

Exhibits Provide With Revised Verified Petition

Pet. Ex. A	Reformatted BSA August 26, 2006 Decision with Numbered Paragraphs	P-00019	See R-000001-R-000024
Pet. Ex. B	Table of Contents to Appendix A — 13 Volumes - Revised January 2, 2009 to Show BSA Record References		Not in BSA Record
Pet. Ex. C	Color 3-D Graphics of Project	P-00434 P-02429 P-02430	R-003571 R-001833 R-001834
Pet. Ex. D	BSA Meeting Record November 8, 2006 Improper Ex Parte Meeting	P-01245	Not in BSA Record
Pet. Ex. E	June 27, 2007 Community Objections to BSA	P-01777	R-000263
Pet. Ex. F	July 29, 2008 Letter to BSA of Martin Levine, Metropolitan Valuation Services	P-03907	R-005210
Pet. Ex. G	Letter Dated February 4, 2008 from Charles Platt to BSA Re Access Hardships Being Resolved by Conforming Building	P-02768	R-003611
Pet. Ex. H	Graphic Showing Areas of New Building Addressing Access and Circulation and Showing Lower Floor Variances Filed as Opp. Ex. GG-12 and GG-10.	P-00477, P-00475	R-004156 at P-004168 R-004156 at P-004166
Pet. Ex. I	Letter of April 10, 2007 from Alan D. Sugarman to Srinivasan and Collins Requesting Recusal	P-04088	R-005511 at R-005638
Pet. Ex. J	Programmatic Drawings Floors 2, 3, 4	P-02606-08	R-002009- R-002012
Pet. Ex. K -	Analysis of Consent Forms Submitted by Respondent BSA on December 2, 2008 in the BSA Record.	P-04244-59	SEE 005189- 005209
Pet. Ex. L	West 70th Street Shadows December 21, 10 AM, Shadow Study versus Actual Photographs	P-04260-60	SEE 005187- 005188

Exhibits Provided With Petitioners' Reply

Pet. Ex. M-1	Location of Variances on Each Floor of Proposed Building R-4695. Composite. Diagram Showing Location of the Variances on Each of the Floors in the Proposed Building. In Reply to BSA and Congregation Denials of Petition ¶¶ 21 et. seq.
Pet. Ex. M-2	Allocation of Variance Areas in Proposed and As-of-Right Buildings. M-2 and M-3 Show Source Of Averment That 90% Of Variances Relate To Condominiums. In Reply To Respondents Denial Of Petition ¶21 et. seq. and ¶51, 52 et. seq.
Pet. Ex. M-2-A	Computation of Variances - Approved Building
Pet. Ex. M-2-B	Sources of Information - Area of Approved Building
Pet. Ex. M-3-A	Computation of Areas of AOR Building
Pet. Ex. M-3-B	Source of AOR Floor Area.
Pet. Ex. N-1	To Scheme C Earning a Reasonable Return. Excerpts from Record. In Reply to BSA Answer at ¶292.
Pet. Ex. N-1-A	¶ 292 of BSA Answer.
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Pet. Ex. N-1-C	Acceptable rate of return R-287
Pet. Ex. N-2	Base Unit Condominium Construction Costs. Computation In Reply to And As Described by BSA Answer at ¶291.
Pet. Ex. N-3	Excerpts from BSA Record Showing Multiple Valuations of Site Values by Freeman Frazier. In Reply To BSA Answer At ¶ 296 And Respondents Answer To ¶ 206 Of The Petition Denying That Freeman Frazier Reports Were Varying And Conflicting.
Pet. Ex. N-4	Location Of The Two Condominium Floors In As-Of-Right Scheme A Building. In Reply To Respondents Bad Faith Denials To ¶22 Of The Petition As To Number Of Square Feet On Floors Five And Six.
Pet Ex. N-5	Value Of The Two Condominium Floors In As-Of-Right Scheme A Building
Pet. Ex. N-6	Location of Parsonage and Two Condominiums in Scheme A Building. R-605, R-606, R-4694. Composite, In Reply To Denials As To The Lack Of Relationship Between AOR Scheme A Condominiums And The Air Rights Over The Parsonage.
Pet. Ex. N-7	Summary and Metrics Site Value Two Condominium Floors In As-of-Right Scheme A Building.
Pet. Ex. N-8	Missing 8th Objection - R-85. R-88. R-402, R-405. In Reply To Respondents False Assertion That DOB Removed Eighth Objection In Response To Revisions To Plans. BSA Answer ¶205.
Pet Ex. N-9	Sliver Building and 40-Foot Zone R-3871. In Reply To Respondents Assertion That The DOB Removed Eighth Variance In Response to Revisions to Plans. BSA Answer ¶205.
Pet. Ex. N-9-A	BSA Comments Re 40-Foot Separation R-256. In Reply To Respondents Assertion That The DOB Removed Eighth Variance In Response To Revisions To Plans. BSA Answer ¶205.
Pet. Ex. O-1	Elevation Existing Looking South.

Pet. Ex. O-2-	Elevation AOR Looking South R-592, Provided To Respond To The False Denial Of The Respondents Of ¶45 And ¶46 Of The Petition. ¶
Pet. Ex. O-3	Elevation AOR Looking West R-607
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Pet. Ex. Q	Drawings Submitted By Congregation For BSA Meeting of November 8, 2006 - As Supplied By BSA On March 16, 2009. P-4261-4301
Pet. Ex. R	Item M to BZ Instructions. R-4273-4275.
Pet. Ex. S	Second, Third, Fourth Floors Drawings Submitted to BSA November 8, 2006 (Pet. Ex. R.) in Reply to BSA Answer ¶¶ 337-344 and In Reply to False Statement at BSA Answer 202 as to the Intended Use

MEETING OF: August 26, 2008
CALENDAR NO.: 74-07-BZ
PREMISES: 6-10 West 70th` Street, 99-100 Central Park West,
 Manhattan, Block 1122, Lots 36 & 37
ACTION OF THE BOARD: Application granted on condition.
THE VOTE TO GRANT:
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson,
 Commissioner Montanez and Commissioner Ottley-Brown. 5
Negative: 0

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THE RESOLUTION:

¶1. WHEREAS, the decision of the Manhattan Borough Commissioner, dated August 28, 2007,' acting on Department of Buildings Application No. 104250481, reads, in pertinent part:

1. "Proposed lot coverage for the interior portions of R8B & R10A exceeds the maximum allowed. This is contrary to Section 24-11/77-24. Proposed interior portion lot coverage is 0.80;
2. Proposed rear yard in R8B does not comply. 20'.00 provided instead of 30.00' contrary to Section 24-36;
3. Proposed rear yard in R10A interior portion does not comply. 20.-' provided instead of 30.00' contrary to Section 24-36;
4. Proposed initial setback in R8B does not comply- 12.00' provided instead of 15.00' contrary to Section 24-36;
5. Proposed base height in R8B does not comply... contrary to Section 23-633;
6. Proposed maximum building height in R8B does not comply--- contrary to 23-' 66;
7. Proposed rear setback in an R8B does not comply. 6.67' provided instead of 10.00' contrary to Section 23-633," and

¶2. WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R8B district and partially within an R10A district within the Upper West Side/ Central Park West Historic District, the proposed construction of a nine-story and cellar mixed-use community facility/ residential building that does not comply with zoning parameters for lot coverage, rear yard, base height, building height, front setback, and rear yard setback contrary to ZR §§ 24-11, 77-24, 24-36, 23-66, and 23-633; and

¶3. WHEREAS, this application is brought on behalf of Congregation Shearith Israel, a not-for-profit religious institution (the "Synagogue"); and

¶4. WHEREAS, a public hearing was held on this application on November 27, 2007, after due notice by publication in the City Record, with continued hearings on February 12, 2008, April 15, 2008 and June 24, 2008, and then to decision on August 26, 2008; and

¶5. WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

¶6. WHEREAS, Community Board 7, Manhattan, recommends disapproval of this application; and

¶7. WHEREAS, a number of members of the Synagogue testified in support of the application; and

FOOTNOTE 1: . The referenced August 28, 2007 decision supersedes a March 27, 2007 decision by the Department of Buildings which included eight objections, one of which was eliminated after the applicant modified the plans-

FOOTNOTE 2:. .A letter dated January 28, 2008 to Chair Srinivasan from David Rosenberg, an attorney representing local residents, claims that a purported failure by the Department of Buildings ("DOB") Commissioner or the Manhattan Borough Commissioner to sign the above-referenced August 28, 2007 objections, as allegedly required by Section 666 of the New York City Charter (the "Charter"), divests the Board of jurisdiction to hear the instant application. However, the jurisdiction of the Board to hear an application for variances from zoning regulations, such as the instant application, is conferred by Charter Section 668, which does not require a letter of final determination executed by the DOB Commissioner or by an authorized DOB borough commissioner.

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¶8. WHEREAS, a representative of New York State Senator Thomas K. Duane testified at hearing in opposition to the application; and

- ¶9. WHEREAS, a representative of New York State Assembly Member Richard N. Gottfried testified at hearing in opposition to the application; and
- ¶10. WHEREAS, a number of area residents testified in opposition to the application; and
- ¶11. WHEREAS, additionally, Landmark West! and a group of neighbors represented by counsel testified at hearing and made submissions into the record in opposition to the application (the "Opposition"); the arguments made by the Opposition related to the required findings for a variance, and are addressed below; and
- ¶12. WHEREAS, the subject zoning lot on which the Synagogue is located consists of Lots 36 and 37 within Block 1122 (the "site"); and
- ¶13. WHEREAS, the site has a total lot area of 17,286 square feet, with 172 feet of frontage along the south side of West 70th Street, and 100.5 feet of frontage on Central Park West; and
- ¶14. WHEREAS, the portion of the site that extends 125 feet west of Central Park West is located in an R10A zoning district; the remainder of the site is located within an R8B district; and
- ¶15. WHEREAS, the site is also located within the Upper West Side/ Central Park West Historic District; and
- ¶16. WHEREAS, Tax Lot 36 is occupied by the Synagogue, with a height of 75'-0", and a connected four-story parsonage house located at 99-100 Central Park West, with a total floor area of 27,760 sq. ft.; and
- ¶17. WHEREAS, Tax Lot 37 is occupied in part by a four-story Synagogue community house with 11,079 sq. ft. of floor area located at 6-10 West 70th Street (comprising approximately 40 percent of the tax lot area); the remainder of Lot 37 is vacant (comprising approximately 60 percent of the tax lot area) (the "Community House"); and
- ¶18. WHEREAS, the Community House is proposed to be demolished; and
- ¶19. WHEREAS, the applicant represents that Tax Lot 36 and Tax Lot 37 together constitute a single zoning lot under ZR § 12-10, as they have been in common ownership since 1965 (the "Zoning Lot"); and
- ¶20. WHEREAS, Tax Lot 37 is divided by a zoning district boundary, pursuant to 1984 zoning reape and text amendments to the Zoning Resolution that relocated the former R8/R10 district boundary line to a depth of 47 feet within the lot; and
- ¶21. WHEREAS, the applicant further represents that the formation of the Zoning Lot predates the relocation of the zoning district boundary, and that development on the site is

therefore entitled to utilize the zoning floor area averaging methodology provided for in ZR § 77-211, thereby allowing the zoning floor area to be distributed over the entire Zoning Lot; and

¶22. WHEREAS, the applicant states that as 73 percent of the site is within an R10A zoning district, which permits an FAR of 10.0, and 27 percent of the site is within an R8B zoning district, which permits an FAR of 4.0, the averaging methodology allows for an overall site FAR of 8.36 and a maximum permitted zoning floor area of 144,511 sq. ft.; and

¶23. WHEREAS, the applicant states that the site is currently built to an FAR of 2.25 and a floor area of 38,838 sq. ft.; and

¶24. WHEREAS, the applicant proposes a nine-story and cellar mixed-use building with community facility (Use Group 3) uses on two cellar levels and the lower four stories, and residential (Use Group 2) uses on five stories including a penthouse (the "proposed building"), which will be built on Tax Lot 37; and

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¶25. WHEREAS, the applicant states that the community facility uses include: Synagogue lobby and reception space, a toddler program; adult education and Hebrew school classes, a caretaker's unit, and a Jewish day school; the upper five stories are proposed to be occupied by five market-rate residential condominium units; and

¶26. WHEREAS, the proposed building will have a total floor area of 42,406 sq. ft., comprising 20,054 sq. ft. of community facility floor area and 22,352 sq. ft. of residential floor area; and

¶27. WHEREAS, the proposed building will have a base height along West 70th Street of 95'-1" (60 feet is the maximum permitted in an R8B zoning district); with a front setback of 12'-0" (a 15'-0" setback is the minimum required in an R8B zoning district); a total height of 105'-1" (75'-0" is the maximum permitted in an R8B zone), a rear yard of 20'-0" for the second through fourth floors (30'-0" is the minimum required); a rear setback of 6'-8" (10'-0" is required in an R8B zone), and an interior lot coverage of 80 percent (70 percent is the maximum permitted lot coverage); and

¶28. WHEREAS, the Synagogue initially proposed a nine-story building with a total floor area of 42,961 sq. ft., a residential floor area of 22,966 sq. ft., and no court above the fifth floor (the "original proposed building"), and

¶29. WHEREAS, the Synagogue modified the proposal to provide a complying court at the north rear above the fifth floor, thereby reducing the floor plates of the sixth, seventh and eighth floors of the building by approximately 556 sq. ft. and reducing the floor plate of the ninth floor penthouse by approximately 58 sq. ft., for an overall reduction in the variance of the rear yard setback by 25 percent and a reduction in the residential floor area to 22,352 sq. ft.; and

¶30. WHEREAS, the Synagogue is seeking waivers of zoning regulations for lot coverage and rear yard to develop a community facility that can accommodate its religious mission, and is seeking waivers of zoning regulations pertaining to base height, total height, front setback, and rear setback to accommodate a market rate residential development that can generate a reasonable financial return; and

¶31. WHEREAS, as a religious and educational institution, the Synagogue is entitled to significant deference under the laws of the State of New York pertaining to proposed changes in zoning and is able to rely upon programmatic needs in support of the subject variance application Westchester Reform Temple v. Brown, 22 N.Y.2d 488 (1968)); and

¶32. WHEREAS, under ZR § 72-21(b), a not-for-profit institution is generally exempted from having to establish that the property for which a variance is sought could not otherwise achieve a reasonable financial return; and

¶33. WHEREAS, however, the instant application is for a mixed-use project in which approximately 50 percent of the proposed floor area will be devoted to a revenue-generating residential use which is not connected to the mission and program of the Synagogue; and

¶34. WHEREAS, under New York State law, a not-for-profit organization which seeks land use approvals for a commercial or revenue-generating use is not entitled to the deference that must be accorded to such an organization when it seeks to develop a project that is in furtherance of its mission is Little Joseph Realty v. Babylon, 41 N.Y.2d 738 (1977); Foster v. Saylor, 85 A.D.2d 876 (4th Dep't 1981) and Roman Cath. Dioc. of Rockville Ctr v. Vill. Of Old Westbury, 170 Misc.2d 314 (1996); and

¶35. WHEREAS, consequently, prior Board decisions regarding applications for projects sponsored by not-for-profit religious or educational institutions which have included commercial or revenue-generating uses have included analysis of the hardship, financial return, and minimum variance findings under ZR § 72-21 (see BSA Cal. No. 315-02-0Z, applicant Touro College; BSA Cal. No. 179-03-BZ, applicant Torah Studies, Inc.; BSA Cal. No. 349-05-BZ, Church of the Resurrection; and BSA Cal. No. 194-03-BZ, applicant B'nos Menachem School); and

¶36. WHEREAS, therefore, as discussed in greater detail below, the Board subjected this application to the standard of review required under ZR § 72-21 for the discrete community facility and residential development uses, respectively, and evaluated whether the proposed residential development met all the findings required by ZR § 72-21, notwithstanding its

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sponsorship by a religious institution; and

ZR § 72-21 (a) - Unique Physical Conditions Finding

¶37. WHEREAS, under § 72-21 (a) of the Zoning Resolution, the Board must find that there are unique physical conditions inherent to the Zoning Lot which create practical difficulties or unnecessary hardship in strictly complying with the zoning requirements (the "(a) finding"); and

Community Facility Use

¶38. WHEREAS, the zoning district regulations limit lot coverage to 80 percent and require a rear yard of 30'-0"; and

¶39. WHEREAS, the proposed building will have the following program: (1) a multi-function room on the sub-cellar level with a capacity of 360 persons for the hosting of life cycle events and weddings and mechanical space; (2) dairy and meat kitchens, babysitting and storage space on the cellar level; (3) a synagogue lobby, rabbi's office and archive space on the first floor; (4) toddler classrooms on the second floor; (5) classrooms for the Synagogue's Hebrew School and Beit Rabban day school on the third floor; and (6) a caretaker's apartment and classrooms for adult education on the fourth floor; and

¶40. WHEREAS, the first floor will have 5,624 sq. ft. of community facility floor area, the second and third floor will each have 4,826.5 sq. ft. of community facility floor area, and the fourth floor will have 4,777 sq. ft. of community facility floor area, for a total of 20,054 sq. ft. of community facility floor area; and

¶41. WHEREAS, the applicant represents that the variance request is necessitated by the programmatic needs of the Synagogue, and by the physical obsolescence and poorly configured floor plates of the existing Community House which constrain circulation and interfere with its religious programming; and

¶42. WHEREAS, the applicant represents that the programmatic needs and mission of the Synagogue include an expansion of its lobby and ancillary space, an expanded toddler program expected to serve approximately 60 children, classroom space for 35 to 50 afternoon and weekend students in the Synagogue's Hebrew school and a projected 40 to 50 students in the Synagogue's adult education program, a residence for an onsite caretaker to ensure that the Synagogue's extensive collection of antiquities is protected against electrical, plumbing or heating malfunctions, and shared classrooms that will also accommodate the Beit Rabban day school; and

¶43. WHEREAS, the applicant states that the proposed building will also permit the growth of new religious, pastoral and educational programs to accommodate a congregation which has grown from 300 families to 550 families; and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Community Facility Use]

¶44. WHEREAS, to accommodate these programmatic needs, the Synagogue is seeking lot coverage and rear yard waivers to provide four floors of community facility use in the proposed building; and

¶45. WHEREAS, the Board acknowledges that the Synagogue, as a religious institution, is entitled to substantial deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application (see Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986)); and

¶46. WHEREAS, however, in addition to its programmatic needs, the applicant also represents that the following site conditions create an unnecessary hardship in developing the site in compliance with applicable regulations as to lot coverage and yards- if the required 30'-0" rear yard and lot coverage were provided, the floor area of the community facility would be reduced by approximately 1,500 sq. ft.; and

¶47. WHEREAS, the applicant states that the required floor area cannot be accommodated within the as-of-right lot coverage and yard parameters and allow for efficient floor plates that will accommodate the Synagogue's programmatic needs, thus necessitating the requested waivers of these provisions; and

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¶48. WHEREAS, the applicant represents that a complying building would necessitate a reduction in the size of three classrooms per floor, affecting nine proposed classrooms which would consequently be too narrow to accommodate the proposed students; the resultant floor plates would be small and inefficient with a significant portion of both space and floor area allocated toward circulation space, egress, and exits; and

¶49. WHEREAS, the applicant further states that the reduction in classroom floor area would consequently reduce the toddler program by approximately 14 children and reduce the size of the Synagogue's Hebrew School, Adult Education program and other programs and activities; and

¶50. WHEREAS, the applicant represents that the requested yard and lot coverage waivers would enable the Synagogue to develop the site with a building with viable floor plates and adequate space for its needs; and

¶51. WHEREAS, the Opposition has argued that the Synagogue cannot satisfy the (a) finding based solely on its programmatic need and must still demonstrate that the site is burdened by a unique physical hardship in order to qualify for a variance; and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Community Facility Use]

¶52. WHEREAS, notwithstanding that the applicant has asserted that the site is also burdened with a physical hardship that constrains an as-of-right development, discussed below, the Board notes that the Opposition ignores 50 years of unwavering New York jurisprudence holding that zoning boards must accord religious institutions a presumption of moral, spiritual and educational benefit in evaluations of applications for zoning variances (see e.g.; Diocese of Rochester v. Planning Bd., 1 N.Y.2d 508 (1956) (zoning board cannot wholly deny permit to build church in residential district; because such institutions further the morals and welfare of the community, zoning board must instead seek to accommodate their needs); see also Westchester Ref. Temple v. Brown, 22 N.Y.2d 488 (1968); and Islamic Soc. of Westchester v. Foley, 96 A.D. 2d 536 (2d Dep't 1983)), and therefore need not demonstrate that the site is also encumbered by a physical hardship; and

¶53. WHEREAS, in support of its proposition that a religious institution must establish a physical hardship, the Opposition cites to decisions in Yeshiva & Mesivta Toras Chaim v. Rose (137 A.D.2d 710 (2d Dep't 1988)) and Bright Horizon House, Inc. v Zng. Bd of Appeals of Henrietta (121 Misc.2d 703 (Sup. Ct. 1983)); and

¶54. WHEREAS, both decisions uphold the denial of variance applications based on findings that the contested proposals constituted neither religious uses, nor were they ancillary or accessory uses to a religious institution in which the principal use was as a house of worship, and are therefore irrelevant to the instant case; and

¶55. WHEREAS, the Board finds that the proposed Synagogue lobby space, expanded toddler program, Hebrew school and adult education program, caretaker's apartment, and accommodation of Beit Rabban day school constitute religious uses in furtherance of the Synagogue's program and mission; and

¶56. WHEREAS, the Opposition contends that the Synagogue's programmatic needs are too speculative to serve as the basis for an (a) finding; and

¶57. WHEREAS, in response to a request by the Board to document demand for the proposed programmatic floor area, the applicant submitted a detailed analysis of the program needs of the Synagogue on a space-by-space and time-allocated basis which confirms that the daily simultaneous use of the overwhelming majority of the spaces requires the proposed floor area and layout and associated waivers; and

¶58. WHEREAS, the Opposition argues, nonetheless, that the Synagogue's programmatic needs could be accommodated within an as-of-right building, or within existing buildings on the Synagogue's campus and that the proposed variances for the community facility use are unmerited and should consequently be denied; and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Community Facility Use]

¶59. WHEREAS, specifically, the Opposition has contended that the Synagogue's programmatic needs could be accommodated within the existing parsonage house; and

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¶60. WHEREAS, the applicant represents that the narrow width of the parsonage house, at approximately 24'-0", would make it subject to the "sliver" limitations of ZR § 23-692 which limit the height of its development and, after deducting for the share of the footprint that would be dedicated to elevator and stairs, would generate little floor area; and

¶61. WHEREAS, the applicant further represents that development of the parsonage house would not address the circulation deficiencies of the synagogue and would block several dozen windows on the north elevation of 91 Central Park West; and

¶62. WHEREAS, the Board notes that where a nonprofit organization has established the need to place its program in a particular location, it is not appropriate for a zoning board to second-guess that decision see Guggenheim Neighbors v. Bd. of Estimate, June 10, 1988, N.Y. Sup. Ct., Index No. 29290/87), see also Jewish Recons. Syn. of No. Shore v. Roslyn Harbor, 38 N.Y.2d 283 (1975)); and

¶63. WHEREAS, furthermore, a zoning board may not wholly reject a request by a religious institution, but must instead seek to accommodate the planned religious use without causing the institution to incur excessive additional costs Islamic Soc. of Westchester v. Foley, 96 A.D.2d 536 (2d Dep't 1983); and

¶64. WHEREAS, religious institutions are entitled to locate on their property facilities for other uses that are reasonably associated with their overall purposes and a day care center/ preschool has been found to constitute such a use see Uni. Univ. Church v. Shorten, 63 Misc.2d 978,982 (Sup. Ct. 1970)); and

¶65. WHEREAS, in submissions to the Board, the Opposition argues that the Beit Rabban school does not constitute a programmatic need entitled to deference as a religious use because it is not operated for or by the Synagogue; and

¶66. WHEREAS, however, it is well-established under New York law that religious use is not limited to houses of worship, but is defined as conduct with a 'religious purpose;' the operation of an educational facility on the property of a religious institution is construed to be a religious activity and a valid extension of the religious institution for zoning purposes, even if the school is operated by a separate corporate entity (Slevin v. Long Isl. Jew. Med. Ctr., 66 Misc.2d 3,12, 317 (Sup. Ct. 1971); and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Community Facility Use]

¶67. WHEREAS, the applicant further states that the siting of the Beit Rabban school on the premises helps the Synagogue to attract congregants and thereby enlarge its congregation, which the courts have also found to constitute a religious activity see Community Synagogue v. Bates, 1 N.Y.2d 445, 448 (1958)), in which the Count of Appeals stated, "[to limit a church to being merely a house of prayer and sacrifice would, in a large degree, be depriving the church of the opportunity of enlarging, perpetuating and strengthening itself and the congregation"); and

¶68. WHEREAS, the Board notes that the applicant has provided supportive evidence showing that, even without the Beit Rabban school, the floor area as well as the waivers to lot coverage and rear yard would be necessary to accommodate the Synagogue's programmatic needs; and

¶69. WHEREAS, the applicant represents that the variance request is necessitated not only by its programmatic needs, but also by physical conditions on the subject site - namely - the need to retain and preserve the existing landmarked Synagogue and by the obsolescence of the existing Community House; and

¶70. WHEREAS, the applicant states that as-of-right development of the site is constrained by the existence of the landmarked Synagogue building which occupies 63 percent of the Zoning Lot footprint; and

¶71. WHEREAS, the applicant represents that because so much of its property is occupied by a building that cannot be disturbed, a relatively small portion of the site is available for development - largely limited to the westernmost portion of the Zoning Lot; and

¶72. WHEREAS, the applicant further represents that the physical obsolescence and poorly configured floorplates of the existing Community House constrain circulation and interfere with its religious programming and compromise the Synagogue's religious and educational mission,

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and that these limitations cannot be addressed through interior alterations; and

¶73. WHEREAS, the applicant states that the proposed building will provide new horizontal and vertical circulation systems to provide barrier-free access to its sanctuaries and ancillary facilities; and

¶74. WHEREAS, based upon the above, the Board finds that the aforementioned physical conditions, when considered in conjunction with the programmatic needs of Synagogue, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Community Facility Use]

¶75. WHEREAS, the Opposition argues that uniqueness is limited to the physical conditions of the Zoning Lot and that the obsolescence of an existing building or other building constraints therefore cannot fulfill the requirements of the (a) finding, while citing no support for such a proposition; and

¶76. WHEREAS, to the contrary, New York courts have found that unique physical conditions under Section 72-21(a) of the Zoning Resolution can refer to buildings as well as land (see Guggenheim Neighbors v. Board of Estimate, June 10, 1988, N.Y. Sup. Ct. Index No. 29290/87; see also Homes for the Homeless v. BSA, 7123/2004, N.Y.L.J. *citing* UOB Realty (USA) Ltd v. Chin, 291 A.D.2d 248 (1a Dep't 2002;); and, further, obsolescence of a building is well-established as a basis for a finding of uniqueness (see Matter of Commco, Inc. v. Amelkin, 109 A.D.2d 794, 796 (2d Dep't 1985), and Polsinello v. Dwyer, 160 A.D. 2d 1056, 1058 (3d Dep't 1990) (condition creating hardship was land improved with a now-obsolete structure)); and

¶77. WHEREAS, in submissions to the Board, the Opposition has also contended that the Synagogue had failed to establish a financial need for the project as a whole; and

¶78. WHEREAS, the Board notes that to be entitled to a variance, a religious or educational institution must establish that existing zoning requirements impair its ability to meet its programmatic needs; neither New York State law, nor ZR § 72-21, require a showing of financial need as a precondition to the granting of a variance to such an organization; and

¶79. WHEREAS, the applicant proposed the need to generate revenue for its mission as a programmatic need, New York law does not permit the generation of income to satisfy the programmatic need requirement of a not-for-profit organization, notwithstanding an intent to use the revenue to support a school or worship space; and

¶80. WHEREAS, further, in previous decisions, the Board has rejected the notion that revenue generation could satisfy the (a) finding for a variance application by a not-for-profit organization (see BSA Cal. No. 72-05-BZ, denial of use variance permitting operation by a religious institution of a catering facility in a residential district) and, therefore, requested that the applicant forgo such a justification in its submissions; and

¶81. WHEREAS, however, in numerous prior instances the Board has found that unique physical conditions, when considered in the aggregate and in conjunction with the programmatic needs of a not-for-profit organization, can create practical difficulties and unnecessary hardship in developing a site in strict conformity with the current zoning see e.g., BSA Cal. No. 145-07- BZ, approving variance of lot coverage requirements to permit development of a medical facility; BSA Cal. No. 209-07-BZ, approving bulk variance to permit enlargement of a school for disabled children; and 215-07-BZ, approving bulk variance to permit enlargement of a YMCA); and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Residential Use]

Residential Use

¶82. WHEREAS, the building is proposed for a portion of the Zoning Lot comprised of Lot 37, with a lot area of approximately 6,400 sq. ft. (the "development site"); and

¶83. WHEREAS, proposed residential portion of the building is configured as follows: (1) mechanical space and accessory storage on the cellar level; (2) elevators and a small lobby on the first floor; (2) core building space on the second, third and fourth floors; and (3) a condominium unit on each of the fifth through eighth, and ninth (penthouse) floors, for a total of five units; and

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¶84. WHEREAS, the first floor is proposed to have approximately 1,018 sq. ft. of residential floor area, the second through fourth floors will each have 325 sq. ft. of residential floor area, the fifth floor will have 4,512 sq. ft. of residential floor area, the sixth through eighth floors will each have approximately 4,347 sq. ft. of residential floor area and the ninth (penthouse) floor will have approximately 2,756 sq. ft., for a total residential floor area-of approximately 22,352 sq. ft.; and

¶85. WHEREAS, the applicant represents that compliance with the zoning requirements for base height, building height, and front and rear setback would allow a residential floor area of approximately 9,638 sq. ft.; and

¶86. WHEREAS, the applicant states that the following unique physical conditions create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations- (1) the development site's location on a Zoning Lot that is divided by a zoning district boundary; (2) the existence and dominance of a landmarked synagogue on the footprint of the Zoning Lot; and (3) the limitations on development imposed by the site's contextual zoning district regulations; and

¶87. WHEREAS, as to the development site's location on a zoning lot that is divided by a zoning district boundary, the applicant states that the development site is split between an eastern portion, comprising approximately 73 percent of the Zoning Lot, which is located within an R10A zoning district, and a western portion, comprising approximately 27 percent of the Zoning Lot, which is located in an R8B zoning district; and

¶88. WHEREAS, applicant represents that the division of the development site by a zoning district boundary constrains an as-of-right development by imposing different height limitations on the two respective portions of the lot; and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Residential Use]

¶89. WHEREAS, in the R10A portion of the Zoning Lot, a total height of 185'-0" and maximum base height of 125'-0" are permitted; and

¶90. WHEREAS, in the R8B portion of the development site, a building is limited to a total height of 75'-0" and a maximum base height of 60'-0" with a setback of 15'-0"; and

¶91. WHEREAS, the applicant further represents that the requirements of the R8B district also limit the size of floor plates of a residential development; and

¶92. WHEREAS, in the R8B portion of the development site, a setback of 15'-0" is required at the 60 ft. maximum base height, and a 10'-0" rear setback is required; the applicant represents that a complying development would therefore be forced to set back from the street line at the mid- point between the fifth and sixth floors; and

¶93. WHEREAS, in the R10A portion of the development site, a 15'-0" setback is not required below the maximum base height of 125'-0", and a total height of 185'-0" is permitted, which would otherwise permit construction of a 16-story residential tower on the development site; and

¶94. WHEREAS, the applicant is constrained from building to the height that would otherwise be permitted as-of-right on the development site by the "sliver law" provisions of ZR § 23-692, which operate to limit the maximum base height of the building to 60'-0" because the frontage of the site within the R10A zoning district is less than 45 feet; and

¶95. WHEREAS, a diagram provided by the applicant indicates that less than two full stories of residential floor area would be permitted above a four-story community facility, if the R8B zoning district front and rear setbacks and height limitations were applied to the development site; and

¶96. WHEREAS, the Board notes that several Zoning Resolution provisions recognize the constraints created by zoning district boundaries where different regulations apply to portions of the same zoning lot; and

¶97. WHEREAS, specifically, the Board notes that the provisions of ZR § 77-00, permitting the transfer of zoning lot floor area over a zoning district boundary for zoning lots created prior

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to their division by a zoning district boundary, recognize that there is a hardship to a property owner whose property becomes burdened by a district boundary which imposes differing requirements to portions of the same zoning lot; and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Residential Use]

¶98. WHEREAS, the Board further notes that that the special permit provisions of ZR § 73-52 allow the extension of a district boundary line after a finding by the Board that relief is required from hardship created by the location of the district boundary line; and

¶99. WHEREAS, the applicant represents, however, that because of the constraints imposed by the contextual zoning requirements and the sliver law, the Synagogue can transfer only a small share of its zoning lot area across the R8B district boundary; and

¶100. WHEREAS, the applicant further represents that the site is unique in being the only underdeveloped site overlapping the R10A/R8B district boundary line within a 20-block area to the north and south of the subject site; and

¶101. WHEREAS, the applicant further represents that 17 other residential zoning lots overlap the R10A/R8B district boundary line between West 65th Street and West 86th Street, but that none were characterized by a similar amount of surplus development rights; and

¶102. WHEREAS, the applicant states that all the properties within the 22-block study area bisected by the district boundary line are developed to an FAR exceeding 10.0, while the subject Zoning Lot is developed to an FAR of 2.25; and

¶103. WHEREAS, the Opposition argues that the presence of a zoning district boundary within a lot is not a "unique physical condition" under the language of ZR § 72-21 and represents that four other properties are characterized by the same R10A/ R8B zoning district boundary division within the area bounded by Central Park West and Columbus Avenue and 59th Street and 110th Street owned by religious or nonprofit institutions, identified as: (i) First Church of Christ Scientist, located at Central Park West at West 68th Street; (ii) Universalist Church of New York, located at Central Park West at West 76th Street; (iii) New-York Historical Society, located at Central Park West at West 77th Street; and (iv) American Museum of Natural History, located at Central Park West at West 77th Street to West 81st Street; and

¶104. WHEREAS, the Board notes that it has recognized that the location of zoning district boundary, in combination with other factors such as the size and shape of a lot and the presence of buildings on the site, may create an unnecessary hardship in realizing the development potential otherwise permitted by the zoning regulations (see BSA Cal. No. 358-05-BZ, applicant WR Group 434 Port Richmond Avenue, LLC; BSA Cal. No. 388-04-BZ, applicant DRD Development, Inc.; BSA Cal. No. 291-03-BZ, applicant 6202 & 6217 Realty Company; and 208- 03-BZ, applicant Shell Road, LLC); and

¶105. WHEREAS, the Board further notes that the incidence of four sites within a 51-block area sharing the same "unique conditions" as the subject site would not, in and of itself, be sufficient to defeat a finding of uniqueness; and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Residential Use]

¶106. WHEREAS, under New York law, a finding of uniqueness does not require that a given parcel be the only property so burdened by the condition(s) giving rise to the hardship, only that the condition is not so generally applicable as to dictate that the grant of a variance to all similarly situated properties would effect a material change in the district's zoning (see Douglaston Civ. Assn. v. Klein, 51 N.Y.2d 963, 965 (1980)); and

¶107. WHEREAS, as to the impact of the landmarked Congregation Shearith Israel synagogue building on the ability to develop an as-of-right development on the same zoning lot, the applicant states that the landmarked synagogue occupies nearly 63 percent of the Zoning Lot footprint; and

¶108. WHEREAS, the applicant further states that because so much of the Zoning Lot is occupied by a building that cannot be disturbed, only a relatively small portion of the site is available for development; and

¶109. WHEREAS, the applicant represents that only the area occupied by the parsonage house, located directly to the south of the Synagogue on Tax Lot 36, and the development site are available for development; and

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¶110. WHEREAS, the applicant represents that the narrow width of the parsonage house makes its development infeasible; and

¶111. WHEREAS, the applicant states that the area of development site, at approximately 6,400 sq. ft., constitutes only 37 percent of Zoning Lot area of the site; and

¶112. WHEREAS, the Board notes that the site is significantly underdeveloped and that the location of the landmark Synagogue limits the developable portion of the site to the development site; and

¶113. WHEREAS, as to the limitations on development imposed by the site's location within the R8B contextual zoning district, the applicant represents the district's height limits and setback requirements, and the limitations imposed by ZR § 23-692, result in an inability to use the Synagogue's substantial surplus development rights; and

¶114. WHEREAS, the applicant represents that, as a result of these constraints, the Synagogue would be permitted to use a total of 28,274 sq. ft. for an as-of-right development, although it has approximately 116,752 sq. ft. in developable floor area; and

[ZR § 72-21 (a) - Unique Physical Conditions Finding Residential Use]

¶115. WHEREAS, the Synagogue 'further represents that, after development of the proposed building the Zoning Lot would be built to a floor area of 70,166 sq. ft. and an FAR of 4.36, although development of 144,511 sq. ft. of floor area and an FAR of 8.36 would be permitted as- of-right, and that approximately 74,345 sq. ft. of floor area will remain unused; and

¶116. WHEREAS, the Opposition contends that the inability of the Synagogue to use its development rights is not a hardship under ZR § 72-21 because a religious institution lacks the protected property interest in the monetization of its air rights that a private owner might have, citing Matter of Soc. for Ethical Cult_ v. Svatt. 51 N.Y.2d 449 (1980); and

¶117. WHEREAS, the Opposition further contends that the inability of the Synagogue to use its development rights is not a hardship because there is no fixed entitlement to use air rights contrary to the bulk limitation of a zoning district; and

¶118. WHEREAS, the Board notes that Spatt concerns whether the landmark designation of a religious property imposes an unconstitutional taking or an interference with the free exercise of religion, and is inapplicable *to a case in which a religious institution merely seeks the same entitlement to develop its property possessed by any other private owner; and

¶119. WHEREAS, furthermore, Spatt does not stand for the proposition that government land use regulation may impose a greater burden on a religious institution than on a private owner; indeed, the court noted that the Ethical Culture Society, like any similarly situated owner, retained the right to generate a reasonable return from its property by the transfer of its excess development rights (see 51 N.Y.2d at 455, FN1); and

¶120. WHEREAS, the Board notes that the Zoning Resolution includes several provisions permitting the utilization or transfer of available development rights from a landmark building within the lot on which it is located or to an adjacent lot, and

¶121. WHEREAS, the Board further notes that while a nonprofit organization is entitled to no special deference for a development that is unrelated to its mission, it would be improper to impose a heavier burden on its ability to develop its property than would be imposed on a private owner; and

¶122. WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate and in light of the Synagogue's programmatic needs, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; thereby meeting the required finding under ZR § 72-21(a); and

ZR § 72_21(b) -- Financial Return Finding

¶123. WHEREAS, under ZR § 72-21 (b), the Board must establish that the physical conditions of the site preclude any reasonable possibility that its development in strict conformity with the zoning requirements will yield a reasonable return, and that the grant of a variance is therefore necessary to realize a reasonable return (the "(b) finding"), unless the applicant is a nonprofit organization, in

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which case the (b) finding is not required for the granting of a variance; and

Community Facility Use

¶124. WHEREAS, the applicant represents that it need not address the (b) finding since it is a not-for-profit religious institution and the community facility use will be in furtherance of its not-for-profit mission; and

Residential Development

¶125. WHEREAS, under New York State law, a not-for-profit organization which seeks land use approvals for a commercial or revenue-generating use is not entitled to the deference that must be accorded to such an organization when it seeks to develop a project that is in furtherance of its mission see Little Joseph Realty v. Babylon, 41 N.Y.2d 738 (1977); (municipal agency was required to make the variance findings because proposed use would be operated solely by and for the benefit of a private entrepreneur); Foster v. Savior, 85 A.D.2d 876 (4a, Dep't 1981) (variance upheld permitting office and limited industrial use of former school building after district established inability to develop for a conforming use or otherwise realize a financial return on the property as zoned); and Cath. Dioc. of Rockville Ctr v. Vill. Of Old Westbury, 170 Misc.2d 314 (1996) (cemetery to be operated by church was found to constitute a commercial use)); and

¶126. WHEREAS, the residential development was not proposed to meet its programmatic needs, the Board therefore directed the applicant to perform a financial feasibility study evaluating the ability of the Synagogue to realize a reasonable financial return from as-of-right residential development of the site, despite the fact that it is a not-for-profit religious institution; and

¶127. WHEREAS, the applicant initially submitted a feasibility study that analyzed: (1) an as-of-right community facility/residential building within an R8B envelope (the "as-of-right building"); (2) an as-of-right residential building with 4.0 FAR; (3) the original proposed building; and (4) a lesser variance community facility/residential building; and

