



Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

81-747 - Transfer of development rights from landmark theaters

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LAST AMENDED

2/2/2011

The City Planning Commission by special permit may authorize development rights to be transferred from #zoning lots# occupied by landmark #buildings# to other #zoning lots# proposed for #developments# or #enlargements# in accordance with the provisions of Section [74-79](#) (Transfer of Development Rights From Landmark Sites), as modified by this Section and by Section [81-212](#) (Special provisions for transfer of development rights from landmark sites).

The limitations on development rights transferred to #development# sites from landmark sites, including sites of landmark theaters, are set forth in Section [81-212](#).

In the case of landmarks which are theaters and which are located in the Theater Subdistrict, in addition to the modifications set forth in Section [81-212](#), the provisions of Section [74-79](#) are modified as follows:

- (a) “Landmark buildings” shall include #buildings# which contain interior landmarks as well as #buildings# which are themselves landmarks.
- (b) In all underlying districts throughout the Theater Subdistrict, “adjacent lots” to which landmark theaters’ development rights may be transferred shall be construed to include a contiguous lot or one which is across a #street# and opposite to another lot or lots which, except for the intervention of #streets# or #street# intersections, form a series extending to the lot occupied by the landmark #building#, all such lots being in the same ownership, fee ownership or ownership as defined under #zoning lot# in Section [12-10](#) (DEFINITIONS).
- (c) The provisions of paragraph (c) of Section [74-792](#) (Conditions and limitations) are further modified to provide that in any underlying district within the Theater Subdistrict, the “adjacent lot” may be #developed# or #enlarged# with either a #commercial building# or a #mixed building#.

Where development rights are proposed to be transferred and exercised in accordance with the provisions of Section [74-79](#), as modified by this Section, the Commission, in addition to the findings required in paragraph (e) of Section [74-792](#), shall find that:

- (1) the series of intervening lots in common ownership leading to the “adjacent lot” include lots, identified by the Commission, which are occupied by “listed theaters” or by #uses# which directly support neighborhood theater business, such as, but not limited to, rehearsal space, recording facilities or theater costume rental facilities and that such #uses# will be continued or replaced by other legitimate theaters or theater supportive #uses# as evidenced by covenants binding the owners of such lots, their successors and assigns to provide for such continuation or replacement; or
- (2) useful circulation improvements or other public facilities will be provided and maintained on one or more of the lots comprising the series of intervening lots to accommodate pedestrian or vehicular traffic generated by legitimate theaters.

The Commission shall require the owner of any intervening lot on which special #use# restrictions are applicable or on which circulation improvements or other public facilities are to be provided and maintained to sign a written declaration of restrictions setting forth the obligations of the owner, his successors and assigns and providing a performance bond for the completion of any required improvements. The declaration of restrictions shall be recorded in the Office of the Register of the City of New York (County of New York) and the Commission shall be provided with a certified copy.

The provision of Section [74-79](#) empowering the Commission to grant variations in the front height and setback regulations is modified by the provisions of Sections [81-266](#) or [81-277](#) (Special permit for height and setback modifications).

Compliance with the provisions of Section [81-743](#) (Required assurances for continuance of legitimate theater use) shall be a

condition for issuance of a special permit under the provisions of this Section.