

NEW YORK CITY

Revised 10-8-70

ADMINISTRATION

Special Permits

74-744 (Continued)

(a) shall comply with all the applicable provisions of this resolution, or
(b) shall be subject to all the terms, conditions, and limitations of the approved plan on which the grant of the special permit was based. In this case there shall be incorporated in the deed to each resulting *zoning lot* covenants running with the land which shall permit of public or private enforcement, reflecting the terms, conditions, and limitations of the approved plan on which the grant of the special permit was based.

74-75

Educational Construction Fund Projects

In R5, R6, R7, R8, R9, or R10 Districts, in C1 or C2 Districts mapped within such *Residence Districts*, or in C1-6, C1-7, C1-8, C1-9, C2-6, C2-7, C2-8, C4, C5, C6, or C7 Districts, for combined *school and residences* including air rights over *schools* built on a *zoning lot* owned by the New York City Educational Construction Fund, the Commission may permit utilization of air rights; modify the requirements that open area be accessible to and usable by all persons occupying a *dwelling unit* or *rooming unit* on the *zoning lot* in order to qualify as *open space*; permit ownership, control of access, and maintenance of portions of the *open space* to be vested in the New York City Educational Construction Fund or City Agency successor in title; permit modification of the height and setback regulations; authorize the total floor area, *open space*, *dwelling units* or *rooms* permitted by the applicable district regulations on such site to be distributed without regard for district boundaries; and authorize an increase of 25 percent in the number of rooms permissible under the applicable district regulations.

The total number of *Zoning rooms* and *residential floor area* shall not exceed that permissible for a *residential building* on the same *Zoning lot*.

The distribution of the bulk of the total development shall permit adequate access of light and air to the surrounding *streets* and properties.

As further conditions for such modifications,

(a) The *school* and the *residence* shall be developed as a unit in accordance with a plan approved by the Commission.

(b) At least 25 percent of the total *open space* required by the applicable district regulations, or such greater percentage as may be determined by the Commission to be the appropriate minimum percentage, shall be accessible exclusively to the occupants of such *residence* and under the direct control of its management.

(c) Notwithstanding the provisions of Section 23-12 (Permitted Obstructions in Open Space), none of the required *open space* shall include driveways, private streets, open *accessory* off-street parking spaces or open *accessory* off-street loading berths.

(d) The Commission shall find that:

(1) A substantial portion of the *open space* which is not accessible exclusively to the occupants of such *residence* will be accessible and usable by them on satisfactory terms part-time.

(2) Playgrounds, if any, developed in conjunction with the *school* will be so designed and sited in relation to the *residence* as to minimize any adverse effects of noise.

(3) All *open space* will be arranged in such a way as to minimize friction among those using *open space* of the buildings or other structures on the *zoning lot*.

The Commission shall give due consideration to the landscape design of the *open space* areas. The Commission shall also give due consideration to the relationship of the development to the open space needs of the surrounding area and may require the provision of a greater amount of total *open space* than the minimum amount required by the applicable district regulation where appropriate for the purpose of

achieving the *open space objectives* of the *Residence District* regulations.

The Commission may prescribe other appropriate conditions and safeguards to enhance the character of the surrounding area.

74-76

Elevated Plazas

In C5-5 or C6-9 districts, the City Planning Commission may permit *plazas* at levels consistent with existing or contemplated public pedestrian circulation to be more than five feet above the *curb level* of the nearest adjoining *street*, provided that the following findings are made.

(a) that the *plaza* by itself or together with a *plaza* adjacent and accessible to it, has an area of not less than 8,000 square feet with a minimum dimension of 80 feet.

(b) that easy access to the *plaza level* is provided from the *street level* below.

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

The City Planning Commission shall require, when appropriate, that the design of the *building* and its open areas are suitably related to *developments* existing or planning in adjacent areas.