[ZR § 72_21(b) -- Financial Return Finding - Residential Development]

¶128. WHEREAS, at hearing, the Board questioned why the analysis included the community facility floor area and asked the applicant to revise the financial analysis to eliminate the value of the floor area attributable to the community facility from the site value and to evaluate an as-of-right development; and

¶129. WHEREAS, in response, the applicant revised the financial analysis to analyze: (1) the as-of-right building; (2) the as-of-right residential building with 4.0 FAR; (3) the original proposed building; (4) the lesser variance community facility/residential building; and (5) an as-of-right community facility/residential tower building, using the modified site value; and

¶130. WHEREAS, the feasibility study indicated that the as-of-right scenarios and lesser variance community facility/residential building, would not result in a reasonable financial return and that, of the five scenarios only the original proposed building would result in a reasonable return; and

¶131. WHEREAS, it was subsequently determined that a tower configuration in the R10A portion of the zoning Lot was contrary to ZR § 73-692 (the "sliver law") and therefore that the as-of-right community facility/residential tower building could not represent an as-of-right development; the Board then questioned the basis for the previous valuation of the development rights and requested that the applicant recalculate the site value using only R8 and R8B sales; and

¶132. WHEREAS, the Board also requested the applicant to evaluate the feasibility of providing a complying court to the rear above the fifth floor of the original proposed building; and

¶133. WHEREAS, applicant subsequently analyzed the financial feasibility of: (i) the proposed building (the original proposed building with a complying court); (ii) an eight-story building with a complying court (the "eight-story building"); and (iii) a seven-story building with penthouse and complying court (the "seven-story building"), using the revised site value; the modified analysis concluded that of the three scenarios, only the proposed building was feasible; and

¶134. WHEREAS, at hearing, the Board raised questions as to how the space attributable to the building's rear terraces had been treated in the financial feasibility analysis; and

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[ZR § 72_21(b) -- Financial Return Finding - Residential Development]

¶135. WHEREAS, in a written response, the applicant stated that the rear terraces on the fifth and sixth floors had not originally been considered as accessible open spaces and were therefore not included in the sales price as sellable terrace areas of the appertaining units; the applicant provided an alternative analysis considering the rear terraces as sellable outdoor terrace area and revised the sales prices of the two units accordingly; and

¶136. WHEREAS, at hearing, the Board also asked the applicant to explain the calculation of the ratio of sellable floor area gross square footage (the "efficiency ratio") for each of the following scenarios: the proposed building, the eight-story building, the seven-story building, and the as-of- right building, and

¶137. WHEREAS, in a subsequent submission, the applicant provided a chart identifying the efficiency ratios for each respective scenario, and explained that the architects had calculated the sellable area for each by determining the overall area of the building and then subtracting the exterior walls, the lobby, the elevator core and stairs, hallways, elevator overrun and terraces from each respective scenario; and

¶138. WHEREAS, the applicant also submitted a revised analysis of the as-of-right building using the revised estimated value of the property; this analysis showed that the revised as-of-right alternative would result in substantial loss; and

¶139. WHEREAS, in a submission, the Opposition questioned the use of comparable sales prices based on property values established for the period of mid-2006 to mid-2007, rather than using more recent comparable sales prices, and questioned the adjustments made by the applicant to those sales prices; and

¶140. WHEREAS, in a written response, the applicant pointed out that, to allow for comparison of earlier to later analyses, it is BSA practice to establish sales comparables from the initial feasibility analysis to serve as the baseline, and then to adjust those sales prices in subsequent revisions to reflect intervening changes in the market; the applicant also stated that sales prices indicated for units on higher floors reflected the premium price units generated by such units compared to the average sales price for comparable units on lower floors; and

¶141. WHEREAS, the Opposition also questioned the choice of methodology used by the applicant, which calculated the financial return based on profits, contending that it should have been based instead on the projected return on equity, and further contended that the applicant's treatment of the property acquisition costs distorted the analysis; and

[ZR § 72_21(b) -- Financial Return Finding - Residential Development]

¶142. WHEREAS, in response to the questions raised by the Opposition concerning the methodology used to calculate the rate of return, the applicant states that it used a return on profit model which considered the profit or loss from net sales proceeds less the total project development cast on an unleveraged basis, rather than evaluating the project's return on equity on a leveraged basis; and

¶143. WHEREAS, the applicant further stated that a return on equity methodology is characteristically used for income producing residential or commercial rental projects, whereas the calculation of a rate of return based on profits is typically used on an unleveraged basis for condominium or home sale analyses and would therefore be more appropriate for a residential project, such as that proposed by the subject application; and

¶144. WHEREAS, the Board notes that a return on profit model which evaluates profit or loss on an unleveraged basis is the customary model used to evaluate the feasibility of market-rate residential condominium developments; and

¶145. WHEREAS, the Opposition also raised concerns as to the omission of the income from the Beit Rabban school from the feasibility study; and

¶146. WHEREAS, in response to concerns raised by the Opposition as to why the feasibility study omitted the income from the Beit Rabban school, a submission by the applicant states that the projected market rent for community facility use was provided to the Board in an earlier submission and that the cost of development far exceeded the potential rental income from the community facility portion of the development; and

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¶147. WHEREAS, further, the Board notes that it requested that costs, value and revenue attributable to the community facility be eliminated from the financial feasibility analysis to allow a clearer depiction of the feasibility of the proposed residential development and of lesser variance and as-of-right alternatives; and

¶148. WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning requirements would provide a reasonable return; and

ZR § 72-21 (c) - Neighborhood Character Finding

¶149. WHEREAS, as pertains to the (c) finding under ZR § 72-21, the Board is required to find that the grant of the variance will not alter the essential neighborhood character, impair the use or development of adjacent property, or be detrimental to the public welfare; and

[ZR § 72-21 (c) - Neighborhood Character Finding]

¶150. WHEREAS, because the variances sought to permit the community facility use differ from the variances sought to permit the proposed residential use, the potential affects on neighborhood character of each respective set of proposed variances are discussed separately below; and

Community Facility Use

¶151. WHEREAS, the applicant represents that the proposed rear yard and lot coverage variances permitting the community facility use will not negatively affect the character of the neighborhood, nor affect adjacent uses; and

¶152. WHEREAS, the applicant states that the proposed waivers would allow the community facility to encroach into the rear yard by ten feet, to a height of approximately 49 feet; and

¶153. WHEREAS, the applicant states that, as a community facility, the Synagogue would be permitted to build to the rear lot line up to a height of 23 feet; and

¶154. WHEREAS, the applicant represents that the affect of the encroachment into the rear yard is partly offset by the depths of the yards of the adjacent buildings to its rear, and

¶155. WHEREAS, the Board conducted an environmental review of the proposed action and found that it would not have significant adverse impacts on the surrounding neighborhood; and

¶156. WHEREAS, the Opposition disputes the findings of the Environmental Assessment Statement ("EAS") and contends that the expanded toddler program, and the life cycle events and weddings held in the multi-purpose room of the lower cellar level of the proposed community facility would produce significant adverse traffic, solid waste, and noise impacts; and

¶157. WHEREAS, the Board notes that the additional traffic and noise created by the expanded toddler program - which is projected to grow from 20 children to 60 children daily - falls below the CEQR threshold for potential environmental impacts; and -

¶158. WHEREAS, the Board further notes that the waivers of lot coverage and rear yard requirements are requested to meet the Synagogue's need for additional classroom space and that the sub-cellar multi-purpose room represents an as-of-right use; and

¶159. WHEREAS, the applicant states that the proposed multi-function room would result in an estimated 22 to 30 life cycle events and weddings over and above those currently held; and

[ZR § 72-21 (c) - Neighborhood Character Finding - Community Facility Use]

¶160. WHEREAS, with respect to traffic, the applicant states that life cycle events would generate no additional traffic impacts because they are held on the Sabbath and, as Congregation Shearith Israel is an Orthodox synagogue, members and guests would not drive or ride to these events in motor vehicles; and

¶161. WHEREAS, the applicant further states that significant traffic impacts are not expected from the increased number of weddings, because they are generally held on weekends during off-peak periods when traffic is typically lighter, or from the expanded toddler program, which is not expected to result in a substantial number of new vehicle trips during the peak hours; and

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¶162. WHEREAS, with respect to solid waste, the EAS estimated the solid waste attributable to the entirety of the proposed building, including the occupants of the residential portion and the students in the school, and conservatively assumed full occupancy of the multi-function room (at 360 persons); and

¶163. WHEREAS, the estimates of solid waste generation found that the amount of projected additional waste represented a small amount, relative to the amount of solid waste collected weekly on a given route by the Department of Sanitation, and would not affect the City's ability to provide trash collection services; and

¶164. WHEREAS, the Synagogue states that trash from multi-purpose room events will be stored within a refrigerated area within the proposed building and, if necessary, will be removed by a private carter on the morning following each event; and

¶165. WHEREAS, at the Board's direction, the applicant submitted revised plans showing the cellar location of the refrigerated trash storage area; and

¶166. WHEREAS, with respect to noise, as the multi-purpose room is proposed for the sub-cellar of the proposed building, even at maximum capacity it is not expected to cause significant noise impacts; and

¶167. WHEREAS, as held in Westchester Reform Temple v. Brown (22 N.Y.2d 488 (1968)), a religious institution's application is entitled to deference unless significant adverse effects upon the health, safety, or welfare of the community are documented see also Jewish Recons. Syn. of No. Shore v. Roslyn Harbor, 38 N.Y.2d 283 (1975)); and

¶168. WHEREAS, the Opposition has raised general concerns about disruption to the character of the surrounding neighborhood, but has presented no evidence to the Board supporting the alleged traffic, solid waste and noise impacts of the proposed community facility; and

[ZR § 72-21 (c) - Neighborhood Character Finding - Residential Use]

¶169. WHEREAS, the detrimental effects alleged by the Opposition largely concern the purported impact of events held in the multi-purpose room which, as noted above; is permitted as-of-right; and

Residential Use

¶170. WHEREAS, the applicant represents that the proposed variances to height and setback permitting the residential use will not negatively affect the character of the neighborhood, nor affect adjacent uses; and

¶171. WHEREAS, the applicant states that the proposed base height waiver and front setback waivers of the R8B zoning requirements allow the building to rise to a height of approximately 94'- 10" along the West 70th Street street line, before setting back by 12'-0"; and

¶172. WHEREAS, the applicant further states that the R8B zoning regulations limit the base height to 60 feet, at which point the building must set back by a minimum of 15'-0"; and

¶173. WHEREAS, the applicant states that the proposed waiver of maximum building height will allow a total height of approximately 105'-10", instead of the maximum building height of 75'-0" permitted in an R8B district; and

¶174. WHEREAS, the applicant also seeks a rear setback of 6'-8", instead of the 10'-0" rear setback required in an R8B district; and

¶175. WHEREAS, the applicant represents that the front and rear setbacks are required because the enlargement would rise upward and extend from the existing front and rear walls; and

¶176. WHEREAS, the applicant represents that the proposed base height, wall height and front and rear setbacks are compatible with neighborhood character; and

¶177. WHEREAS, the applicant states that a Certificate of Appropriateness approving the design for the proposed building was issued by the Landmarks Preservation Commission on March 14, 2006; and

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¶178. WHEREAS, the Opposition raised issues at hearing concerning the scale of the proposed building and its compatibility to the neighborhood context; and

[ZR § 72-21 (c) - Neighborhood Character Finding - Residential Use]

¶179. WHEREAS, the applicant represents that the proposed bulk and height of the building is consistent with the height and bulk of neighboring buildings, and that the subject site is flanked by a nine-story building at 18 West 70th Street which has a base height of approximately 95 ft. with no setback, and an FAR of 7.23; and

¶180. WHEREAS, the applicant further represents that the building located at 101 Central Park West, directly to its north, has a height of 15 stories and an FAR of 13.92; and that the building located directly to its south, at 91 Central Park West, has a height of 13 stories and an FAR of 13.03; and

¶181. WHEREAS, the Board notes that, at nine stories in height, the building would be comparable in size to the adjacent nine-story building located at 18 West 70' Street, while remaining shorter than the 15-story and 13-story buildings located within 60 feet of the site; and

¶182. WHEREAS, the Opposition also contends that the proposed nine-story building disrupts the mid-block character of West 70th Street and thereby diminishes the visual distinction between the low-rise mid-block area and the higher scale along Central Park West; and

¶183. WHEREAS, the applicant submitted a streetscape of West 70th Street indicating that the street wall of the subject building matches that of the adjacent building at 18 West 70th Street and that no disruption to the midblock character is created by the proposed building; and

¶184. WHEREAS, the Opposition also contends that approval of the proposed height waiver will create a precedent for the construction of more mid-block high-rise buildings; and

¶185. WHEREAS, as discussed above, the Opposition has identified four sites within a 51-block area bounded by Central Park West and Columbus Avenue, and 59* Street and 110th Street that purportedly could seek variances permitting midblock buildings which do not comply with the requirements of the R8B zoning district; and

¶186. WHEREAS, an analysis submitted by the applicant in response found that none of the four sites identified by the Opposition shared the same potential for mid-block development as the subject site; and

¶187. WHEREAS, the Opposition argues that the proposed building will significantly diminish the accessibility to light and air of its adjacent buildings; and

¶188. WHEREAS, the Opposition contended specifically that the proposed building abuts the easterly wall and court of the building located at 18 West 70th Street, thereby eliminating natural light and views from seven eastern facing apartments which would not be blocked by an as-of- right building; and

[ZR § 72-21 (c) - Neighborhood Character Finding - Residential Use]

¶189. WHEREAS, the Opposition further argues that the proposed building will cut off natural lighting to apartments in the building located at 91 Central Park West and diminish light to apartments in the rear of the building located at 9 West 69th Street, and that the consequentially diminished light and views will reduce the market values of the affected apartments; and

¶190. WHEREAS, in response the applicant noted that lot line windows cannot be used to satisfy light and air requirements and, therefore, rooms which depend solely on lot line windows for light and air were necessarily created illegally and the occupants lack a legally protected right to their maintenance; and

¶191. WHEREAS, the applicant further notes that an owner of real property also has no protected right in a view; and

¶192. WHEREAS, nonetheless, the Board directed the applicant to provide a fully compliant outer court to the sixth through eighth floors of the building, thereby retaining three more lot line windows than originally proposed; and

¶193. WHEREAS, the applicant submitted revised plans in response showing a compliant outer court; and

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¶194. WHEREAS, the Opposition asserts that the proposed building would cast shadows on the midblock of West 70th Street; and

¶195. WHEREAS, CEQR regulations provide that an adverse shadow impact is considered to occur when the shadow from a proposed project falls upon a publicly accessible open space, a historic landscape, or other historic resource, if the features that make the resource significant depend on sunlight, or if the shadow falls on an important natural feature and adversely affects its uses or threatens the survival of important vegetation, and that shadows on streets and sidewalks or on other buildings are not considered significant under CEQR; and

¶196. WHEREAS, a submission by the applicant states that that no publicly accessible open space or historic resources are located in the raid-block area of West 70th Street; thus any incremental shadows in this area would not constitute a significant impact on the surrounding community; and

¶197. WHEREAS, a shadow study submitted by the applicant compared the shadows cast by the existing building to those cast by the proposed new building to identify incremental shadows that would be cast by the new building that are not cast presently; and

[ZR § 72-21 (c) - Neighborhood Character Finding - Residential Use]

¶198. WHEREAS, the EAS analyzed the potential shadow impacts on publicly accessible open space and historic resources and found that no significant impacts would occur; and

¶199. WHEREAS, the applicant evaluated shadows cast over the course of a full year, with particular attention to December 21, when shadows are longest, March 21 and September 21 (vernal and autumnal equinoxes) and June 21, when shadows are shortest, disregarding the shadows cast by existing buildings, and found that the proposed building casts few incremental shadows, and those that are cast are insignificant in size; and

¶200. WHEREAS, specifically, the shadow study of the EAS found that the building would cast a small incremental shadow on Central Park in the late afternoon in the spring and summer that would fall onto a grassy area and path where no benches or other recreational equipment are present; and

¶201. WHEREAS, based upon the above, the Board finds that neither the proposed community facility use, nor the proposed residential use, will alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, or be detrimental to the public welfare; and

ZR § 72-21 (d) - Self Created Hardship Finding

¶202. WHEREAS, as pertains to the (d) finding under ZR § 72-21, the Board is required to find that the practical difficulties or unnecessary hardship burdening the site have not been created by the owner or by a predecessor in title; and

¶203. WHEREAS, the applicant states that the unnecessary hardship encountered by compliance with the zoning regulations is inherent to the site's unique physical conditions: (1) the existence and dominance of a landmarked synagogue on the footprint of the Zoning Lot, (2) the site's location on a zoning lot that is divided by a zoning district boundary; and (3) the limitations on development imposed by the site's contextual zoning district; and

¶204. WHEREAS, the applicant further states that these conditions originate with the landmarking of its Synagogue building and with the 1984 rezoning of the site; and

¶205. WHEREAS, based on the above, the Board therefore finds that the hardship herein was not created by the owner or by a predecessor in title; and

ZR § 72-21 (e) - Minimum Variance Finding

¶206. WHEREAS, as pertains to the (e) finding under ZR § 72-21, the Board is required to find that the variance sought is the minimum necessary to afford relief; and

[ZR § 72-21 (e) - Minimum Variance Finding]

¶207. WHEREAS, the original proposed building of the Synagogue had no rear court above the fifth floor, and

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¶208. WHEREAS, in response to concerns raised by the residents of the adjacent building, the Board directed the applicant to provide a fully compliant outer court to the sixth through eighth floors of the building, thereby retaining access to light and air of three additional lot line windows; and

¶209. WHEREAS, the applicant modified the proposal to provide a complying court at the north rear above the fifth floor, thereby reducing the floor plates of the sixth, seventh and eighth floors of the building by approximately 556 sq. ft. and reducing the floor plate of the ninth floor penthouse by approximately 58 sq. ft., for an overall reduction in the variance of the rear yard setback of 25 percent; and

¶210. WHEREAS, during the hearing process, the Board also directed the applicant to assess the feasibility of several lesser variance scenarios; and

¶211. WHEREAS, financial analyses submitted by the applicant established that none of these alternatives yielded a reasonable financial return; and

¶212. WHEREAS, however, the Opposition argues that the minimum variance finding is no variance because the building could be developed as a smaller as-of-right mixed-use community facility/ residential building that achieved its programmatic mission, improved the circulation of its worship space and produced some residential units; and

¶213. WHEREAS, the Synagogue has fully established its programmatic need for the proposed building and the nexus of the proposed uses with its religious mission; and

¶214. WHEREAS, the Board notes again that a zoning board must accommodate a proposal by a religious or educational institution for a project in furtherance of its mission, unless the proposed project is shown to have significant and measurable detrimental impacts on surrounding residents See Westchester Ref. Temple v. Brown, 22 N.Y.2d 488 (1968); Islamic Soc. of Westchester v. Foley, 96 A.D. 2d 536 (2d Dep't 1983); and Jewish Recons. Synagogue of No. Shore v. Roslyn Harbor, 38 N.Y.2d 283 (1975)); and

¶215. WHEREAS, the Opposition has not established such impacts; and

¶216. WHEREAS, the Opposition may have raised other issues that are not specifically addressed herein, the Board has determined that all cognizable issues with respect to the required variance findings or CEQR review are addressed by the record; and

[ZR § 72-21 (e) - Minimum Variance Finding]

¶217. WHEREAS, the Board finds that the requested lot coverage and rear yard waivers are the minimum necessary to allow the applicant to fulfill its programmatic needs and that the front setback, rear setback, base height and building height waivers are the minimum necessary to allow it to achieve a reasonable financial return; and

¶218. WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

¶219. WHEREAS, the project is classified as a Type I action pursuant to 6NYCRR, Part 617; and

¶220. WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA071M dated May 13, 2008; and

¶221. WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

¶222. WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

¶223. *Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative
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Declaration with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under ZR § 72-21, to permit, on a site partially within an Lt.8B district and partially within an R10A district within the Upper West Side! Central Park West Historic District, the proposed construction of a nine-story and cellar mixed-use community facility/ residential building that does not comply with zoning parameters for lot coverage, rear yard, base height, building height, front setback and rear setback contrary to ZR §§ 24-11, 77-24, 24-36, 23-66, and 23-633; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 13, 2008" - nineteen (19) sheets and "Received July 8, 2008" - one (1) sheet; and on further condition:

¶224. THAT the parameters of the proposed building shall be as follows: a total floor area of 42,406 sq. ft.; a community facility floor area of 20,054 sq. ft.; a residential floor area of 22,352

sq. ft; a base height of 95'-1"; with a front setback of 12'-0"; a total height of 105'-10"; a rear yard of 20'-0"; a rear setback of 6'-S"; and an interior lot coverage of 0.80; and

¶225. THAT the applicant shall obtain an updated Certificate of Appropriateness from the Landmarks Preservation Commission prior to any building permit being issued by the Department of Buildings;

¶226. THAT refuse generated by the Synagogue shall be stored in a refrigerated vault within the building, as shown on the BSA-approved plans;

¶227. THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only,

¶228. THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

¶229. THAT substantial construction be completed in accordance with ZR § 72-23;

¶230. THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 26, 2008.

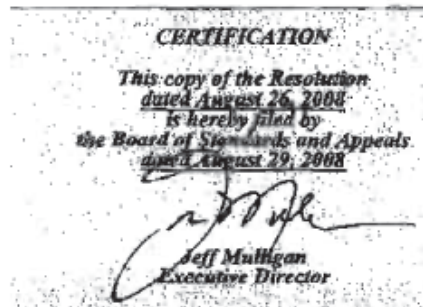


Exhibit B

Petitioners' Exhibit B To Revised Petition

Table of Contents of Petitioners 13 Volume Appendix A Corrected and Revised to Include References to BSA Record Served November 2, 2008

Table of Documents In BSA Rercord and Not in Appendix A

As of January 2, 2009

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August 26, 2008 Decision of the Board of Standards and Appeals Granting Variances to Congregation Shearith Israel	00001-00018	000001-000014
Reformatted August 26, 2008 Decision of the Board of Standards and Appeals Granting Variances to Congregation Shearith Israel	00019-00047	000001-000014
September 10, 2008 NY Jewish Week - On The Upper West Side, A Building Battle Continues	00048-00050	Not Filed With BSA
NY CPLR, Article 4, Special proceedings and Venue	00100-00103	Not Filed With BSA
NY CPLR, Article 78, Proceeding Against Body or Officer	00104-00108	Not Filed With BSA
New York City Zoning Resolution Article VII - Chapter 2, Interpretations and Variances 72-01 to 72-23	00109-00114	Not Filed With BSA
Rules of The City of New York, Title 2, BSA, § 1-01 to § 1-14 Practice and Procedures	00115-00138	Not Filed With BSA
BSA - Detailed Instructions for Completing BZ Applications	00139-00148	Copy at 004267-004276
BSA - Frequently Asked Questions	00149-00153	Not Filed With BSA
BSA - Guidelines for Hearing Attendees	00154-00154	Not Filed With BSA
BSA - Procedure for Pre_Application Meeting and Draft Applications	00155-00158	Not Filed With BSA
New York City Administrative Code, Title 25, Land Use, § 25- 207 Certiorari	00159-00159	Not Filed With BSA

New York City Administrative Code, Title 26, Housing and Building, Â§ 26-250 Appeal	00160-00160	Not Filed With BSA
New York City Charter, Chapter 26, Department of Buildings, § 648 Appeals	00161-00161	Not Filed With BSA
New York City Charter, Chapter 27, Board of Standards and Appeals, § 659 Constitution and Appointment	00162-00162	Not Filed With BSA
New York City Charter, Chapter 27, Board of Standards and Appeals, § 663 - Meetings - BSA	00163-00163	Not Filed With BSA
New York City Charter, Chapter 27, Board of Standards and Appeals, § 663 - Meetings - BSA	00164-00165	Not Filed With BSA
New York City Charter, Chapter 27, Board of Standards and Appeals, § 667 - Inspections - BSA	00166-00166	Not Filed With BSA
New York City Charter, Chapter 27, Board of Standards and Appeals, § 668 - Variances and special permits	00167-00168	Not Filed With BSA
New York City Charter, Chapter 27, Board of Standards and Appeals, Â§ 669 Procedure on Appeals	00169-00169	Not Filed With BSA
New York City Charter, Chapter 45, City Administrative Procedures Act, Â§ 1046 Adjudications	00170-00171	Not Filed With BSA
New York City Charter, Chapter 45-a, Office of Administrative Trials and Hearings, § 1046 Adjudication	00172-00172	Not Filed With BSA
Rules of The City of New York, Title 48, OATH § 1-07 Filing of Papers	00173-00173	Not Filed With BSA
Rules of The City of New York, Title 48, OATH § 1-14 Ex Parte Communications	00174-00174	Not Filed With BSA
Rules of The City of New York, Title 48, OATH § 1-27 Disqualification of Administrative Law Judges	00175-00175	Not Filed With BSA
New York State Town Law Section 267 267-a 267-b Zoning Board of Appeals.doc	00176-00182	Not Filed With BSA
Decision in Carroll v. Srinivasan, Index No. 110199/07, NY Sup. Ct (February 7, 2008)	00183-00188	Not Filed With BSA
Opposition Exhibits A-FF Filed January 28, 2008 - Cover Page	00201-00201	003311-003311
Opposition Exhibits Alan Sugarman Esq. Affirmation in Support of Exhibits	00202-00217	003312-003327
Opp.Ex. A - Applicant Statements re Economic Engine - Filed January 28, 2008	00218-00239	003328-003350
Opp.Ex. B - Small Synagogue Change in Location after LPC- Filed January 28, 2008	00240-00246	003351-003358
Opp.Ex. C Parsonage Availability for Programmatic Needs Filed January 28, 2008	00247-00256	003359-003369
Opp.Ex. D Applicant Financial Membership Resources Filed January 28, 2008	00257-00280	003370-003394

Opp.Ex. E - First Floor of Community House Filed January 28, 2008	00281-00288	003395-003403
Opp.Ex. F Second Floor of Community House Filed January 28, 2008	00289-00293	003404-003409
Opp.Ex. G Third Floor of Community House Filed January 28, 2008	00294-00299	003410-003416
Opp.Ex. H Fourth Floor of Community House Filed January 28, 2008	00300-00304	003417-003422
Opp.Ex. I Information re Basement Filed January 28, 2008	00305-00306	003423-003245
Opp.Ex. J Subbasement and Banquet Hall Filed January 28, 2008	00307-00309	003246-003429
Opp.Ex. K Beit Rabban School Information Filed January 28, 2008	00310-00318	003430-003439
Opp.Ex. L Banquet Hall Information Filed January 28, 2008	00319-00326	003440-003448
Opp.Ex. M Drawing Comparing Access Existing to Proposed Filed January 28, 2008	00327-00331	003449-003454
Opp.Ex. N Relationships of Applicant Trustees with Bloomberg Admin. Filed January 28, 2008	00332-00342	003455-003466
Opp.Ex. O Site History and Height Restrictive Covenant Filed January 28, 2008	00343-00356	003467-003481
Opp.Ex. P Lorin Maazel Tenant at Parsonage Info Filed January 28, 2008	00357-00358	003482-003484
Opp.Ex. Q Opposition Letter Nizam Kettaneh June 26, 2007	00359-00361	003485-003488
Opp.Ex. R Opposition Expert Bertrang Analysis September 26, 2007	00362-00368	000502-000507
Opp.Ex. S Ramaz Opposition Documents at BSA Dated November 5, 2007	00369-00406 - omitted	003497-003535
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Opp.Ex. U BSA Transcript Request for Case Law from Applicant dated November 27, 2007	00411-00414	003541-003545
Opp.Ex. BSA Hooper Street Decision	00415-00419	003546-003551
Opp.Ex. W BSA Yeshiva Imrei Chaimg Viznitz Decision	00420-00426	003552-003559
Opp.Ex. X Bulk Map of Central Park West	00427-00428	003560-003562
Opp.Ex. Y Photos of West 70th Street Filed January 28, 2008	00429-00430	003563-003565

Opp.Ex. Z Unanalyzed Impacts - Shadows, Garbage, Traffic Filed January 28, 2008	00431-00432	003566-003568
Opp.Ex. AA Composite Showing Graphics and Images Filed January 28, 2008	00433-00434	003569-003571
Opp.Ex. BB James Greer Analysis re Programmatic Need Lower Floors Filed January 28, 2008	00435-00448	003572-003586
Opp.Ex. CC Omitted	00449-00499	003587-003588
Opp.Ex. DD LPC - Applicant Misrepresentation re Unanimous LPC Vote - Gratz March 14, 2006	00450-00456	003589-003596
Opp.Ex. EE Opposition Shadow Impacts Filed January 28, 2008	00457-00458	003597-003600
Opp.Ex. FF Access Comparison - Conforming AOR to Proposed Filed January 28, 2008	00459-00464	003600-003607
Opp Ex. GG	00465-00477	004156-004168
Opp. Ex. HH re Beit Rabban and Form 990 Information Re Rent and Addresses	00478-00487	004169-004178
Opp. Ex. JJ Exhibits Re Classrooms and Beit Rabban	00488-00510	000418-004203
Opp. Ex. KK Original Cover Page Compilation of Freeman Submissions	00511-00511	004266-004266
Opp. Ex. KK-1 BSA Detailed Instructions for Completing BZ Application Compilation	00512-00521	004267-004276
Opp. Ex. KK-11 February 12, 2008 Freeman BSA Testimony Compilation	00522-00533	004277-004288
Opp. Ex. KK-23 March 28, 2007 Freeman/Frazier Compilation	00534-00587	004289-004317
Opp. Ex. KK-52 Freeman Frazier letter of September 6, 2007 Responding to BSA Objections Compilation	00563-00587	004318-004342
KK-77 October 24, 2007 Freeman 21 pages Compilation	00588-00608	004343-004363
Opp. Ex. KK-98 December 21, 2007 Freeman Compilation	00609-00648	004364-004401
Opp. Ex. KK-138 Freeman Frazier letter of January 30, 2008 Compilation	00649-00651	004402-004404
Opp. Ex. KK-141 Freeman Frazier letter of March 11, 2008 Compilation	00652-00663	004405-004436
Opp. Ex. KK-172 Freeman Frazier Letter of April 1, 2008 Compilation	00664-00691	004437-004444
Opp. Ex. KK-180 Table of Contents - Compilation of Freeman Submissions	00692-00708	00445-004461
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. MM-26 Freeman Frazier May 13, 2008	00741-00765	005367-005391
MM-50 Freeman Frazier June 17, 2008 Reply Letter Compilation	00766-00821	005392-005448
MM -104 Freeman Letter July 8, 2008 Compilation	00822-00834	005449-005460
MM-116 Freeman Testimony at June 24, 2008 BSA Hearing Compilation	00835-00844	005461-005470
MM-125 As Of Right Scheme A October 22, 2007	00845-00862	005471-005488
MM-142 Proposed Scheme May 13, 2008 Compilation - Intentionally Omitted See P-03518	00863-00884	005489-005510
P-00885 TO P-00918 INTENTIONALLY OMITTED	00885-00918	ignore
Opp. Ex. QQ CB7 Transcripts Binder Submitted July 29, 2008	00919-01029	005639-005750
QQ-1 October 17, 2007 Hearing	00919-00956	005639-005676
QQ-39 November 19, 2007 Hearing	00957-01003	005677- 005722.pdf
QQ-85 December 4, 2007 Hearing	01004-01029	005724-005750
November 26 2002 LPC Hearing Transcript	01030-01063	002545-002678
February 11, 2003 LPC Hearing Transcript	01064-01100	002679-002826

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September 1, 2006 Letter Sugarman to BSA Objecting to BSA Variance and Inquiring as to Status	01199-01200	Missing
November 15, 2006 Documents Provided By BSA to Sugarman re FOIL - Ex Parte Meeting	01201-01206	Missing
November 20, 2006 Letter Sugarman to BSA re Ex Parte Meeting	01207-01209	Missing
December 18, 2006 Sugarman to BSA FOIL Ex Parte Meeting Notes	01210-01211	Missing

December 19, 2006 Sugarman FOIL Request to BSA	01212-01212	Missing
January 17, 2006 LPC Hearing Transcript LG	01213-01227	002406-002462
March 14, 2006 LPC Hearing Transcript	01228-01237	002463-002500
September 1, 2006 Sugarman to BSA FOIL Request and Status	01238-01239	Missing
September 14, 2007 Landmark West FOIL Request to BSA	01240-01241	Missing
October 13, 2006 Letter from Friedman & Gotbaum re Upcoming ex parte Meeting	01242-01242	Missing
November 3, 2006 Letter from Friedman & Gotbaum to BSA Enclosing Plans of Proposed Building for Improper Ex Parte Meeting	01243-01243	Missing
November 8, 2006 BSA Memorandum Scheduling Ex Parte Meeting	01244-01244	Missing
November 8, 2006 Sign In Sheet for Improper Ex Parte Meeting at BSA with Two BSA Commissioners and Entire Applicant Team	01245-01245	Missing
November 14, 2006 Documents Sent to Sugarman from BSA After Ex Parte Meeting of November 8, 2006	01246-01251	Missing
November 14, 2006 Letter BSA to Sugarman FOIL Response	01252-01252	Missing
November 27, 2006 Letter BSA Counsel to Sugarman Re FOIL	01253-01257	Missing
December 18, 2006 Letter Sugarman to BSA Counsel Re Notes of Improper Meeting	01258-01259	Missing
December 19, 2006 Letter from Sugarman to BSA FOIL Request	01260-01260	Missing
November 20, 2006 Sugarman Letter to BSA re Ex Parte Meeting	01261-01263	Missing
September 6, 2007 Revised Environmental Assessment Form	01264-01282	000353-000371
January 9, 2007 Letter Sugarman to Friedman Re DOB Access to Files	01283-01285	Missing
January 12, 2007 Letter from Friedman and Gotbaum to Sugarman re DOB Access	01286-01287	Missing
October 17, 2007 Letter from Mark Lebow, Esq. Landmark West and Opposition to CB7	01288-01289	0
March 21, 2007 LPC Certificate of Appropriateness	01290-01292	000215-000216
March 16, 2007 Letter Sugarman to Friedman & Gotbaum	01293-01296	000350-000352
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April 2, 2007 Variance Application Form BZ Applicant to BSA	01300-01300	000017-000017
April 2, 2007 DOB Objection Sheet for Applicant Project	01301-01301	000018-000018
April 2, 2007 Applicant Initial Statement in Support	01302-01331	000019-000048

April 2, 2007 Zoning Analysis From Application to BSA	01332-01332	000049-000049
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March 1, 2007 Applicant Radius Diagram from Application Package	01334-01334	000053-000053
April 2, 2007 (drawings dated March 27, 2007) As-of-Right Scheme A Drawings - Superseded by October 27, 2008	01335-01350	000069-00084
April 2, 2007 Existing Scheme Drawings - Superseded August 28, 2008	01351-01365	000054-00068
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April 2, 2007 Copies of the deeds CSI Initial Application	01449-01463	000168-000181
April 2, 2007 Affidavit of Ownership and Truth of Statement CSI Initial Application	01464-01464	000182-000182
April 2, 2007 Tax Exempt Organization Certification- CSI Initial Application	01465-01465	000183-000183
April 2, 2007 April 1-sic-2007 CSI Letter to BSA CSI Initial Application	01466-01467	000015-000016
April 4, 2007 FedEx Delivery Notice CSI to CB7 on Passover	01468-01468	Missing
April 3, 2007 Transmittal Letter to LW with Application	01469-01469	Missing
April 5, 2007 Letter Sugarman to Friedman Re Service on Passover	01470-01471	Missing
April 10, 2007 Court Complaint Landmark West v. DOB	01472-01538	Missing
April 10, 2007 Sugarman Letter to BSA Srinivasan and Collins	01539-01545	Missing

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April 17, 2007 BSA to Sugarman Response Letter with Documents	01546-01578	Missing
April 19, 2007 Letter from BSA to Sugarman re Recusal	01579-01579	Missing
April 23, 2007 Letter Friedman Gotbaum to BSA with Environmental Assessment 21 pages	01580-01600	000197-000197
April 23, 2007 Sugarman Letter Re Deficient BSA Application to BSA Windows	01601-01604	000217-000220
April 17, 2007 Letter Mulligan to Sugarman re FOIL December 19, 2006	01605-01637	Missing
April 26, 2007 Letter Sugarman to BSA Re Shadow Studies and Stale DOB Objections	01638-01642	000221-000226
April 26, 2007 Letter Sugarman to BSA re Deficient Application	01643-01647	Missing
April 24, 2007 Letter to NYC Boards of Standards and Appeals re Freedom of Information Law	01648-01651	Missing
May 1, 2007 Letter Sugarman to BSA re Deficient Application	01652-01657	000227-000232
May 9, 2007 Letter from Public Advocate to Sugarman	01658-01658	Missing
May 10, 2007 Letter BSA to Sugarman Denying FOIL Appeal	01659-01660	Missing
May 21, 2007 Letter Friedman to David Rosenberg	01661-01663	000235-000237
May 22, 2007 David Rosenberg Esq. To Friedman re Inconsistent Dates of Drawings	01664-01665	Missing
May 24, 2007 Letter Sugarman to BSA FOIL Request	01666-01670	Missing
May 29, 2007 Letter from BSA to Public Advocate Re Recusal	01671-01672	Missing
June 1, 2007 Letter BSA to Sugarman FOIL Response	01673-01708	Missing

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August 24, 2007 DOB Letter of Objection - Second Version	01796-01796	000348-000348
August 28, 2007 Existing Scheme Drawings Last Version	01797-01812	Missing
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August 28, 2007 AOR Scheme A Drawings -Superseded by October 22, 2007	01832-01847	Missing
August 28, 2007 AOR Scheme B Drawings	01848-01863	000437-000468
August 26, 2007 AOR Scheme C Drawings - Superseded October 27, 2007	01864-01879	Missing
September 6, 2007 Letter Freeman Frazier to BSA Responding to June 15, 2007 Notice of Objections	01880-01904	000283-000307
September 10, 2007 Statement in Support from CSI	01905-01940	000312-000347
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September 10, 2007 Comparison of Statement in Support to Earlier Version	01942-02004	Missing
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September 27, 2007 Bertrang Submission to BSA Attached to Lebow letter	02055-02063	000502-000507
September 27, 2007 Letter Mark Lebow Esq. to BSA With Bertrang Attachment	02064-02067	000508-000511

October 2, 2007 Sugarman Updated FOIL Request	02068-02069	Missing
October 3, 2007 Letter Public Advocate to Sugarman	02070-02070	Missing
October 12, 2007 BSA Objection Letter to Applicant - 22 Objections	02071-02074	000512-000515
October, 12, 2007 Letter BSA to Sugarman	02075-02075	Missing
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October 17, 2007 BSA to Public Advocate	02079-02079	Missing
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October 25, 2007 Letter CSI to BSA With Guide to Second Notice of Objections	02188-02189	000536-000537
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October 25, 2007 Redline of Statement in Support to Prior Versions	02245-02289	Missing
October 28, 2007 Untimely Notice of Public Hearing for November 27, 2007	02290-02295	000642-000647
October 29, 2007 Letter Sugarman to BSA objecting to Meeting	02296-02305	Missing
October 30, 2007 Letter Rosenberg Esq. to Friedman re DOB Documents	02306-02311	001620-001625
October 31, 2007 Letter Friedman & Gotbaum to Rosenberg re Access to DOB Files	02312-02313	001626-001627
October 31, 2007 Letter Mark Lebow Esq. o BSA Re Meeting Dates	02314-02316	001628-001630
November 2, 2007 Owner Howard Lepow in Opposition to BSA RE 18 West 70 Widnows	02317-02322	001631-001636
November 7, 2007 Letter Margaret Stix to Dick Gottfried Re Ex Parte Meetings	02323-02324	Missing
November 19, 2007 Land Use Committee Minutes CB7	02325-02326	002979-003159
November 14, 2007 Sugarman to BSA re Stix Letter re Recusal	02327-02328	Missing
November 16, 2007 Letter from Gottfried and Duane to BSA re Lack of Proper Notice	02329-02329	001647-001647

