

Charlotte Area Transit System (CATS)

Transit Corridor – Corridor Access Agreements Process

Developments adjacent to a CATS Transit Corridor¹ requiring acquisition, air rights, use, or access to the Transit Corridor must apply for agreement(s) from CATS (*Corridor Access Agreements*). **No entry or work in a Transit Corridor is allowed without prior approval from CATS and execution of the necessary agreement(s).**

This process only applies to Property Owners² or Utility³ developing or performing work adjacent to a Transit Corridor and wanting to access or use the adjacent Transit Corridor.

¹Transit Corridor as used throughout this document shall mean a linear area that is dedicated for transit use.

²Property Owner as used throughout this document shall also mean developers, consultants, contractors or anyone working on the adjacent development based on context.

³Utility as used throughout this document shall be as “public utility” is defined in accordance with N.C.G.S. §62-3.

Introduction

CATS owns, has prior rights, or controls Transit Corridors in which CATS operates, currently or in the future, different modes of transit including light rail, bus rapid transit, commuter rail, and streetcar. Those developing adjacent to a Transit Corridor and wanting access or use of such Transit Corridor must apply for the appropriate Corridor Access Agreement(s) from CATS (*Agreement Request Package*). CATS review, agreement, and permit process is separate from the City’s standard Land Development submittal and approval process. This process can take several months to complete and approval at each step is not guaranteed. In addition, CATS approval for a Corridor Access Agreement does not guarantee City approval of a proposed land development.

CATS primary function is to provide safe, reliable and efficient transit services to the general public and does NOT have an expedited or enhanced review process option. At a minimum, this process should begin at least forty-five (45) business days in advance of initiating the City’s Land Development process. Depending on the complexity of the request, additional time may be required. If the following process is not followed, the City’s approval process may take longer.

Description of Agreements

1. Transit Corridor Access or Use

Any access (work, use, or encroachment) by an adjacent Property Owner and/or Utilities into the Transit Corridor requires an executed Corridor Access Agreement with CATS. The appropriate agreement(s) will depend on the type of access or use.

The following is a list of Corridor Access Agreements needed to access or use the Transit Corridor:

- CATS License & Indemnity Agreement
 - Gives Property Owner the right to enter the Transit Corridor to access and use the Transit Corridor as approved by CATS
 - Among other things, the license agreement includes additional insurance coverage that must be provided to CATS while working adjacent to or within the Transit Corridor, safety requirements including training and flagging protection, and the required notifications and approval process to enter the Transit Corridor and begin work.
- Any other documents deemed necessary by CATS.
- Utility easement (if applicable)

Property Owner or Utility should also coordinate with NCDOT or other entities as appropriate.

2. Land Exchange

CATS may consider releasing outer portions of the Transit Corridor that aren't used or needed by CATS to the adjacent Property Owner, as long as the proposed adjacent development is transit supportive and in exchange for certain consideration as determined by CATS. The consideration routinely obtained by the City is listed below:

- Deed underlying fee simple in the Transit Corridor to City, thus providing clear fee simple title to the portion of the Transit Corridor used or needed by CATS (this item is mandatory)
- Construction and maintenance of the Rail Trail per the Zoning Ordinance or as negotiated with CATS (**this item is mandatory**)
 - The Rail Trail includes: landscaping/planting strips, minimum 12' wide concrete pedestrian path, fencing, pedestrian lighting, , ballast curb (if needed)
- Additional pedestrian and bicycle connectivity via easement to City
- Drainage improvements
- Public art
- Cash
- Other amenities or improvements as the City deems appropriate

The CATS *Transit Corridor Land Exchange Valuation Procedure* describes the valuation methodology for the land exchange (Attachment A).

The following is a list of Corridor Access Agreement documents needed to complete the land exchange and access or use the Transit Corridor:

- Quitclaim Deed (City to Property Owner)
 - Grants fee simple title (releasing rights in the Transit Corridor) to the outer unused portion of the Transit Corridor
- Quitclaim Deed (Property Owner to City)
 - Grants fee simple title to the inner used/needed portion of the Transit Corridor
- CATS License & Indemnity Agreement
 - Gives Property Owner the right to enter the Transit Corridor to construct and maintain the Rail Trail and any other approved amenities or improvements located in the Transit Corridor
 - Among other things, the license agreement includes additional insurance coverage that must be provided to CATS while working adjacent to or within the Transit Corridor, safety requirements including training and flagging protection, and the required notifications and approval process to enter the Transit Corridor and begin work.
- Notice of License Agreement
 - To be recorded with Mecklenburg County Register of Deeds
- Any other documents deemed necessary by CATS

