

Special Use

(1) Purpose

It is recognized that there are certain uses which, because of their unique characteristics, cannot be properly classified in a particular district or districts without consideration of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

(2) Initiation

A property owner in the City, or his/her designee, may file an application to use his/her land for one or more of the special uses authorized within the zoning district. A property owner may only propose a special use for property under his/her control.

(3) Authority

The Zoning Board of Adjustment will take formal action on special use applications.

(4) Procedure

An application for a special use must be filed with the Planning staff. Once it is determined that the application is complete, the application will be scheduled for consideration by the Zoning Board of Adjustment.

(a) Upon receipt of a complete application, the Zoning Board of Adjustment will consider the special use at a public hearing. Public notice is required per item (5) below.

(b) The Zoning Board of Adjustment must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. The Zoning Board of Adjustment must either approve, approve with conditions, or deny the special use.

(c) The Zoning Board of Adjustment may impose conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as may be deemed necessary for the protection of the public health, safety, and welfare.

(5) Required Notice

(a) Notice of hearings must be mailed to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing.

(b) In the absence of evidence to the contrary, the County tax listing will be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but no more than 25 days, prior to the date of the hearing.

(c) Within that same period, the City will also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(6) Approval Standards

The listing of a use as a special use within a zoning district does not constitute an assurance or presumption that such special use will be approved. Rather, each special use must be evaluated on an individual basis, in relation to all applicable standards of this Ordinance. Such evaluation will determine whether approval of the special use is appropriate at the particular location and in the particular manner proposed. The decision of the Zoning Board of Adjustment must make findings to support each of the following conclusions:

(a) The proposed special use will not endanger the public health, safety, or welfare.

(b) The proposed special use is compatible with the general land use of adjacent properties and other property within the immediate vicinity.

(c) The special use in the specific location proposed is consistent with the spirit and intent of this Ordinance and adopted land use policies, such as station area plans.

(7) Modifications to Approved Special Uses

Any modifications to the conditions of approval for a previously approved special use must be resubmitted as a new special use application. Any modifications that meet Ordinance standards are permitted, subject to the regulations of this Ordinance.

(8) Expiration

A special use approval expires if any one of the following conditions occurs and no request for an extension of the special use validity is granted or pending. The Zoning Board of Adjustment may grant an extension for a period of validity, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time

- (a) When an approved special use is changed to another use.
- (b) For special uses approved in conjunction with new construction or additions or enlargements to an existing structure, the special use approval expires within one year of the date of approval if a building permit has not been issued.
- (c) For special uses approved in conjunction with an existing structure or on lot where no structure is planned, the special use approval expires within one year of the date of approval if the licenses or permits required for the operation or maintenance of the use have not been obtained.

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___ TOD-X

(1) Purpose

TOD-X is intended to encourage and facilitate more creative and flexible development of land than is allowed under TOD zoning regulations, and provide compensating amenities to the City.

(2) Initiation

The entire property proposed for the TOD-X must be in single ownership or under unified control. All owners of the property must be included as joint applicants on all applications and all approvals will bind all owners.

(3) Applicability

- (a) A TOD-X is authorized in all TOD Districts.

(4) Modification of District Regulations

(a) TOD-X is subject to the underlying TOD District regulations unless a modification is specifically granted as part of the TOD-X approval.

(b) Modifications are permitted as follows, unless specifically prohibited by this section:

1. The dimensional standards of the zoning district.
2. The design standards of the zoning district.
3. The dimensional standards of on-site improvements of landscape and signs.
4. The design standards of parking structures.
5. Off-street parking maximums.
6. The following standards may be modified but cannot be eliminated entirely: bicycle parking, required landscape, connectivity standards, and streetscape standards.

(c) Modifications exclude the following:

1. No modifications to allowed uses is permitted.
2. No modifications to height regulations is permitted.
3. No modifications that would allow signs not permitted by the district is permitted.
4. No modifications to permitted and/or prohibited parking lot locations.