Petitioner Appendix A Volume 8 P-02330 to P-02641 Table of Contents	Appendix A "P" Page	BSA Record Page
November 29, 2007 CB7 Land Use Committee Transcript	02330-02375	002979-003159
November 19, 2007 Land Use Committee Meeting Minutes	02376-02378	002979-003159
November 21, 2007 Letter Kettaneh to BSA Opposing Variance	02379-02380	000648-000649
November 23, 2007 Letter Sugarman to BSA	02381-02387	001721-001725
November 27, 2007 Owner Ron Prince 18 West 70th presentation to BSA In Opposition	02388-02409	001814-001830
November 27, 2007 Sugarman Statement Letter to BSA at Hearing	02410-02412	001856-001858
November 20, 2007 Landmark West Opposition Statement Submission at Hearing	02413-02426	001666-001720
November 27, 2007 Photos and Graphics Submitted by Sugarman at Hearing	02427-02439	001831-001850
November 27, 2007 Transcript of First BSA Hearing	02440-02527	001726-001813
December 4, 2007 CB7 Hearing Transcript	02528-02553	003160-003263
December 4, 2007 CB7 Resolution Recommending Denial of All Variances	02554-02556	001886-001892
December 22, 2007 Freeman Submission	02557-02596	001968-002009
December 27, 2007 Four Revised Drawings Submitted by Applicant	02597-02600	002026-002029
December 27, 2007 AKRF Shadow Study of Park but Not Street	02601-02603	002023-002025
December 27, 2007 Drawings Programmatic	02604-02614	002009-002020
December 27, 2007 Applicant Submission Ex. E Tall Buildings	02615-02615	002021-002022
December 28, 2007 Submission Cover Letter	02616-02617	001896-001897
December 28, 2007 Submission 20 page letter	02618-02637	001898-001918
December 28, 2007 Ex. A Deed 10 West Submitted by Applicant	02638-02641	001918-001926

Petitioner Appendix A Volume 9 P-02642 to P-02956 Table of Contents	Appendix A "P" Page	BSA Record Page
December 28, 2007 Ex. B Applicant 1984 Zoning Resolution	02642-02680	001927-001967

January 25, 2008 Opposition Expert Levine Submission to BSA	02681-02683	002506-002508
January 28, 2008 Sugarman Letter in Opposition With Affirmation Re Exhibits	02684-02706	003295-003310
January 28, 2008 Sugarman Cover Letter With Summary Opposition	02707-02713	003288-003294
January 28, 2008 Landmark West Opposition Statement	02714-02729	003266-003281
January 28, 2008 Craig Morrison AIA Opposition Expert	02730-02735	003282-003287
January 28, 2008 Letter Rosenberg Esq. to BSA Objecting to Standing for Proceeding	02736-02746	002509-002543
January 28, 2008 Sugarman Affirmation With Exhibit Binder 1	02747-02762	003295-003310
January 28, 2008 Mark Lebow Esq. Cover Submission Letter	02763-02764	003264-003265
January 30, 2008 Freeman Frazier Reasonable Return	02765-02767	003608-003610
February 4, 2008 Letter from Platt Byard: Circulation Addressed in As Of Right Scheme	02768-02771	003611-003614
February 4, 2008 Letter to BSA In Response to Opposition - Refers to singling out Jack Rudin	02772-02774	003615-003617
February 7, 2008 Opposition Expert Letter from AIA Walter Melvin re 91 CPW	02775-02776	003618-003621
February 8, 2008 Sugarman Response to Feb Submission of Applicant Shearith Israel	02777-02784	003622-003629
February 8, 2008 Opposition Expert Levine re Freeman Feasibility Report Submitted At March Hearing	02785-02804	003630-003649
February 11, 2008 Craig Morrison AIA Opposition Expert	02805-02807	003650-003652
February 12, 2008 Bruce Simon Esq. Submitted Opposition Testimony	02808-02809	003759-003760
February 12, 2008 Second BSA Hearing Transcript	02810-02915	003653-003758
February 12, 2008 Opposition Letter Submitted at Hearing by Jay Greer	02916-02923	003810-003817
February 12, 2008 Elliot Sclar Opposition Expert Letter Re Contextual Zoning	02924-02925	003762-003763
February 12, 2008 Kate Wood LW Hearing Testimony	02926-02926	003761-003761
February 12, 2008 Letter Otis Pearsall to BSA re Mid-Block Zoning	02927-02956	003764-003793

Petitioner Appendix A Volume 10 P-02957 to P-03244 Table of Contents	Appendix A "P" Page	BSA Record Page
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February 12, 2008 Owner Ron Prince Submission to BSA re 18 West Windows in Opposition	02957-02969	003797-003809
February 12, 2008 91 Central Park West Floor Plan	02970-02970	0
February 12, 2008 Oppostion Testimony Submitted by State Senator Thomas Duane at Hearing	02971-02972	003794-003795
February 14, 2008 Letter BSA to Mark Lebow Esq. Re 18 West 70th Windows	02973-02973	003820-003820
February 21, 2008 Mark Lebow Esq. to Friedman re Drawings At Hearing	02974-02975	003823-003824
February 22, 2008 Freeman fax to BSA re Meeting with BSA staff	02976-02983	Missing
March 4, 2008 Letter Friedman & Gotbaum to Lebow Re Drawings Shown at Hearing	02984-02984	003825-003826
March 7, 2008 Sugarman to CB7 Letter With Attachments from Transcript	02985-02998	003827-003840
March 11, 2008 AKRF Responding to Questions	02999-03004	003878-003883
March 11, 2008 Letter Freeman Frazier to BSA	03005-03035	003847-003877
March 11, 2008 Letter Friedman to BSA With Enclosures and Discussion of Rear Variances and CB7 and Windows	03036-03041	003841-003846
March 11, 2008 Modified Drawings From Applicant	03042-03047	003890-003901
March 11, 2008 Program Usage Chart Submitted With Letter of Same Date	03048-03050	003884-003886
March 11, 2008 Applicant Submission - Zoning Map	03051-03054	
March 17, 2008 Sugarman Letter to BSA re Opposition Architect's Inspection	03055-03056	003906-003907
March 18, 2008 Opposition Expert Grubb and Ellis Re 18 West 70th Apartment Values	03057-03084	004107-004134
March 23, 2008 Susan Nial - Opposition Letter Brief	03085-03092	003908-003915
March 24, 2008 Craig Morrison AIA Opposition Expert	03093-03098	003930-003966
March 25, 2008 Sugarman Opposition Statement/Brief	03099-03114	003990-004005
March 25, 2008 Central Park West Soft Sites - Exhibit to Landmark West Submission	03115-03141	004023-004088
March 25, 2008 David Rosenberg Esq. Opposition Statement	03142-03163	004135-004155
March 28, 2008 Mark Lebow Esq. Cover Submission Letter	03164-03166	003967-003969
March 20, 2008 Opposition Expert Levine Response	03167-03180	004093-004106
March 25, 2008 Jay Greer Opposition re Programmatic Need Lower Floors	03181-03188	004006-004015
March 25, 2008 James Greer re Religious Funding Opposition	03189-03192	004016-004022

March 25, 2008 Kate Wood Landmark West Statement	03193-03204	003970-003981
March 28, 2008 Applicant Architect Expert Letter to BSA	03205-03207	004231-004244
April 1, 2008 Friedman Letter With Response and Cover Letter with Attachments	03208-03219	004222-004222
April 1, 2008 Freeman Letter to BSA Responding to Opposition	03220-03227	004223-004230
April 1, 2008 Friedman Letter With Response and Cover Letter	03228-03228	004222-004222
April 10, 2008 Mulford Opposition Letter to BSA Re As Of Right ROI	03229-03242	Missing
April 11, 2008 Sugarman FOIL Request to BSA Re Visits Etc.	03243-03244	Missing

Petitioner Appendix A Volume 11 P-03245 to P-03560 Table of Contents	Appendix A "P" Page	BSA Record Page
April 15, 2008 Transcript BSA Hearing	03245-03298	004462-004515
April 15, 2008 Jay Greer Opposition Statement - with Ex. LL Attached	03299-03307	004245-004248
April 15, 2008 Kate Wood Statement at Hearing	03308-03309	004517-004518
April 15, 2008 Metropolitan Valuation Services Opposition Expert Levine Report for Opposition	03310-03321	004254-004265
April 15, 2008 Susan Nial Opposition Letter Brief	03322-03335	003916-003929
April 15, 2008 Owner Ron Prince Prepared Statement at Hearing in Opposition	03336-03336	004516-004516
April 15, 2008 Katherine Davis Opposition Statement At Hearing	03337-03338	004526-004527
April 15, 2008 James Mulford Hearing Opposition Submission	03339-03341	004528-004530
April 21, 2008 BSA Responses to Sugarman FOIL Request of April 11, 2008	03342-03369	Missing
April 22, 2008 Sugarman to BSA Foil Request Re Rules	03370-03370	Missing
May 5, 2007 BSA to Sugarman FOIL Response re (b) Regulation	03371-03372	Missing
May 12, 2008 (submitted May 13, 2008) AKRF Full Environmental Study With Shadow Studies	03373-03428	004597-004647
May 13, 2008 Shearith Israel Zoning Analysis Filed With BSA May 13, 2008	03429-03429	004693-004693
May 13, 2008 Friedman & Gotbaum Cover Letter For Submission of Applicant	03430-03431	004531-004532

May 13, 2008 Statement in Support Filed May 13, 2008 (Stop Shearith Israel Variances)	03432-03493	004533-004596
May 13, 2008 Freeman Frasier Statement to BSA	03494-03517	004648-004671
May 13, 2008 Drawings for Proposed Courtyard Scheme Filed with BSA May 13, 2008 - Shearith Israel Variance Application New York City Zoning Variance	03518-03538	004672-004692
May 13, 2008 Parsonage Zoning Envelope Filed May 13, 2008 From Applicant	03539-03539	004694-004716
June 10, 2008 Katherine Davis Letter in Opposition With Acquisition Cost Information	03540-03560	004758-004783

Petitioner Appendix A Volume 12 P-03661 to P-03883 Table of Contents	Appendix A "P" Page	BSA Record Page
June 10, 2008 Kate Wood Misrepresentations in Applicant Submissions	03661-03670	004790-004799
June 10, 2008 Kate Wood LW Statement in Opposition	03671-03676	004790-004799
June 10, 2008 Susan Nial Opposition Letter Brief	03677-03683	004784-004789
June 17, 2008 AKRF - Environmental - Reply	03684-03687	004917-004920
June 17, 2008 Freeman Frazier - Reply of Congregation Shearith Israel to NYC BSA June 17, 2008 Variance Request New York City	03688-03741	004863-004916
June 17, 2008 Friedman Gotbaum Reply of Congregation Shearith Israel to NYC BSA June 17, 2008 Variance Request New York City	03742-03745	004859-004862
June 20, 2008 Sugarman to BSA Surreply Letter	03746-03752	004925-004931
June 19, 2008 Katherine Davis Opposition Letter Re Actual Attendance at Congregation Shearith Israel Services	03753-03756	004921-004924
June 23, 2008 Opposition Expert Levine Reply Statement Submitted at Hearing	03757-03761	004932-004936
June 24, 2008 Official Transcript BSA Hearing	03762-03799	004937-004974
July 8, 2008 Cover Letter Friedman & Gotbaum July 8, 2008	03800-03801	005112-005113
July 8, 2008 P-7 Revision Showing Room for Trash Storage	03802-03802	005182-005183
July 8, 2008 Freeman Frazier Submission	03803-03814	005170-005181
July 8, 2008 Applicant Statement in Support as compared to May 13, 2008 Statement Prepared by Alan Sugarman	03815-03822	005555-005563
July 8, 2008 Statement Filed July 8, 2008 - 55 pages	03823-03878	005114-005169

July 29, 2008 Opposition Letter Submission from Jay Greer Re Programmatic School Needs	03879-03883	005226-000228
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Petitioner Appendix A Volume 13 P-03884 to P-04243 Table of Contents	Appendix A "P" Page	BSA Record Page
July 29, 2008 LW Statement in Opposition	03884-03904	005189-005209
July 29, 2008 Cover Letter With Submission from Kate Wood LW	03905-03906	005187-005188
July 29, 2008 Levine Reply Statement Submitted at Hearing	03907-03922	005210-005225
July 29, 2008 (revised 7/31) Sugarman Post Hearing Statement in Opposition	03923-03951	005311-005339
August 12, 2008 Freeman Frazier Reply Letter With New Schedule	03952-03971	005772-005791
August 12, 2008 Cover Letter Friedman & Gotbaum to BSA Post Hearing Reply	03972-03972	005751-005751
August 12, 2008 Friedman & Gotbaum Reply Statement in Response	03973-03987	005752-005766
August 12, 2008 Reply Letter Platt Byard to BSA	03988-03988	005793-005793
August 12, 2008 Reply Letter Platt Byard to BSA	03989-03989	005792-005792
August 12, 2008 AKRF Reply Letter	03990-03994	005767-005771
Opp. Ex. NN Greer Submission June 24, 2008	03995-04062	005234-005300
Opp. Ex. OO June 24, 2008 Revised Greer Opposition Exhibit D with Usage of Classrooms and Charts	04063-04071	005301-005309
Opp. Ex. PP July 29, 2008 Table of Contents	04072-04072	005511-005638
Opp. Ex. PP-1 Resubmission of Sugarman Exhibit Introduced at Nov.	04073-04086	005512-005525
Opp. Ex. PP-14 Request for Recusal April 10, 2007	04087-04095	005526-005534
Opp. Ex. PP-21 Norman Marcus Testimony November 27, 2007 BSA	04096-04100	005535-005539
Opp. Ex. PP-25 July 29, 2008	04101-04106	005540-005545
Opp. Ex. PP-30 NYC Memo of Law June 14, 2004, Homes	04107-04115	005546-005563
Opp. Ex. PP-38 Changes CSI Statement July 8, 2008 Compared to	04116-04124	005555-005563
Opp. Ex. PP-46 NYC Bureau of Day Care and Dept. of Health Toddler Regs.	04125-04181	005564-005620
Opp. Ex. PP-103 FOIL Request to BSA re Finding (b) Regulations	04182-04183	005621-005622

Opp. Ex. PP-104 Response to FOIL Request re Finding (b) Regulations	04184-04186	005623-005625
Opp. Ex. PP-106 BSA Notice of Objections June 15, 2007	04187-04194	005626-005633
Opp. Ex. PP-113 BSA Notice of Objections October 12, 2007	04195-04199	005634-005638
June 10, 2008 Sugarman Further Statement in Opposition	04200-04240	004818-004858
Zoning Resolution 73-52 Modifications for Zoning Lots Divided by District Boundaries	04241-04241	Not Filed With BSA
Zoning Resolution 74-711 Landmark preservation in all districts	04242-04243	Not Filed With BSA
FILED WITH REVISED PETITION		
Location of Persons Filing Forms Consenting to and Objecting to Shearith Israel Project(Exhibit K to Revised Petition - January 2, 2009)	04244-04259	SEE 005189-005209
Comparison of Congregation "Expert" AKRF Shadow Model Fig. B-11(Exhibit L to Revised Petition - January 2, 2009)	04260-04260	SEE 005187-005188

Documents Supplied in BSA Record Not Included in Petitioners Appendix A

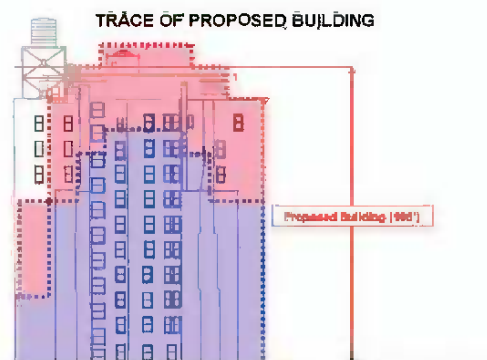
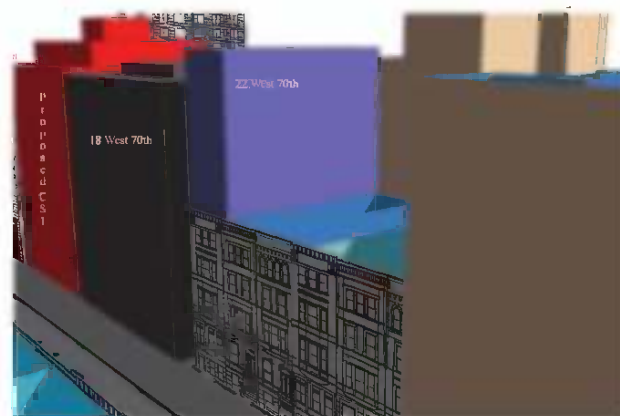
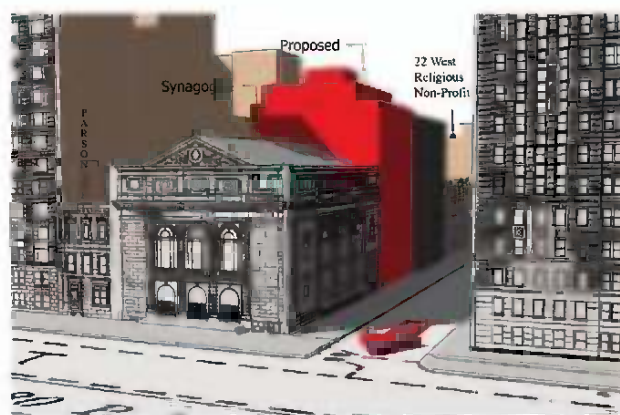
BSA Description	BSA Record No.
Letter from the Applicant to the BSA, dated April 3, 2007, transmitting notification of application letters to affected entities	000184-000196
Letter from Marc R. Daniel to BSA Chair Meenakshi Srinivasan, dated May 1, 2007, in opposition	000233-000234
Letter from David Rosenberg, Esq. on behalf of Landmark West to BSA Chair Meenakshi Srinivasan, dated May 25, 2007, in opposition	000238-000240
Letter from the Applicant to the BSA, dated September 12, 2007, transmitting notification of application letters to affected entities	000469-000471
Letter from Robert J. Jacobson, Jr. to BSA Chair Meenakshi Srinivasan, dated July 8, 2008, in opposition	000510-005111
Notices of Objection & Consent Returned to BSA by members of the public between November 2008 and February 2008	000650-001619
Letter from Susan Nial, Esq. to BSA Executive Director Jeff Mulligan, dated November 5, 2007, in opposition	001637-001640
Letter from BSA Executive Director Jeff Mulligan, to Howard Lepow, dated November 8, 2007, in response to October 31, 2007 letter	001641-001642

Letter from Helen Rosenthal, Chair, Manhattan Community Board 7 to BSA Chair Meenakshi Srinivasan, dated November 9, 2007, regarding hearing	001643-001643
Letter from BSA Executive Director Jeff Mulligan, to Helen Rosenthal, dated November 13, 2007, in response to November 9, 2007 letter	001644-001644
Facsimile from Friedman & Gotbaum to BSA, dated November 14, 2007, regarding proof of service of BSA objections	001645-001646
Letter from the Applicant to the BSA, dated November 19, 2007, transmitting proof of publication and service	001648-001663
Letter from Mark Lebow, Esq. (attorney for opposition) to BSA Chair Meenakshi Srinivasan, dated November 22, 2007, transmitting Landmark West opposition	001664-001665
Testimony Presented to BSA by Landmark West on November 27, 2007	001851-001852
Testimony Presented to BSA by Carnegie Hill Neighbors on November 27, 2007	001853-001853
Testimony Presented to BSA by NYS Senator Thomas K. Duane on November 27, 2007	001854-001855
Letter from Civitas to BSA Chair Meenakshi Srinivasan, dated November 27, 2007, in opposition	001859-001860
Testimony Presented to BSA by NYS Assembly Member Richard N. Gottfried on November 27, 2007	001861-001862
Facsimile Letter from Thomas Hansen to BSA Chair Meenakshi Srinivasan, dated November 27, 2007, in opposition	001863-001876
Landmarks Preservation Commission Environmental Review, dated November 28, 2007	001877-001877
Letter from James A. Greer, II to BSA Chair Meenakshi Srinivasan, dated November 28, 2007, in opposition	001878-001885
Letter from Friedman and Gotbaum (on behalf of Applicant) to BSA Chair Meenakshi Srinivasan, dated December 20, 2007, requesting extension	001893-001893

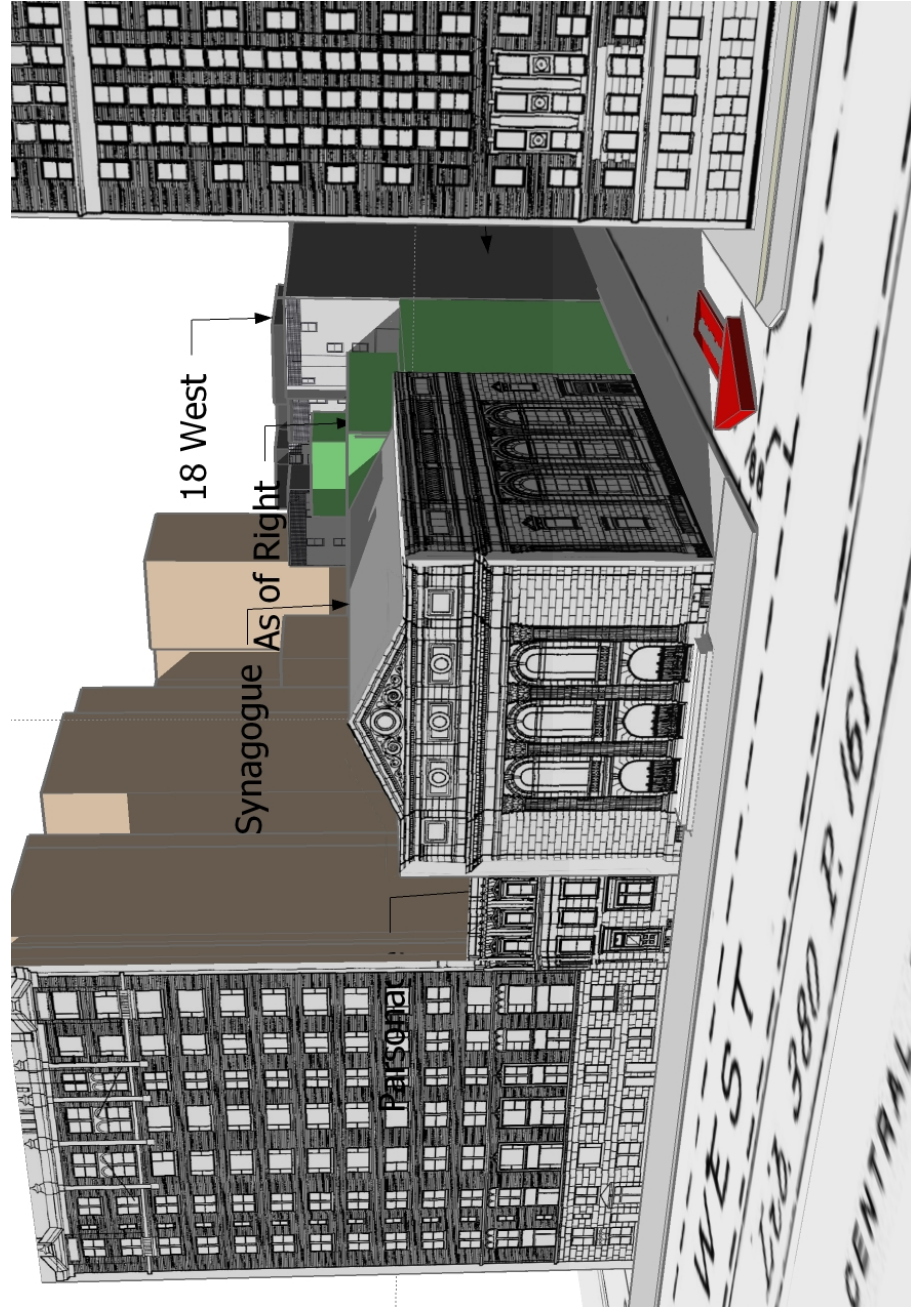
Corrected Letter from Friedman and Gotbaum (on behalf of Applicant) to BSA Chair Meenakshi Srinivasan, dated December 20, 2007, requesting extension	001894-001894
Letter from BSA Executive Director Jeff Mulligan to Friedman and Gotbaum (on behalf of Applicant) dated December 21, 2007, regarding extension	001895-001895
Landmark Preservation Commission Transcript, dated December 9, 2003 (submitted with Applicant's December 28, 2007 submission)	002275-002301
Landmark Preservation Commission Transcript, dated November 15, 2005 (submitted with Applicant's December 28, 2007 submission)	002302-002405
Letter from Mark Lebow, Esq. (attorney for opposition) to BSA Chair Meenakshi Srinivasan, dated January 7, 2008, requesting extension	002501-002502
Letter from BSA Executive Director Jeff Mulligan to Mark Lebow, Esq., dated January 14, 2008, regarding extension	002503-002503
Letter from Mark Lebow, Esq. (attorney for opposition) to BSA Chair Meenakshi Srinivasan, dated January, 17, 2008, in opposition (SIC NOTE-ACTUALLY FROM HOWARD LEPOW)	002504-002505
Letter from Kate Wood, Executive Director of Landmark West to BSA Chair Meenakshi Srinivasan, dated January 29, 2008 transmitting various transcripts	002544-002544
Testimony Presented to BSA by Naomi Usher on February 12, 2008	003796-003796
Letter from Marc D. Lebow, Esq., to BSA Executive Director Jeff Mulligan, dated February 19, 2008, transmitting documents at R. 3618, 3630, 3650 and 3764	003821-003822
Letter from Alan D. Sugarman, Esq. to BSA, dated March 14, 2008, transmitting letter to CB7	003902-003905
Copy of Letter from Susan Nial, Esq. to BSA Chari Meenakshi Srinivasan, dated March 23, in opposition	003982-003989
New York Times Article, dated November 1, 2006 (submitted with March 25, 2008 Lebow letter)	004089-004092
Letter from James E. Mulford, to BSA Chair Meenakshi Srinivasan, dated March 25, 2008, in opposition	004204-004212

Letter from Katherine L. Davis, to BSA Chair Meenakshi Srinivasan, dated March 31, 2008, in opposition	004213-004221
Testimony Presented to BSA by Craig Morrison, AIA on April 15, 2008	004519-004520
Testimony Presented to BSA by NYS Assembly Member Richard N. Gottfried on April 15, 2008	004521-004523
Testimony Presented to BSA by NYS Senator Thomas K. Duane on April 15, 2008	004524-004525
Development Plans Approved By BSA	004695-0044716
Letter from James A. Greer, II to BSA Chair Meenakshi Srinivasan, dated June 9, 2008, in opposition.	004717-004732
Letter from James E. Mulford, to BSA Chair Meenakshi Srinivasan, dated June 9, 2008, in opposition	004733-004757
Letter from Martin Levine, MAI to BSA Chair Meenakshi Srinivasan, dated June 10, 2008, regarding valuation on behalf of opposition	004800-004817
Testimony Presented to BSA by NYS Assembly Member Richard N. Gottfried on June 24, 2008	004975-004975
Testimony Presented to BSA by Landmark West on June 24, 2008	004984-004984
Testimony Presented to BSA by NYS Senator Thomas K. Duane on June 24, 2008	004985-004985
Testimony Presented to BSA by Ron Prince on June 24, 2008	004986-004990
Letter from Susan S. Ruttner to BSA Chair Meenakshi Srinivasan, dated June 26, 2008, in opposition	004991-004991
Letter from David W. Patterson to BSA Chair Meenakshi Srinivasan, dated June 26, 2008, in opposition	004992-004992
Letter from Kate Wood, Executive Director Landmark West to BSA Chair Meenakshi Srinivasan, dated June 26, 2008, in opposition	004993-004993
Letter from Anna Taam to BSA Chair Meenakshi Srinivasan, dated June 29, 2008, in opposition	005097-005097
Letter from Women's Club of New York to BSA Chair Meenakshi Srinivasan, dated July 1, 2008, in opposition	005098-005099
Letter from Joyce and Martin Mann to BSA Chair Meenakshi Srinivasan, dated June 30, 2008, in opposition	005100-005101

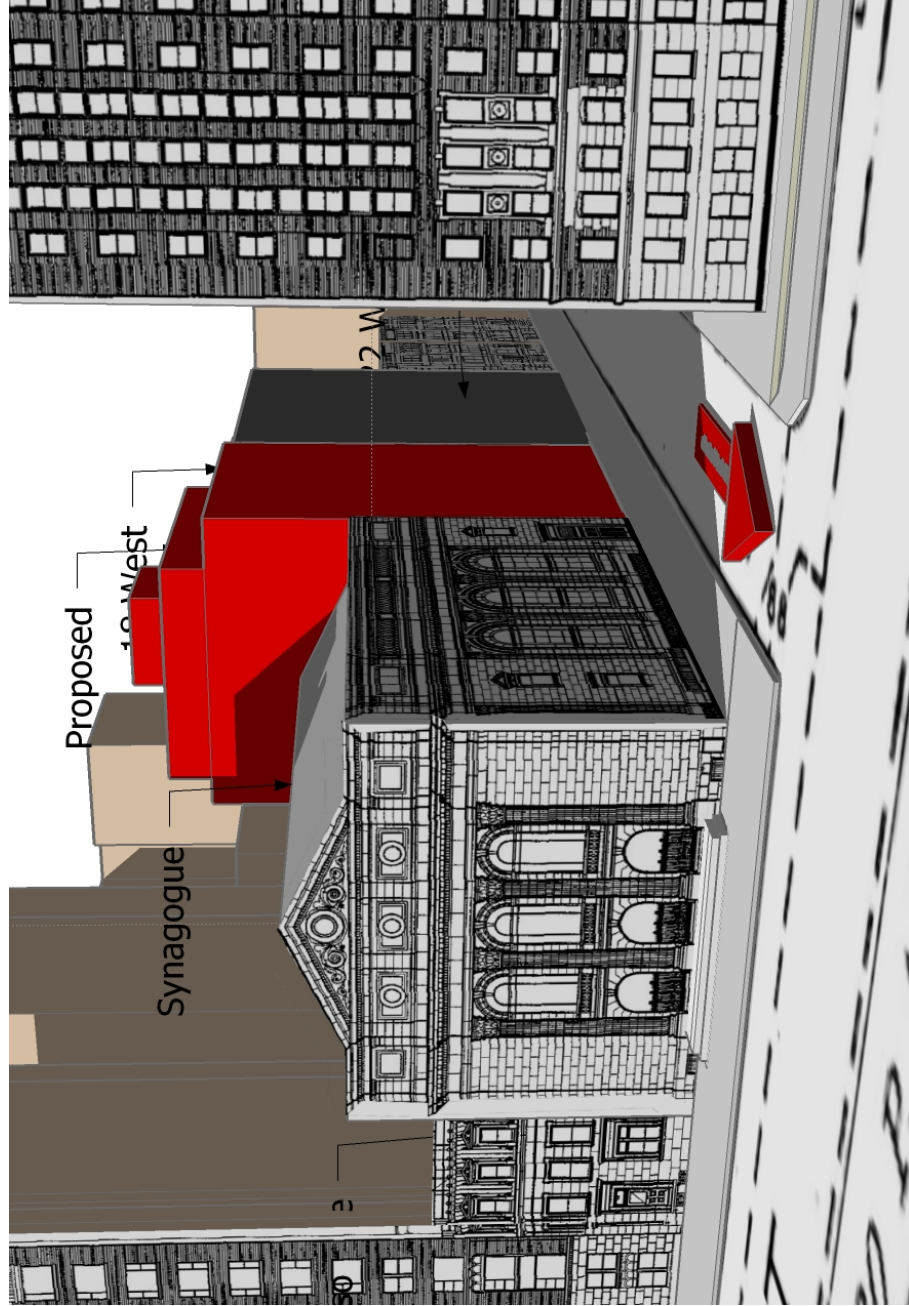
Letter from Gail Gregg to BSA Chair Meenakshi Srinivasan, dated June 30, 2008, in opposition	005102-005102
Letter from Kathleen McGee Treat to BSA Chair Meenakshi Srinivasan, dated July 6, 2008, in opposition	005103-005103
Letter from Adrienne & Thomas Lynch to BSA Chair Meenakshi Srinivasan, dated July 8, 2008, in opposition	005104-005104
Letter from Faith Steinberg to BSA Chair Meenakshi Srinivasan, dated July 8, 2008, in opposition	005105-005106
Letter from Gail Gregg to BSA Chair Meenakshi Srinivasan, dated June 30, 2008, in opposition	005107-005107
Letter from Kathleen McGee Treat to BSA Chair Meenakshi Srinivasan, dated July 6, 2008, in opposition	005108-005108
Letter from Adrienne & Thomas Lynch to BSA Chair Meenakshi Srinivasan, dated July 8, 2008, in opposition	005109-000509
Letter from Coalition for a Livable West Side to BSA Chair Meenakshi Srinivasan, dated July 9, 2008, in opposition	005184-005185
Letter from Katherine L. Davis, to BSA Chair Meenakshi Srinivasan, dated July 29, 2008, in opposition	005186-005186
Letter from Alan D. Sugarman, Esq. to Letter from Alan D. Sugarman, Esq. to BSA Chair Meenakshi Srinivasan, dated July 31, 2008, in opposition	005310-005310
Transcript of BSA Vote on Application held on August 26, 2008	005794-005794



As-of-Right (green)



Proposed- No Facade



BSA - MEETING RECORD

w/ Lori Cusinier

Date of the Meeting: 11/8/2006	Time of the Meeting: 11:30 A.M.
--------------------------------	---------------------------------

Topic of the Meeting:

10 West 70th Street, Manhattan

The purpose of the above referenced meeting is purely informational. The applicant(s) acknowledges that the views expressed at this meeting are those of individual commissioners and not the Board of Standards and Appeals. The applicant(s) further acknowledges that any discussions at this meeting are unofficial and have no bearing on the outcome of any proposed application to the Board of Standards and Appeals.

Meeting attendees, please PRINT your name and information here.

<u>Name</u>	<u>Organization</u>	<u>Telephone Number</u>
1) Meenakshi Srinivasan	BSA	
2) John Reisinger		
3) Joel Weiss	BSA	
4) Lori Cusinier	POB	
5) Shelly Friedman	FEB	
6) Jack Friedman	FFA	
7) Ray H. Doyen	PRDW	
8) Lauren Crowley	PRDW	212 691 2440 x120
9) Jeff Tullie	BSA	
10) Chris Collins	BSA	

Alan D. Sugarman
Attorney At Law

17 W. 70 Street
Suite 4
New York, NY 10023
212-873-1371
mobile 917-208-1516
fax 212-202-3524
sugarman@sugarlaw.com

June 20, 2007

Jeff Mulligan
Executive Director
NYC Board of Standards and Appeals
40 Rector Street - 9th Floor
New York, New York 10006

Re: BSA 74-07-BZ
Congregation Shearith Israel
6-10 West 70th Street/99 Central Park West
Block 1122 Lots 36. 37 - Manhattan

Dear Mr. Mulligan:

We have obtained a copy of BSA's June 15, 2007, Notice of Objections as to Congregation Shearith Israel's April 2, 2007 application to the BSA.

As you are aware, we have also been reviewing the application package and have some 63 supplemental comments based upon the BSA objections and our own review and analysis. It would be appropriate for us to provide these comments at this time.

There may be some duplication, but, we think it better to provide these immediately in order to be fair to CSI and so as to not create unneeded delay, should these objections be deemed to be significant either by BSA or CSI.

We have taken the BSA objections and the 63 Community objections and interpolated them into the April 2, 2007 CSI statement. This provides a useful document to understand the context of each objection. This resulting document is lengthy, and, for that reason, we are providing that to the BSA in electronic form by emailing it to Jed Weiss, at the address you provided in your letter: jweiss@dcas.nyc.gov. This version, with objections interpolated into the original CSI application statement, may be downloaded at http://www.protectwest70.org/2007-docs/2007-06-20-Community_Objections_To_CSI_Application_With_CSI_Statement.pdf.

Our comments make reference to other documents, including plans submitted by CSI to the LPC. It appears that there are significant dissimilarities from the plans submitted to BSA, including references to bedrooms in the parsonage, reference to the basement banquet hall, and the location of the small synagogue.

Accordingly, we are providing you with the following links to relevant documents.

000264

Alan Sugarman to Jeff Mulligan BSA
June 20 2007
Page 2 of 2

[Submissions by CIS to LPC in 2003 and subsequently.](http://www.protectwest70.org/drawing-renderings.html)
[http://www.protectwest70.org/drawing-renderings.html.](http://www.protectwest70.org/drawing-renderings.html)

[Landmark Designation](http://www.protectwest70.org/2003_documents_from_lpc/1974_Landmark_Designation.pdf)
http://www.protectwest70.org/2003_documents_from_lpc/1974_Landmark_Designation.pdf

[Restrictive Covenants on 8 West 70th Street - 1897.](http://www.protectwest70.org/2007-docs/1897_restrictive_covenants.pdf)
http://www.protectwest70.org/2007-docs/1897_restrictive_covenants.pdf

[Restrictive Covenants on 8 West 70th Street - 1941.](http://www.protectwest70.org/2007-docs/1941_restrictive_covenants.pdf)
http://www.protectwest70.org/2007-docs/1941_restrictive_covenants.pdf

Thank you very much.

Sincerely,



Alan D. Sugarman

cc:

Hon. Betsty Gotbaum, Public Advocate of the City of New York
Hon. Gale Brewer, New York City Council Member
Hon. Scott Stringer Manhattan Borough President
Hon. Richard N. Gottfried, State Assembly Member, District 64
Hon. Thomas K. Duane, State Senator, District 29
Hon. Sheldon J. Fine, Chair, Manhattan Community Board 7
Jed Weiss, Senior Examiner, BSA
Alan Gieger, Department of City Planning
Norman Marcus
Kate Wood, Executive Director, Landmarks West
Shelly Friedman, Esq., Friedman & Gotbaum LLP

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Community Objections Dated June 20, 2007

COMMUNITY OBJECTIONS TO CSI APPLICATION
June 20, 2007

On April 2, 2007, Congregation Shearith Israel ("CSI") submitted to the BSA a Statement in support of its variance application.

On June 15, 2007, the BSA issued to CSI a Notice of Objection to the application and supporting documents with 48 objections.

On June 20, 2007, after review of the BSA notice of objections, members of the Community herewith offer these further objections, in the belief that it would avoid delay and burden to CSI to not state these objections at this time while CSI is revising its submission.

Community objections to other documents are also provided. Because the CSI application is confusing, incomplete, and ambiguous, the Community reserves the right to offer further objections after CSI clarifies and corrects its the intentions and contentions. The Community objections are marked as follows:

COMMUNITY #1. References to accessibility and circulation, which appear to be the an integral component of the CSI argument for variances have marked in the separate version which include the objections interpolated into the original statement.

COMMUNITY #2. Page 1, last paragraph: The last paragraph refers to the Parsonage as originally serving as the Rabbi's Parsonage. The plans EX-8 and EX-9 show "rooms" and "bathrooms" on the three upper floors. The August 15, 2005 plans provided to LPC described these rooms as "bedrooms" and "living rooms." Subsequent to the LPC application being filed, has any part of the Parsonage been rented? The August 15, 2005 plans also showed that the small synagogue behind the Parsonage would be moved entirely to the new building. Please explain the change in assigned use and the proposed use of the rooms.

COMMUNITY #3. Page 1. Please supplement the statement to state that the vacant parcel was occupied by a townhouse acquired by the Congregation in 1965 and then demolished by the Congregation in 1970.

COMMUNITY #4. Page 1-2. Please supplement to state that the Synagogue Building was landmarked on March 19, 1974, but that the Congregation opposed the landmarking of the Parsonage building, according to the LPC designation of said date.

COMMUNITY #5. Page 2, at (1) in first full paragraph: The Statement contains countless references to circulation, access, stairs, elevators, and other related issues, as the most important factor to establish hardship, unique physical conditions, etc., although no precise description in the drawings or elsewhere has been presented. Instances of these references are marked as indicated.

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Community Objections Dated June 20, 2007

COMMUNITY #6. Page 2, second line from bottom: CSI states that the proposed building provides a “partial source of funding”. The Freeman/Frazier feasibility report includes hard construction costs for the entire proposed building, but does not provide overall costs for the entire project including soft costs. The Freeman/Frazier report does show, however, that the proposed building would generate a “return” of \$5,149,000 in Schedule A1. But, the report does not make clear that CSI would also receive a cash return of \$18,944,000, and thus the proposed project would generate a cash return of \$24,093,000. Construction cost estimates provided by Freeman/Frazier then show \$11,551,602 of construction cost for the “school.” Omitted from the Freeman/Frazier study is income to be generated from rental of the school, banquet hall, and perhaps the Parsonage. In addition, Congregation members and trustees should be expected to provide financial support for their institution. No financial information has been provided. Since CSI has prominently raised the issues of funding for these projects, it should provide complete disclosure of this information, or remove all direct and indirect references from its Application.

COMMUNITY #7. Page 3, end of continuing paragraph. Please revise to also include the percentage of the proposed building that will constitute residential and community, above and below grade.