3. Standard Requirements

In addition to those applicable requirements in the City Ordinance, Zoning Ordinance, Land Development Standards, etc., Property Owners are required to comply with the following:

- *CATS Standard Plan Review Comments* (notes on plans)
- CATS License & Indemnity Agreement (draft sample available upon request)
- Any other applicable CATS requirements

Application Process

1. Pre-application Meeting

At least forty-five (45) business days prior to beginning the City's Land Development and/or rezoning process, contact CATS to schedule a meeting prior to submitting an Agreement Request Package to discuss the proposed project and requested use of the adjacent Transit Corridor as early as possible and prior to developing detailed design plans. Such meeting requests should be emailed to jghoward@charlottenc.gov with the following information:

- Requestor contact information (name, address, phone number, email address)
- Property Owner or Utility name (if different from Requestor)
- Developer name (if different from Requestor)
- Consultant contact information (name, phone number, email address) for architect, engineer, surveyor, attorney, and others (identify primary point of contact)
- Property location/information (address, parcel(s) tax ID, zoning classification, if subject to existing or proposed Brownfield Agreement)
- Specific request: land exchange and/or access or use of Transit Corridor
- Description of the proposed adjacent project and the scope of work/use proposed in or adjacent to the Transit Corridor, include anticipated construction activities that could impact CATS facilities or affect CATS operations, e.g. blasting and any crane use/placement of crane, Rail Trail access
- Proposed date(s) and time(s) for the work to be performed in the Transit Corridor (if applicable)
- Proposed date submitting rezoning petition to City (if applicable)
- Proposed date submitting land development plans to City
- Anticipated date of construction beginning and ending

Following the Pre-application meeting, CATS will notify the developer whether the application process may proceed, as well as any additional requirements that may apply.

CATS does not provide advisory opinions and cannot guarantee that a project will be approved by CATS or the City's Land Development process once an official application has been submitted. While CATS may share some information that will provide a better understanding of the process or some of CATS's potential concerns with regard to the proposed project, this information is not intended to be relied upon as the basis for legal or financial decisions, and is not a substitute for submitting an official Adjacent Development application with CATS and a Land Development application with the City.

2. Application Submission and Plan Review

To allow sufficient time for CATS review, after the Pre-Application Meeting and a minimum of thirty (30) business days prior to beginning the City's Land Development process, an Agreement Request Package should be submitted to CATS to begin CATS' Transit Corridor review process in connection with Corridor Access Agreements. The Agreement Request Package should be emailed to jghoward@charlottenc.gov and must include the following:

- a. A Letter of Request containing all the information listed in section 1
- b. If land exchange, the CATS land exchange valuation worksheet ,
- c. Copies of conceptual plans, and
- d. A comprehensive survey of the Property Owner's parcel(s) for early review

Submit a copy of the Letter of Request and a check for the application fee in the amount of \$7,965.00 (FY22 user fee) made to the City of Charlotte to:

Charlotte Area Transit System
Attention: Michael Nail, CATS Finance
600 E. Fourth Street
Charlotte NC 28202

NOTE: Once submitted, application fee is non-refundable.

A meeting will be scheduled with CATS staff to go over the specific request and necessary documents. A field meeting at the site with CATS staff and the property owner is also beneficial.

Once the Corridor Access Agreement(s) have been drafted, CATS Legal will distribute the documents for review by CATS Finance, Operations, and Planning & Development staff.

3. City's Land Development approval process

The Property Owner then follows the City's Land Development review and approval process. CATS will review plans as part of this process as well. Requirements related to the Corridor Access Agreement(s) will be finalized during this period.

City of Charlotte Land Development-related process information, resources, and contact info can be found on the [CLT Development Center website](#).

4. Agreement Execution

After plan approval in the City's Land Development process, the Property Owner and CATS can execute the Corridor Access Agreement(s). After execution, the property owner can then begin work in the Transit Corridor. The Agreement requires insurance, indemnification and other terms but is intended to implement what is reflected in the approved plans. Therefore, the approved plans are attached as Exhibit A to the Agreement.

Additionally, if there is also a land exchange, the required Corridor Access Agreement(s) cannot be executed until City Council and other applicable approvals. CATS Legal provides the information for the Request for Council Action and all necessary documents to City Real Estate, in accordance with the Real Estate Council Agenda Schedule (typically 5 weeks in advance of Council meeting). CATS Legal also coordinates with City Real Estate to place the required notice in the newspaper.

