feature would be supported by vertical columns and is connected to the side of the house.

## STAFF INTERPRETATION

The intent of section 1.5.4.D is to allow certain elements to encroach into a required setback. The building features identified in this section can be placed in one of three categories: architectural building feature, an entrance into a building, or requirement to meet state or federal law. The first category of elements is intended to allow minor architectural details, such as a sill, cornice or bay window to encroach into a setback. The second category of elements is intended for human passage or congregation, such as porch, patio, stoop or balcony. The third category is a necessity of a higher law, such as a fire escape or handicap ramp.

In reviewing the applicant's description of the building feature, staff does not find consistency between the described feature and analyzed building elements. While the applicant has not provided architectural drawings, the applicant describes this feature as an extension on the side of the house, supported by columns with a paved surface below. The UDO provides a definition for a porch and a stoop, with each definition specifying that these are raised structures. The applicant has stated this feature will be located at grade. Similarly, a balcony is defined as a platform projecting from a building with a railing at the outer edge that is accessible from a door or window. The intent of a balcony is that there might be human activity on top of the balcony, but not underneath. Staff does not find that the described element is similar enough in nature to be classified as either a porch or a balcony.

When the UDO does not define a term, section 12.1.1 states that an ordinary dictionary shall be consulted. In reviewing the identified building elements and the applicant's description, staff believes this to be most similar to a carport. The feature will not have any walls and will produce a covered area for the unloading of a vehicle. This description aligns with the common and everyday definition of carport, as found in many reference dictionaries, such as Merriam-Webster, Oxford, Collins and countless other dictionaries.

A carport is not similar enough in nature to the list of building elements that may encroach into a setback. In past similar situations, staff has determined that a carport must meet all primary setbacks and cannot encroach into any setback.

## SIGNATORY



Travis R. Crane, Planning and Zoning Administrator

# Code Interpretation Request Form



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

Development Services Customer Service Center | 1 Exchange Plaza, Suite 400 | Raleigh, NC 27601 | 919-996-2495 | eFax 919-996-1825

Project Name (if associated with a project): N/A	
Applicant Name: Michael Birch, Morris, Russell, Eagle & Worley, PLLC	Date: November 2, 2017
Applicant Street Address: 2235 Gateway Access Point, Suite 225	
City: Raleigh	State: NC
Zip: 27615	
Applicant E-mail: mbirch@morrisrussell.com	Applicant Phone Number: 919.645.4317
Description of Request with City/State Code Section reference: See attached Exhibit A.	
Departmental Staff Representative responsible for requested interpretation:	
Fire - Steve Berry	Public Utilities - Cesar Sanchez
Development Services, Building Code – Leon Skinner	UDO – Travis Crane

**Submit applications to:**  
Alysia Bailey-Taylor, Development Management Team  
alysia.bailey-taylor@raleighnc.gov@raleighnc.gov  
One Exchange Plaza, Fifth Floor  
Raleigh, NC 27601

## Exhibit A to Interpretation Request

- A. Request: The applicant requests an interpretation that the building feature described below qualifies as one or more of the building features listed in UDO section 1.5.4.D.1. which are permitted to encroach into a setback.
- B. Description of Building Feature: An unenclosed building appurtenance that serves as a covered entry to a side entrance to the main house, and under which a vehicle may drive to access the detached garage and parking area behind the primary home. Parking is not prohibited under the building appurtenance, as the driveway that passes underneath is not subject to any setback. The width of the driveway at the point at which it passes under the building feature is only wide enough for one car. There is no enclosed or habitable space above the covered area. The building appurtenance is supported by vertical columns in the four corners of the appurtenance, and is connected to the side of the main house. The building appurtenance is located on the side of the main house.
- C. UDO Section 1.5.4.D.1. Summary: This section of the UDO lists building features that may encroach into certain required setbacks, and provides a maximum encroachment and minimum setback for each building feature. The building features listed in section 1.5.4.D.1. that are most applicable to the above-described are (i) porch, (ii) balcony, (iii) building eave, roof overhang, awning or light shelf, and (iv) unenclosed patio, deck or terrace.
- D. Support for Interpretation: The above-described building feature should be considered as one or more of the building features listed in above Section C. for the following reasons:
1. None of the UDO definitions of the building features listed in above Section C. prohibit the driving or parking of vehicles on or under such building feature.
  2. A covered porch, a balcony at the second story that provides cover below, a roof overhang or awning, and a covered patio, deck or terrace all can functionally serve as a covered entry where a vehicle can park to allow passengers to enter the home.
  3. There is no side yard setback for a driveway or parking area (beyond the curb cut), such that the activity of driving or parking is not prohibited or limited by the UDO in that area that coincides with the building feature allowed to encroach into the side yard setback.
  4. The building feature described in above Section B. allows a vehicle to pass under/through in order to reach a detached garage and parking area behind the primary structure. Functionally, it is unlikely that a car will remain parked under the building feature described in above Section B. for an extended period of time because it would block access by other vehicles to the garage and main parking area given the width of the driveway as it passes under/through the building feature.