COMMUNITY #8. Page 3, at (2) of first full paragraph: Please identify the substantial existing zoning noncompliance by the Synagogue.

COMMUNITY #9. Pages 3, 8 lines from bottom. Please correct the statement that LPC had approved the proposed building unanimously and include the statement of Commissioner Gratz opposing the proposed building.

COMMUNITY #10. Page 4-5: Please describe the relevance to this proceeding that descendants of prominent financiers may be current members of the Congregation. Please explain the relevance of the history of the Congregation to the matters before the BSA and explain whether, because of CSI’s history, CSI is suggesting it should receive variances not available to newer yeshivas and synagogues in Brooklyn.

COMMUNITY #11. Page 6, 7 lines from bottom: When the Trustees of the Congregation constructed the Synagogue in 1897, the Congregation had owned the land at 8 West 70th Street. In 1897, and again in 1941, the Congregation imposed restrictive covenants prohibiting the owners of 8 West 70th Street from constructing a building taller than the Synagogue building, in accordance with Jewish law and tradition which dictates that a Synagogue should be the tallest building in a community,. Although the restrictive covenants were extinguished by merger when CSI acquired 8 West 70th in 1949, the covenants are clear and convincing evidence of the intent of the earlier Trustees of the Congregation. Please explain how the current Trustees are following tradition and acting as stewards for the Synagogue, while not following the intent of the Trustees who funded and built the landmarked Synagogue building?

COMMUNITY #12. Page 7 at Top: Please explain the zoning law basis for transferring available floor area from the Synagogue footprint for use elsewhere on the zoning lot” in the present 72-21 variance proceeding.

COMMUNITY #13. Page 7 line 3 at (3); Please explain the zoning law basis for the “one-time monetization of zoning floor area through developing a moderate amount of residential space”

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Community Objections Dated June 20, 2007

COMMUNITY #14. Page 7, line 6, Current Uses and Conditions: Please correct the mistake here and elsewhere as to the direction worshippers face when praying and also revise the associated narrative.. This narrative concludes that there are alleged circulation issues based the direction of worship.. Because the premise of the narrative is not correct, please remove this rationale.

COMMUNITY #15. Page 7, line 6, Current Uses and Conditions: The application states that the Parsonage is part of the zoning lot. Please explain the current and proposed uses of the Parsonage, changes in uses from various plans submitted to the LPC and the BSA, and rental income of any type received subsequent to the LPC 2003 application.

COMMUNITY #16. Page 8, end of continuing paragraph: These side doors on West 70th Street are described in the March 19, 1974 Landmark Designation as follows: "The 70th Street entrance is composed of large double doors and a transom with a handsome grille surmounted by a full entablature with foliate copsoles." Please provide the width and angle of elevation of the "steep interior stairway to enter the foyer leading to the sanctuaries." Please provide documentation to establish that the original Trustees did not intend the West 70th Street entrance to be a primary entrance, given that it is practically located at the rear of the Sanctuary.. Also, please describe the access to the Sanctuary from the lobby of the existing Community House constructed in 1954 and the current elevator in that building which provides access to upper floors of the Sanctuary.

COMMUNITY #17. Page 8, end of page: Given that the existing Community House has a lobby and an elevator addressing these same issues of access, and since nothing in the Sanctuary is being altered in the proposed plans, please explain with particularity why the access deficiencies asserted cannot be remedied by modifying the current lobby and elevator in the front portion of the Community House.

COMMUNITY #18. Page 9, line 4: Elsewhere in multiple locations, it is stated that the existing Community House was constructed after demolishing the two rowhouses on the site. This is stated as well in the Landmark Designation. Perhaps the shared party wall still exists. What is the relevance of this statement, in any event?

COMMUNITY #19. Page 9, line 7: Please explain how ADA access is being provided at present.

COMMUNITY #20. Page 9, line 11: It is understood that some offices are located in the Parsonage. Please explain. Please explain why the Congregation would not let the Rabbi use the Parsonage?

COMMUNITY #21. Page 10, line 3: Please describe the relationship between the tenant school and CSI, describe the annual rental income received each year from the tenant school since the 2003 LPC application, explain the cost incurred by CSI and the tenant school for the renovations in the Community House in 2005 and 2006 shown on Department of Building records, and the new window openings of the west wall of the Community House in 2005 and 2006, as well s the costs relating to the temporary trailer. Please also describe foundation, plumbing, electrical, and other construction supporting the prefabricated building which is described as a temporary trailer, and provide the total cost and source of funds for the prefabricated building and associated construction.

COMMUNITY #22. Page 11, bulleted point starting "Expanded Small Synagogue": Please confirm that the plans submitted to the LPC in 2003 and 2005 showed that the Small Synagogue was to be moved completely

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Community Objections Dated June 20, 2007

to the new building. Please explain why the as-of-right and the proposed building have different configuration for the Small Synagogue.

COMMUNITY #23. Page 11 after bulleted points: Please describe with particularity the elevators serving the Community House and the Synagogue in the current and proposed building and describe in detail in each access point between the two structures, and identify on the drawings.. Please describe the differences between the lobby in the current and proposed building. Finally, please describe with particularity physical limitations in the current building that prohibit modifying the current lobby and elevator space to accommodate alleged circulation and access limitations.

COMMUNITY #24. Page 11, fist sentence, The Landmarks Approval Process: Please correct incorrect statement as to unanimous approval as discussed elsewhere.

COMMUNITY #25. Page 14, first full paragraph: Please remove this second full paragraph on page 14. This paragraph suggests that CSI is seeking a special permit, and this is not a special permit proceeding.

COMMUNITY #26. Page 14, First sentence of section "Zoning Lot... "...Please correct this statement. Property records show that CSI purchased 10 West 70th Street (which is in Tax Lot 37 where the vacant lot is located) on May 28, 1965. Please explain when and why 10 West 70th St. became part of a common zoning lot.

COMMUNITY #27.. Page 15:, end of continuing paragraph Please provide the number of square feet in the base plate for the notch, the number of square feet on each floor related to the notch, and the total number of square feet in the proposed and as of right building related to the notch, and compare to the total number of feet on each floor and to the entire building. A review of the drawings suggest that fewer than 200 square feet on all floors are affected here. Please explain why this is a substantial factor of any relevance to the variance application.

COMMUNITY #28. Page 16. line 1: Please elaborate on the assertion that the existing Synagogue and Community House already exceed permitted lot coverage, explain whether this use is grandfathered, and explain the relevance to this proceeding.

COMMUNITY #29. Page 16, line 3: Please explain why an as of right building does not provide a feasible use. Also, please explain why CSI does not modify its proposal so that for zoning purposes, the existing Community House structure cannot be used to grandfather a rebuilt structure on the same location.

COMMUNITY #30. Page 16, last paragraph: Since there is no setback for the first floor, no issues are presented as to "adjacencies" between the proposed building and the Synagogue on the first floor. On Floors 2-4 of the as-of-right building, no connections appear between the proposed building and the Synagogue in the rear 30 feet of the lot. All connections including the lobby connection and the elevator access, to the extent disclosed, appear within the front 70 feet of the building (the lot being 100 feet deep). Please explain then the "appropriate connections between the Synagogue and the New Building" affected by rear setbacks.

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Community Objections Dated June 20, 2007

COMMUNITY #31. Page 17, first paragraph: Please correct the narrative at the top of Page 17 to correctly reflect the history of the site. There were only three rowhouses on the 64 foot wide Lot 37. Refer to the Landmark Designation study by LPC in 1975 which has an accurate history. Please provide a legal basis for stating that the lots have been merged into Lot 37.

COMMUNITY #32. Page 17, first paragraph: states that "No use or bulk modifications have occurred since 1954." Please discuss the 1954 certificate of occupancy and the then existing uses and occupancy and the current uses and occupancy and describe in detail any review process at the City and Community Board level in which uses and occupancy level changes were sought and approved. Also include any approvals of usage for banquet hall rental for non-Congregation functions. Please describe the trailer as a prefabricated building.

COMMUNITY #33. Page 17, Second sentence of "The New Building Development Program": Please explain in detail why modification to access and egress for the sanctuaries could not be accomplished within the footprint and volume of the existing community house building, and certainly within the footprint of the as-of-right building. Please identify unambiguously, and without repetition, all of the access and egress points existing now and in the proposed building.

COMMUNITY #34. Page 17, two lines from bottom: The drawings for the proposed building do not show multiple elevator banks for use by the community space. There is one elevator shown on the east side of the building for community use. There appear to be two banks for residential, one for apartment residents, and the other for service for the apartments. Please explain and explain the use of the plural as to the number of elevators providing access to the balcony seating

COMMUNITY #35. Page 18, line 3: Please explain why the plans approved by LPC did not show an enlargement of the Little Synagogue, but showed a relocation of the Little Synagogue.

COMMUNITY #36. Page 18, Supplement BSA # 11, please state the average number of congregation and worshippers that attend Friday evening and Saturday morning services on none holiday Sabbaths. Please also state the percentage of families and worshippers that do not have their primary residence within New York City.

COMMUNITY #37.. Page 18, bottom: It is a misleading characterization to state that The residential floor area uses only 16 percent of the zoning lot's available zoning floor area. This statement makes the yet to be substantiated assumption that unused floor area from the landmarked Synagogue can be applied to the Community Building. Please substantiate the legal position as to why using a percentage of the entire zoning lot is relevant to the 72-21 proceeding before the BSA. Also, please provide the percentage of the proposed building that are allocated to residential and community, which we compute to be 51% and 49% respectively, based upon above ground space.

COMMUNITY #38. Page 20, (2) in first text paragraph: Please describe and identify the source, with particularity, of (a) requirements to align its streetwall with the existing Synagogue building; and (b) requirements to align its east elevation with the existing Synagogue building, and then describe how these alleged requirements related to specific alleged hardships. To the extent to which CSI relies in any part on the 40 foot separation, please describe why reconstruction of the current building would not meet its requirements.

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Community Objections Dated June 20, 2007

COMMUNITY #39. Page 20, last sentence, first text paragraph: Please identify the regulatory constraints, and, also explain why alleged restraints unrelated to the landmark status would constitute a “unique physical condition” under 72-21(a).

COMMUNITY #40. Page 21, second line: According to Department of Buildings records, in 2005 and 2006 over \$350,000 was spent by CSI in order to renovate rentable school space in the Community House. Please explain why CSI did not use the funds to alleviate the alleged access needs. Please state whether CSI’s failure to clean the façade of the existing community house and its permitting window air conditioners, drain hoses, and wiring to deface the facade of the Community House is intended to provide the impression that the building is in very poor condition. Please describe any DOB violations that exist on the property at present.

COMMUNITY #41. Page 21, just before discussion of Lot Coverage. Please describe the role of the New Building in providing circulation space that is not provided in the as-of-right building, assuming that BSA were to grant a variance only for the 40 foot building separation.

COMMUNITY #42. Page 24, before discussion of condition (b). Please describe the role of the New Building in providing circulation space that is not provided in the as-of-right building, assuming that a variance only for the 40 foot building separation was issued by the BSA. If the variance for building separation only were granted, please describe how the New Building provides better circulation than would an as-of-right building with the building separation waiver.

COMMUNITY #43. Page 25: In addition to noting the lot-line windows as required in BSA # 22, please also note others windows in the east face and court of 18 West which would have their light and air affected or both the as-of-right, lesser variance and proposed scenarios and provide a detail drawing with the information for lot line and affected windows.

COMMUNITY #44. Page 25, before first full paragraph. In 2005 before the Community Board, CSI stated that the proposed building was too small to have a developer. Does the financial feasibility study then suggest a hypothetical developer? Since the study assigns a land value of \$18,944,000 as a cost, does this not mean that cash in this amount would be returned to CSI, and, that, on a cash basis, if CSI were the developer, CSI would not be cash negative? The study states that the residential sellable area in the as of right proposal would be 5,002 sq ft., which the report then assigns a land cost of \$18,944,000, or \$3,787.29 per square foot, which is far higher than the selling price per sq. ft. of an apartment.. Does this not then suggest that the land cost to allocate to residential has been greatly exaggerated, or even “cooked.” Please explain.

COMMUNITY #45. Page 25, Conclusion of Discussion re (b). In this scenario with a profit of \$5,149,00, CSI would receive a cash payment of \$18,944,000. If CSI acted as its own developer, as it represented to the Community Board, then it would receive cash in the amount of \$24,093,000. Please explain.

COMMUNITY #46. Page 25, Discussion re (c), line 6. Please describe the increase in usage of a fully developed day school and banquet hall and the impact on the neighborhood. Please explain how a relatively small school use somehow was increased in student usage from the 1954 certificate of occupancy and what regulatory review was provided in approving this increase.

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Community Objections Dated June 20, 2007

COMMUNITY #47. Page 26, before first full paragraph: In 2003, LPC was provided with limited shadow studies showing the impact of the proposed 14 story building upon the West 70th street. After the quick rejection of the proposal by LPC, even though it has a completed shadow computer model, CSI has consistently failed to provide shadow studies of West 70th street, showing the impact comparing the as of right to the proposed building. Please explain why member of the community should not be provided with these studies before the application for the building is considered. Please explain why owners of building on the north side of West 70th Street should not have CSI provide shadow studies to show the impact on their building.

COMMUNITY #48. Page 26, Before heading” The Practical Difficulties:: In addition, please note the number and location of windows in the alcove (or inset) in 18 West 70 street, which will have light and air affected for both the as-of-right, lesser variance (see BSA Objections # 30-31) and proposed scenarios.

COMMUNITY #49. Page 27, First Continuing Paragraph: Please explain if the access issues alleged throughout the Statement was not completely resolved with the 1954 construction which added a lobby and an elevators addressing these issues, why in the last two years CSI has invested over \$500,000 in renovations to the existing building which did not address these alleged mission critical urgent problems? Is not CSI’s decision not to remedy these issues within the existing building a self-imposed condition, unrelated to any conditions inherent in the zoning lot.

COMMUNITY #50. Page 28, First Full Paragraph: Please explain why a variance as to the 40 foot separation alone would not resolve all of the access, circulation, and barrier-free issues alleged in this CSI statement.

COMMUNITY #51. Page 28, Conclusion: Please provide a detailed description of the sources and application of funds for the \$9 million restoration, and as well explain the recorded covenant from the Marty and Dorothy Silverman Foundation dated February 2003 on the property and the financing it reflects. Please explain the allocation in annual membership dues and fees attributable to building acquisition and finance costs. Please describe the contributions for the restoration received from major donors, trustees and donors who are descendants of earlier members of the Congregation.. If unwilling to disclose this information, please omit all references to the cost of restoration from the Application and accompanying exhibits

COMMUNITY #52. EXISTING CONDITIONS DRAWINGS : Please provide enlarged and annotated details and cross-sections showing all elevators, stairs, and access points between the existing community building and the Synagogue and Parsonage.

COMMUNITY #53. AS-OF RIGHT CONDITIONS DRAWINGS: AOR-2. Please provide an additional table showing the proposed floor area schedule, which includes only information relating to the proposed building and not for the entire zoning lot, such as the following table:

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Community Objections Dated June 20, 2007

AS OF RIGHT SCHEME DRAWING AOR-2							
	R8B - Community	R10A- Community	R8B- Residential	R10A- Residential	Community	Residential	Total Per Floor
C2	4,723.50	1,918.10			6,641.60	0.00	6,641.60
C1	3,247.68	1,602.44	1,447.82	315.66	4,850.12	1,763.48	6,613.60
Below Grade Total	7,971.18	3,520.54	1,447.82	315.66	11,491.72	1,763.48	13,255.20
					0.00	0.00	0.00
1 (20 ft. tall)	3,670.36	1,918.10	1,053.14	0.00	5,588.46	1,053.14	6,641.60
2	2,880.01	1,918.50	433.49	0.00	4,798.51	433.49	5,232.00
3	2,890.01	1,918.50	423.39	0.00	4,808.51	423.39	5,231.90
4	2,916.00	1,918.50	397.50	0.00	4,834.50	397.50	5,232.00
5			3,315.50	1,198.50		4,514.00	4,514.00
6-PH			2,138.50	943.50		3,082.00	3,082.00
Above Grade Total	12,366.38	7,673.60	7,761.52	2,142.00	20,029.98	9,903.62	29,933.50
							0.00
							0.00
							0.00
Total	20,327.56	11,194.14	9,209.34	2,457.66	31,521.70	11,667.00	43,188.70
Adjustment For Developable Sq. Ft. First Floor					5,588.46	1,053.14	6,641.60
Adjusted Total Developable Sq. Ft.					25,618.44	10,956.66	36,575.10
PerCent					70%	30%	100%

COMMUNITY #54. PROPOSED CONDITIONS DRAWINGS: P-2. Please provide an additional table showing the proposed floor area schedule, which includes only information relating to the proposed building and not for the entire zoning lot, such as the following table:

FROM PROPOSED SCHEME DRAWING P-2							
Use	R8B - Community	R10A- Community	R8B- Residential	R10A- Residential	Community	Residential	Total Per Floor
C2	4,723.50	1,918.10			6,641.60	0.00	8,559.70
C1	3,247.68	1,602.44	1,447.82	315.66	4,850.12	1,763.48	9,979.52
Below Grade Total	7,971.18	3,520.54	1,447.82	315.66	11,491.72	1,763.48	18,539.22
					0.00	0.00	0.00
1 (20 ft. tall)	3,670.36	1,918.10	1,053.14	0.00	5,588.46	1,053.14	6,641.60
2	3,409.50	1,368.50	374.00	0.00	4,778.00	374.00	5,152.00
3	3,409.50	1,368.50	374.00	0.00	4,778.00	374.00	5,152.00
4	3,409.50	1,368.50	407.00	0.00	4,778.00	407.00	5,185.00
5			3,315.50	1,198.50	0.00	4,514.00	4,514.00
6			3,315.50	1,198.50	0.00	4,514.00	4,514.00
7			3,315.50	1,198.50	0.00	4,514.00	4,514.00
8			3,315.50	1,198.50	0.00	4,514.00	4,514.00
PH			2,423.30	379.49	0.00	2,802.79	2,802.79
Above Grade Total	13,898.86	6,023.60	17,893.44	5,173.49	19,922.46	23,066.93	42,989.39
					0.00	0.00	
					0.00	0.00	
Total	21,870.04	9,544.14	19,341.26	5,489.15	31,414.18	24,830.41	61,528.61
Adjustment For Developable Sq. Ft. First Floor					5,588.46	1,053.14	6,641.60
Adjusted Total Developable Sq. Ft.					25,510.92	24,120.07	49,630.99
PerCent					51%	49%	100%

COMMUNITY #55. PROPOSED CONDITIONS DRAWINGS: Please provide enlarged and annotated details and cross-sections showing all elevators, stairs, and access points between the proposed community building and the Synagogue and Parsonage. This comment applies as well to the lesser-variance and as-of-right drawings.

COMMUNITY #56. Please provide the complete sets of drawings provided to the LPC in 2003, 2005, and 2006.

COMMUNITY #57. FEASIBILITY STUDY: Please provide the complete project cost for the residential and community space including soft and hard costs. Also provide a cash analysis wherein the cash receipt based upon land value is added into the return on investment below the line, assuming CSI acts as its own developer.

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Community Objections Dated June 20, 2007

COMMUNITY #58. FEASIBILITY STUDY: Please provide tables and computations for return on investment in which the land cost is allocated based upon residential and community use, and is not all assigned to the residential use.

COMMUNITY #59. FEASIBILITY STUDY: For comparative purposes, provide tables and computations for return on investment as if the entire 37,899 sq. ft. of potential residential zoning floor area were developed as residential space.

COMMUNITY #60. CEQR REVIEW / EAS: Please provide photographs of adjoining buildings faces in their entirety as required by BSA rules and also describe with numerical information the windows in 18 West 70th Street affected in any way by the proposed as compared to as-of-right construction.

COMMUNITY #61. CEQR REVIEW / EAS: In addition to shadow studies of Central Park, please provide shadow studies showing the comparable impact of the as-of-right and proposed buildings on West 70th Street and upon the rear building of West 69th Street. Please explain why it is applicant's position that light and air at the street level is not a relevant factor as to a 72-21 variance.

COMMUNITY #62. CEQR REVIEW / EAS: Please provide information respecting the impact of use of the project for banquet hall purposes including traffic, parking, traffic interruption and honking horns, and garbage storage and disposal. Provide the same information as to the expanded school uses.

COMMUNITY #63. Please describe the current on-street no parking zone established for the Congregation and whether the Congregation intends to request a further on-street no parking zone

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List of Exhibits to Revised Verified Petition

Exhibit A	Reformatted BSA August 26, 2006 Decision with Numbered Paragraphs	P-00019	See R-000001-R-000024
Exhibit B	Table of Contents to Appendix A — 13 Volumes - Revised January 2, 2009 to Show BSA Record References		Not in BSA Record
Exhibit C	Color 3-D Graphics of Project	P-00434 P-02429 P-02430	R-003571 R-001833 R-001834
Exhibit D	BSA Meeting Record November 8, 2006 Improper Ex Parte Meeting	P-01245	Not in BSA Record
Exhibit E	June 27, 2007 Community Objections to BSA	P-01777	R-000263
Exhibit F	July 29, 2008 Letter to BSA of Martin Levine, Metropolitan Valuation Services	P-03907	R-005210
Exhibit G	Letter Dated February 4, 2008 from Charles Platt to BSA Re Access Hardships Being Resolved by Conforming Building	P-02768	R-003611
Exhibit H	Graphic Showing Areas of New Building Addressing Access and Circulation and Showing Lower Floor Variances Filed as Opp. Ex. GG-12 and GG-10.	P-00477, P-00475	R-004156 at P-004168 R-004156 at P-004166
Exhibit I	Letter of April 10, 2007 from Alan D. Sugarman to Srinivasan and Collins Requesting Recusal	P-04088	R-005511 at R-005638
Exhibit J	Programmatic Drawings Floors 2, 3, 4	P-02606-08	R-002009- R-002012
Exhibit K - new 1/2/09	Analysis of Consent Forms Submitted by Respondent BSA on December 2, 2008 in the BSA Record.	P-04244-59	SEE 005189- 005209
Exhibit L New 1/2/09	West 70th Street Shadows December 21, 10 AM, Shadow Study versus Actual Photographs	P-04260-60	SEE 005187- 005188

METROPOLITAN VALUATION SERVICES

REAL ESTATE CONSULTING AND APPRAISAL

July 29, 2008

Hon. Meenakshi Srinivasan, Chairperson
New York City Board of Standards and Appeals
40 Rector Street
New York, NY 10007

re: Congregation Shearith Israel
6-10 West 70th Street
New York, NY
74-07-BZ

Dear Chairperson Srinivasan:

This letter is written in response to the nine submissions presented to the Board by Freeman/Frazier from April 2, 2007 through July 8, 2007 in this matter. Despite repeated requests from the Board and opponents, there is no single document that contains Freeman/Frazier's analysis and conclusions. Freeman/Frazier introduces further confusion by using inconsistent terminology from submission to submission and by providing incomplete documentation, and, even by making simple arithmetic errors. And, Freeman Frazier's submission basically ignores the BSA Guidelines.

It seems that these feasibility studies, as they were, are intended for two purposes under the variance procedure. The analysis of the conforming as-of right schemes are intended to determine whether the owner of the property can earn a reasonable return under Zoning Resolution 77-21 (b).

The analysis of the various proposed schemes is, I am led to understand, intended to ascertain whether the proposed buildings are the minimum variance under 72-21(e). As to finding (e) and the proposed schemes, I have not focused on those because it is overwhelming clear that under any rational analysis, a reasonable return can be earned from subject property in the conforming as-of-right schemes.

Of most concern is the lack of transparency in the Freeman/Frazier submissions. Information is either absent or incomplete. Valuation and planning assumptions are in constant flux and data is not consistent from submission to submission. Our inability to deconstruct their sales value assumptions and construction cost estimates has led to our repeated requests for more information. Finally, in their June 17, 2008 submission, Freeman/Frazier presented a comprehensive sales and cost analysis of two development schemes. Our review reveals that the Freeman/Frazier analysis contains extremely flawed and biased assumptions, resulting in an upward swing of more than \$2,000,000 in their profit calculations. The cost figures clearly indicate that there is a major error in the allocation of costs between the school and the residential condominium, as the entire fourth floor (which is school and caretaker's apartment) has been included in the residential component cost allocation. This will be discussed further.

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Hon. Meenakshi Srinivasan, Chairperson
 New York City Board of Standards and Appeals
 July 29, 2008
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The first AOR Scheme - Scheme A

The Applicant has submitted two conforming as -of-right schemes. The first scheme shown and included in the initial April, 2007 application is AOR Scheme A which consists of a four-floor community house with two condominium floors above. The latest drawings for this scheme appear to be those dated October 24, 2007 (which is included in the exhibit compilation, Opposition Exhibit MM submitted herewith, as Opp. Ex. MM-125.) Freeman Frazier uses various descriptors for this scheme, including in the latest July 8, 2008 submission "Revised As of Right CF/Residential Development" (Opp. Ex. MM-112).

After Scheme A was received by the BSA, the BSA issued a Notice of Objection on June 15, 2007 which included the following:

36. *Please provide a full plan set for a complying, 4.0 FAR residential building on Lot 36 that includes a BSA waiver for ZR § 23-711 (Standard Minimum Distance Between Buildings).*
37. *Provided that the alleged hardship claim for the development site (Lot 36) is an inability to accommodate CSI's programmatic needs on Lot 37, please analyze a complying, fully residential development on Lot 36 as requested within Objection # 31. This analysis is requested for the purposes of gauging what the economic potential of the development site would be without the alleged hardship.*

The second AOR Scheme - Scheme C - the so-called All Residential Scheme

In response to this request, the Applicant responded with drawings for As-Of-Right Scheme C (also referred to as FAR 4.0 All Residential) and Freeman/Frazier provided on October 24, 2007 an analysis of this scheme (See. Opp. Ex. KK-84). However, the scheme submitted was not in fact all residential, as Freeman/Frazier explains on page 26 in their December 21, 2007 submission, KK-123 "*The new development consists of a ground floor residential and synagogue lobby and core, and floors 2-7 would be for sale condominium units.*" It appears that Freeman/Frazier never provided an AOR All Residential Analysis of the Site 37 as requested by the BSA on June 15, 2007. The Applicant failed to respond to the Board's request in another significant manner: in the Scheme C building, Applicant decided to omit the quite valuable sub-basement with 6,400 square feet of space. Thus, responding accurately to the Board's request would have added over 11,000 square feet of space to the Scheme C analysis, thereby radically altering the profit analysis.

In any event, despite the mountain of submissions by Freeman/Frazier, the task of analyzing the return on the two floors of condominium in Scheme A is fairly simple - the two floors have, according to the Applicant, a gross above-grade residential area of 9,638 square feet and a built residential area of 7,594 square feet. Instead of using a rational approach of simply multiplying these areas by a unit value of say \$500 per square foot, Freeman/Frazier has used the so-called acquisition cost, and has irrationally and somewhat bizarrely included the value of the

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unused buildable space over the adjoining parcel as the method to determine the value of the site. Thus, according to Freeman/Frazier, the value of the site is \$2,323 per square foot of building area, a value which is completely irrational. No rational developer would ever accept that the market value of this space is in that stratosphere. Even the highest comparable that Freeman/Frazier could find for prime land with park views was \$825 a square foot, demonstrating that their valuation methodology and conclusions are fully without merit.

Freeman/Frazier's contention that the property located on Lot 37 is not economically feasible to develop with a conforming as of right building is also completely without merit. This level, rectangular site, located just off Central Park West, is zoned to permit multifamily construction and can easily accommodate development of a highly marketable, and likewise profitable, condominium.

Instead of responding to the Board's request to provide a single document comparing the current proposed scheme to earlier as-of-right schemes, Freeman/Frazier present in their July 8, 2008 submission yet additional scenarios and valuations, none of which directly addresses the simple issue before the Board, "Does this site possess such unique physical conditions that prevent development of the site from achieving a reasonable return on investment, either by analyzing an all-residential as of right building, or by analyzing a bifurcated two floor condominium project?"

Freeman/Frazier's latest submission presents yet another attempt to obfuscate responding to the most basic variance submission requirement through yet another series of incomplete, misleading and erroneous forecasts. Although there are a myriad of issues that can be raised regarding the submissions, we will limit our observations to the most egregious errors of methodology and judgment by which Freeman/Frazier have attempted to prove that the as of right development on Lot 37 is not economically feasible to develop with an as of right building.

Reasonable return is to be determined in accordance with the Board of Standards and Appeals rules for preparing an application as contained within "Detailed Instructions for Completing BZ Application" and in accordance with the ruling of the New York State courts which have considered the issue of "reasonable return" in zoning cases. In my opinion, these instructions are consistent with valuation practices generally followed by real estate valuation professionals.

The following are the directions (identified in *italics*) for completing the Financial Feasibility Study as contained within Item M of the instructions.

Generally, for cooperative or condominium development proposals, the following information is required: market value of the property, acquisition costs and date of acquisition; hard and soft costs (if applicable); total development costs; construction/rehabilitation financing (if applicable); equity; breakdown of projected sellout by square footage, floor and unit mix; sales/marketing expenses; net sellout value; net

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*profit (net sellout value less total development costs); and percentage return on equity
(net profit divided by equity).*

The Market Value of the Property

Although the instructions refer to "market value of the property", oddly Freeman/Frazier has used another descriptor - acquisition cost, which further distorts the manipulations of value that followed.

By overstating the market value of the property (i.e. the site value), Freeman/Frazier have added millions of dollars to the cost of the project. They accomplish this in four ways: first by charging the proposed development for buildable square footage whether or not it is actually being delivered as part of the proposed development package; second, by charging the development for buildable area that cannot be utilized (which is far in excess of market norms); third, by using an inflated unit value for the land; and fourth by using the available square feet transferred from the adjacent parsonage as the area to multiply by the square foot price.

In their July 8, 2008 submission (Opp. Ex MM – 122) Freeman/Frazier present a "Revised as of Right CF/Residential Development" scenario in which the built residential area is listed as 7,594 square feet and the acquisition cost is \$12,347,000. The acquisition cost was estimated previously in their submission of May 13, 2008 to be \$625 per square foot of zoning building area (Opp. Ex MM – 29) with a building area 19,755 square feet, indicating a value of \$12,347,000. It defies all common sense and economic logic to charge the development for 19,755 square feet when only 7,594 square feet is being built. This is perfectly illustrated by the absurdity of the financial projections which show that the sale of finished condominium apartments is almost equal to the cost of the land alone. Further, the same acquisition cost is charged to the development of a 22,352 square foot building. Clearly, this type of land development analysis is not based on any market-based economic theory. Simple revision of the "Revised as of Right CF/Residential Development" to reflect purchase of 7,594 square feet of building area rather than 22,352 square feet results in a gain of about \$10,000,000 in the estimated profit.

Freeman/Frazier have presented in their most recent July 8, 2008 submission four development alternatives, which are summarized on page 10 of their report and contained on Opp. Ex. MM-115. These various scenarios all illustrate the architect's calculations of gross and sellable residential square footage. We note that the utilization ratios range between 55% and 69%, indicating that between 31% and 45% of the gross building area is not sellable. This is far in excess of the more typical 15% ratio exhibited by most newly built condominiums in the market. It is clear that a very substantial component of this loss accrues on the ground through fourth floors, accounting for between 29% and 47% of the total loss. There are several serious flaws with this methodology. Most importantly, Freeman/Frazier are charging the prospective development for building area (in the form of vertical penetration for elevators and fire stairs)

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they cannot use that results entirely from the programmatic requirements resulting from Congregation Shearith Israel's use of the ground, second, third and fourth floors. This is in clear violation of Section 72-21 of the Zoning Resolution of the City of New York which states "that the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title; however where all other required findings are made, the purchase of a zoning lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship;" Clearly, this is a self-created hardship, because absent the programming needs of the Congregation, there would no need to add all that extra, unusable vertical access space. Freeman/Frazier should have estimated the square footage used excluding the space wasted in bringing residents past the Congregation space. While all development projects have some proportion of space that is used for circulation and is not sellable, it is inconceivable any potential developer would pay for this much non-sellable space. Freeman/Frazier should have utilized a more rational methodology and not charged the development for the unused space. Correction of this fault would increase the profitability estimates by more than \$1,000,000.

Also of concern is the evident bias employed in estimating the sellable area and charging the residential component for the full floor area utilized by the internal fire staircases. Referring to Opp. Ex. MM 152, 153 and 154, the only evident fire stairs for the school on the second, third and fourth floors are those servicing the residential component above. Charging the residential development for these areas, which comprises almost 14% of the buildable residential area in the "Revised as of Right CF/Residential Development" scenario is inexcusable. Further, one has the question the rationality of the architectural program whereby these two scenarios, which have a total of between two and five residential apartments, are provided with and charged development costs for a passenger elevator, a service elevator and a lobby large enough to have seating, a concierge/security desk, and storage closet. Clearly, this is not a reasonable design program. This is especially apparent as to the two-apartment condominium AOR Scheme A. Indeed, repeatedly, in Scheme A, Freeman/Frazier and the Applicant act as if this is a 40-unit condominium building and provide all of the accoutrements and overhead entailed in such a complex undertaking. Not only does the design include features unreasonable for a two apartment condominium development, but the soft costs are inflated as well. It is hard to imagine, for example, a marketing budget of \$198,000 and carrying costs during the sales period of \$419,000 for two condominium units that would probably be pre-sold prior to construction.

Whereas the May 13, 2008 submission has finally given up on the notion that this site is not worth \$750 per square foot of developable building area, they have selected a completely new set of sales comparables and even a new methodology and proceeding in their flawed analysis to arrive at a value of \$625 per square foot of developable building area and then irrationally applied this unit value to the unused air rights above the Parsonage. A technical error lies in their mathematics, whereby they commit a fundamental appraisal flaw by adding all the

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adjustments together to a single sum (including the time adjustment) before multiplying the price paid per square foot. Appraisal fundamentals state that the time adjustment is applied first, and then the other adjustments are added and multiplied against the time adjusted sale price of each comparable. The result of this error to overstate the indicated values by about \$10 per square foot. More problematic, however, are the time adjustments themselves. Continued insistence that the prices for development sites has continued to increase, in spite of everything evident in the market place, can only be characterized as misleading. Further, Freeman/Frazier have applied an additional 10% upward adjustment to account for the "premium associated with the upper floor location" of the subject property. As illustrated by the architectural drawings, the residential building proposed in this latest machination is only nine floors, a height fully achievable in the comparable sales. This misrepresentation of physical facts is yet another attempt to over-estimate the underlying land value so as to distort economic feasibility. Overall, the Freeman/Frazier exaggeration errors equate to about 20%, indicating a value of about \$500 per square foot, as was maintained by us in our previous reviews. Revision of this assumption would add about \$3,000,000 to each of the profitability estimates.

Another error is the completely illogical and irrational inclusion of the value of the remaining unused buildable floor area over the adjacent Parsonage parcel. Thus, by this logic, the "acquisition cost" would be the same whether Lot 27 was a 20 foot wide lot or a 200 foot wide lot. Incorporation of the unused development rights from the adjoining parcel is completely irrelevant to the analysis of the site in question. The applicant acknowledges that there is no need to average or transfer any development rights from any other part of the zoning lot because the FAR of the site assuming all R8B of 4.0 permits 25,600 square feet of building area (6,400 square foot site times 4.0 FAR), with no averaging required. The 17 foot R-10A portion of the lot permits an FAR of 10.0. So, quite clearly, not averaging or transferring of development rights from the Parsonage is required for the AOR Scheme A building. Accordingly, there is no what logical basis for using Parsonage development rights to value the two floors of residential condominiums.

Freeman/Frazier's methodology disguises the fact that the proper "acquisition cost" for the proposed schemes should be the market value of the site without any variance. Thus, by using the development rights from another site, this subterfuge is hidden. It is my understanding that in matters of zoning, the analysis of reasonable return is to value of the land without a variance, not with the variance.

Application of a uniform acquisition cost of \$12,347,000 is not rational and defies the dictates of the BSA's own instructions. Freeman/Frazier have consistent refused to produce an economic analysis of an as of right all residential building, as requested by the BSA. Rather, they have presented mixed-use buildings, and claim to have only analyzed the residential component thereof. Because these mixed-use building designs all contain multiple floors of non-residential school space, they require much greater than normal vertical transportation. This is the result of

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the applicant's program criteria and is not the result of any inherent site condition. Accordingly, the Freeman/Frazier computations all contain excess charges that accrue to the detriment of economic feasibility. As was illustrated, simple correction of the aforementioned flaws results in very different profit and economic feasibility conclusions.

Freeman/Frazier denies that they are over-charging development by recasting our objection to their methodology. In their latest submission of July 8, 2008, Freeman/Frazier states at page 4 and 5 (Opp. Ex. 107-108:

"The MVS Report erroneously suggests that the site value estimated is for the entire building lot and that such entire building lot estimated value is improperly allocated only to the residential development portion. In fact, only the residential portion of the building lot has been valued, as requested by the BSA. As discussed in previous responses to the MVS Reports, the methods used to determine the acquisition cost are consistent the methods used, and no requests have been made by the Board to modify the methods used."

The fact is that they apply the same market value/acquisition cost to the two-floor condominium in AOR Scheme A as to the acquisition cost for the Proposed Scheme. Clearly, the basis for the acquisition cost in the latest version is the irrational use of the transferred air rights over the parsonage. Accordingly, we stand by our statement. The proper method is to determine the market value of the property without a variance. The market value of the two floor two-unit condominium should be determined by multiplying the developable area on these two floors by the appropriate price per square foot of developable building area.

We also note the failure of the Applicant to provide information as to the original acquisition cost of the property. Not only do BSA standards require this information, but this information is required by court precedent as described in briefs filed by counsel for the Opponents. The (b) finding and court precedent do not refer to reasonable return to a hypothetical developer, but to the reasonable return to the owner. This is particularly important because of the way in which Freeman/Frazier relies upon the excessive "acquisition cost" valuation to depress the return to their hypothetical developer. But, because the "acquisition cost" is accruing to the owner (the Congregation), the exaggerated sums are merely increasing the return to the owner. Thus, Freeman/Frazier's approach is flawed and irrational and, the significance of the original cost of acquiring the property (for which the Congregation here obtained economic value during the ownership - for example, the rent from Beit Rabban and use of the facilities), is obvious in any rational valuation.

The Community Space Valuation

The BSA asked for, also in that same objection letter of June 15, 2007, recognizing that in AOR Scheme A the Applicant retained value in the community facilities.

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35. *Although it is recognized that Congregation Shearith Israel has not-for-profit status, for the purpose of this study, please ascribe standard market-rate rents for community facility space based on comparables rents in the vicinity of the subject site for both the as-of-right and proposed scenarios.*

Although the Applicant did provide a partial response to this request as to only the school facilities, it seemed never to have fully valued all the space in the building. For example, it never provided a valuation of the 6,400 square foot proposed banquet hall. As to the school facilities, Freeman/Frazier used highly inferior spaces located in older buildings for comparables, yet failed to use the best comparable of all; the rental currently being paid by Beit Rabban for the school space that is actually located within the Shearith Israel building which the Applicant describes as deteriorating and obsolete, where rent is currently about \$490,000 a year (Opp. Ex. HH-1-7). Although the BSA rules require the Applicant to disclose current income, this was not done. Had Freeman/Frazier produced this lease, they could not have concluded to a projected rent as low as was projected by relying on faulty comparables.

Construction Costs

Construction costs consists of the base construction costs (the "hard" costs) and all other charges, including financing, architects, engineers, and marketing (the "soft" costs). Freeman/Frazier has estimated the construction costs attributable the residential component using the cost engineer's apportioned cost estimates. We have objected to this methodology in the past as being arbitrary, as the apportioned cost estimates do not necessarily reflect the contribution each component makes to the entire cost structure. For example, the entire cost of the roof is charged to the residential component, all of the staircases, and a portion of the excavation cost. These allocations are incorrect for a number of reasons. The school requires a roof and fully utilizes the basement and should therefore be charged for such.

Review of the construction costs is made extremely difficult as the cost estimates for the very important AOR Schemes A and C are each missing 13 pages. Further, the cost estimates refer to the Platt Byard plans but do not indicate their dates.

The cost estimates include allocations of costs between the school and residential components. There is no explanation of the basis for these allocations. There is no explanation as to why exits required by codes for schools and the service elevator being used by the school are allocated to the residences, which apparently was done. There is not explanation as to why the school is not charged the cost of the roof - which would be required for the school. These are all arbitrary allocations with no explanation, and some are clearly lacking any rational logic.