74-77

Artists' Centers

In C6-1, C6-2, C6-3, or C6-4 Districts, for alterations or additions to existing *buildings*, to be occupied as living and working quarters by artists engaged in the visual or performing arts, with or without related community studio space, the City Planning Commission may permit *residential* and *non-residential uses* to be arranged within the *building* without regard for the regulations set forth in Sections 32-42 (Located within Buildings). For alterations of such *buildings*, but not for additions, the Commission may permit modifications of the regulations set forth in Section 23-81 to 23-87, inclusive, relating to Court Regulations and Minimum Distance between Windows and Walls or Lot Lines and may permit modification of the requirements set forth in Section 23-40 to 23-47, inclusive, relating to rear and side Yard regulations.

(a) That the location, design, and construction of such *building* particularly suit it to use as an artists' center, and that full realization of these advantages requires modification of the regulations controlling arrangement of *residential* and *non-residential uses* within the *building*, or modification of the court regulations or the required distance between *legally required windows* and existing walls or lot lines, or modification of the rear and side yard requirements.

(b) That an organization has been established for assuring that the *dwelling units* will be occupied by persons who qualify as artists.

For the purposes of this Section, non-commercial studio space for use in common by artists residing in the *building* may be classified as a *community facility use*.

74-79

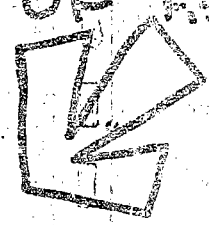
Transfer of Development Rights from Landmark Sites

In all districts except R1, R2, R3, R4, or R5 Districts or C1 or C2 Districts mapped within such districts, for new *developments* or *enlargements*, the City Planning Commission may permit development rights to be transferred to adjacent lots from lots occupied by landmark buildings, may permit the maximum permitted floor area on such adjacent lot to be increased on the basis of such transfer of development rights and may permit, in the case of *residential developments* or *enlargements*, the minimum required *open space* or the minimum lot area per room to be reduced on the basis of such transfer of development rights, and may permit minor variations in the front height and setback regulations, and minor variations in plaza, arcade and yard regulations, for the purpose of providing a harmonious architectural relationship between the *development* or *enlargement* and the landmark building.

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Italicized words are defined in Section 12-10.

RE
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6-2-12-71

74-79 (Continued)

For the purposes of this Section, the term "adjacent lot" shall mean a lot which is contiguous to the lot occupied by the landmark building or one which is across a *street* and opposite to the lot occupied by the landmark building, or, in the case of a *corner lot*, one which fronts on the same *street* intersection as the lot occupied by the landmark building; 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 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 shall be in the same ownership (fee ownership or ownership as defined under *zoning lot* in Section 12-10).

A "landmark building" 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 *public parks*, any structures within *public parks* or historic districts; those portions of *zoning lots* used for cemetery purposes, statues, monuments and 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).

74-791

Requirements for application

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 development 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.

74-792

Conditions and limitations

1. 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 *plazas*, *arcades*, or *plaza* connected open areas or any other form or bonus whether by right or special permit.

2. 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:

(a) the basic 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.

(b) less the total *floor area* of all *buildings* on the landmark lot.

(c) the figure computed from (a) and (b) shall be the maximum amount that may be transferred to any one or number of adjacent lots.

(d) development rights to unbuilt but allowable *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 developed 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.

3. When "adjacent lots" are located in C5-3, C5-5, C6-6, C6-7 or C6-9 districts and are to be developed with *commercial buildings* the following conditions and limitations shall apply:

(a) 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 33-120.5 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*.

(b) for each such adjacent *zoning lot* the increase in *floor area* allowed by the transfer of development rights under this Section shall be over and above the maximum *floor area* allowed by the applicable district regulations.

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

4. In any and all districts, the transfer once completed shall irrevocably reduce the amount of *floor area* that can be developed 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 other reason the landmark building is *enlarged* or the landmark lot is redeveloped, the lot occupied by a landmark can only be developed up to the amount of permitted *floor area* as reduced by the transfer.

5. As a condition of permitting such transfers or development rights, the Commission shall make the following findings:

(a) that the permitted transfer of *floor area* or variations in the front height and setback regulations will not unduly increase the *bulk* of any new development, 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

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74-792 (Continued)

(b) that the program for continuing maintenance will result in the preservation of the landmark.