For additional information about application requirements and obtaining an agreement, please contact:

John Howard
Senior Transportation Planner
Planning & Development Division
Charlotte Area Transit System
704-617-3516
jghoward@charlottenc.gov

Attachment A

Charlotte Area Transit System (CATS)

Transit Corridor Land Exchange Valuation Procedure

CATS owns, has prior rights, or controls Transit Corridors in which CATS operates, currently or in the future, different modes of transit including light rail, bus rapid transit, commuter rail, and streetcar. Upon request by an adjacent property owner, CATS may consider releasing its rights to outer portions of the Transit Corridor in exchange for real property and other consideration.¹

Valuation

Formula

Pursuant to N.C.G.S. §160A-271, a city may exchange real property for other real or personal property by private negotiation if the city receives a full and fair consideration. In order to estimate the fair market value of property encumbered with rail or similar structures, and associated rights and interests, the City of Charlotte (the “City”), at the advice and recommendation of the City Appraiser, has established the following formula to be applied to property valuation for land exchanges within the Transit Corridor. Property rights to be conveyed by CATS to an adjacent property owner will be assessed at 50% of the adjoining property Base Value² per square foot. Fee interest to be conveyed by an adjacent property owner to CATS will be assessed at 10% of the property value per square foot.

Base Value of Adjacent Property

The Base Value of property adjacent to the Transit Corridor will be assessed pursuant to an appraisal report by a certified appraiser and performed in accordance with North Carolina law and the Uniform Standards of Professional Appraisal Practice (USPAP). A standard appraisal report for the adjacent property must be supplied by the property owner proposing a land exchange, at no additional cost to CATS.

Alternatively, for properties purchased within 1 calendar year of the property owner’s Adjacent Development Agreement Application, CATS may choose to substitute a Base Value assessment by an official appraisal report with the purchase price of the adjacent property as verified by a purchase and sale contract.

Value Disproportion

Under circumstances in which the real property to be conveyed to CATS is assessed at a lower value than the property interests to be conveyed to the adjacent property owner, CATS may require additional personal or real property, or other consideration to balance the transaction.

¹ See “Transit Corridor- Corridor Access Agreements Process”

² Base Value is determined pursuant to this procedure

Consideration

Where a value imbalance has been determined in a proposed land exchange, CATS will prioritize requests for transit supportive improvements and amenities. If CATS determines that there are no reasonable or appropriate opportunities for improvements or amenities, or if all improvements and amenities considered are insufficient to offset the value imbalance, CATS may accept cash for the remaining balance.

Improvements or amenities representing a pre-existing duty may not be considered to offset a value imbalance in a land exchange. Design standards which require certain improvements to the Rail Trail and other facilities in the Transit Corridor may be found at https://charlottenc.gov/planning/Rezoning/Documents/ZoningOrdCity_Chapter15_Rev.pdf. Meeting these and other required standards will be deemed insufficient consideration in a land exchange.

Property owners shall submit a value estimate of the cost of all improvements, amenities, or services requested by CATS. Such value estimate shall be subject to CATS's review and approval. Line items on a value estimate submitted by a property owner may be subject to a maximum allowable trade value of 15% above an independent cost estimate. Property Owner shall notify CATS once all improvements and amenities have been installed. CATS will verify that the improvements were installed in accordance with the approved plans. CATS will document acceptance and verify that the value of the improvement are consistent with the value estimate based on compliance with the approved plans.

Unless provided otherwise in an associated agreement, acceptance of assets for a land exchange shall not relieve or absolve the Property Owner of any warranty, whether express or implied, liability, or duty related to the construction and/ or installation of improvements or amenities. Nor shall acceptance of any asset be construed as a waiver of any right or remedy available to CATS at law or in equity. Property Owner shall also provide CATS with no less than a 90-day notice prior to the expiration of any service obligations associated with the land exchange.

Cash

Property owners remitting cash to CATS to carry out a land exchange acknowledge that CATS's acceptance of the cash is pursuant to a private land exchange transaction, does not represent a donation to the City, and is not subject to any additional conditions.

Unless provided otherwise in an associated agreement, cash required to carry out a land exchange should be remitted via check made payable to the City of Charlotte at the address listed below after City Council approval and along with the property owner's execution of any associated deeds or license agreements.

Charlotte Area Transit System
Attention: Audrey Daniels, CATS Finance
600 East Fourth Street
Charlotte, NC 28202

Review Process

Requests for land exchanges within the Transit Corridor are reviewed as part of a property owner's Corridor Access Agreement Application¹.