Examination of the Freeman/Frazier development costs reveals that financing charges remain an unusually high charge against profitability. These costs, which include the total cost of borrowing money for development, comprise an atypically high 58% of soft cost in the "Revised

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as of Right CF/Residential Development” scenario and 64% in the “Revised Proposed Development” scenario. Typically, financing costs for newly constructed condominiums in New York City equate to no more than 20% of hard costs. The reason the Freeman/Frazier financing costs are so high are twofold: first, both scenarios charge very high financing charges against the development profit to finance the acquisition of a dramatically over-stated site acquisition cost. Second, Freeman/Frazier have repeated a cost inflating error (previously brought to light in prior opposition statements) in that they charge the property utilizing 95% construction loan financing, versus their stated 75% ratio in the “Revised Proposed Development” scenario. This extra financing results in an erroneous charge of more than \$800,000.

The Freeman/Frazier submission dated June 17, 2008 (Opp. Ex. MM-50) contains comprehensive information regarding both architectural plans with accompanying detailed cost estimates. Review of these plans reveals very clearly that Applicant has charged the residential condominium component for building the entire fourth floor, which is occupied fully by the school and caretaker's apartment (Opp. Ex. MM-154 shows the fourth floor as per architect's drawings). This is demonstrated on pages 18 and 21 of their report (Opp. Ex. MM-68&71) which clearly shows that the gross residential building area is being charged to the residential component is 25,728 square feet. This matches precisely to the 25,728 square feet of gross enclosed area contained on the chart on page 22 of their report (Opp. Ex. MM-72) which shows 5,098 square feet on the fourth floor, 4,458 square feet on the fifth floor, 4,293 square feet on each of the sixth, seventh and eighth floors, 2,743 square feet on the penthouse and 550 square feet on the roof. This error is quite substantial, resulting in an overcharge of more than \$2,000,000 to the residential component of the project.

Notwithstanding these aforementioned construction cost discrepancies, of greater concern is the entire approach that has been utilized to estimate the construction cost of the residential component only. As the mission of Shearith Israel is to construct expansion space for their congregation religious, educational and social programs, and the expansion in fact represents the bulk of the new building, a more accurate, less subjective, unbiased method to calculate the construction cost for the residential component in a profitability analysis would be to first estimate the cost of constructing only a school facility on the site. A second cost estimate of the total cost of constructing the proposed mixed-use school and residential condominium should then be estimated. The appropriate incremental cost to be applied in an economic feasibility analysis would thus be calculated as the difference between the total cost of the mixed-use facility and the school facility only. We are quite confident that such an analysis would result in a very different cost estimate for the residential component.

Profit

BSA guidelines (“Detailed Instructions for Completing BZ Applications”) define profit as “net sellout value less total development costs;” and measure profitability as the “percentage return on equity (net profit divided by equity).” Freeman/Frazier's latest submission still refuses to

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calculate profit consistent with BSA instructions. Objecting to previously written criticism of their methodology, they state on page 7 of their May 13, 2008 submission "We note that the measure used at the BSA is annualized rate of return on an unleveraged basis. This methodology appropriately considers the profit or loss from the net sales proceeds less the total project development costs. This is the methodology that we follow." Quite inexplicably and without any reasonable explanation, Freeman/Frazier continues to process their feasibility calculation assuming financing, and charging the development millions of dollars in interest and other borrowing costs. Disingenuously, and irrationally, they effectively calculate the return on equity, but compare not the equity investment, but rather the total project investment as the percentage return. This error is egregious and illogical; calculated correctly, even Freeman/Frazier's distorted value assumptions prove that development is economically feasible *without any variances*. Further, they analyze profit based upon a formula of their own invention, as the "annualized return on total investment." Nowhere in the BSA guidelines is this formula cited.

Financing charges total \$2,297,000 of total costs in the "Revised as of Right CF/Residential Development" scenario of Freeman/Frazier's July 8, 2008 submission (Opp. Ex. MM – 113). In the "Revised Proposed Development" scenario finance charges total \$4,033,000. These cost figures are quite significant, especially so when considering that Freeman/Frazier contradicts their own claim that financing costs should not be considered (as their view of investment analysis supposes an unleveraged investment).

Freeman/Frazier continues to employ financial assumptions and analysis designed to find that development is not economically feasible. By the time profit is calculated for the "Revised as of Right CF/Residential Development" scenario, Freeman/Frazier has already pumped up the acquisition cost by 300% and included finance charges equal to 18% of the sale price of a finished condominium unit. Further, construction costs are distorted by the apparent use of a demonstrably biased and erroneous technique. Finally, their analysis of profit is based upon a formula contrary to BSA dictates.

FINAL REVIEW CONCLUSIONS

Economic feasibility is measured by subtracting from the as if constructed property value the cost of site acquisition and cost of development. The remaining dollars, if any, represent the profit. By both gross and subtle manipulation of the assumed values and costs, Freeman/Frazier attempt to create the illusion that this property suffers from some sort of economic hardship. The cumulative effect of their machinations speaks for itself. In their "Revised as of Right CF/Residential Development" presentation dated July 8, 2008, the site acquisition cost of \$12,347,000 equates to \$1,626 per square foot of built residential area. This is 2.6 times greater than their own avowed land value of \$625 per square foot of buildable area (Opp. Ex. MM -29). Next, they use a questionable methodology and proven erroneous cost allocations to estimate total construction costs at \$7,699,000. This equates to \$1,104 per square foot, a figure far greater than typical in the market and one that is almost double their own per

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square foot cost estimate in the side by side "Revised Proposed Development" scenario. Predictably, an absurd acquisition cost and hyper-inflated costs result in a negative profit indication.

Of greatest concern is our perception that Applicant has methodically withheld information and deliberately misled the BSA in their presentations. This is best illustrated by their statement on page 6 of their July 8, 2008 submission (Opp. Ex. MM-110):

"It appears from these comments that Mr. Sugarman has neither the knowledge or experience necessary to understand the details contained in the construction cost estimates provided or is trying to mislead the BSA. As described in response to the MVS Report, above, the cost of the caretaker's apartment, which is accessory to the community facility space, is appropriately allocated to the community facility construction costs."

As was previously illustrated, it would appear the it is the Applicant that *"has neither the knowledge or experience necessary to understand the details contained in the construction cost estimates provided or is trying to mislead the BSA."* We suspect that the Applicant has hidden other charges and misallocations to the residential component, for how else could they arrive at construction costs which are double industry norms. Further, this error is probably endemic to all Applicant's submissions, resulting in faulty profit estimates wrong by more than \$2,000,000 in Applicant's favor.

We are both trouble and puzzled by Freeman/Frazier's reliance on their repeated statement of justification for their questionable procedures and methodology as contained within their July 8, 2008 letter (Opp. Ex. M:M-110) that:

"As stated above, in our response to a similar concern expressed in the MVS Report, the methodology utilized in our submissions is typical for BSA condominium project applications, and has been a long standing accepted practice at the BSA."

It would appear that Freeman/Frazier are absolving them self from rendering expert opinion and judgment, but rather are merely processing mathematical models. By making this statement they absolve them self of professional responsibility and authority for the conclusions that result. Accordingly, the value of their opinions concerning feasibility are worthless.

Repeated attempts by Freeman/Frazier to prove that this regularly shaped rectangular level site, located just off Central Park West is not economically feasible to develop within as of right zoning criteria is a notion that defies rational discussion. Through gross distortions, manipulative and questionable arithmetic, uncertain and apparent bias in the apportionment of construction costs, unsound economic assertions and conflicting value assumptions, does the

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applicant make a case for economic hardship. Given the enormity of the flaws, errors and misrepresentations contained within all their submissions, it should be a simple matter to conclude that granting a variance based upon economic hardship is totally without merit.

This review has been presented within a Restricted Format report and report has been prepared in conformity with and subject to the Code of Professional Ethics and Standards of Professional Appraisal Practice (USPAP) as promulgated by the Appraisal Standards Board of the Appraisal Foundation. The report contains recognized methods and techniques that materially contribute to a proper evaluation of the real estate problem under consideration. The report has been prepared subject to the attached Basic Assumptions and Limiting Conditions. The depth of discussion contained in this presentation is specific to the Zoning Variance Application for 6-10 West 70th Street and can only be relied upon by a reader familiar with the subject property and the referenced application. We are not responsible for any unauthorized use of this restricted format report. This reporting format is in compliance with the specific guidelines of Standard 2-2 of USPAP. This report should not be construed to represent an appraisal of the premises, as we were not engaged to appraise the site, but rather to review the Feasibility Study and its conclusions.

Please do not hesitate to contact us with any questions you may have regarding our assumptions, observations or conclusions.

Very truly yours,

METROPOLITAN VALUATION SERVICES, INC.

By: Martin B. Levine, MAI
Chairman
NY Certification 46000003834

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ASSUMPTIONS AND LIMITING CONDITIONS

This report has been prepared under the following general assumptions and limiting conditions:

1. No opinion is intended to be expressed and no responsibility is assumed for the legal description or for any matters which are legal in nature or require legal expertise or specialized knowledge beyond that of a real estate appraiser.
2. Title to the property is assumed to be good and marketable and the property is assumed to be free and clear of all liens unless otherwise stated. All mortgages, liens and encumbrances have been disregarded unless so specified within this report.
3. The appraiser has made no legal survey nor have we commissioned one to be prepared. Therefore, reference to a sketch, plat, diagram or previous survey appearing in the report is only for the purpose of assisting the reader to visualize the property.
4. The subject property is analyzed as though under responsible ownership and competent management with adequate financial resources to operate the property within market parameters.
5. It is assumed in this analysis that there were no hidden or unapparent conditions of the property, subsoil, or structures, including hazardous waste conditions, which would render it more or less valuable. No responsibility is assumed for such conditions or for engineering which may be required to discover them.
6. Information furnished by others is believed to be reliable. However, no warranty is given for its accuracy. Some information contained within this report may have been provided by the owner of the property, or by persons in the employ of the owner. Neither the consultant nor Metropolitan Valuation Services, Inc. ("MVS") shall be responsible for the accuracy or completeness of such information. Should there be any material error in the information provided to or obtained by the consultant; the results of this report are subject to review and revision.
7. The consultant assumes that no hazardous wastes exist on or in the subject property unless otherwise stated in this report. The existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The consultant has no knowledge of the existence of such materials on or in the subject property. The consultant however, is not qualified to detect such substances or detrimental environmental conditions. The consultant has inspected the subject property with the due diligence expected of a professional real estate appraiser. The consultant is not qualified to detect hazardous waste and/or toxic materials. Any comment by the consultants that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The value estimates rendered in this report are predicated upon the assumption that there is no such material on or affecting the property which would cause a diminution in value. No responsibility is assumed by the appraiser for any such conditions, or for any expertise or environmental engineering knowledge required to discover same. The client is urged to retain an expert in this field if so desired.
8. The consultants have inspected the exterior of the subject property with the due diligence expected of a professional real estate appraiser. MVS assumes no responsibility for the soundness the property's structural or mechanical systems and components. We accept no responsibility for considerations requiring expertise in other professional fields. Such considerations include, but are not limited to, soils and seismic stability, civil, mechanical, electrical, structural and other engineering and environmental matters.
9. It is assumed that there is full compliance with all applicable federal, state, and local land use laws and environmental regulations and unless non-compliance is noted, described, and considered herein.
10. The Americans with Disabilities Act (ADA) became effective January 26, 1992. The appraiser has not made a specific compliance survey and/or analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more elements of the ADA. If so, this fact could have a negative effect upon the value of the property. Since the appraiser has no direct evidence relating to this issue, the appraiser did not consider possible noncompliance with the requirements of the ADA in estimating the value of the subject property.

*Hon. Meenakshi Srinivasan, Chairperson
New York City Board of Standards and Appeals
July 29, 2008
Page 14*

11. It is assumed that all required licenses, consents or other legislative or administrative authority from any local, state or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based.
12. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the consultant, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without prior written consent and approval of the appraisers.
13. Unless prior arrangements have been made, the consultant, by reason of this report, is not required to give further consultation or testimony, or to be in attendance in court with reference to the property that is the subject of this report.
14. Unless otherwise noted, this report has not given any specific consideration to the contributory or separate value of any mineral and/or timber rights associated with the subject real estate.
15. Disclosure of the contents of this report is governed by the Bylaws and Regulations of the Appraisal Institute.
16. This report has been made subject to current market terms of financing. The opinions cited herein are valid only as of the date of report. Any changes that take place either within the property or the market subsequent to that date of value can have a significant impact on value.
17. Forecasted income and expenses that may be contained within this report may be based upon lease summaries and operating expense statements provided by the owner or third parties. MVS assumes no responsibility for the authenticity or completeness of such data.
18. This report is intended to be used in its entirety; if not presented in its entirety, the conclusions presented herein may be misleading.
19. This report has been prepared for the exclusive benefit of the addressee (the client), its successors and/or assigns. It may not be used or relied upon by any other party. Any other parties who use or rely upon any information in this report without our written consent do so at their own risk. Any person or entity not authorized by MVS in writing to use or rely this report, agrees to indemnify and hold MVS and its respective shareholders, directors, officers and employees, harmless from and against all damages, expenses, claims and costs, including attorneys fees, incurred in conjunction with defending any claim arising from or in any way connected to the use of, or reliance upon, the report by any such unauthorized person or entity.

Extraordinary Assumptions

An extraordinary assumption is defined as an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal or economic characteristics of the subject property or about conditions external to the property, such as market conditions or trends, or the integrity of data used in an analysis.

This report employs no extraordinary assumptions.

Hypothetical Conditions

A hypothetical condition is defined as .that which is contrary to what exists, but is supposed for the purpose of analysis. Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property or about conditions external to the property, such as market conditions or trends, or the integrity of data used in an analysis.

This report employs no hypothetical conditions.

*Hon. Meenakshi Srinivasan, Chairperson
New York City Board of Standards and Appeals
July 29, 2008
Page 15*

CERTIFICATE OF APPRAISAL

I, Martin B. Levine, MAI certify that to the best of my knowledge and belief that:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and is our personal, unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and we have no personal interest or bias with respect to the parties involved.

My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice and the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.

This appraisal was not prepared in conjunction with a request for a specific value or a value within a given range or predicated upon loan approval.

Martin B. Levine, MAI has made a personal inspection of the exterior of the premises which is the subject of this appraisal. Martin B. Levine, MAI has extensive experience in the appraisal of similar properties.

The Appraisal Institute conducts a program of continuing professional education for its designated members. MAI and RM members who meet minimum standards of this program are awarded periodic education certification. I, Martin B. Levine, MAI am not currently certified under the Appraisal Institute's continuing education program.

Martin B. Levine, MAI has been duly certified to transact business as a Real Estate General Appraiser (New York State certification #46000003834).

No one provided significant professional assistance to the person signing this report.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

METROPOLITAN VALUATION SERVICES, INC.

By: Martin B. Levine, MAI
Chairman

METROPOLITAN VALUATION SERVICES
REAL ESTATE CONSULTING AND APPRAISAL

005224

*Hon. Meenakshi Srinivasan, Chairperson
New York City Board of Standards and Appeals
July 29, 2008
Page 16*

MARTIN B. LEVINE, MAI
CHAIRMAN - METROPOLITAN VALUATION SERVICES

MARTIN B. LEVINE is a co-founder of Metropolitan Valuation Services, Inc. Mr. Levine is primarily responsible for the appraisal of commercial, non-multifamily properties, as well as for the company's quality control, reporting format, staff development and business relationships.

Mr. Levine has more than 33 years of experience in real estate appraisal. During his career Mr. Levine has appraised virtually every property type and performed a vast array of consulting assignments including feasibility and alternative use studies. Mr. Levine's clients include local, regional, national and foreign banks, Wall Street conduits, insurance companies, pension funds, private investors, government agencies and attorneys.

As a former executive vice president of a national valuation and due diligence firm for fourteen years, Mr. Levine oversaw one of the largest staff of professional appraisers in the Metropolitan New York area. Mr. Levine's responsibilities included marketing and professional oversight of five appraisal teams led by specialists in Metropolitan New York commercial and multifamily valuation, hospitality, retail, and New Jersey. Appraisal assignments included trophy office buildings, regional shopping centers, major industrial complexes, large-scale multifamily complexes and hotels. Properties appraised were concentrated in Metropolitan New York, but many clients utilized the firm for their national assignments, including multi-property portfolios.

Previous appraisal experience includes eleven years at The Chase Manhattan Bank, where Mr. Levine managed the largest institutional appraisal staff in New York City and oversaw all appraisals conducted for bank clients doing business in New York. Mr. Levine was also the Director of Real Estate Consulting for Planned Expansion Group, where he managed a small consulting group attached to an architectural and planning concern. Assignments included appraisals, land use and feasibility studies and economic forecasting.

Mr. Levine is a designated member of the Appraisal Institute (MAI) and is certified by the State of New York as a real estate General Appraiser. Mr. Levine received his Bachelor of Architecture and Master of City and Regional Planning degrees from Pratt Institute and has completed numerous courses in finance and real estate. He has served as Chairman of the Admissions Committee of the Metropolitan New York Chapter of the Appraisal Institute, and he has served on the Chapter's Board of Directors. Mr. Levine has been qualified and testified as an expert witness in New York, Brooklyn, Newark, Riverhead and Mineola courts.

METROPOLITAN VALUATION SERVICES
REAL ESTATE CONSULTING AND APPRAISAL

005225

Platt Byard Dovell White
Architects LLP

20 West 22nd Street
New York, NY 10010
P 212-691-2440
F 212-633-0144
pbdw@pbdw.com

February 4, 2008

Honorable Meenakshi Srinivasan, Chairperson
New York City Board of Standards and Appeals
40 Rector Street
New York, NY 10007

re: Congregation Shearith Israel
6-10 West 70th Street
New York, New York

74-07-BZ

To the Honorable Meenakshi Srinivasan,

On behalf of the Congregation Shearith Israel, we would like to respond to the points made by architect Craig Morrison, AIA, in his letter dated January 28, 2008. Mr. Morrison states that he has reviewed the drawings submitted to the Board of Standards and Appeals in connection with the zoning variance request for Congregation Shearith Israel. His statements seem to suggest that the synagogue confine its vision to code minimums, rather than build to suit good and reasonable standards for programmatic needs. Where classrooms and class size should be determined by educational standards for specific subjects and age groups, Mr. Morrison suggests that they be designed only to the minimum allowable sizes. In addressing his arguments, we will review each point below:

Paragraphs 1, 2, and 3

These paragraphs cover the architect's background and the material that has been reviewed. We note that Mr. Morrison's resumé does not indicate any experience in design or planning for educational facilities or religious institutions.

Paragraphs 4 and 5

Access and circulation in the proposed and as-of-right schemes are discussed in these paragraphs. Mr. Morrison correctly points out that both the as-of-right and proposed schemes relieve the now untenable access to the synagogue. Both

Charles A. Platt FAIA
Paul Spencer Byard FAIA
Ray H. Dovell AIA
Samuel G. White FAIA

Anne Holford-Smith AIA
James D. Seger AIA, LEED AP
Scott Duenow AIA

Kathryn Crowley AIA
David C. Grider AIA
Elissa C. Ico AIA
Serena Losonczy AIA
Matthew H. Mueller AIA

003611

Platt Byard Dovell White
Architects LLP

schemes remedy the circulation through the addition of an ADA compliant elevator adjacent to the historic synagogue building. In each scheme, the proposed elevator serves both the historic synagogue and the community facility floors of the proposed building. Unlike the existing non-compliant elevator, the proposed elevator is sized and configured to meet program needs and ADA requirements. Most importantly, it stops on all levels of both the existing synagogue and the community facility floors of the proposed building. Because the current elevator does not stop at the level of the main sanctuary, disabled congregants must now be carried up a flight of stairs to reach the main sanctuary. The proposed elevator is a necessary and required improvement to the synagogue's everyday circumstances and is used in both the proposed and as-of-right schemes.

Paragraph 6

Mr. Morrison is incorrect in saying that the existing elevator could be altered to meet ADA requirements by adding a side door. Neither the elevator cab nor its shaftway meet ADA minimum dimensions. To make the existing elevator compliant would require an enlarged cab and a hoistway expansion with significant structural alterations.

Paragraphs 7 and 8

Mr. Morrison says that the programmatic needs of the congregation can be met "comfortably" [my underlining] within the as-of-right envelope, if the residential program is eliminated. However, the as-of-right envelope is inefficient and would severely compromise the current programmatic needs. The rear yard setback variance, which if granted, will add 10' along the south side of floors 2, 3, and 4, enables these floors to have adequately sized classrooms both north and south of the building core. Without this additional area, the spaces south of the core would be cramped, awkward and badly shaped for classroom use.

The loss of 9 adequately sized classrooms, on floors 2, 3, and 4, in a building that provides a total of 15 is significant. Using the 5th and 6th floors for educational purposes would only generate 5 additional classrooms of inefficient proportions. To illustrate the point, the floors 2, 3, and 4 of the proposed plan provides 59% efficiency, still slightly below 60%, the commonly accepted efficiency ratio for this type of educational facility. On the other hand, the as-of-right plan for these floors produces 53% efficiency, a yield that would make doubtful the great expense and disruption of the effort.

Paragraph 9

Mr. Morrison examines the synagogue's historic building and suggests that the Parsonage and Levy Auditorium be used for program needs unfulfilled by the as-of-right envelope. The Levy Auditorium, which Mr. Morrison defines as "the substantial space under the Sanctuary," is already in use for life cycle events year round and is used for summer services as well.

The Parsonage floor plate is inadequate for educational use. Its 1,610 square feet of space remaining after constructing the two required sets of egress stairs and

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corridors would be grossly inefficient. Moreover, it is isolated from the rest of the community facility space and its floor levels do not align with other existing floors. Additional floors would block the historic leaded glass windows that provide southern light to the main sanctuary. In any case, its designation as a contributing building for landmarks would make these additional floors unlikely.

Paragraphs 10

Mr. Morrison addresses the specifics of the synagogue's educational program and the motives of their mission. The Toddler Program is intended to serve the congregation and the community. For the synagogue, extending this program to the community is both an important service and an opportunity to foster membership. Mr. Morrison points out that the Toddler Programs, Hebrew School and Adult Education are non-simultaneous and suggests that they share spaces. While this is occasionally the case, the more important factor is that these spaces need to be designed, arranged and furnished with properly sized equipment to accommodate specific age groups and uses.

Paragraph 11

Mr. Morrison correctly details the manner in which the design has evolved over the past five years. The plan has developed and was changed to leave the small synagogue intact because of its significant historic character.

Paragraph 12

For his analysis of the proposed classroom space, Mr. Morrison chooses only code mandated minimums, regulations created to protect the public against worst case situations. He evaluates the plan at 20 square feet per student. He doesn't take into account the stricter requirements set out by the Board of Health for toddler classrooms of 35 square feet per student. In our professional experience, 35 to 40 feet per student is the acceptable figure for educational purposes. CSI's programming has every good reason to seek optimal classrooms.

Paragraph 13

Similarly, Mr. Morrison reviews code mandated minimums for number of toilets, and suggests that the plans show too many. In our professional opinion, the code minimum is meager and inappropriate. He says that by having fewer toilets, one could add to the available educational space. We believe the number of toilets shown is the reasonable number needed to have separate toilets for faculty and for boys and girls. In any case, the interior, windowless space that is used for toilets would be extremely difficult to redistribute from the core and is less than ideal for classrooms.

Paragraph 14

Mr. Morrison maintains that the custodian apartment is "extravagantly sized." This apartment is a small two bedroom apartment, sized for a small family. Furthermore, it is in keeping with the accommodations currently set aside for the superintendent. Mr. Morrison's suggestion that the six bedroom Parsonage be used instead is an even more extravagant solution. And, uses for the Parsonage other than residential would require two means of egress and ADA compliance which would seem to make this

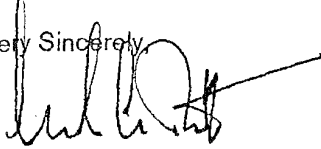
Platt Byard Dovell White
Architects LLP

almost, if not, impossible.

Paragraph 15

In our professional opinion, we respectfully disagree with Mr. Morrison's summary and believe that our comments above demonstrate the inadequacy of his analysis.

Very Sincerely,

A handwritten signature in black ink, appearing to read 'C. Platt', with a long horizontal stroke extending to the right.

Charles A. Platt, FAIA

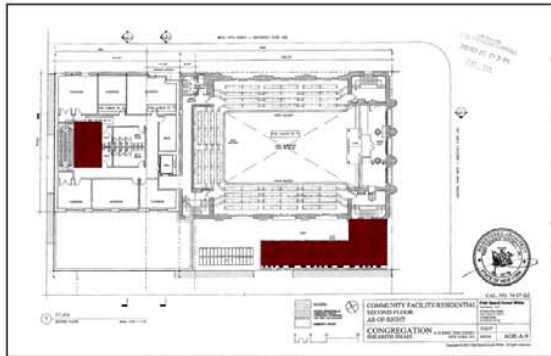
003614

Exhibit H

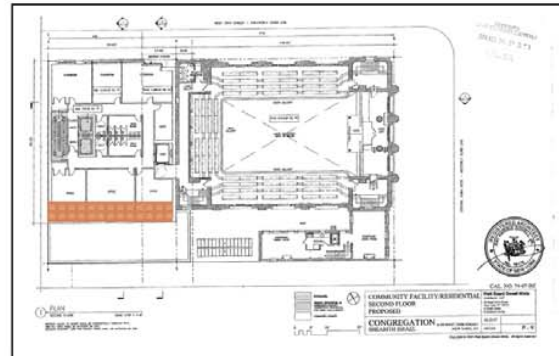
Spaces On Floors 2-4 As Of Right Scheme
Available for Educational Purposes But
Not Shown in Applicants March 11, 2008 Table

Compared to

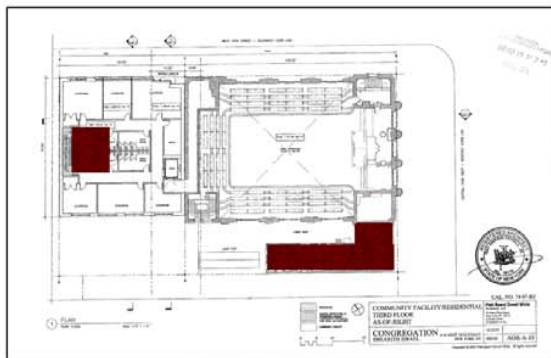
Rear Yard Variances for Proposed Scheme
Floors 2, 3, and 4



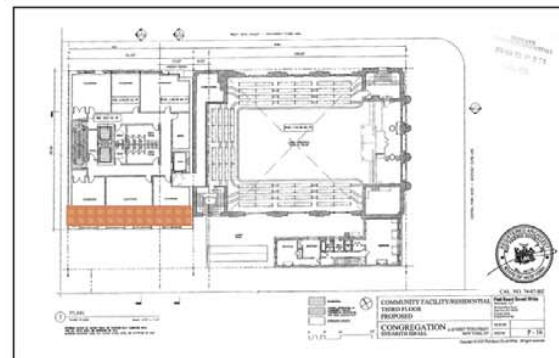
AOR-2ND



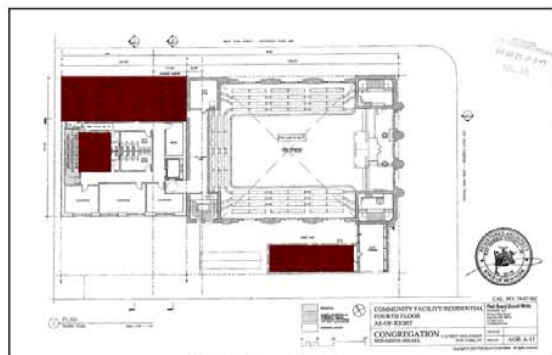
PROPOSED 2ND



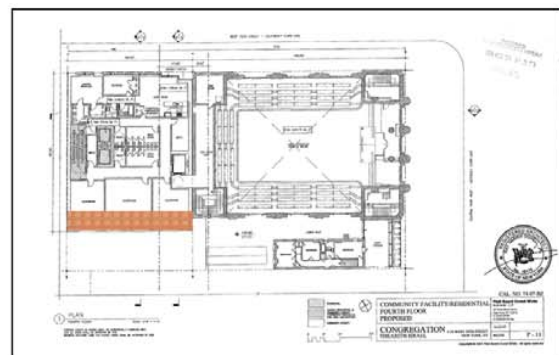
AOR-3RD



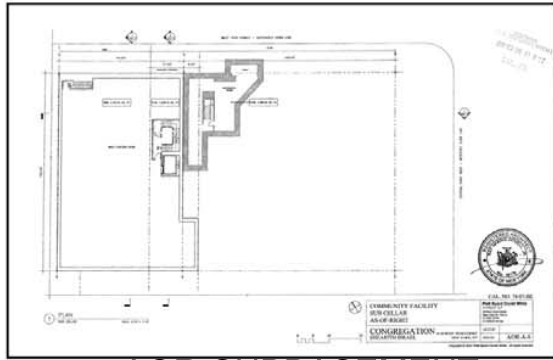
PROPOSED 3RD



AOR-4TH



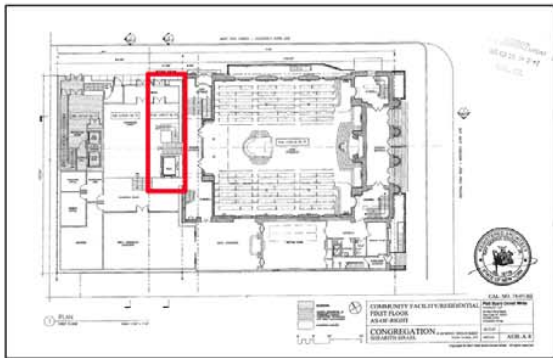
PROPOSED 4TH

AREAS IN AOR-C SCHEME REQUIRED TO RESOLVE
CIRCULATION, ACCESS, AND ADA ACCESSIBILITY

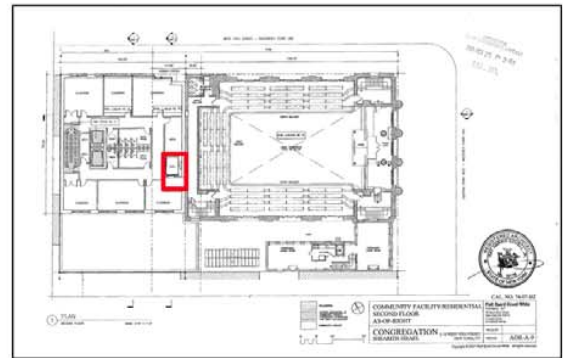
AOR-SUBBASEMENT



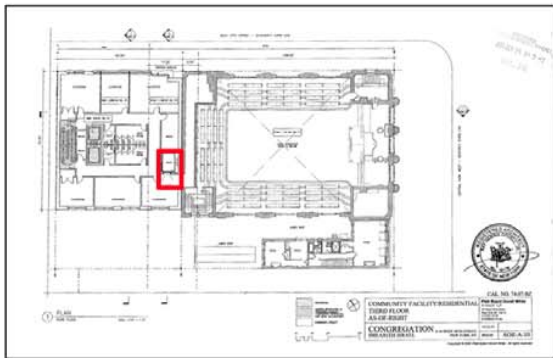
AOR CELLAR



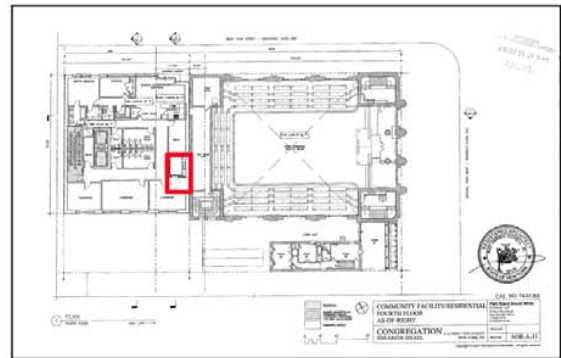
AOR-1ST



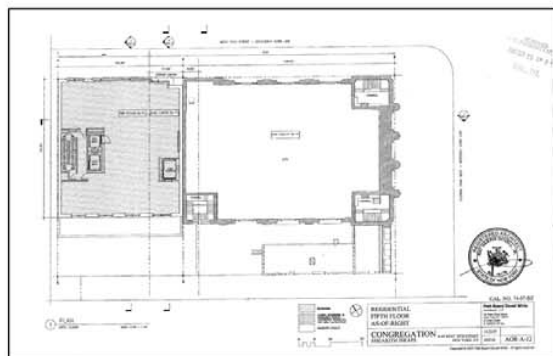
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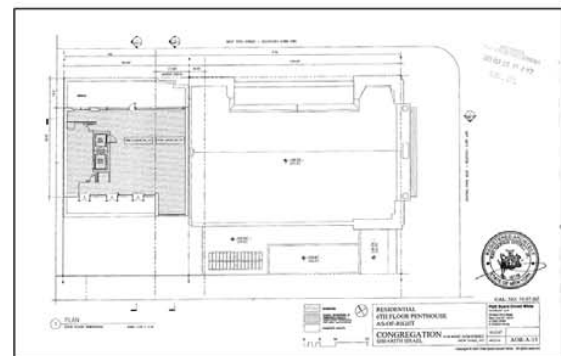
AOR-3RD



AOR-4TH



AOR-5TH



AOR-6TH

Exhibit I

Alan D. Sugarman
Attorney At Law

17 W. 70 Street
Suite 4
New York, NY 10023
212-873-1371
mobile 917-208-1516
fax 212-202-3524
sugarman@sugarlaw.com

April 10, 2007

The Honorable Meenakshi Srinivasan
Chair
NYC Board of Standards and Appeals
40 Rector Street - 9th Floor
New York, New York 10006

The Honorable Christopher Collins
Vice-Chair
NYC Board of Standards and Appeals
40 Rector Street - 9th Floor
New York, New York 10006

Re: BSA 74-07-BZ
Congregation Shearith Israel
6-10 West 70' Street/99 Central Park West
Block 1122 Lots 36. 37 - Manhattan

Dear Chair Srinivasan and Vice-Chair Collins:

I am writing this letter to request that you both recuse yourselves from further involvement in the variance application to the Board of Standards and Appeals ("BSA") for the community house/condominium project filed by Congregation Shearith Israel ("CSI"), BSA 74-0-BZ. CSI has requested eight variances pursuant to Section 72-21 of the New York City Zoning Resolution.

The basis for this request is the ex parte meeting held by both of you with the variance applicant on November 8, 2006, as compounded by the failure of BSA to invite known community groups opposing the project to the meeting, the failure of BSA to record or otherwise transcribe the meeting, and the refusal of BSA to disclose notes taken at such meeting. If one believes statements made by CSI in its application, it appears that other inappropriate ex parte contacts may have taken place.

A variance proceeding is a quasi-judicial proceeding; ex parte meetings of this type accordingly are improper. Variance matters are to be distinguished from other matters which are within the jurisdiction of the BSA, such as Special Permits, which are not consider to be quasi-judicial in nature. In a variance provision, a party is seeking a waiver of the application of specific provisions of law, which, here, is the New York City Zoning Resolution. Jurisdictions within and without New York consider these types of

Page 2 of 7

proceedings to be quasi-judicial, where ex parte contacts are improper, particularly where a zoning agency has a professional staff.

The CSI application was filed with the BSA on April 2, 2007¹. CSI had initially filed an application for this project with the Department of Buildings of the City of New York ("DOB") on October 28, 2005. On March 14, 2006, following years of meetings and hearings, the Landmarks Preservation Commission approved the project, over the opposition of LPC Commissioner Gratz² as well as opposition by the community. The DOB issued its letter of objection, from which CSI is appealing to the BSA, on March 27, 2007³ citing non-compliance as to lot coverage, rear yards, setbacks, base height, building separation, and, significantly, building height. The excess building height, above that of an as of right building, relates solely to the construction of condominium units which will be sold by CSI to finance the construction and to provide additional income to CSI.

I live across the street from the proposed project, and within a 400 foot radius. On September 1, 2006, I notified the BSA as to my opposition to this project and also filed a Freedom of Information Law request relating to the project. My letter also stated:⁴

It appears that substantially all of the non-conforming parts of the project relate to the income generating condominiums on the upper floors of the project. It also appears that the Congregation intends to use a subbasement as a Banquet Hall which will impact the character of the neighborhood and that it is the practice of the Congregation to rent its facilities to third parties to generate income. Part of the extension of the project into the lot appears to relate to this Banquet Hall and will require a variance.

BSA staff then telephoned me to state that no application had been filed by CSI. When I inquired about a pre-application meeting and whether one had occurred, I was told that generally, such meetings were held to familiarize applicants with BSA procedures, but, that in this case, a pre-application meeting was doubtful because of the extensive experience of the attorneys and architects for CSI.

Subsequently, on November 14, 2006, BSA supplied four documents in response to my FOIL request.⁵

These documents showed that on October 13, 2006, CSI confirmed a meeting to be held with the BSA for November 8, 2006. This shows that BSA had ample opportunity to

¹ [CSI Application to the BSA filed April 2, 2007 \(120 pages\).](#)

² [Statement of Roberta Brandes Gratz dated March 14, 2006.](#)

³ [DOB Statement of Required Actions dated March 27, 2007.](#)

⁴ [Letter of September 1, 2006 from Alan D. Sugarman to BSA](#), posted on the Internet, together with other documents cited herein, at <http://www.protectwest70.org/topic-pages/BSA-DOB-FOIL.html>.

⁵ [Letter of November 14, 2006 from BSA to Sugarman with enclosures.](#)

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contact other interested parties and invite them to the meeting.”⁶ Interestingly, the letter also stated that one of the attendees would be “Jack Freeman, Financial Analyst.” The reference to Jack Freeman would indicate that CSI had retained Mr. Freeman prior to October 13, 2006. Yet, as discussed below, CSI would later maintain that it retained a financial analysts at the suggestion of the BSA Board, indicating other ex parte contacts.



FRIEDMAN & GOTBAUM LLP

560 BROADWAY SUITE 505
NEW YORK NEW YORK 10012
TEL 212.925.4545
FAX 212.925.5199
ZONING@FRIGOT.COM

October 13, 2006

BY MESSENGER

The Hon. Meenakshi Srinivasan
Chair
NYC Board of Standards & Appeals
40 Rector Street, 9th Floor
New York, NY 10006

Re: Congregation Shearith Israel (“CSI”)
10 West 70th Street, Manhattan

Dear Madam Chair:

We are special land-use counsel to the owner of the above-referenced site, which is being developed as a mixed-use building with community facility/educational use at the lower levels and residential use at the upper levels. The western portion of the site is located in an R8B zoning district and the eastern portion is located in an R10A zoning district. CSI may require bulk variances from the BSA to construct the new development. Attendees at the prospective BSA meeting will include the following:

Ray Dovel	Architect
Jack Freeman	Financial Analyst
Shelly Friedman	Counsel
Lori Cuisinier	Counsel

We look forward to meeting with the Board on Wednesday, November 8 at 11:30AM to discuss this project. Thank you for your cooperation.

Very truly yours,

Lori G. Cuisinier

The meeting between BSA Commissioners and Staff and CSI did in fact take place on November 8, 2006. The BSA Meeting Record⁷, provided in response to the FOIL request, disclosed that Chair Srinivasan and Vice-Chair Collins attended the ex parte meeting. Also in attendance were CSI attorneys, architects and consultants including Jack Freeman, Lori Cuisinier and Shelly Friedman (attorneys for CSI), Ray Dovel and Kathryn Growley (architects for CSI), and John Reisenger, Jed Weis and Jeff Mulligan of BSA’s professional staff.

⁶ [Letter of October 13, 2006 from Friedman & Gotbaum to BSA.](#)

⁷ [BSA – Meeting Record dated November 8, 2006 re 10 West 70th Street.](#)

Page 4 of 7

Meeting attendees, please PRINT your name and information here.		
Name	Organization	Telephone Number
1) Meenakshi Srinivasan	BSA	
2) [Signature]		
3) Ted Weiss	BSA	
4) Scott Cusumano	FCG	
5) Shelly Friedman	FCG	
6) Peter Friedman	FCG	
7) ZAY H. DOVER	PRNW	
8) LATHYIN GROWLEY	PRNW	212 691 2410/120
9) Jeff Mulligan	PSA	
10) Chris Collins	BSA	

One week later, for the first time, I and community groups were advised of this meeting. No transcript, apparently, was kept, nor recording made. Notes were taken by the BSA commissioners and staff in attendance, but, the BSA refused to provide me with factual notes describing the meeting, on the spurious grounds that the notes were covered by the attorney-client privilege:⁸

Jeff Mulligan has asked me to respond to your November 20, 2006 letter regarding your previous FOIL request.