† (c) 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 City Planning Commission shall give due consideration to the relationship between the landmark building and any new buildings developed 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

The owners of the landmark lot and the adjacent lot shall submit to the 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 of 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.

74-80

Transient Hotels

In R10-H Districts or in the case of an existing building located on a zoning lot at least 50% of which is located in an R10-H District, the City Planning Commission may permit transient hotels, provided the Commission finds that such use will not impair the essential character of the Residence District. The City Planning Commission may permit no more than 225 accessory off-street parking spaces to be located on the same zoning lot as the hotel provided that the following findings are made:

(a) That such spaces are needed for, and will be used by, the occupants, visitors, customers, or employees of the use to which they are accessory.

(b) That such spaces will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow.

(c) That adequate reservoir space is provided at the vehicular entrances.

(d) That the streets providing access to such spaces will be adequate to handle the traffic generated thereby.

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

74-81

Nonprofit Residences for the Elderly

†† The related accessory social and welfare facilities minimum requirement, as set forth in Section 12-10, *Non-profit Residences for the Elderly*, section (1) may be reduced or waived in any *Non-profit Residence for the Elderly* as to which the City Planning Commission makes the following findings:

(a) The proposed *non-profit residence for the elderly* is an addition to or enlargement or expansion of an existing *Non-profit Residence for the Elderly* and is located on a zoning lot no portion of which is more than 1500 feet from the existing *non-profit residence for the elderly*;

(b) Both *non-profit residences for the elderly* will be owned, operated and maintained by the same sponsoring organization;

(c) The existing *non-profit residence for the elderly* contains related social and welfare facilities which will be used to adequately and conveniently service tenants of both the existing and proposed *non-profit residences for the elderly*.

The City Planning Commission may prescribe appropriate conditions and safeguards to enhance the character and purposes of the project.

74-82

Through Block Arcades

In C4-7, C5-2, C5-3, C5-4, C5-5, and C6 Districts, the City Planning Commission may permit *through block arcades* to be located in commercial buildings. For each square foot of *through block arcade* located in C4-7, C5-2, C5-4, C6-1, C6-2, C6-3, C6-4, C6-5 or C6-8 Districts, a bonus of three feet of floor area may be permitted and for each square foot of *through block arcade* located in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts, a bonus of six feet of floor area may be permitted. *Through block arcades* may be located on a zoning lot in conjunction with a plaza or an arcade but in no event shall the total floor area permitted on that zoning lot exceed the amount set forth in Section 33-12 (Maximum Floor Area Ratio) by more than 20 percent.

Each application for a *through block arcade* must meet the following criteria:

1. Result in substantial improvement of pedestrian circulation.

2. Provide appropriate secondary commercial frontage along the *through block arcade* such as small shops and restaurants.

Bridges, mezzanines and balconies which add interest and function to the arcade without unduly obstructing its light and air may be incorporated in the proposal.

Lighting, paving, signs and plantings shall be specified in the application.

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

74-83

Court Houses

74-831

In C4-7, C5 or C6 Districts

In C4-7, C5, or C6 Districts, the City Planning Commission may permit modifications of the height and setback regulations for new developments for court houses provided that the following findings are made:

(a) That any obstruction by the building of access of light and air to the street and to buildings across the street in excess of the obstruction normally permitted by the height and setback regulations is of minor consequence in view of conditions in the surrounding area and is justified by advantages accruing to the neighborhood from the appropriateness of the building's scale and the disposition of its mass in relation to surrounding buildings and open areas as well as to the public for whose use the building is designed.

(b) That its floor area ratio is appreciably lower than that which would be permitted by the applicable district regulations.

74-832

In all Commercial Districts

In all Commercial Districts, for all new development of court houses, the City Planning Commission may permit modification of the applicable bulk regulations so as to allow the same bulk regulations as would apply for a community facility building in the applicable Commercial District provided the following finding is made: