74-79 - Transfer of Development Rights From Landmark Sites
In all districts except R1, R2, R3, R4 or R5 Districts or C1 or C2 Districts mapped within such districts, for developments or enlargements, the City Planning Commission may permit development rights to be transferred to adjacent lots from lots occupied by landmark buildings or other structures, may permit the maximum permitted floor area on such adjacent lot to be increased on the basis of such transfer of development rights, may permit, in the case of developments or enlargements containing residences, the minimum required open space or the density requirements to be reduced on the basis of such transfer of development rights, may permit variations in the front height and setback regulations and the regulations governing the size of required loading berths, and minor variations in public plaza, arcade and yard regulations, for the purpose of providing a harmonious architectural relationship between the development or enlargement and the landmark building or other structure.

Where a zoning lot occupied by a landmark building or other structure is located in a Residence District, the Commission may modify the applicable regulation of primary business entrances, show windows, signs and entrances and exits to accessory off-street loading berths on the "adjacent lot" in a Commercial District provided that such modifications will not adversely affect the harmonious relationship between the building on the "adjacent lot" and landmark building or other structure.

For the purposes of this Section, the term "adjacent lot" shall mean a lot that is contiguous to the lot occupied by the landmark building or other structure or one that is across a street and opposite the lot occupied by the landmark building or other structure, or, in the case of a corner lot, one that fronts on the same street intersection as the lot occupied by the landmark building or other structure. It shall also mean, in the case of lots located in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts, a lot contiguous or one that is across a street and opposite to another lot or lots that except for the intervention of streets or street intersections, form a series extending to the lot occupied by the landmark building or other structure. All such lots shall be in the same ownership (fee ownership or ownership as defined under zoning lot in Section 12-10).

A "landmark building or other structure" shall include any structure designated as a landmark by the Landmarks Preservation Commission and the Board of Estimate pursuant to Chapter 8-A of the New York City Charter and Chapter 8-A of the New York City Administrative Code, but shall not include those portions of zoning lots used for cemetery purposes, statues, monuments and bridges. No transfer of development rights is permitted pursuant to this Section from those portions of zoning lots used for cemetery purposes, any structures within historic districts, statues, monuments or bridges.

The grant of any special permit authorizing the transfer and use of such development rights shall be in accordance with all the regulations set forth in Sections 74-791 (Requirements for application), 74-792 (Conditions and limitations) and 74-793 (Transfer instruments and notice of restrictions).
An application to the City Planning Commission for a grant of a special permit to allow a transfer of development rights and construction based thereon shall be made by the owners of the respective zoning lots and shall include: a site plan of the landmark lot and the adjacent lot, including plans for all developments or enlargements on the adjacent lot; a program for the continuing maintenance of the landmark; and such other information as may be required by the City Planning Commission. The application shall be accompanied by a report from the Landmarks Preservation Commission.

A separate application shall be filed for each independent "adjacent lot" to which development rights are being transferred under this Section.

For the purposes of this Section, except in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts, the basic maximum allowable floor area for a zoning lot occupied by a landmark shall be the maximum floor area allowed by the applicable district regulations on maximum floor area ratio or minimum required open space ratio and shall not include any additional floor area allowed for public plazas, arcades or any other form of bonus whether by right or special permit.

The maximum amount of floor area that may be transferred from any zoning lot occupied by a landmark building shall be computed in the following manner:

1. the maximum allowable floor area that could be built for buildings other than community facility buildings under existing district regulations on the same zoning lot if it were undeveloped;

2. less the total floor area of all buildings on the landmark lot;

3. the figure computed from paragraphs (a) and (b) of this Section, inclusive, shall be the maximum amount that may be transferred to any one or number of adjacent lots; and

4. unutilized floor area may be transferred from one or any number of zoning lots occupied by a landmark building to one or any number of zoning lots adjacent to the landmark lot so as to increase the basic maximum allowable floor area that may be utilized on such adjacent zoning lots. For each such adjacent zoning lot, the increase in floor area allowed under the provisions of this Section shall
in no event exceed the basic maximum #floor area# allowable on such adjacent #zoning lot# by more than 20 percent.

(c) When adjacent lots are located in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts and are to be #developed# or #enlarged# with #commercial buildings#, the following conditions and limitations shall apply:

(1) the maximum amount of #floor area# that may be transferred from any #zoning lot# occupied by a landmark #building# shall be the maximum #floor area# allowed by Section 33-12 for #commercial buildings# on said landmark #zoning lot#, as if it were undeveloped, less the total #floor area# of all existing #buildings# on the landmark #zoning lot#;

(2) for each such adjacent #zoning lot#, the increase in #floor area# allowed by the transfer pursuant to this Section shall be over and above the maximum #floor area# allowed by the applicable district regulations; and

(3) the City Planning Commission may require, where appropriate, that the design of the #development# or #enlargement# include provisions for public amenities such as, but not limited to, open public spaces, subsurface pedestrian passageways leading to public transportation facilities, #public plazas# and #arcades#.

(d) In any and all districts, the transfer once completed shall irrevocably reduce the amount of #floor area# that can be utilized upon the lot occupied by a landmark by the amount of #floor area# transferred. In the event that the landmark’s designation is removed or if the landmark #building# is destroyed, or if for any reason the landmark #building# is #enlarged# or the landmark lot is redeveloped, the lot occupied by a landmark can only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by the transfer.

(e) As a condition of permitting such transfers of development rights, the Commission shall make the following findings:

(1) that the permitted transfer of #floor area# or variations in the front height and setback regulations will not unduly increase the #bulk# of any #development# or #enlargement#, density of population or intensity of use in any #block# to the detriment of the occupants of #buildings# on the #block# or nearby #blocks#, and that any disadvantages to the surrounding area caused by reduced access of light and air will be more than offset by the advantages of the landmark's preservation to the local community and the City as a whole;

(2) that the program for continuing maintenance will result in the preservation of the landmark; and

(3) that in the case of landmark sites owned by the City, State or Federal Government, transfer of development rights shall be contingent upon provision by the applicant of a major improvement of the public pedestrian circulation or transportation system in the area.
The Commission shall give due consideration to the relationship between the landmark building and any buildings developed or enlarged on the adjacent lot regarding materials, design, scale and location of bulk.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

74-793 - Transfer instruments and notice of restrictions

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The owners of the landmark lot and the adjacent lot shall submit to the City Planning Commission a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further development or enlargement on the lot occupied by the landmark and the adjacent lot shall be filed by the owners of the respective lots in the place and county designated by law for the filing by the owners of the respective lots in the place and county designated by law for the filing of deeds and restrictions on real property, a certified copy of which shall be submitted to the Commission.

Both the instrument of transfer and the notice of restrictions shall specify the total amount of floor area to be transferred, and shall specify, by lot and block numbers, the lots from which and the lots to which, such transfer is made.