You request in your letter that the Board provide any notes of the meeting held on November 8, 2006. As explained in Mr. Mulligan's November 14, 2006 letter to you, hand-written notes were not disclosed because they are subject to attorney/client privilege or attorney work product privilege, or because they are exempt under FOIL § 87(2). Accordingly, your request for notes is denied. Please be advised that no other materials responsive to your request exist.

On December 18, 2006, I appealed this determination to the BSA, but, no action has been taken by BSA on the appeal.⁹

Having now reviewed CSI's April 2, 2007 application, it appears that our concerns as to improper ex parte contacts were not misplaced. To the contrary: the novel position by CSI that its desire to earn a profit and build a building at no cost as a justification for a variance will be the most hotly contested issue before the BSA. It now appears that this topic was discussed between the BSA and CSI:¹⁰

⁸ [Letter dated November 14, 2006 from BSA to Sugarman](#) and [Letter dated November 27, 2006 from BSA to Sugarman](#).

⁹ [Letter dated December 18, 2006 from Sugarman to BSA](#).

¹⁰ [Statement in Support of Certain Variances filed April 2, 2007, pages 24-25](#).

Page 5 of 7

CSI's status as a not-for-profit religious organization renders this finding unnecessary.

At the Board's request, however, due to the fact that the Application presents a situation in which Use Group 2 floor area is being created for sale to third parties as a component of the CSI's financial strategy for producing the New Building, CSI has retained the services of Freeman Frazier Associates to provide a Feasibility Study analyzing potential mixed use development on Lot 37. This analysis compared the rate of return that could be expected from the New Building containing 16,242 sf of residential floor area with a hypothetical as-of-right building that would provide 5,022 sf of residential floor area. It concluded that due to existing physical conditions on the zoning lot, including the need to address the Synagogue's circulation problems and the need to replace and enlarge the functions in the Community House, there is no reasonable possibility

FG-03/30/2007

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that a financially feasible mixed use building could be developed in strict conformity with the Zoning Resolution. The 27,302 sf as-of-right building yields 5,022 sf of residential sellable area. The total investment for such a project would be \$27,696,000 on a net project value of \$11,574,000, producing a capital loss to a developer of \$8,672,000.

Setting aside for a moment the lack of legal substance in CSI's position and the unsettling suggestion that the BSA is prepared to ignore all of its own precedents, CSI states that the financial consultant was retained by CSI as a result of a request by the Board. Yet, the meeting attendance sheet for the November 10, 2006, meeting shows that the financial consultant, Mr. Freeman from Freeman Frazier Associates attended that meeting. Not only does CSI indicate that other inappropriate ex parte contacts at which the Board requested that a financial consultant be retained took place **prior** to that meeting, but, without doubt, the most central hot issue of this application was discussed at the meeting, without notice to community opponents and without a record of the meeting.

Accordingly, we are compelled, most respectfully, to request that you both recuse yourselves from this matter as well as to immediately disclose all notes of any type of the meeting and all other communications with the applicant and its representatives, without regard to claims for privilege.

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It is true that the BSA circulates a “procedure statement”¹¹ that contemplates meetings between applicants and the staff, though not applicants and the adjudicator. Even if a strained reading of the BSA “procedure statement” might suggest that the meetings with Commissioners were contemplated, any ambiguity must be read so as not to authorize ex parte meetings with Commissioners because the ex parte meetings in this circumstance are improper and would flaunt well accepted administrative law. Also, within the BSA’s jurisdiction, are areas not necessarily quasi-judicial – but a variance proceeding is unquestionably a quasi-judicial proceeding, as to which ex parte meetings are simply improper. Moreover, this meeting certainly skirted, if not violated, the law as to public meetings, given that there are only four Commissioners appointed at the present time, and two attended the meeting. I do not know the number of Commissioners duly appointed in November 2006, when the meeting was held.

Section 1046 of New York City’s Administrative Procedure Act flatly states:

No ex parte communications relating to other than ministerial matters regarding a proceeding shall be received by a hearing officer, including internal agency directives not published as rules.

Section 307 of the New York State Administrative Procedure Act states:

2. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in an adjudicatory proceeding shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except upon notice and opportunity for all parties to participate. Any such agency member (a) may communicate with other members of the agency, and (b) may have the aid and advice of agency staff other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or factually related case.

Here, CSI had already proceeded through years of hearings before the Landmarks Preservation Commission, and CSI had filed information with the Department of Buildings. CSI has publicly stated to the LPC and Community Board 7 and others that its project would require a zoning waiver from the Board of Standards and Appeals.

The BSA has a full professional staff, apart from the Commissioners. Thus, any claim of necessity for this departure from the prohibition against ex parte contacts cannot be justified. See In the Matter of General Motors Corporation, 82 N.Y. 2d 183 (1993). And,

¹¹ [BSA Procedure for Pre-Application Meeting and Draft Application](#). There is no indication that the procedure was ever a part of a formal rulemaking. Even so, the Procedure does not explicitly describe meetings with Commissioners.

Page 7 of 7

even then, there is no explanation as to why interested community groups were not advised of the meeting, and why minutes or transcript were not taken of the ex parte meeting.

The BSA, when considering the granting of variances, is acting in a quasi-judicial role. The BSA recognizes, apparently, its quasi-judicial role: after an application is actually filed, then, and only then, do BSA commissioners not engage in ex parte contacts. This is not a meaningful distinction, especially where the subject project has already completed review by one city agency (LPC) and was then undergoing extended review by another (the DOB) and where opponents to the project were identifiable and indeed had identified themselves.

This situation is not so different from one where in a judicial proceeding a prospective plaintiff discusses the complaint and theories of the case with the judge prior to the filing of the complaint.

Sincerely,

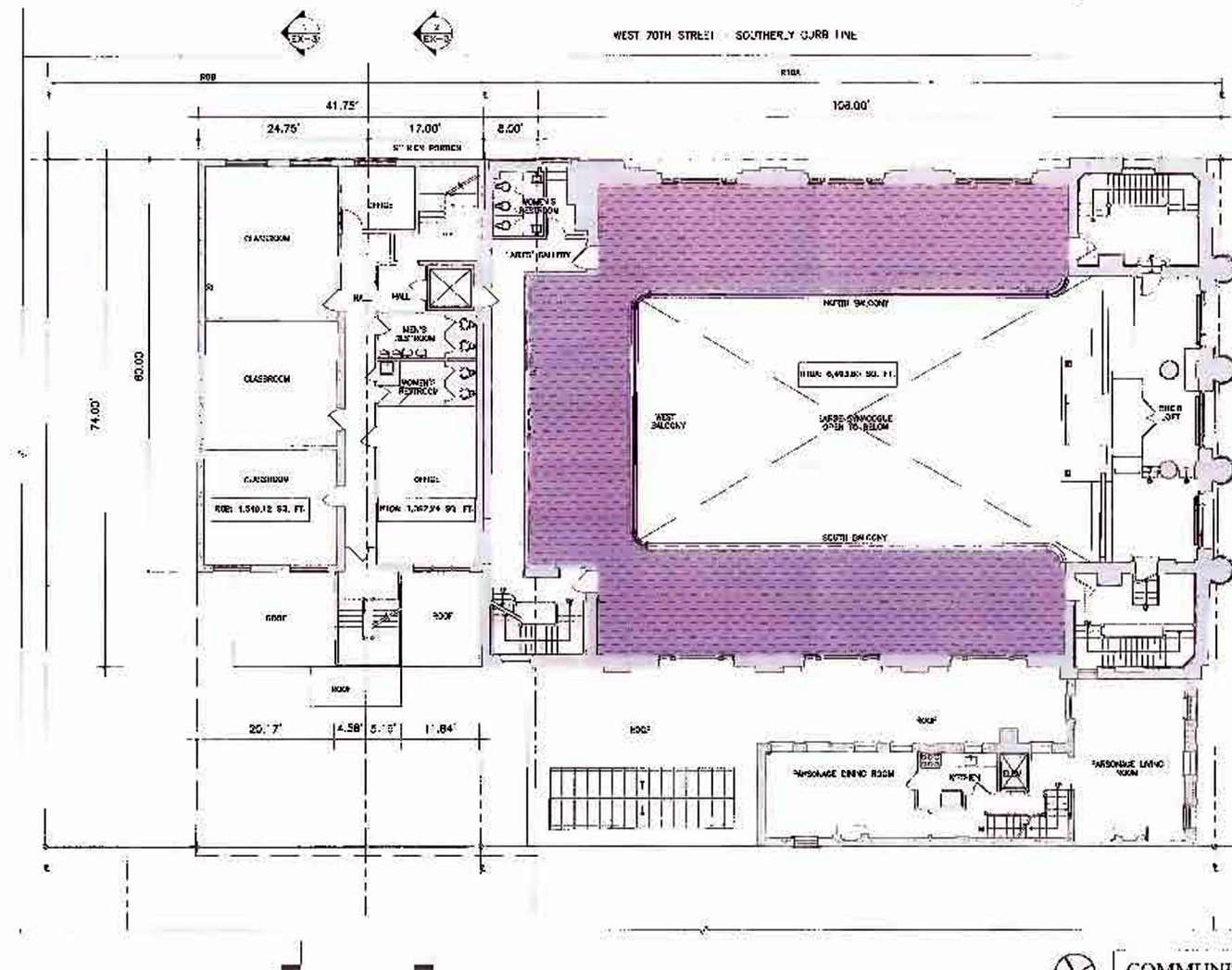


Alan D. Sugarman

P.S. Supporting Documents are posted at ProtectWest70Street.org.

cc: Office of the Mayor of the City of New York
Hon. Betsy Gotbaum, Public Advocate of the City of New York
Hon. Gail Brewer, New York City Council Member
Hon. Scott Stringer Manhattan Borough President
Hon. Richard Gottfried State Assembly Member
Hon. Patricia J. Lancaster, Department of Buildings
Hon. Robert B. Tierney, Landmarks Preservation Commission
Hon. Sheldon J. Fine, Chair Manhattan Community Board 7
Norman Marcus
Kate Wood, Executive Director, Landmarks West
Shelly Friedman, Esq, Friedman & Gotbaum LLP

005533



1 PLAN
SECTION 1-1

Scale: 1/8" = 1'-0"



COMMUNITY FACILITY
SECOND FLOOR
EXISTING

CONGREGATION
SHEARITH ISRAEL

618 WEST 70TH STREET
NEW YORK, N.Y.

CAT. NO. 74-07-B2

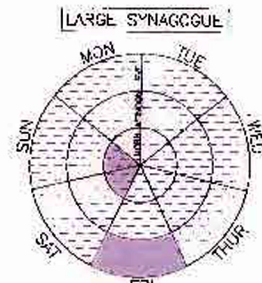
Platt Byard Dovell White
ARCHITECTS
200 West End Street
New York, N.Y. 10019
Tel: (212) 644-1144
Fax: (212) 644-1145

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PROG F-8

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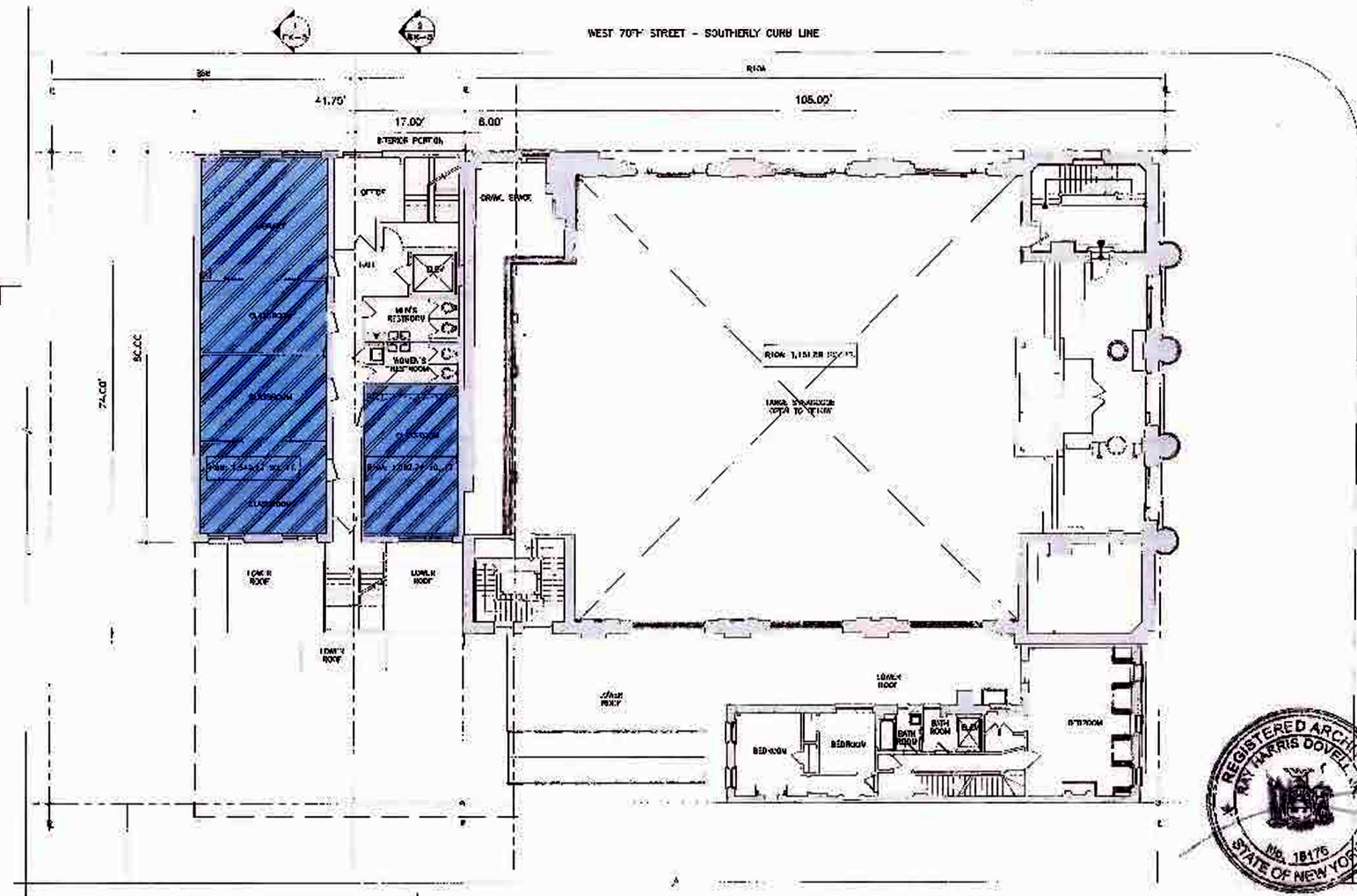
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WESTERN CURB LINE
NEW YORK TOWN

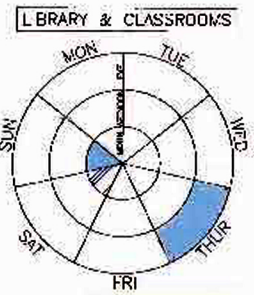
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100. 12-25-07



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UNIT: MILLIMETERS - SCALE: 1/8" = 1'-0"



LIBRARY & CLASSROOMS
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 TUE 10:00-12:00
 WED 10:00-12:00
 THU 10:00-12:00
 FRI 10:00-12:00
 SAT 10:00-12:00
 SUN 10:00-12:00



1 PLAN
 THIRD FLOOR
 SCALE: 1/8" = 1'-0"



COMMUNITY FACILITY
 THIRD FLOOR
 EXISTING

CONGREGATION
 SHEARITH ISRAEL

Platt Byard Dovell White 20 West 70th Street New York, NY 10020 212.66.5442 212.66.5443	12.26.07 002350	PROG R - 9
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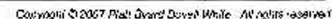


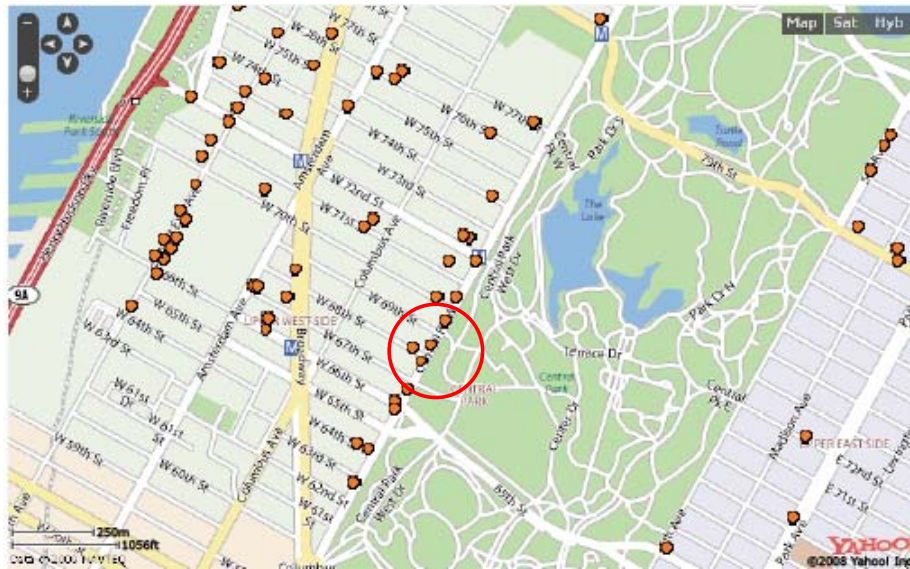
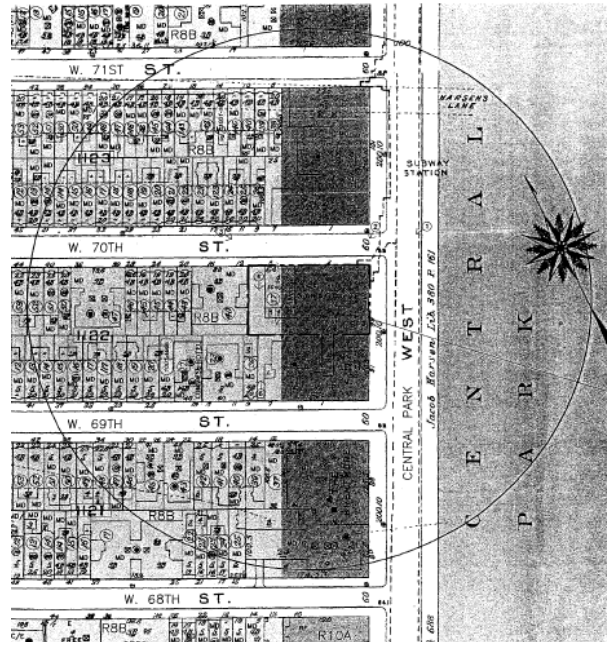
Exhibit K

Exhibit K

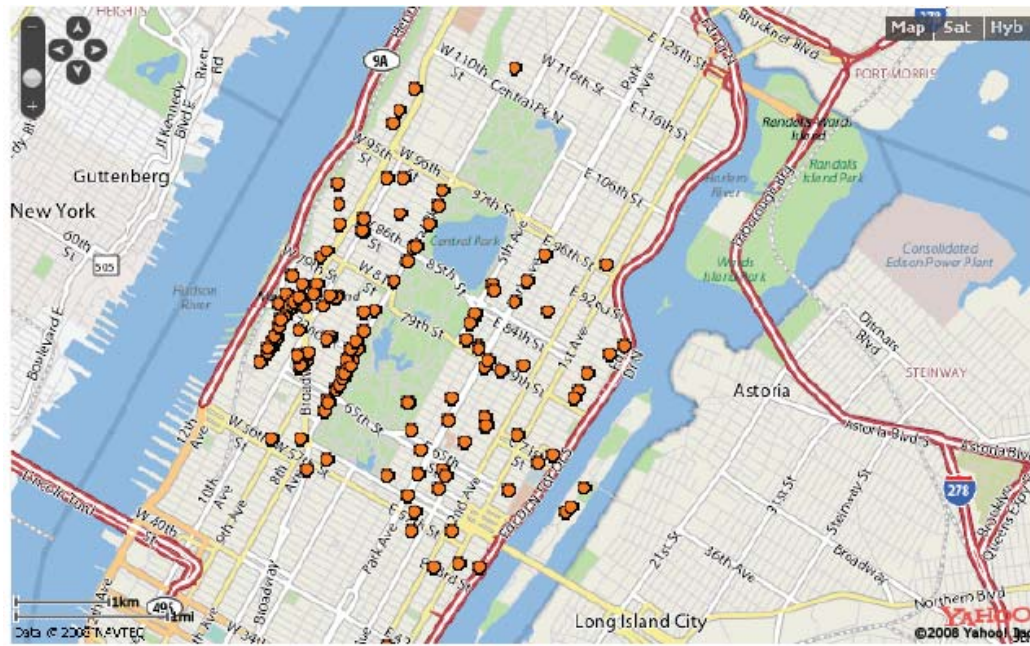
Petitioners Exhibit K

Location of Persons Filing Forms Consenting to Shearith Israel Project

400 Foot Zone As Per BSA Rules R-0000053

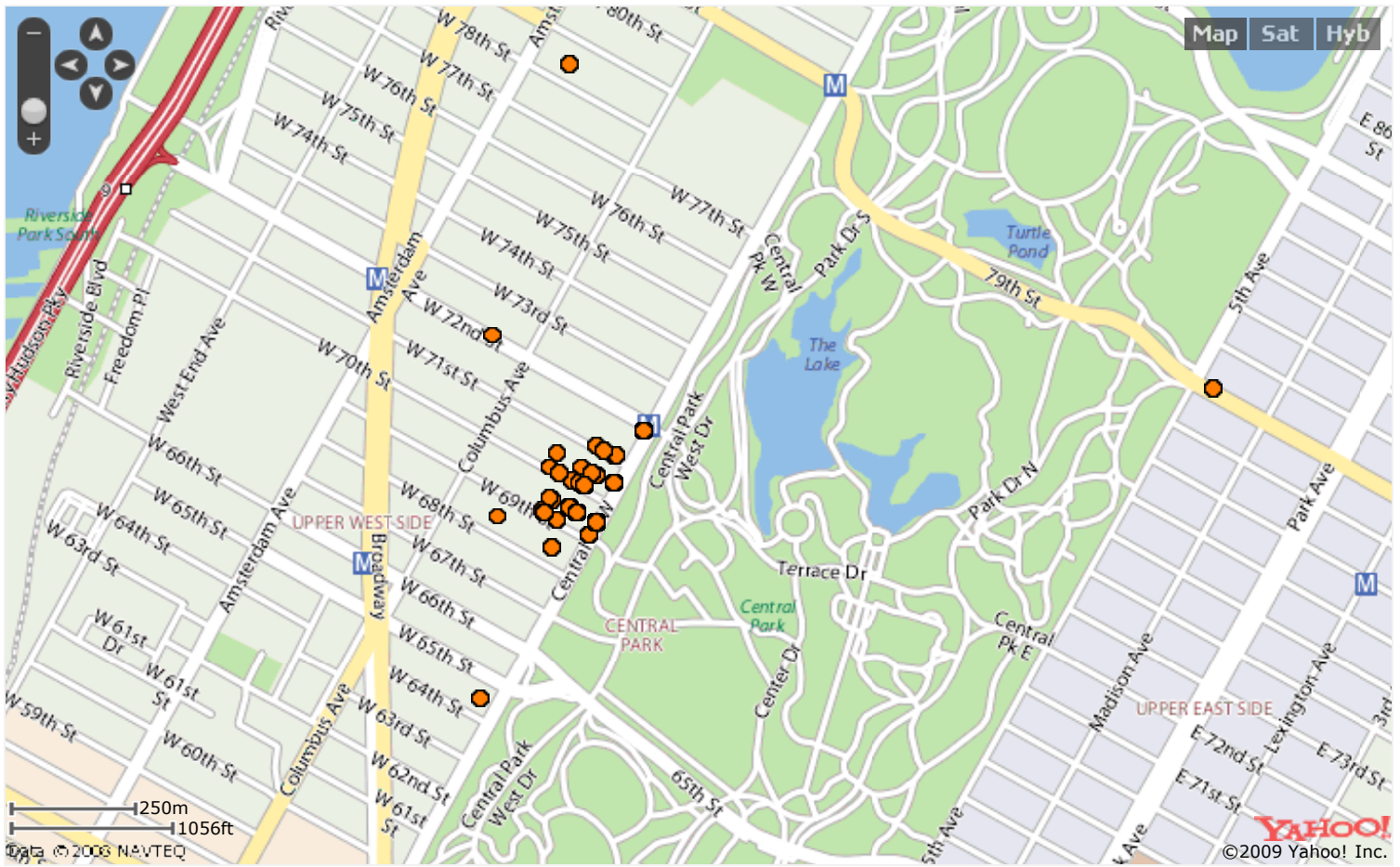


Location of Supporters of Proposed Project





opponents



817
19 West 69th St
NY, NY 10023
[A Sankovitch](#): Alex Cohen

780
91 Central Park West
NY, NY 10023
[A Sankovitch](#): Alice Bondy

728
11 West 70th St
11, NY 10023
[A Sankovitch](#): Andrea Correa

669
91 Central Park West
NY, NY 10023
[A Sankovitch](#): Andrew Bergman

707
11 West 69th St
NY, NY 10023
[A Sankovitch](#): Anita Fleishman

709

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Ann Ruggen

683

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Anna Taam

959

11 West 70th St
NY, NY 10023

[A Sankovitch](#): Anne Correa

1031

101 Central Park West
NY, NY 10023

[A Sankovitch](#): Anne Farley

770

24 West 69th St
NY, NY 10023

[A Sankovitch](#): Anne T Pope

797

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Arnold Weiss

1044

24 West 71st St
NY, NY 10023

[A Sankovitch](#): Arrien Schiltkamp

1066

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Arthur Rowe

819

19 West 69th St
NY, NY 10023

[A Sankovitch](#): Aurora King

714

36 West 69th St
NY, NY 10023

[A Sankovitch](#): Barbara Gerry(?)

812

115 Central Park West
NY, NY 10023

[A Sankovitch](#): Barbara Goodstein

657

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Barbara Shuslo

7271 Penn Plaza
NY, NY 10019[A Sankovitch](#): Bruce W Whipple**660**91 Central Park West
NY, NY 10023[A Sankovitch](#): Byron Scott Severens**1042**35 West 69th St
NY, NY 10023[A Sankovitch](#): C R Fahey**795**91 Central Park West
NY, NY 10023[A Sankovitch](#): C&W Greilsheimer**808**115 Central Park West
NY, NY 10023[A Sankovitch](#): Cathy Taub**832**124 West 72nd St
NY, NY 10023[A Sankovitch](#): Ceclia M Shemaker**909**91 Central Park West
NY, NY 10023[A Sankovitch](#): Charles Church**686**11 West 69th St
NY, NY 10023[A Sankovitch](#): Christopher Neidow**729**11 West 70th St
NY, NY 10023[A Sankovitch](#): Cynthia David**833**101 Central Park West
NY, NY 10023[A Sankovitch](#): Dana Feller**674**11 West 69th St
NY, NY 10023[A Sankovitch](#): Dara Rothenbiller**782**91 Central Park West
NY, NY 10023[A Sankovitch](#): David Hamilton**655**

91 Central Park West
NY, NY 10023

[A Sankovitch](#): David J Robin

773

36 West 69th St
NY, NY 10023

[A Sankovitch](#): David Johnston

805

91 Central Park West
NY, NY 10023

[A Sankovitch](#): David Martowski

746

8 West 71st St
NY, NY 10023

[A Sankovitch](#): David Wanat

1064

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Debbie Fink

724

161 West 78th St
NY, NY 10023

[A Sankovitch](#): Deborah Aiges

699

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Dina Snallman

653

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Dorothy Cass

892

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Elaine Reinhold

964

6 West 71st St
NY, NY 10023

[A Sankovitch](#): Elizaberth Turner

700

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Eric Rosenman(?)

787

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Erik Langhoff

828

19 West 69th St

NY, NY 10023

[A Sankovitch](#): Erika Jackson

745

16 West 71st St
NY, NY 10023

[A Sankovitch](#): Erika Towers

1048

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Evalyn Kaufman

712

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Evandro & Liliia Morselli

799

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Frances Louis Gottfried

758

69 West 68th St
NY, NY 10023

[A Sankovitch](#): Franciso Vellri

803

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Frank Karelsen

665

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Frederick Jacobi

740

36-63 34th St
Long Island City, NY 11106

[A Sankovitch](#): George Fondoulis

791

91 Central Park West
NY, NY 10023

[A Sankovitch](#): George Litton

757

27 West 70th St
NY, NY 10023

[A Sankovitch](#): Giacomo Vellri

684

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Gill Van Note

822

19 West 69th St
NY, NY 10023

[A Sankovitch](#): Gina Tuttle

710
11 West 69th St
NY, NY 10023

[A Sankovitch](#): Glen Tobas

743
91 Central Park West
NY, NY 10023

[A Sankovitch](#): Grace Glueck + MF

666
91 Central Park West
NY, NY 10023

[A Sankovitch](#): Helen R Pesola

753
250 West 87th St
NY, NY 10024

[A Sankovitch](#): Helen Rosenthal CB7

1058
6 E 79th St
NY, NY 10075

[A Sankovitch](#): Howard Lepow

755
38 West 69th St
NY, NY 10023

[A Sankovitch](#): Ida Vellri

656
91 Central Park West
NY, NY 10023

[A Sankovitch](#): Ina Caro

789
91 Central Park West
NY, NY 10023

[A Sankovitch](#): James Platt

878
91 Central Park West
NY, NY 10023

[A Sankovitch](#): James Platt

682
11 West 69th St
NY, NY 10023

[A Sankovitch](#): Jamie Greenfield

807
115 Central Park West
NY, NY 10023

[A Sankovitch](#): Jan Levy

806
115 Central Park West
NY, NY 10023

[A Sankovitch](#): Jane C Bressler

75188 Central Park West
NY, NY 10023[A Sankovitch](#): Janet Nezhad

83019 West 69th St
NY, NY 10023[A Sankovitch](#): Janice Legritto

79091 Central Park West
NY, NY 10023[A Sankovitch](#): Jeanne Martowski

1060101 Central Park West
NY, NY 10023[A Sankovitch](#): Jeannette Rossoff

105618 West 70th St
NY, NY 10023[A Sankovitch](#): Jeffrey Reitman

82619 West 69th St
NY, NY 10023[A Sankovitch](#): Joel Carr

69411 West 69th St
NY, NY 10023[A Sankovitch](#): Joel Klasfelt

76824 West 69th St
NY, NY 10023[A Sankovitch](#): John A Pope Jr

74428 West 70th St
NY, NY 10023[A Sankovitch](#): John Kander

75491 Central Park West
NY, NY 10023[A Sankovitch](#): John Lerner

68011 West 69th St
NY, NY 10023[A Sankovitch](#): John McGrath

70411 West 69th St
NY, NY 10023[A Sankovitch](#): Joseph Beggans

730

17 West 68th St
NY, NY 10023

[A Sankovitch](#): Joseph Lopez

1010

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Karen O'Brien

776

36 West 69th St
NY, NY 10023

[A Sankovitch](#): Katherine Angomand(?)

720

101 Central Park West
NY, NY 10023

[A Sankovitch](#): Katherine Jennings

693

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Katherine Plavan

1065

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Kent Wallgren

702

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Konstantin Goulianos

652

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Kristin M Plym

824

19 West 69th St
NY, NY 10023

[A Sankovitch](#): L M Aboud

811

115 Central Park West
NY, NY 10023

[A Sankovitch](#): Linda Kline

800

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Lisa (Lee) Levy

651

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Lois M LeBlanc

1022

39 West 69th St
NY, NY 10023

[A Sankovitch](#): Lonard Kahn(?)

659

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Lucille R Perlman

792

91 Central Park West
NY, NY 10023

[A Sankovitch](#): M&B Simensky

774

36 West 69th St
NY, NY 10023

[A Sankovitch](#): Margaret M (illegible)

697

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Maria R Escobar

786

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Mark Halperin + 1

814

115 Central Park West
NY, NY 10023

[A Sankovitch](#): Mark Lypen

1062

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Mark Mandel

661

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Marvin I Haas

1018

50 West 70th St
NY, NY 10023

[A Sankovitch](#): Mary Jean Perez

654

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Michael Kelley

1067

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Myles Weintraub

809

115 Central Park West

NY, NY 10023

[A Sankovitch](#): Nancy D Portnoy

1026

88 Central Park West
NY, NY 10023

[A Sankovitch](#): Nancy Mendrow(?)

1049

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Nancy Zannini

670

101 Central Park West
NY, NY 10023

[A Sankovitch](#): Naomi Paley

1014

101 Central Park West
NY, NY 10023

[A Sankovitch](#): Naomi Paley

1050

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Ned Rorem

725

176 West 87th St
NY, NY 10027

[A Sankovitch](#): Nina Musinlky(sp?)

781

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Norman Marcus

798

91 Central Park West
NY, NY 10023

[A Sankovitch](#): P Jaunsky, F S(illegible)

748

101 Central Park West
NY, NY 10023

[A Sankovitch](#): Patti & Bruce Lieberman

778

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Pearl Zimmerman

726

51 West 70th St
NY, NY 10023

[A Sankovitch](#): Peggy Taylor

788

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Peter Marshall

779

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Phyllis Topal

706

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Portang Chao

815

115 Central Park West
NY, NY 10023

[A Sankovitch](#): Ralph Abrams

687

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Randy Zutkowsky(?)

801

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Rebecca Goldstein

1041

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Richard Bonanno

793

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Richard Goldstein

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91 Central Park West
NY, NY 10023

[A Sankovitch](#): Robert A Caro

689

11 West 69th St
NY, NY 10023

[A Sankovitch](#): Robert Apfel

658

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Robert F Goldrich

663

91 Central Park West
NY, NY 10023

[A Sankovitch](#): Robert J Jacobson

1020

18 West 70th St
NY, NY 10023

[A Sankovitch](#): Ron Prince

1033130 Lynn St.
HarringtonPk, NJ 7640[A Sankovitch](#): Rosanna Brueck

810115 Central Park West
NY, NY 10023[A Sankovitch](#): Rosette A Schecter

80291 Central Park West
NY, NY 10023[A Sankovitch](#): Roxanne Brandt

82119 West 69th St
NY, NY 10023[A Sankovitch](#): Sally Schmidt

78491 Central Park West
NY, NY 10023[A Sankovitch](#): Sandra Assael

66491 Central Park West
NY, NY 10023[A Sankovitch](#): Sandra Wadler

813115 Central Park West
NY, NY 10023[A Sankovitch](#): Scott Markoff

101950 West 70th St
NY, NY 10023[A Sankovitch](#): Sharry Lukach

69111 West 69th St
NY, NY 10023[A Sankovitch](#): Stacey McGinn

66891 Central Park West
NY, NY 10023[A Sankovitch](#): Stanley Lyons

105142 West 70th St
NY, NY 10023[A Sankovitch](#): Stephen C Kaye

69511 West 69th St
NY, NY 10023[A Sankovitch](#): Steven Zellach

672101 Central Park West
NY, NY 10023[A Sankovitch](#): Stuart M Paley101 CPW**816**115 Central Park West
NY, NY 10023[A Sankovitch](#): Susan E Cassidy**1016**24 West 70th St
NY, NY 10023[A Sankovitch](#): Terrence J Keeley**762**17 West 70th St
NY, NY "[A Sankovitch](#): Theresa Vellri**678**11 West 69th St
NY, NY 10023[A Sankovitch](#): Thomas Hansen**796**91 Central Park West
NY, NY 10023[A Sankovitch](#): Timothy Davis**719**91 Central Park West
NY, NY 10023[A Sankovitch](#): Victor M Linn**1063**91 Central Park West
NY, NY 10023[A Sankovitch](#): Victor M Linn**827**19 West 64th St
NY, NY 10023[A Sankovitch](#): Vivian Connelly**777**36 West 69th St
NY, NY 10023[A Sankovitch](#): Wendy Johnston**1057**18 West 70th St
NY, NY 10023[A Sankovitch](#): Wendy Wolf[Download Google Earth \(KML\) File](#)Data Hosted by BatchGeocode.com

Exhibit L

Exhibit L

Petitioners Exhibit L

Comparison of Congregation "Expert" AKRF Shadow Model Fig. B-11 purporting to model West 70th Street at 10:00 AM EST, December 21 with actual photograph of the same site on December 29, 2008. The BSA Record fails to include Fig B-11.

Fig. B-11 Filed May 13, 2008. The dark shade is supposed to show incremental shadows between existing and proposed.

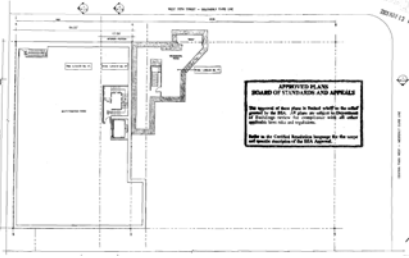
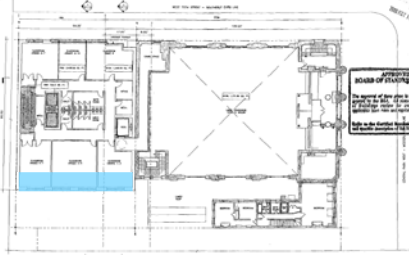
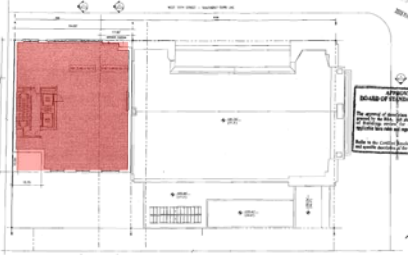
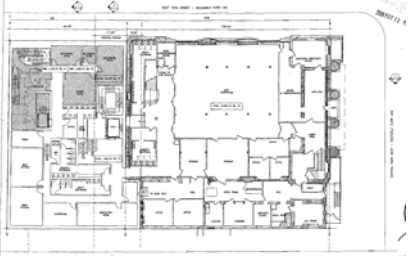
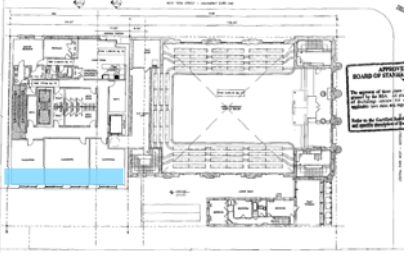
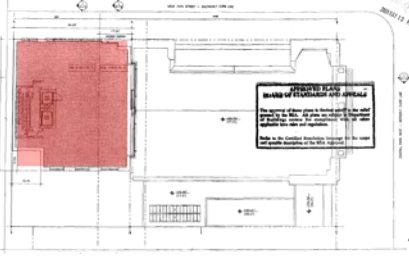
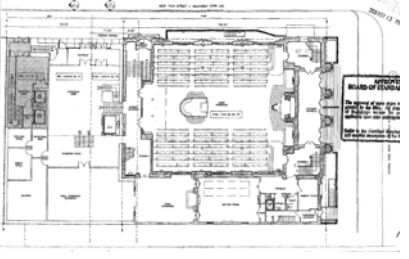
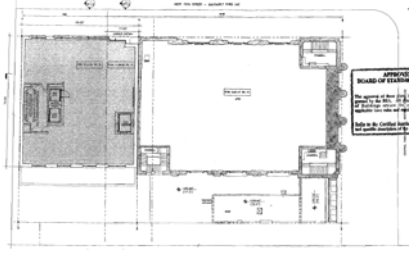
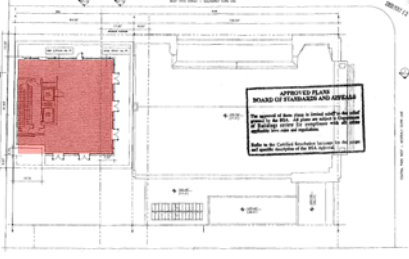
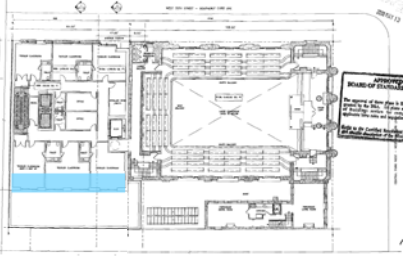
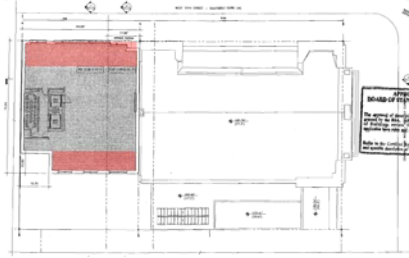


Photographs West 70th Street Opposite Shearith Israel looking West 10:00 AM December 29, 2008



Variance Location Approved Bldg.

90% Condo, 10% Community House

		
SB2	3rd Fl.	7th Fl.
		
SB1	4th Fl.	8th Fl.
		