(d) The extent to which the base standards of the TOD District are proposed to be modified, and the impacts of those modifications on existing and future development in the area will be considered as well as the public purpose to be served by permitting the requested modifications. Such modifications must also meet the following standards:

1. While the proposed modification does not strictly meet the standards of the district, it satisfies the intent and is not an inferior improvement and/or design.
2. The modification is the minimum necessary.
3. The proposed modification will not endanger the public health, safety, or welfare if constructed where proposed and developed according to the plan.
4. The modification will enhance the quality of the design of the structures and the site.

(5) Required Public Benefits

Proposals for TOD-X are required to provide public benefits. Public benefits must include one or more actions from at least two of the following categories: 1) sustainability; 2) public amenity; and 3) city improvement. Where a TOD District utilizes a height bonus, actions cannot apply to both the height bonus and a TOD-X public benefit.

(a) Sustainability

The following qualify as a sustainability action. Such actions must exceed the minimum Ordinance requirements, if applicable.

1. Use of sustainable design and architecture that meet established standards such as Leadership in Energy and Environmental Design (LEED), Energy Star, Earthcraft, etc. An evaluation from a third party that demonstrates that buildings and sites meet such certifications is required; however, certification is not required.
2. Adaptive reuse of existing buildings.
3. Preservation of on-site existing environmental features.
4. Additional actions that further sustainability of the development not listed above may be negotiated as part of the process and agreed upon outcomes as part of the TOD-X application.

(b) Public Amenity

The following qualify as a public amenity. Such actions must exceed the minimum Ordinance requirements, if applicable.

1. Creation of recreational open space, including parks and playgrounds, jogging trails and fitness courses, dog parks, skate parks, and similar recreational features, accessible to the public.
2. Incorporation of an affordable housing set-aside.
3. Additional public amenities not listed above may be negotiated as part of the process and agreed upon outcomes as part of the TOD-X application.

(c) City Improvements

1. Applicants may consult with City staff and/or any other public entities as deemed necessary to negotiate public improvements above those required by the Ordinance.
2. These improvements include, but are not limited to, new construction or improvement to existing roadways, alleys, medians, pedestrian pathways, bike paths, pedestrian drop-off areas, transit stops, bus pull outs, and/or other actions on the proposed development site that will promote the objectives of transit - oriented development.
3. The applicant will provide documentation of the negotiated process and agreed upon outcomes as part of the TOD-X application.

(6) Approval Standards

TOD-X are subject to the following approval standards.

(a) General Approval Standards

1. The TOD-X is a creative approach to the use of land that results in better development and design than might otherwise be accomplished under the strict application of other sections of this Ordinance.
2. The TOD-X allows for the design of developments that are architecturally and/or environmentally innovative, and that achieve better utilization of land than is possible through strict application of standard zoning controls.
3. The TOD-X is a more efficient use of land that facilitates a more effective arrangement of land uses, structures, circulation patterns, and utilities.

(b) Approval Standards in TOD-X Districts

1. The TOD-X allows for uses that facilitate mixed-use development.
2. The TOD-X facilitates high-density residential development.
3. The TOD-X site design has direct public access to transit.
4. The TOD-X design incorporates a variety of transportation options, including pedestrian and bicycle pathways.

(7) TOD-X Approval Process

1. Petitions for a zoning map amendment to establish a TOD-X must be submitted to the Charlotte-Mecklenburg Planning Commission.
2. A TOD-X classification will be considered only upon application by the owner of the subject property or his duly authorized agent. Applications must be accompanied by a site plan, consistent with Section 6.202 and supporting text, that becomes a part of the amending ordinance. The submittal must clearly indicate proposed ordinance modifications, as well as the required public benefit commitments.
3. The establishment of the TOD-X must be in accordance with the procedures of Chapter 6, Part 2: Conditional Zoning Districts.
4. Changes to approved plans and conditions of development will be treated the same as changes to the Zoning Map, and must be processed in accordance with the procedures of Section 9.12101 or Section 9.1212.