1st Fl.	5th Fl.	9th Fl.
		
2nd Fl.	6th Fl.	

Community house variances

Luxury condo variances

Variance Areas

For Approved Building - Reply to City Answer ¶

Community Space Approximately 10% Of Total Variance Area

Use	Approved	AOR-A	Variance	Anomaly
Banquet Hall	6,642		0	
Mechanical Various	6,597		0	
Lobby, Syn Extension, etc	6,642	6,642	0	
Toddler Classrooms	5,148	4,514	634	
Classrooms	5,148	4,515	633	
Adult Classroom, Caretaker Apt.	5,170	4,466.5	704	
Total Community House			1,971	1,500**
Luxury Condominium	4,512	4,339	173	0**
Luxury Condominium	4,347	3,088	1,259	
Luxury Condominium	4,347	0	4,347	
Luxury Condominium	4,347	0	4,347	
Luxury Condominium	2,757	0	2,757	
Total Luxury Condo			12,883	

* As approved, R-4697 variance info obtained by subtracting AOR R-494 from Proposed R-4697

** Slight inconsistencies exist. For example other sources state no variance on floor 5, and only 1500 sq.ft. of three floor variances

Variance Areas

Source R-4697 and R-594

Variance Area Subtract AOR Area from Approved Area*

Use	Approved	AOR-A	Variance	Anomaly
Banquet Hall	6,642		0	
Mechanical Various	6,597		0	
Lobby, Syn Extension Etc	6,642	6,642	0	
Toddler Classrooms	5,148	4,514	634	
Classrooms	5,148	4,515	633	
Adult Classroom, Caretaker Apt.	5,170	4,466.5	704	
Total Community House			1,971	1500**
Luxury Condominium	4,512	4,339	173	0**
Luxury Condominium	4,347	3,088	1,259	
Luxury Condominium	4,347	0	4,347	
Luxury Condominium	4,347	0	4,347	
Luxury Condominium	2,757	0	2,757	
Total Luxury Condo			12,883	

Floor	Uses	Total Approved
SB2	Banquet Hall	6,642
SB1	Mechanical Various	6,597
1	Lobby, Syn Extension Etc	6,642
2	Toddler Classrooms	5,148
3	Classrooms	5,148
4	Adult Classroom, Caretaker Apt.	5,170
	Total Community House	
5	Luxury Condominium	4,512
6	Luxury Condominium	4,347
7	Luxury Condominium	4,347
8	Luxury Condominium	4,347
9	Luxury Condominium	2,757
	Total Luxury Condo	

Floor	R8B Com	R8B Rex	R10A Com	R10A Res	Total
1	3,705.94	1,017.57	1,918.10		6,642.61
2	2,988.00	325.50	1,198.50	0	4,514
3	2,988.00	325.50	1,198.50	0	4,515
4	2,938.50	325.50	1,198.500	0	4,466.5
5	0	3135.50	0	1,198.50	4,339
6	0	2,138.50	0	943.50	3,088
Total					27,565.11
Source - AOR Floor Area Schedule 10/22/07 R-594					

Approved Areas Ex. M-2B From R-4697

AOR Areas Ex. M-3A From R-594

* As approved, R-4697 variance info obtained by subtracting AOR R-494 from Proposed R-4697

** Slight inconsistencies exist. For example other sources state no variance on floor 5, and only 1500 sq.ft. of three floor variances

Approved Bldg. Area

Source R-4697 Approved Building Drawings

BSA Approved Building Areas From R-4697*

Floor	Uses	Total Approved
SB2	Banquet Hall	6,642
SB1	Mechanical Various	6,597
1	Lobby, Syn Extension, Etc.	6,642
2	Toddler Classrooms	5,148
3	Classrooms	5,148
4	Adult Classroom, Caretaker Apt.	5,170
	Total Community House	
5	Luxury Condominium	4,512
6	Luxury Condominium	4,347
7	Luxury Condominium	4,347
8	Luxury Condominium	4,347
9	Luxury Condominium	2,757
	Total Luxury Condo	

FLOOR	USE	GROSS FLOOR AREA PROPOSED	
		RBB	R10A
C2	COMMUNITY FACILITY	(4,723.50)	(1,918.10)
	COMMUNITY FACILITY	(3,383.74)	(1,802.44)
C1	RESIDENTIAL	(1,339.78)	(315.66)
	COMMUNITY FACILITY	3,705.94	1,918.10
1	RESIDENTIAL	1,017.57	0
	COMMUNITY FACILITY	3,458.00	1,348.50
2	RESIDENTIAL	325.50	0
	COMMUNITY FACILITY	3,458.00	1,348.50
3	RESIDENTIAL	325.50	0
	COMMUNITY FACILITY	3,408.50	1,368.50
4	RESIDENTIAL	375.00	0
	COMMUNITY FACILITY		
5	RESIDENTIAL	3,313.50	1,198.50
6	RESIDENTIAL	3,148.13	1,198.50
7	RESIDENTIAL	3,148.13	1,198.50
8	RESIDENTIAL	3,148.13	1,198.50
PORCHHOUSE	RESIDENTIAL	2,375.94	379.91

004697

200 JUL 13 PM 3:56

APPROVED PLANS
BOARD OF STANDARDS AND APPEALS

The approval of these plans is limited solely to the actual ground by the BSA. All plans are subject to Department of Buildings review for compliance with all other applicable laws and regulations.

Refer to the Certified Translation language for the scope and specific description of the BSA Approval.

REGISTERED ARCHITECT
JEROME D. COHEN
NEW YORK

CAL NO 74-07-827

PROPOSED
FLOOR AREA SCHEDULE

CONGREGATION
SHEARITH ISRAEL

33 WEST 75TH STREET
NEW YORK, NY

Sheet: 1 of 2
P-2 REV.

0 10 20 30

004697

* As approved, R-4697 Variance Info Obtained by Subtracting AOR R-494 from Proposed R-4697

Floor Areas

AOR Scheme A

As-of-Right Scheme - See R-594*

Floor	R8B Com	R8B Rex	R10A Com	R10A Res	Total
1	3,705.94	1,017.57	1,918.10		6,642.61
2	2,988.00	325.50	1,198.50	0	4,514
3	2,988.00	325.50	1,198.50	0	4,515
4	2,938.50	325.50	1,198.500	0	4,466.5
5	0	3135.50	0	1,198.50	4,339
6	0	2,138.50	0	943.50	3,088
Total					27,565.11
Source - AOR Floor Area Schedule 10/22/07 R-594					

FLOOR	USE	FLOOR AREA PROPOSED	
		R8B	R10A
C2	COMMUNITY FACILITY	(4,723.50)	(1,918.10)
	COMMUNITY FACILITY	(3,383.74)	(1,602.44)
C1	RESIDENTIAL	(1,339.78)	(315.66)
	COMMUNITY FACILITY	3,705.94	1,918.10
1	RESIDENTIAL	1,017.57	0
	COMMUNITY FACILITY	2,988.00	1,198.50
2	RESIDENTIAL	325.50	0
	COMMUNITY FACILITY	2,988.00	1,198.50
3	RESIDENTIAL	325.50	0
	COMMUNITY FACILITY	2,938.50	1,198.50
4	RESIDENTIAL	375.00	0
	COMMUNITY FACILITY	0	0
5	RESIDENTIAL	3,313.50	1,198.50
6	RESIDENTIAL	2,138.50	943.50

FLOOR AREA SCHEDULE									
FLOOR	USE	FLOOR AREA PROPOSED		FLOOR AREA EXISTING		COMM. FAC. GROSS FLOOR AREA	RESIDENTIAL GROSS FLOOR AREA	COMBINED R8B & R10A GROSS FLOOR AREA	ZONING FLOOR AREA
		R8B	R10A	R8B	R10A				
C2	COMMUNITY FACILITY	(4,723.50)	(1,918.10)	(1,385.04)	(8,036.64)	0	(8,036.64)	N/A	N/A
	COMMUNITY FACILITY	(3,383.74)	(1,602.44)	(10,495.14)	(15,481.30)			N/A	N/A
C1	RESIDENTIAL	(1,339.78)	(315.66)				(1,655.42)	(17,138.74)	N/A
	COMMUNITY FACILITY	3,705.94	1,918.10	11,541.25	17,165.29			N/A	N/A
1	RESIDENTIAL	1,017.57	0	0	N/A	1,017.57	18,182.86	18,182.86	
	COMMUNITY FACILITY	2,988.00	1,198.50	6,493.89	10,680.30			N/A	N/A
2	RESIDENTIAL	325.50	0	0	N/A	325.50	11,005.80	11,005.80	
	COMMUNITY FACILITY	2,988.00	1,198.50	1,151.89	5,338.39			N/A	N/A
3	RESIDENTIAL	325.50	0	0	N/A	325.50	5,863.89	5,863.89	
	COMMUNITY FACILITY	2,938.50	1,198.50	2,004.79	6,141.79			N/A	N/A
4	RESIDENTIAL	375.00	0	0	N/A	375.00	8,518.79	8,518.79	
	COMMUNITY FACILITY	0	0	6,567.47	6,567.47				
5	RESIDENTIAL	3,313.50	1,198.50	0	N/A	4,512.00	11,079.47	11,079.47	
6	RESIDENTIAL	2,138.50	943.50	0	N/A	3,082.00	3,082.00	3,082.00	
TOTAL ZONING FLOOR AREA R8B COMMUNITY		12,620.44							
TOTAL ZONING FLOOR AREA R8B RESIDENTIAL		7,485.57							
TOTAL ZONING FLOOR AREA R8B		20,106.01							
TOTAL ZONING FLOOR AREA R10A COMMUNITY			5,513.60						
TOTAL ZONING FLOOR AREA R10A RESIDENTIAL			2,142.00						
TOTAL ZONING FLOOR AREA R10A EXIST. COMM.				27,759.30					
TOTAL ZONING FLOOR AREA R10A				30,414.60					
TOTAL ZONING FLOOR AREA COMMUNITY FACILITY						45,893.24	8,637.57		
TOTAL ZONING FLOOR AREA RESIDENTIAL									
TOTAL NEW BUILDING & EXIST. SYMMETRIC								85,764.19	55,530.81
TOTAL NEW BUILDING								41,054.81	27,771.81

NOTE: DEDUCTIONS FOR MECHANICAL SPACE ARE NOT TAKEN AND ARE NOT NECESSARY TO MEET AREA REQUIREMENTS.

As-of-Right Scheme A - R-594 10/22/07*

* A Building R-594, AOR-A-2

Area Per Floor

AOR Scheme A – Source of Information

Area per Floor

Floor	R8B Com	R8B Rex	R10A Com	R10A Res	Total
1	3,705.94	1,017.57	1,918.10		6,642.61
2	2,988.00	325.50	1,198.50	0	4,514
3	2,988.00	325.50	1,198.50	0	4,515
4	2,938.50	325.50	1,198.500	0	4,466.5
5	0	3135.50	0	1,198.50	4,339
6	0	2,138.50	0	943.50	3,088
Total					27,565.11
Source - AOR Floor Area Schedule 10/22/07 R-594					

FLOOR	USE	FLOOR AREA PROPOSED	
		R8B	R10A
C2	COMMUNITY FACILITY	(4,723.50)	(1,918.10)
	COMMUNITY FACILITY	(3,383.74)	(1,902.44)
C1	RESIDENTIAL	(1,339.78)	(315.68)
	COMMUNITY FACILITY	3,705.94	1,918.10
1	RESIDENTIAL	1,017.57	0
	COMMUNITY FACILITY	2,988.00	1,198.50
2	RESIDENTIAL	325.50	0
	COMMUNITY FACILITY	2,988.00	1,198.50
3	RESIDENTIAL	325.50	0
	COMMUNITY FACILITY	2,938.50	1,198.50
4	RESIDENTIAL	375.00	0
	COMMUNITY FACILITY	0	0
5	RESIDENTIAL	3,313.50	1,198.50
6	RESIDENTIAL	2,138.50	943.50

AS-OF-RIGHT FLOOR AREA SCHEDULE

CONGREGATION SHEARITH ISRAEL

6-10 WEST 10TH STREET
NEW YORK, NY

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0 16 32 64

REGISTERED ARCHITECT
PLATT BYARD DOVEY WHITE
STATE OF NEW YORK
1976

CAL. NO. 74-07-BZ

AS-OF-RIGHT FLOOR AREA SCHEDULE

Platt Byard Dovey White
Architects, LLP
20 West 10th Street
New York, NY 10011
212.681.2443
212.681.4410 fax

10.22.07

100350

AOR-A-2

000594

NOTE: DIMENSIONS FOR MECHANICAL SPACES ARE NOT SHOWN AND ARE NOT NECESSARY TO MEET AREA REQUIREMENTS.

FLOOR AREA SCHEDULE

FLOOR	USE	FLOOR AREA PROPOSED	FLOOR AREA EXISTING	CHANGE	NET AREA	NET AREA	NET AREA	NET AREA	NET AREA
		R8B	R10A		R8B	R10A	R8B	R10A	R8B
C2	COMMUNITY FACILITY	(4,723.50)	(1,918.10)	(1,308.04)	(3,415.46)	0	(4,723.50)	0	0
	COMMUNITY FACILITY	(3,383.74)	(1,902.44)	(1,405.14)	(1,908.60)	0	(3,383.74)	0	0
C1	RESIDENTIAL	(1,339.78)	(315.68)	(1,024.10)	(315.68)	0	(1,339.78)	0	0
	COMMUNITY FACILITY	3,705.94	1,918.10	1,943.35	17,195.33	N/A	3,705.94	1,918.10	18,113.43
1	RESIDENTIAL	1,017.57	0	0	N/A	1,017.57	1,017.57	0	1,017.57
	COMMUNITY FACILITY	2,988.00	1,198.50	6,495.00	10,683.50	N/A	2,988.00	1,198.50	11,065.50
2	RESIDENTIAL	325.50	0	0	N/A	325.50	325.50	0	325.50
	COMMUNITY FACILITY	2,988.00	1,198.50	5,107.69	9,306.19	N/A	2,988.00	1,198.50	11,065.50
3	RESIDENTIAL	325.50	0	0	N/A	325.50	325.50	0	325.50
	COMMUNITY FACILITY	2,938.50	1,198.50	2,084.19	6,141.19	N/A	2,938.50	1,198.50	11,065.50
4	RESIDENTIAL	375.00	0	0	N/A	375.00	375.00	0	375.00
	COMMUNITY FACILITY	0	0	6,387.47	6,387.47	N/A	0	0	6,387.47
5	RESIDENTIAL	3,313.50	1,198.50	0	N/A	4,512.00	11,076.47	11,076.47	11,076.47
6	RESIDENTIAL	2,138.50	943.50	0	N/A	3,082.00	3,082.00	3,082.00	3,082.00
TOTAL									
TOTAL ZONING FLOOR AREA	R8B COMMUNITY	12,875.44							
TOTAL ZONING FLOOR AREA	R8B RESIDENTIAL	7,485.87							
TOTAL ZONING FLOOR AREA	R8B	20,361.31							
TOTAL ZONING FLOOR AREA	R10A COMMUNITY		5,212.00						
TOTAL ZONING FLOOR AREA	R10A RESIDENTIAL		3,443.00						
TOTAL ZONING FLOOR AREA	R10A		8,655.00						
TOTAL ZONING FLOOR AREA	R10A COMMUNITY		5,212.00						
TOTAL ZONING FLOOR AREA	R10A RESIDENTIAL		3,443.00						
TOTAL ZONING FLOOR AREA	R10A		8,655.00						
TOTAL ZONING FLOOR AREA	COMMUNITY FACILITY			45,853.24		45,853.24			
TOTAL ZONING FLOOR AREA	RESIDENTIAL				8,827.57	8,827.57			
TOTAL	NEW BUILDINGS & EXIST. BUILDINGS				88,784.19	88,784.19			
TOTAL	NEW BUILDINGS				47,884.81	47,884.81			

Rate of Return

For AOR Scheme C “All-Residential Building”

Congregation obtains reasonable return
Finding (b) cannot be made

“While utilizing the revised acquisition value, i.e., \$12,347,000, would have resulted in a profit of approximately \$5 million, the rate of return would have only been increased to 6.7%. As established by the Congregation’s experts, a reasonable rate of return for the subject premises was approximately 11% [R.4652-3, 4656, 4868-69, 5172, 5178].Notably, the rate of return for the proposed development as approved by BSA is 10.93%.”

¶292 City Answer to Petition,
Computing the Annualized Return on Investment for Scheme C if Acquisition Cost is
Corrected To Be Consistent With Final Acquisition Cost

6.7% return For Scheme C

“The Proposed Development provides a 6.55% Annualized Return on Total Investment. This return is at the low end of the range that typical Investors would consider as an investment opportunity, taking into account the potential risks inherent in this type of a development project, and few, in any, investment options. The returns provided by the Proposed Development alternative, in this case would, therefore, be considered acceptable for this project.”

Freeman Frazier, March 28, 2007; 6.55% R-140

6.55% acceptable return

“The Revised As of Right Residential Development, Alternative As of Right Residential Development and As of Right Residential F.A.R. 4.0 Development would each result in an annualized loss. The return provided by the Revised Proposed Development would provide 6.59% return on investment. The return provided by the Revised Proposed Development, in this case, would be considered acceptable.”

Freeman Frazier, September 6, 2007; 6.59% R-287

6.59% acceptable return

City Answer

To Petition Paragraph 292

Scheme C Yields 6.70 Return

square footage, BSA had the necessary elements to calculate and review the base unit price [R. 1997, 5178-79]. Accordingly, the additional pages were irrelevant because they were not needed for BSA's review. Moreover, as admitted by petitioners, strict rules of evidence do not apply to an administrative hearing. Petition ¶ 193. Thus, there was no requirement for the alleged additional pages to be submitted.

292. Second, petitioners argue that, prior to adopting the Resolution, BSA should have required the Congregation to revise its December 21, 2007 Scheme C study (all residential scheme). Specifically, petitioners claim that the Congregation should have been required to recalculate its estimated financial return for an all residential scheme utilizing the \$12,347,000 acquisition value set forth in the Congregation's final July 2008 report because doing so would have shown a profit of approximately \$5 million. Petitioners' argument is flawed. As set forth above, under Z.R. §72-21(b), BSA examines whether an applicant can realize a reasonable return, not merely a profit. While utilizing the revised acquisition value, i.e., \$12,347,000, would have resulted in a profit of approximately \$5 million, the rate of return would have only been increased to 6.7%. As established by the Congregation's experts, a reasonable rate of return for the subject premises was approximately 11% [R. 4652-3, 4656, 4868-69, 5172, 5178]. Accordingly, since petitioners' proposed calculation would not have resulted in a reasonable return, petitioners' argument fails.¹⁹

293. Third, petitioners argue that Freeman Frazier and BSA improperly interchanged the phrases "acquisition cost" "market value" of the land," and "site value." Petition ¶ 132. Petitioners further argue that "[t]he inconsistent use of terms is intended to create complexity and make it difficult for courts to review the assertion of the Congregation or

¹⁹ Notably, the rate of return for the proposed development as approved by BSA is 10.93%.

Freeman March 28, 2007 R-140

6.55% acceptable return

Economic Analysis Report
6-10 West 70th Street
New York, New York
March 28, 2007
Page 7

5.00 Conclusion

The Proposed Development provides a 6.55% Annualized Return on Total Investment. This return is at the low end of the range that typical Investors would consider as an investment opportunity, taking into account the potential risks inherent in this type of development project, and few, if any, investment options. The returns provided by the Proposed Development alternative, in this case would, therefore, be considered acceptable for this project.

There is no Return on Investment provided by the As of Right Development.

6.00 Professional Qualifications

A statement of my professional qualifications is attached. Please note that I am independent of the subject property's owner and have no legal or financial interest in the subject property.

Freeman Sept. 6, 2007 R-287

6.59% acceptable return

Notice of Objections Response
6-10 West 70th Street
New York, NY
September 6, 2007
Page 5

The Feasibility Analysis estimated the net project value to be \$14,820,000. This amount is the sum of residential condominium unit sales, less sales commissions, plus the capitalized value of the community facility space. The total investment required, including estimated Property Value, base construction costs, soft costs and carrying costs during the sales period for the Revised As of Right Development is estimated to be \$28,139,000. As shown in Schedule A, the development of the Revised As of Right Development would result in an annualized capital loss of \$7,964,000.

c) Revised Proposed Development (*Objection #35*)

The Feasibility Analysis estimated the net project value to be \$39,556,000. This amount is the sum of residential condominium unit sales, less sales commissions, plus the capitalized value of the community facility space, which as shown in the attached Schedule A2, space is \$4,056,000. The total investment, including estimated Property Value, base construction costs, soft costs and carrying costs during the sales period for the Revised Proposed Development is estimated to be \$33,689,000.

As shown in Schedule A, the development of the Revised Proposed Development would provide an Annualized Return on Total Investment of 6.59%. We note that this return is not significantly higher than the previous return of 6.55%. This results from the assumption that the community facility areas will be rented at market rate. In fact, were the project to be undertaken today, as the proforma analysis assumes, the value of the project would be constrained by the fact that the community facility would produce no income and the lower return of 6.55% would be a more accurate reflection of the actual conditions.

d) As of Right Residential F.A.R. 4.0 Development (*Objection #37*)

The Feasibility Analysis estimated the net project value to be \$33,018,000. This amount is the sum of total estimated gross sales proceeds, less sales commissions. The total investment, including estimated Property Value, base construction costs, soft costs and carrying costs during the sales period for the As of Right Residential F.A.R 4.0 Development is estimated to be \$37,388,000. As shown in Schedule A, the development of the As of Right Residential F.A.R 4.0 Development would result in an annualized capital loss of \$2,313,000.

The Revised As of Right Residential Development, Alternative As of Right Residential Development and As of Right Residential F.A.R. 4.0 Development would each result in an annualized loss. The return provided by the Revised Proposed Development would provide 6.59% return on investment. The return provided by the Revised Proposed Development, in this case, therefore, would be considered acceptable.

Base Unit Const. Costs

City answer ¶291- AOR-A vs. Proposed

ECONOMIC ANALYSIS
10 WEST 70TH STREET
NEW YORK, NY
JULY 8, 2008
PAGE 8

SCHEDULE A: ANALYSIS SUMMARY

	REVISED AS OF RIGHT CF/RESIDENTIAL DEVELOPMENT	REVISED PROPOSED DEVELOPMENT
BUILDING AREA (SQ.FT.)		
BUILT RESIDENTIAL AREA	7,894	12,352
SELLABLE AREA	5,316	15,243
CAPITAL INVESTMENT SUMMARY		
ACQUISITION COST	\$12,347,000	\$12,347,000
HOLDING & PREP. COSTS	\$0	\$0
BASE CONSTRUCTION COSTS	\$3,722,000	\$7,398,000
SOFT CONSTRUCTION COSTS	\$3,977,000	\$6,322,000
	\$20,065,000	\$26,067,000
PROJECT VALUE		
SALE OF UNITS	\$12,702,000	\$36,394,000
(less) SALES COMMISSIONS	6% (\$762,000)	(\$2,184,000)
EST. NET PROJECT VALUE	\$11,940,000	\$34,210,000
PROJECT INVESTMENT		
ACQUISITION COST	\$12,347,000	\$12,347,000
HOLDING & PREP. COSTS	\$0	\$0
BASE CONSTRUCTION COSTS	\$3,722,000	\$7,398,000
SOFT CONSTRUCTION COSTS	\$3,977,000	\$6,322,000
CARRYING COSTS DURING SALES PERIOD	\$419,000	\$664,000
EST. TOTAL INVESTMENT	\$20,465,000	\$26,731,000
RETURN ON INVESTMENT		
ESTIMATED PROJECT VALUE	\$11,940,000	\$34,210,000
(less) EST. TOTAL INVESTMENT	(\$20,465,000)	(\$26,731,000)
(less) EST. TRANSACTION TAXES	(\$232,000)	(\$664,000)
EST. PROFIT (loss)	(\$8,757,000)	\$6,815,000
DEVELOPMENT/SALES PERIOD (MONTHS)	23	28
ANNUALIZED PROFIT (loss)	(\$4,589,000)	\$2,821,000

Approved Scheme

Base condo
construction cost:
\$7,398,000

Per sq.ft.:
 $\$7,398,000 \div 15,243$
= \$485 sq.ft.

AOR Scheme A

Base condo
construction cost:
\$3,772,000

Per sq.ft.:
 $\$3,722,000 \div 5,316 =$
\$700 sq.ft.

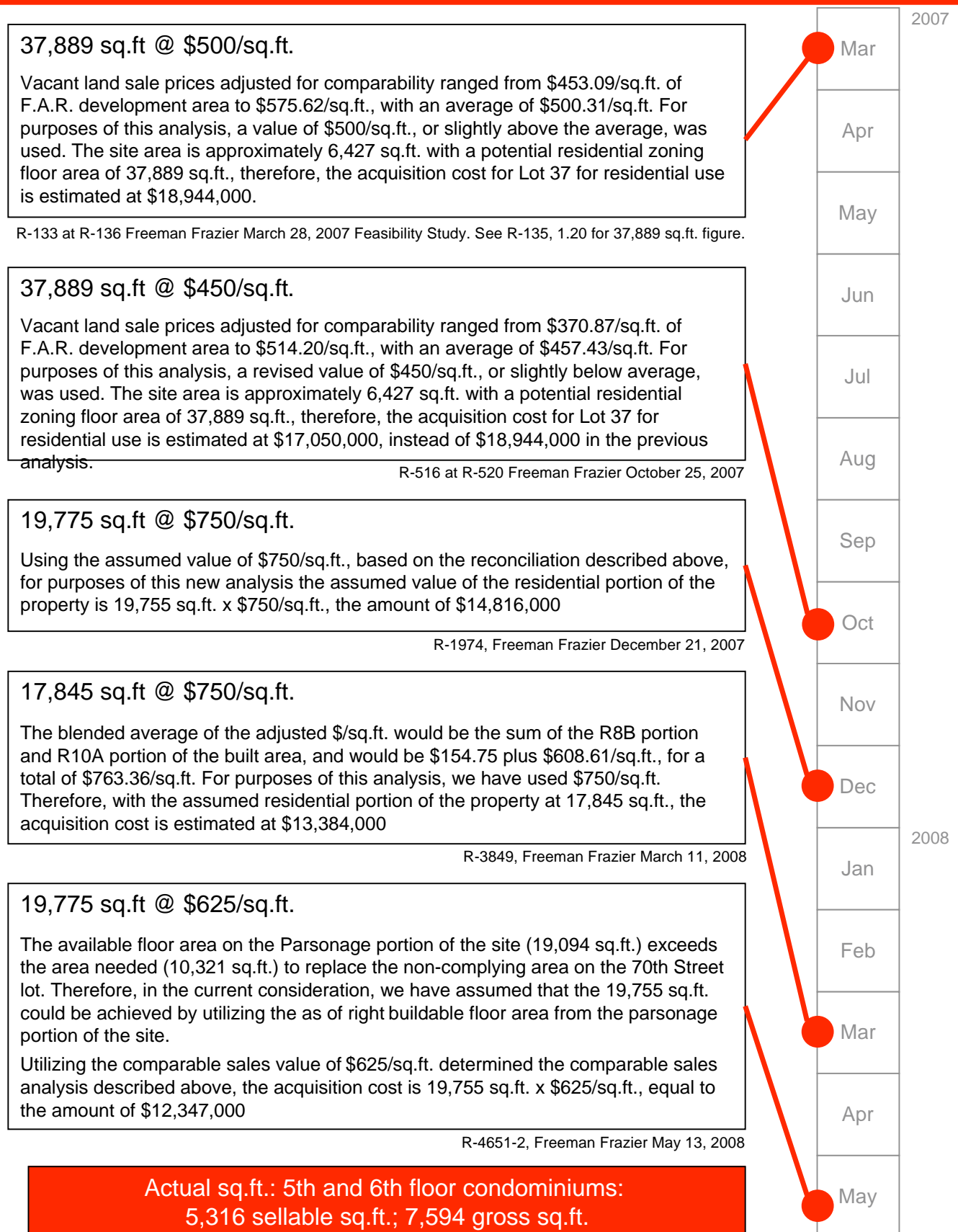
CONCLUSION:

AOR base unit condo
costs are 44% higher
than approved base
unit condo costs

"291. BSA, in examining whether construction prices are reasonable, reviews the base unit price [sic - cost], i.e., the construction cost divided by the square footage. Here, since the Congregation submitted the construction cost and the square footage, BSA had the necessary elements to calculate and review the base unit price [sic - cost][R. 1997, 5178-79]." City Answer to Petition

Varying Site Values

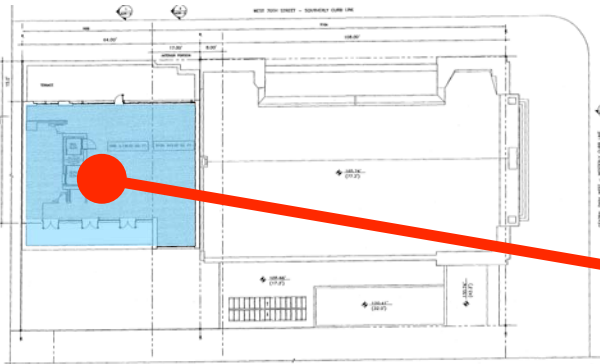
Inconsistent approaches and conclusions



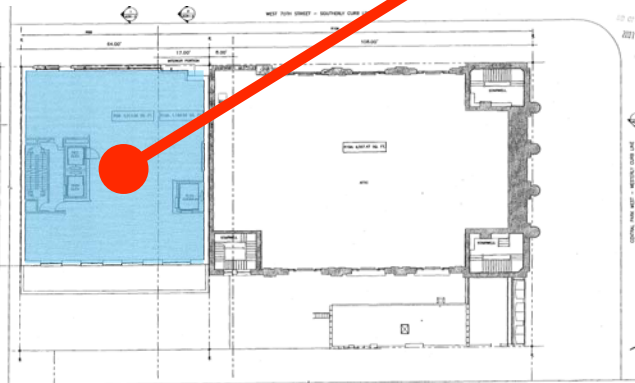
AOR Scheme A

Location of Two AOR Condominiums

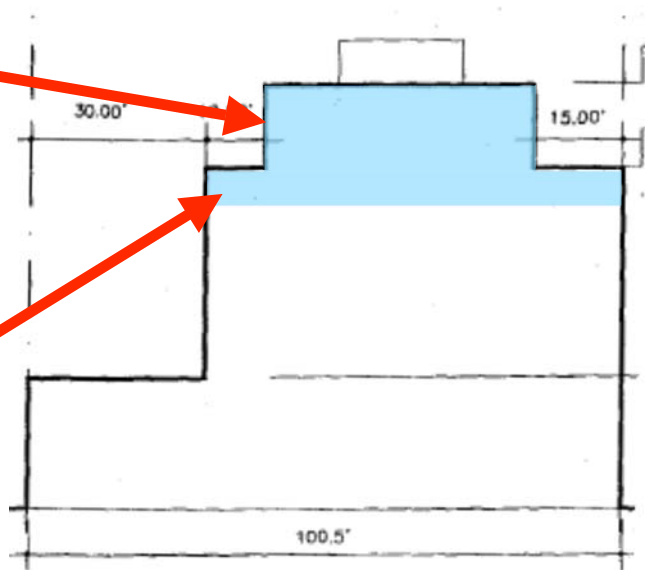
Sixth Floor AOR (R-606)
3,082 Gross (Built) sq.ft. (R-594)



Fifth Floor AOR (R-605)
4,512 Gross (Built) sq.ft. (R-594)



Fifth and Sixth Floors
7,594 sq.ft. (Built)
5,316 sq.ft. (Sellable)



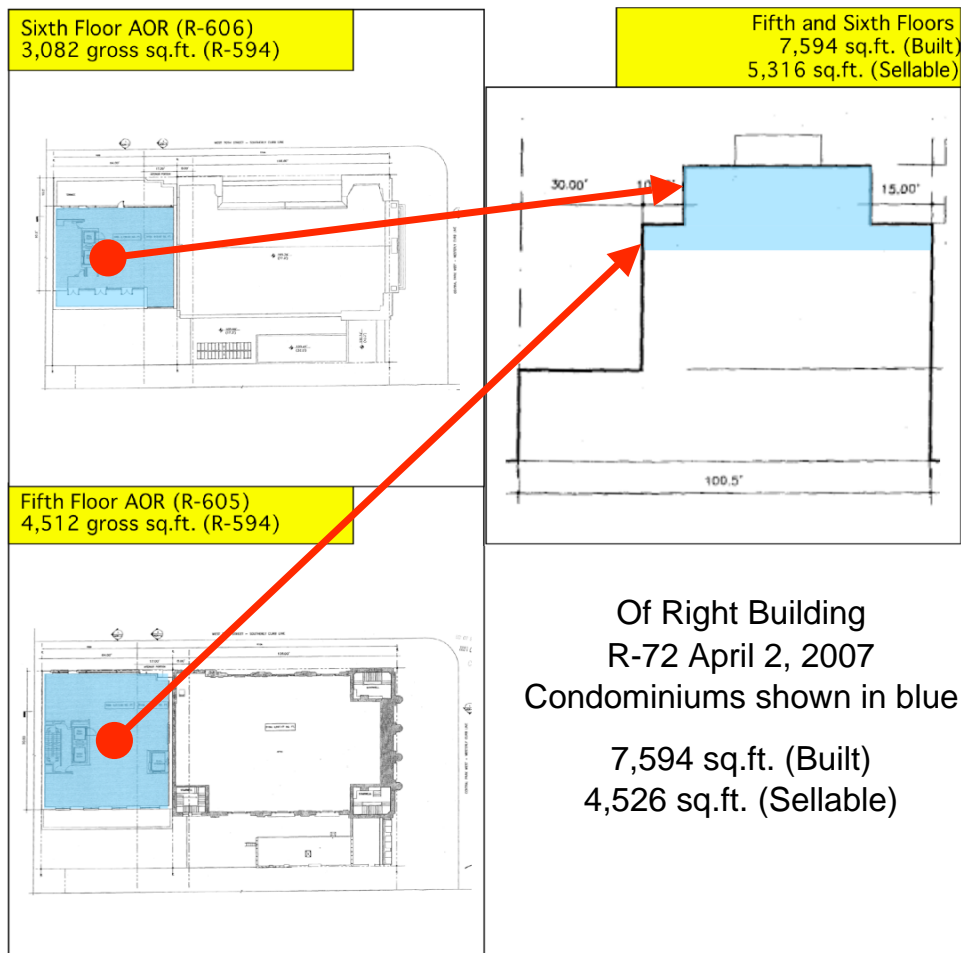
Looking west toward 18 W. 70th
Cross-section AOR building

Site Value

Two Condominium AOR Scheme A

Condominium	Area Sq.ft.	Site "Value"
Built	7,594	\$3.8 Million
Sellable	5,316	\$2.6 Million

Alternate Site Value	Area Sq.ft.	Site "Value"
Parsonage Unused Development Rts.	19,755	\$12.3 Million

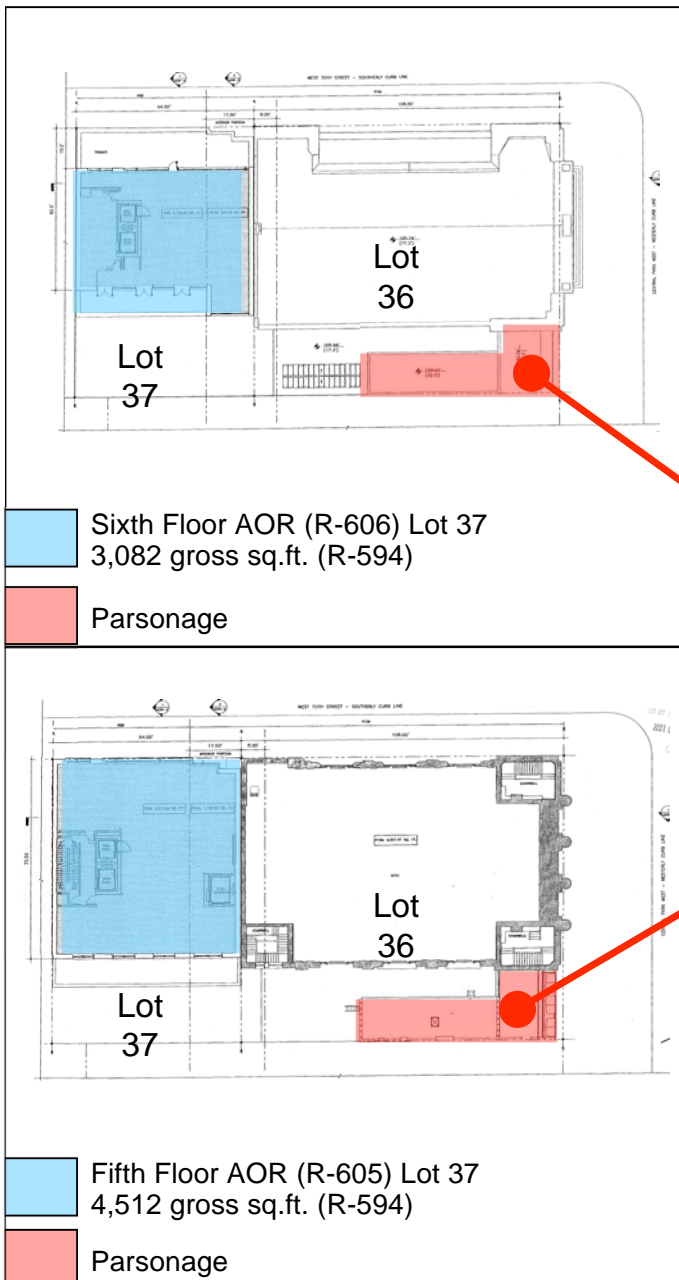


Site value = Area of developable space in sq.ft x
value of development space/sq.ft.

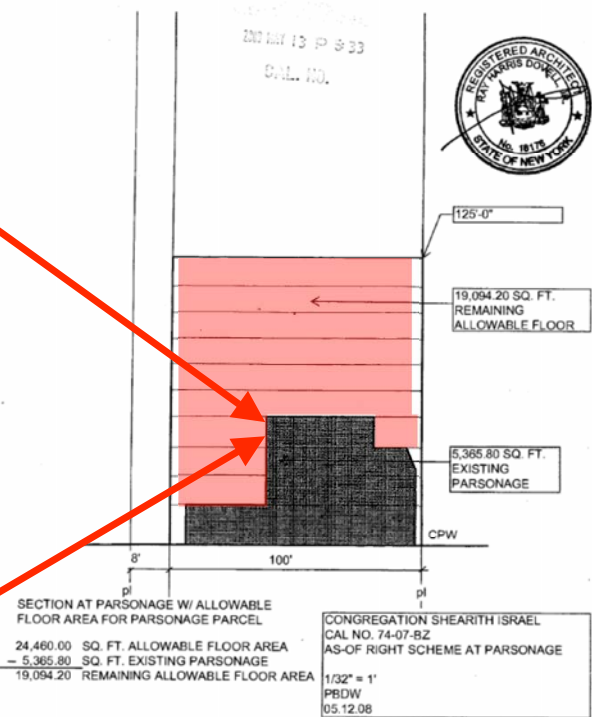
Parsonage Air Rights Area

In Lot 36

Parsonage - no relationship to Site Area
of 5th and 6th floor condos in Lot 37



Parsonage Lot 36



Parsonage, Cross Section looking north
(R-4694)

Parsonage "air rights" - 19,775 sq.ft.

Scheme A Site Value

Standard Approach vs. BSA Inflated

Market value of 5,316 sq. ft.
development site, using Standard
Method and Freeman Frazier
450 per sq.ft. valuation:

\$2,600,000



Inflated market value of development
site, using Parsonage Air Rights
19,755 sq.ft. @ \$625*:

\$12,346,875

* See R-4651-2

Site Valuations Metrics - AOR Scheme A

Gross sq.ft. of two-condo development site: 7,594 sq. ft.

Sellable sq.ft. of two-condo development site: 5,316 sq. ft.

Value per sq.ft. for development rights:

R-136 Freeman Frazier Report:	\$500/sq.ft. \$3.8 million gross \$2.6 million sellable
-------------------------------	---

R-520 Freeman Frazier Report:	\$450/sq.ft. \$3.4 million gross \$2.4 million sellable
-------------------------------	---

Accepted by BSA:	19,755 gross sq.ft. (R-4651/2) \$625/sq.ft. (R-4651/2 Freeman Frazier Report) \$12,346,875 total site value (aka "acquisition cost")
------------------	---

Missing 8th Variance

Related to the “40-foot separation” rule

BSA claims revisions in drawings as basis for
DOB withdrawing objection requiring 40 foot objection.

But no revisions are evident.

April 2, 2007 Application

August 28, 2007 Re-Submission to DOB

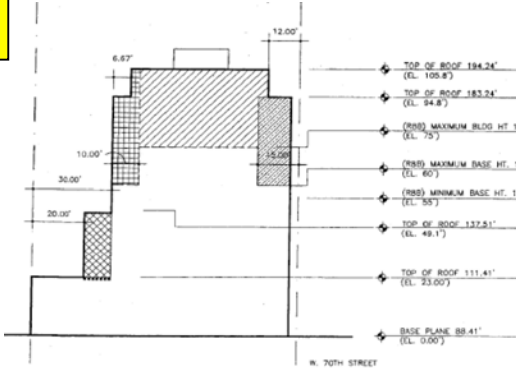
R-85



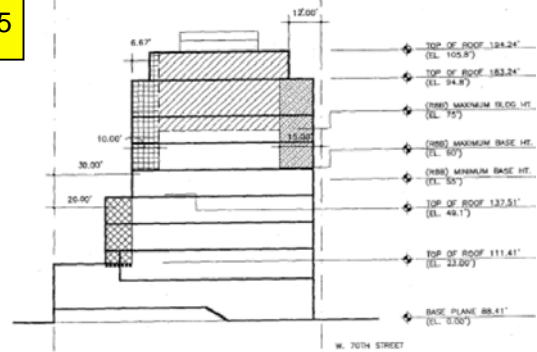
R-402



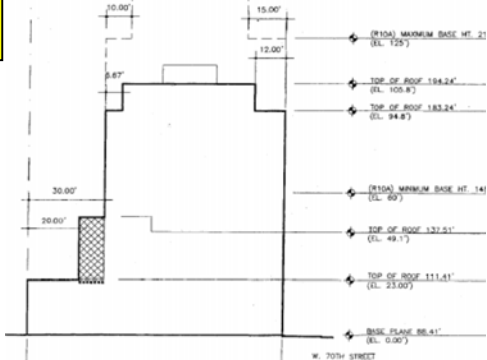
R-88



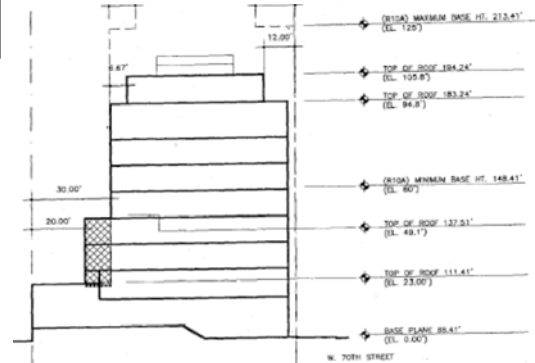
R-405



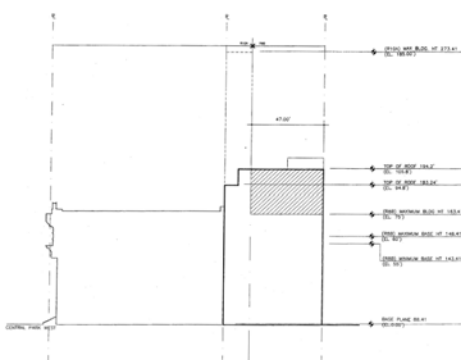
R-88



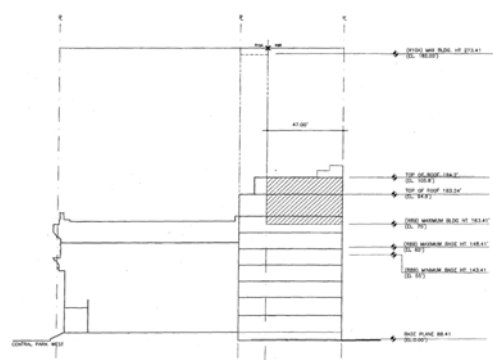
R-405



R-88



R-405

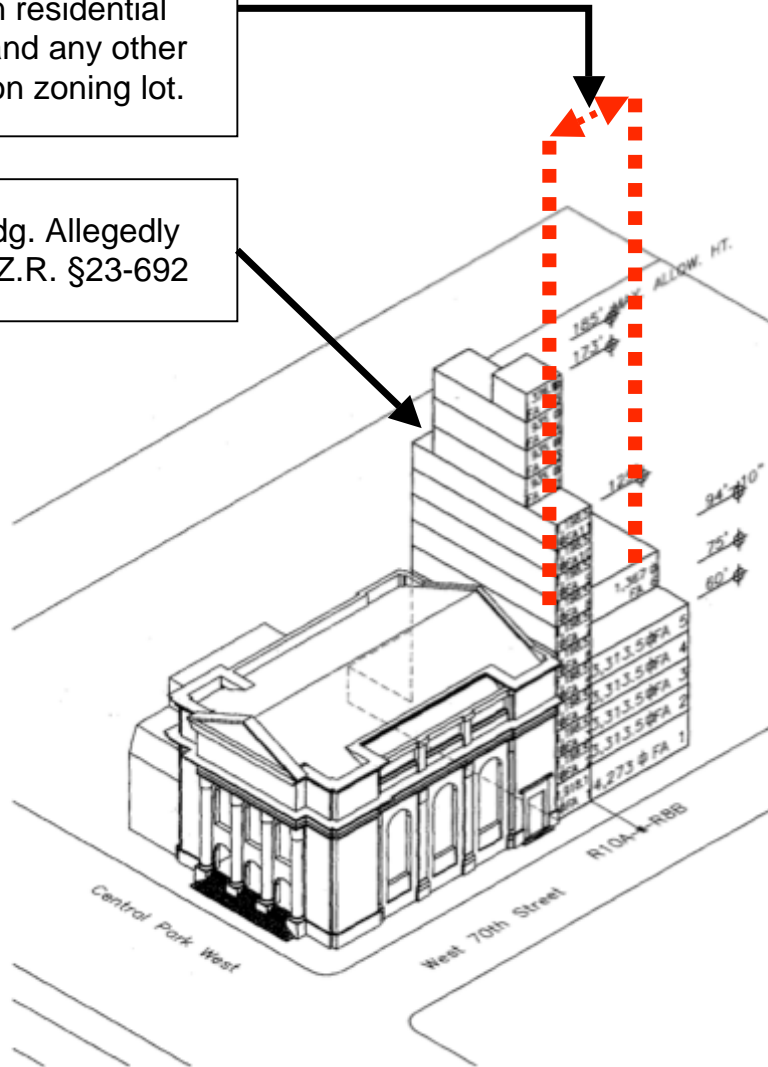


Sliver Building Z.R. §23-692

And 40-foot separation Z.R. §23-711

ZR §23-711 requires 40 foot minimum distance between residential building and any other building on zoning lot.

Sliver Bldg. Allegedly Violating Z.R. §23-692



EXISTING AS OF RIGHT ZONING ENVELOPE @ DEVELOPMENT SITE (BASED ON HEIGHT AND SETBACK LIMITATIONS)

PERMITTED FLOOR AREA:

R10A- 17,085 SF
R8B- 18,894 SF
COMBINED - 35,979 SF

AS-OF-RIGHT TOWER W/ MAXIMUM FAR ON DEVELOPMENT SITE

PBDW
03.11.08
CAL NO. 74-07-BZ

BSA Notice of Objection

June 15, 2007

Re: 23-711 and Building Separation

74-07-BZ Notice of Objections

June 15, 2007

19. **Page 23:** Within the second and third sentence of the second paragraph, please change references to both "maximum height" and "maximum building height" to "maximum base height."
20. **Page 24:** Please correct the title of the first full paragraph by replacing "Building Separation" with "Standard Minimum Distance Between Buildings."
21. **Page 24:** Please note that ZR § 23-711 prescribes a required minimum distance between a residential building and any other building on the same zoning lot. Therefore, within the first full paragraph, please clarify that the DOB objection for ZR § 23-711 is due to the lack of distance between the residential portion of the new building and the existing community facility building to remain.
22. **Page 25:** Within the suggested "(c) finding," please note the number of lot-line windows for adjacent residential buildings that would be blocked for both the as-of-right, lesser variance (see BSA Objections # 30-31) and proposed scenarios.
23. **Page 25:** Within the suggested "(c) finding," please discuss the built context along the subject blockfronts of West 70th Street and the alleged appropriateness of the proposed building in terms of neighborhood character. Please reference drawing P-17.

EXISTING CONDITIONS DRAWINGS

24. **EX-3 & EX-4 (Section Drawings):** Please substantially enlarge each drawing within the 11x17 sheet and show floor-to-ceiling heights. Additionally, please remove the illustrative as-of-right envelope outline from these drawings.

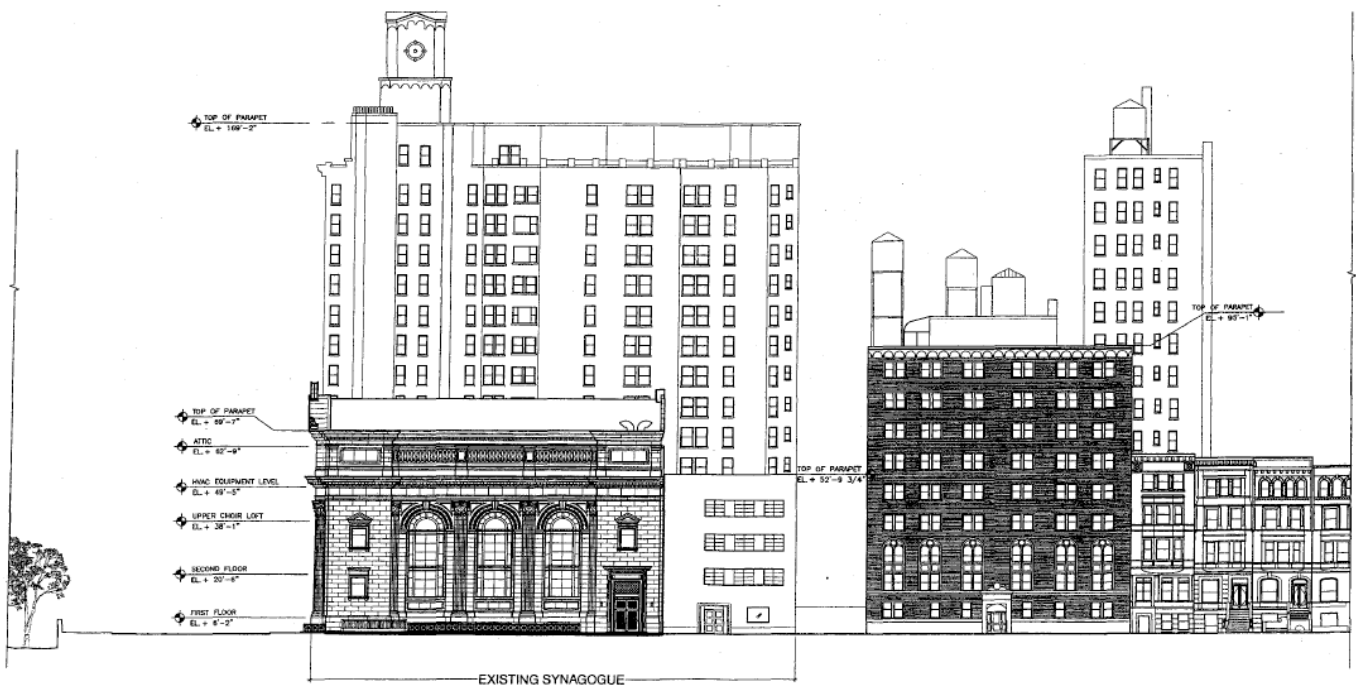
AS-OF RIGHT CONDITIONS DRAWINGS

25. It appears that the "as-of-right" scenario would still require a BSA waiver for ZR § 23-711 (Standard Minimum Distance Between Buildings) given that it contains residential use (see Objection # 21). Please clarify.
26. **AOR-3 & AOR-4 (Section Drawings):** Please substantially enlarge each drawing within the 11x17 sheet and show floor-to-ceiling heights.
27. **Drawing AOR-14:** Please label the proposed (as-of-right) building and existing, adjacent buildings accordingly.

PROPOSED CONDITIONS DRAWINGS

28. **P-3 & P4:** Please correct the title of the drawings by replacing "street wall sections" with "Areas of Non-Compliance."
29. Please provide new **section drawings** which show floor-to-ceiling heights.

Existing Looking South



AOR Scheme A

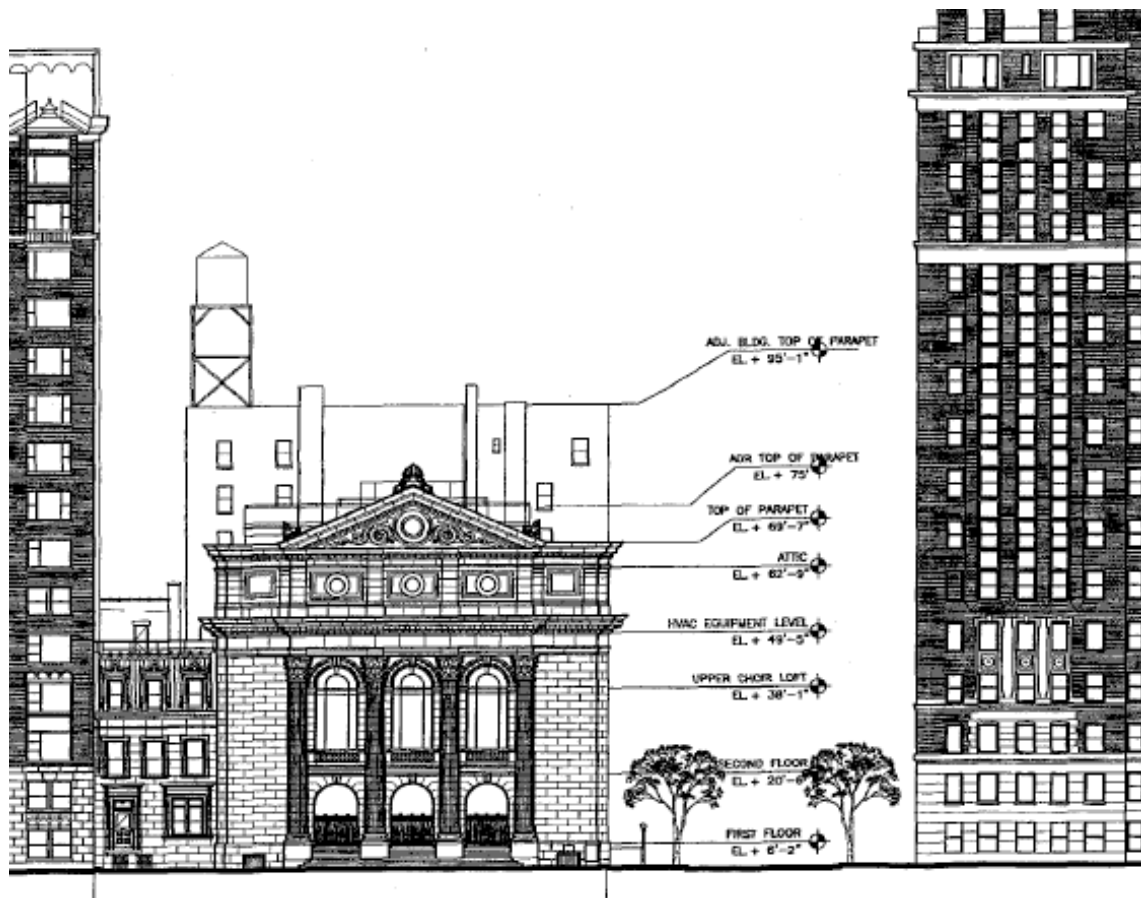
Looking South - R-592



Platt Byard Dovell White, submitted to BSA September 10, 2007

AOR Scheme A

Looking West R-607



Approved

Looking South R-4695



June 17, 2008 Applicant Letter to BSA

Circulation at heart of Application

were somehow providing depositions in a proceeding of their own making, the opponents have ultimately added nothing to the discourse.

All of the required findings in ZRCNY Sec. 72-21 have been met. Further comments on the "A" and "B" Findings are as follows.

Finding "A"

The Statement adequately explains the unique physical conditions peculiar to the Zoning Lot and the practical difficulties that arise due to them. The Zoning Lot possesses 144,510.96 sf of developable floor area but the position of an individually designated landmark over two-thirds of the Zoning Lot limits development on the Zoning Lot to two small parcels. One parcel, facing Central Park West has a width of 24.4 ft and a depth of 108 ft. It is improved with what was once a 4-storey single family building and is now known as the Parsonage. While this site is capable of significant theoretical development as a matter of right (it is zoned R10A, its streetwall may rise to 125 ft and its building height to 210 ft, subject to the "sliver" limitations in ZRCNY Sec 23-692 that would limit the height of an enlargement or new development to the height of the streetwall at 91 Central Park West), its narrow footprint, after deduction for elevators and stairs, would be useless for residential or community facility uses. In addition, such development would necessitate the blocking of several dozen windows on the north elevation of 91 CPW. Moreover, development of the Parsonage parcel would do nothing to remedy the significant egress and circulation deficiencies in the landmarked Synagogue, a remediation that is at the heart of this Application.

The only other development parcel on the Zoning Lot, the parcel proposed in this Application, which is also theoretically eligible to use as a matter of right a significant amount of zoning floor area, is also small and has become burdened with the relocation of a zoning district boundary that post-dates the establishment of the Zoning Lot and subdivides the parcel into a minor portion of R10A and a major portion of R8B, with resulting disparate height and setback requirements and a "sliver law" condition that preclude as-of-right development. Moreover, in order to remedy the circulation difficulties in the Synagogue, the footprint of the proposed development on its split-lot footprint must be held captive to the necessary physical alignments with the Synagogue. In addition, the dimensions of the parcel and the Applicant's programmatic needs require that the layout of educational and religious uses at floors 2 through four extend 10 ft into the required rear yard. The resulting configuration of the proposed new residential floor area on the narrow development parcel further requires that such residential uses not begin until elevation 49'1", and end at elevation 75 ft in an R8B district, which will not allow the residential use as proposed.

Adding to the unique restrictions on this site, the Landmarks Preservation Commission has issued, unanimously, a Certificate of Appropriateness for the proposal contained in the Application. Accordingly, the only reasonable way to proceed with development is to build within the envelope and in accordance with the detailed design drawings that the Commission has approved. This is not the case of an applicant coming to the Board to allege that the existence of the Zoning Lot within a historic district or adjacent to a designated landmark constitutes a recognizable hardship. This Applicant worked with the Commission for several

"...significant egress and circulation deficiencies in the landmarked Synagogue, a remediation that is at the heart of this Application."

APPLICABLE SECTION	ZONING CALCULATIONS
MAP 8C	1. <u>ZONING DISTRICTS:</u> RBB R10A
	2. <u>LOT AREA:</u> RBB 4,720 SF R10A 12,552 SF TOTAL 17,272 SF
22-00	3. <u>USES PERMITTED</u> RBB: USE GROUPS 1-4 RESIDENTIAL & COMMUNITY FACILITY R10A: USE GROUPS 1-4 RESIDENTIAL & COMMUNITY FACILITY
	4. <u>USES PROVIDED</u> RBB NEW USE: USE GROUP 4: COMMUNITY FACILITY USE GROUP 2: RESIDENTIAL R10A EXISTING USE: USE GROUP 4: COMMUNITY FACILITY NEW USE: USE GROUP 4: COMMUNITY FACILITY USE GROUP 2: RESIDENTIAL
24-011	5. <u>QUALITY HOUSING REGULATIONS APPLY</u>
23-145	6. <u>MAXIMUM RESIDENTIAL FLOOR AREA RATIO</u> RBB 4.00 R10A 10.00
24-11	7. <u>MAXIMUM COMMUNITY FACILITY FLOOR AREA RATIO</u> RBB 4.00 R10A 10.00
77-22	8. <u>PERCENTAGE BREAKDOWN BY DISTRICT IN DIVIDED ZONING LOT</u> RBB 27% R10A 73%
	9. <u>FLOOR AREA RATIO CALCULATIONS FOR DIVIDED ZONING LOTS</u> RBB 0.27 X 4.00 = 1.08 R10A 0.73 X 10.00 = 7.30 ADJUSTED MAXIMUM FAR 1.08 + 7.30 = 8.38 A. <u>FLOOR AREA PERMITTED</u> RBB: 8.38 X 4,720 SF = 39,553.60 SF R10A: 8.38 X 12,552 SF = 105,185.76 SF COMBINED RBB & R10A 8.38 X 17,272 = 144,739.36 SF B. <u>FLOOR AREA PROVIDED</u> RBB PORTION RESIDENTIAL 16,741.07 = SF RBB PORTION COMMUNITY FACILITY 14,517.74 = SF RBB TOTAL 31,258.81 = SF R10A PORTION RESIDENTIAL 5,555.34 = SF R10A PORTION COMMUNITY FACILITY 5,575.02 = SF R10A PORTION EXISTING COMMUNITY FACILITY 27,759.20 = SF R10A TOTAL 38,890.56 = SF COMBINED RBB & R10A 69,648.37 SF
24-11	10. <u>MAXIMUM LOT COVERAGE PERMITTED</u>
77-24	RBB INTERIOR 70% R10A INTERIOR PORTION 70% R10A CORNER PORTION 100%
	11. <u>LOT COVERAGE PROVIDED</u> RBB INTERIOR 80.1%, SEE P-5 DOES NOT COMPLY. REQUIRES BSA MODIFICATION. R10A PORTION INTERIOR 78.6%, SEE P-5 DOES NOT COMPLY. REQUIRES BSA MODIFICATION. R10A PORTION CORNER 100%, (EXISTING)
24-12	12. <u>APPLICATION OF LOT COVERAGE</u> APPLIED OVER 23.00' ABOVE BASE PLANE
24-34	13. <u>FRONT YARD REQUIREMENTS</u> RBB NOT REQUIRED R10A NOT REQUIRED RBB NOT PROVIDED R10A NOT PROVIDED
24-35	14. <u>SIDE YARD REQUIREMENTS</u> RBB NOT REQUIRED R10A NOT REQUIRED RBB NOT PROVIDED R10A NOT PROVIDED
24-36	15. <u>REAR YARD REQUIRED</u> RBB 30' REQUIRED R10A INTERIOR PORTION 30' REQUIRED R10A CORNER PORTION NOT REQUIRED
24-361	16. <u>REAR YARD PROVIDED</u> RBB INTERIOR PORTION 20.00', SEE P-5 DOES NOT COMPLY. REQUIRES BSA MODIFICATION. R10A INTERIOR PORTION 20.00', SEE P-5 DOES NOT COMPLY. REQUIRES BSA MODIFICATION. R10A CORNER PORTION COMPLIES - EXISTING REAR

4-522 17. STREET WALL LOCATION & HEIGHT
 23-833 A. STREET WALL LOCATION
 77-28 RRB NO CLOSURE TO STREET THAN ADJACENT BUILDING
 RTGA CORNER LOT-HERE REQUIRED FOR EXISTING PORTION
 AND BEYOND 50.00' OF INTERSECTION
 RRB COMPLES: SEE A-100
 RTGA COMPLES: SEE A-100

B. SETBACK REGULATIONS FOR NARROW STREETS
 RRB 15.00' SETBACK ABOVE 60.00'
 RTGA 15.00' SETBACK ABOVE 125.00'

C. SETBACK PROVIDED FOR NARROW STREETS
 RRB 12.00' PROVIDED SEE P-3
 DOES NOT COMPLY. REQUIRES BSA MODIFICATION.
 RTGA COMPLES: SEE P-3

D. BASE HEIGHT REQUIREMENTS
 RRB 55.00' MINIMUM - 60.00' MAXIMUM
 RTGA 60.00' MINIMUM - 125.00' MAXIMUM

E. BASE HEIGHT PROVIDED
 RRB PORTION 94.80', SEE P-3
 DOES NOT COMPLY. REQUIRES BSA MODIFICATION.
 RTGA PORTION 105.80', COMPLES SEE P-3

F. MAXIMUM BUILDING HEIGHT PERMITTED
 RRB 75.00'
 RTGA 185.00'

G. MAXIMUM BUILDING HEIGHT PROVIDED
 RRB PORTION 113.70', SEE P-3
 DOES NOT COMPLY. REQUIRES BSA MODIFICATION.
 RTGA PORTION 105.80', COMPLES SEE P-3

24-522 H. REAR SETBACK REQUIREMENTS
 23-833 RRB 10.00' SETBACK ABOVE MAX. BASE HEIGHT
 RTGA 10.00' SETBACK ABOVE MAX. BASE HEIGHT

I. REAR SETBACKS PROVIDED
 RRB PORTION 6.50', SEE P-3
 DOES NOT COMPLY. REQUIRES BSA MODIFICATION.
 RTGA PORTION COMPLES SEE P-3

23-22 18. DENSITY
 23-24 A. FACTOR FOR DWELLING UNITS
 RRB 680
 RTGA 790

B. MAXIMUM NUMBER OF DWELLING UNITS PERMITTED
 RRB 16,741.67 / 680 = 24 D.U.'S
 RTGA 5,055.34 / 790 = 6 D.U.'S
 TOTAL ALL 30 D.U.'S
 TOTAL PRO. 5 D.U.'S - COMPLES

13-42 19. ACCESSORY OFF-STREET PARKING REGULATIONS
 RRB NOT REQUIRED
 RTGA NOT REQUIRED

24-67 20. STANDARD MINIMUM DISTANCE REQUIRED BETWEEN BUILDINGS
 23-711 A. REG. SEPARATION IN RTGA FOR WALL TO WALL
 CONDITION: 40.00'
 B. SEPARATION PROVIDED IN RTGA: 0.00'
 DOES NOT COMPLY. REQUIRES BSA MODIFICATION.

28-00 21. QUALITY HOUSING CALCULATIONS
 28-11 A. BULK REGULATIONS
 COMPLES

28-12 B. STREET TREE PLANTING
 1 TREE PER 25.00' OF STREET FRONTAGE REQ.
 PROVIDED, SEE P-5

28-21 C. SIZE OF DWELLING UNITS
 MINIMUM 400' REQUIRED
 COMPLES: SEE FLOOR PLANS

28-22 D. WINDOWS
 ALL RESIDENTIAL WINDOWS TO BE DOUBLE GLAZED
 COMPLES: ALL RESIDENTIAL WINDOWS DOUBLE
 GLAZED

28-23 E. REFUSE STORAGE AND DISPOSAL
 NOT REQUIRED, < 9 DWELLING UNITS
 NOT PROVIDED

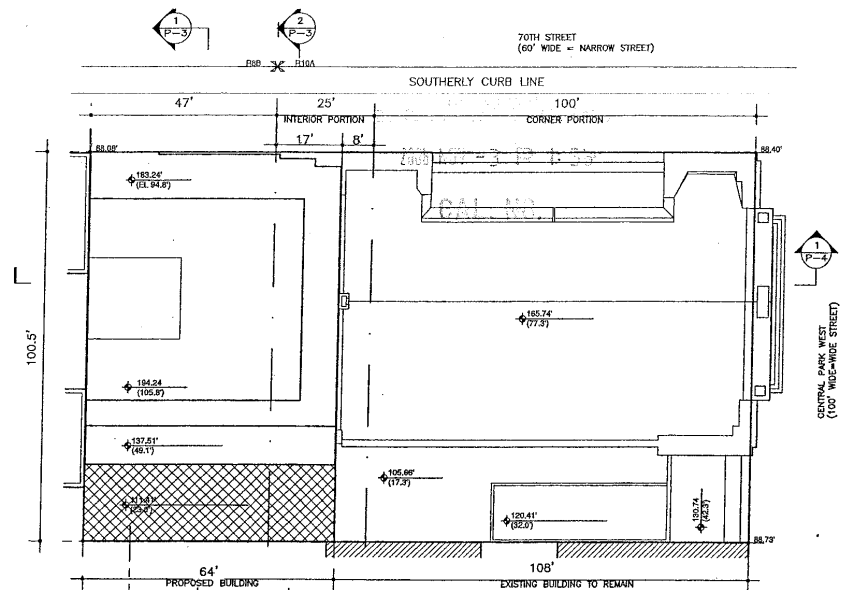
28-24 F. LAUNDRY FACILITIES
 NOT REQUIRED, < 9 DWELLING UNITS
 NOT PROVIDED

28-25 G. DAYLIGHT IN CORRIDORS
 NOT REQUIRED
 NOT PROVIDED

28-30 H. RECREATION SPACE AND PLANTING AREAS
 NOT REQUIRED, < 9 DWELLING UNITS
 NOT PROVIDED

28-41 I. DENSITY OF CORRIDORS
 NOT REQUIRED
 NOT PROVIDED

28-50 J. PARKING FOR QUALITY HOUSING
 COMMUNITY DISTRICT 7 ACCESSORY
 PARKING PERMITTED FOR 35% OF
 NUMBER OF DWELLING UNITS



1 SITE PLAN
SCALE: 1/32" = 1'-0"

10 WEST 70TH STREET
COMMUNITY DISTRICT 7
PLATE - 89
BLOCK - 1123
LOT - 37 & 36

BASE PLANE CALCULATIONS

AVG BASE PLANE = $\frac{88.73 + 88.41 + 88.08}{3}$

= $\frac{265.22}{3}$ 88.41 = 0.00'

PURPOSES

REQUIRED ACTIONS BY THE BOARD OF STANDARDS & APPEALS

1. PROPOSED LOT COVERAGE IN RBB EXCEEDS THE MAXIMUM ALLOWED. THIS IS CONTRARY TO SECTION 24-11-77-2A. PROPOSED LOT COVERAGE IS 79.8%.
2. PROPOSED LOT COVERAGE IN R10A EXCEEDS THE MAXIMUM ALLOWED. THIS IS CONTRARY TO SECTION 24-11-77-2A. PROPOSED LOT COVERAGE IS 79.8%.
3. PROPOSED REAR YARD IN RBB DOES NOT COMPLY. 20.00' PROVIDED INSTEAD OF 30.00' CONTRARY TO SECTION 24-36.
4. PROPOSED REAR YARD IN R10A INTERIOR PORTION DOES NOT COMPLY. 20.00' PROVIDED INSTEAD OF 30.00' CONTRARY TO SECTION 24-36.
5. PROPOSED INITIAL SETBACK IN RBB DOES NOT COMPLY. 12.00' PROVIDED INSTEAD OF 15.00' CONTRARY TO SECTION 23-633.
6. PROPOSED BASE HEIGHT IN RBB DOES NOT COMPLY. 94.80' PROVIDED INSTEAD OF 80.00' CONTRARY TO SECTION 23-633.
7. PROPOSED MAXIMUM BUILDING HEIGHT IN RBB DOES NOT COMPLY. 113.70' PROVIDED INSTEAD OF 75.00' CONTRARY TO SECTION 23-633.
8. PROPOSED REAR SETBACK IN RBB DOES NOT COMPLY. 6.50' PROVIDED INSTEAD OF 10.00' CONTRARY TO SECTION 23-633.
9. PROPOSED SEPARATION BETWEEN BUILDINGS IN R10A DOES NOT COMPLY. 0.00' PROVIDED INSTEAD OF 40.00' CONTRARY TO SECTION 24-674.

CAL. NO. xxx-xxxx

PROPOSED SITE PLAN, ZONING CALCULATIONS, AND BASE PLANE CALCULATIONS

CONGREGATION
SHEARITH ISRAEL

10 WEST 70TH STREET
NEW YORK, NY

Platt Byard Dovell White
Architects LLP
20 West 22nd Street
New York, NY 10010
212.691.2440
212.693.0144 fax

10.30.06
#02350

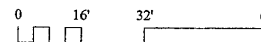
P-1

2006 NOV -3 P 1:35
CAL. NO.

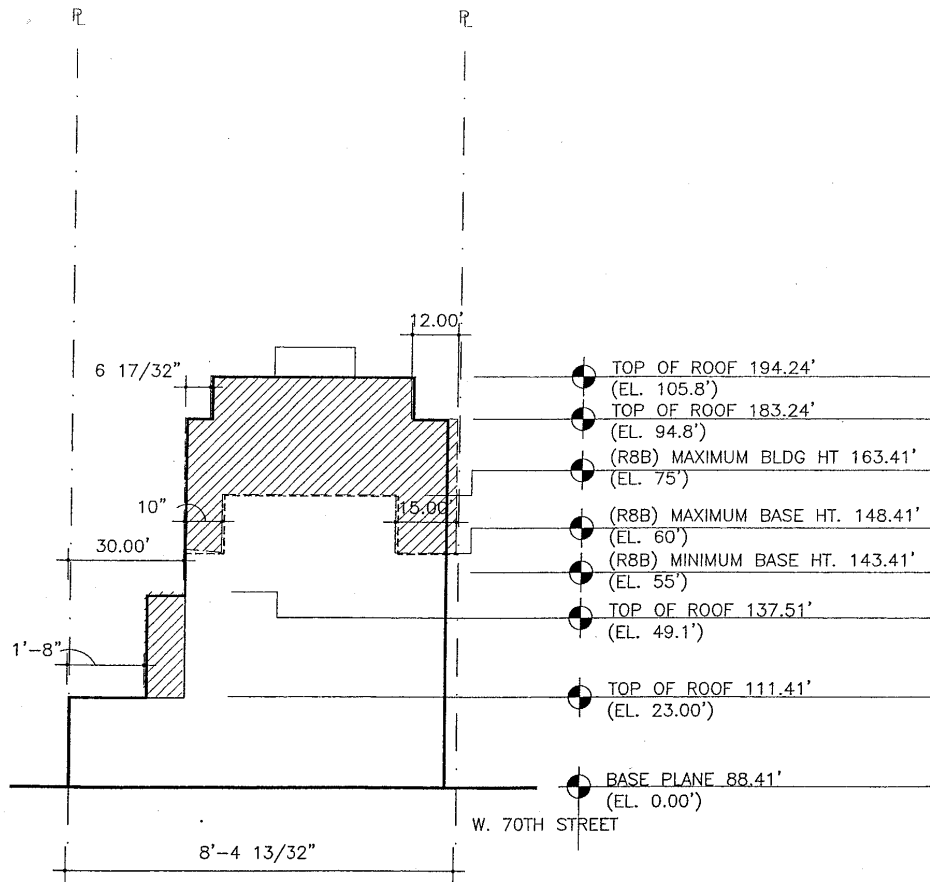
FLOOR AREA SCHEDULE

FLOOR	USE	GROSS FLOOR AREA PROPOSED		GROSS FLOOR AREA EXISTING	SUB-TOTAL COMM. FAC. FLOOR AREA	SUB-TOTAL RESIDENTIAL FLOOR AREA	COMBINED RBB & R10A FLOOR AREA	ZONING FA
		RBB	R10A	R10A				
C2	2ND SUB-CELLAR	4,719.58	1,707.08	0	6,426.66	0	6,426.66	N.A.
	SUB CELLAR	1,921.13	694.87	1,120.90	3,736.90	0	3,736.90	N.A.
C1	CELLAR	2,798.46	1,012.21	10,495.14	14,305.81	0	14,305.81	N.A.
	COMMUNITY FACILITY	3,813.99	1,643.93	11,541.25	16,999.17	N.A.		
1	RESIDENTIAL	778.27	0	0	N.A.	778.27	17,777.44	17,777.44
	COMMUNITY FACILITY	3,419.87	1,256.67	6,493.80	11,170.34	N.A.		
2	RESIDENTIAL	119.16	0	0	N.A.	119.16	11,289.50	11,289.50
	COMMUNITY FACILITY	3,641.94	1,337.21	1,151.89	6,131.04	N.A.		
3	RESIDENTIAL	119.16	0	0	N.A.	119.16	6,250.20	6,250.20
	COMMUNITY FACILITY	3,641.94	1,337.21	2004.79	5,983.94	N.A.		
4	RESIDENTIAL	119.16	0	0	N.A.	119.16	7,103.10	7,103.10
5	RESIDENTIAL	3,290.28	1,167.71	6,567.47	6,567.47	4,457.99	11,025.46	11,025.46
6	RESIDENTIAL	3,290.28	1,167.71	0	N.A.	4,457.99	4,457.99	4,457.99
7	RESIDENTIAL	3,290.28	1,167.71	0	N.A.	4,457.99	4,457.99	4,457.99
8	RESIDENTIAL	3,290.28	1,167.71	0	N.A.	4,457.99	4,457.99	4,457.99
PENTHOUSE	RESIDENTIAL	2,444.20	384.50	0	N.A.	2,828.70	2,828.70	2,828.70
TOTAL	RBB COMMUNITY	14,517.74						
TOTAL	RBB RESIDENTIAL	16,741.07						
TOTAL	RBB	31,258.81						
TOTAL	R10A COMMUNITY		5,575.02					
TOTAL	R10A RESIDENTIAL		5,055.34					
TOTAL	R10A EXIST. COMM.			27,759.20				
TOTAL	R10A			38,389.56				
TOTAL	COMMUNITY FACILITY				47,851.96			
TOTAL	RESIDENTIAL					21,796.41		
TOTAL	NEW BUILDING & EXIST. SYNAGOGUE						94,117.74	69,648.37
TOTAL	NEW BUILDING						54,742.50	

CAL. NO. xxx-xxxx



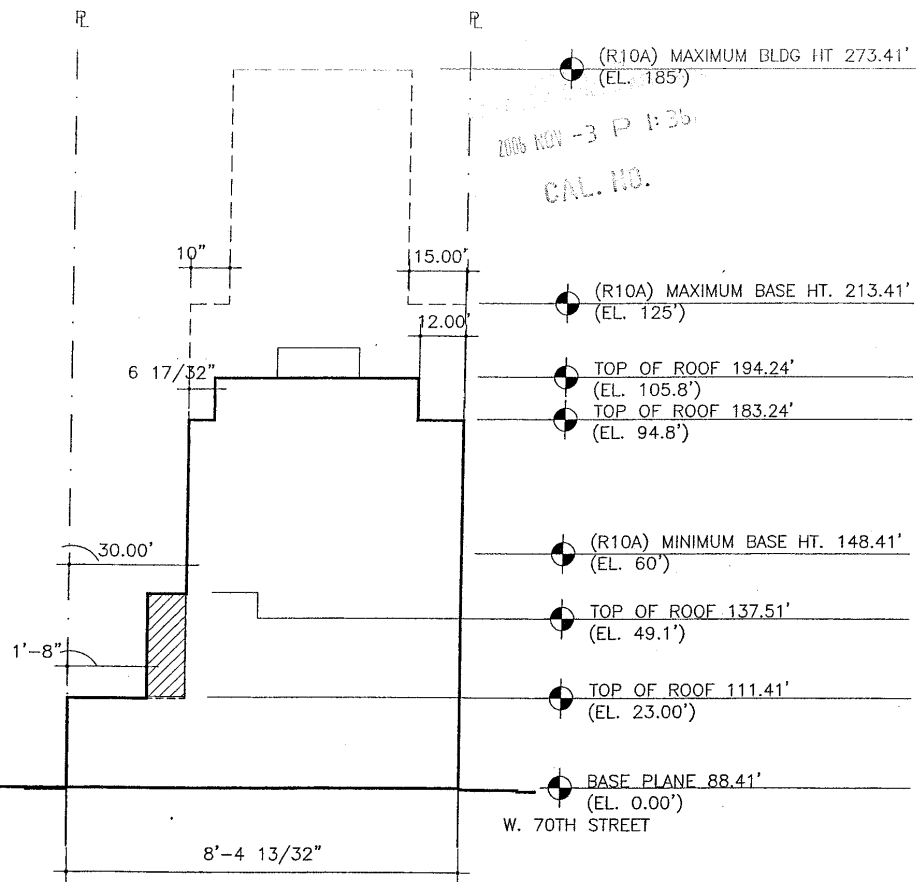
PROPOSED FLOOR AREA SCHEDULE AND BASE PLANE CALCULATIONS		Platt Byard Dovell White Architects LLP 20 West 22nd Street New York, NY 10011 212.691.2440 212.693.0144 fax	
CONGREGATION SHEARITH ISRAEL		10.30.06	
10 WEST 70TH STREET NEW YORK, NY		#02350	P-2



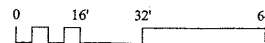
1 SECTION R8B
THRU WEST 70TH SCALE: 1/32" = 1'-0"

LEGEND

+	FROM MANHATTAN DATUM
+	FROM CURB LEVEL 0.00' (88.41')
[Hatched Box]	NON-COMPLYING AREA



2 SECTION R10A
THRU WEST 70TH SCALE: 1/32" = 1'-0"



PROPOSED
STREET WALL SECTIONS

CONGREGATION
SHEARITH ISRAEL

10 WEST 70TH STREET
NEW YORK, NY

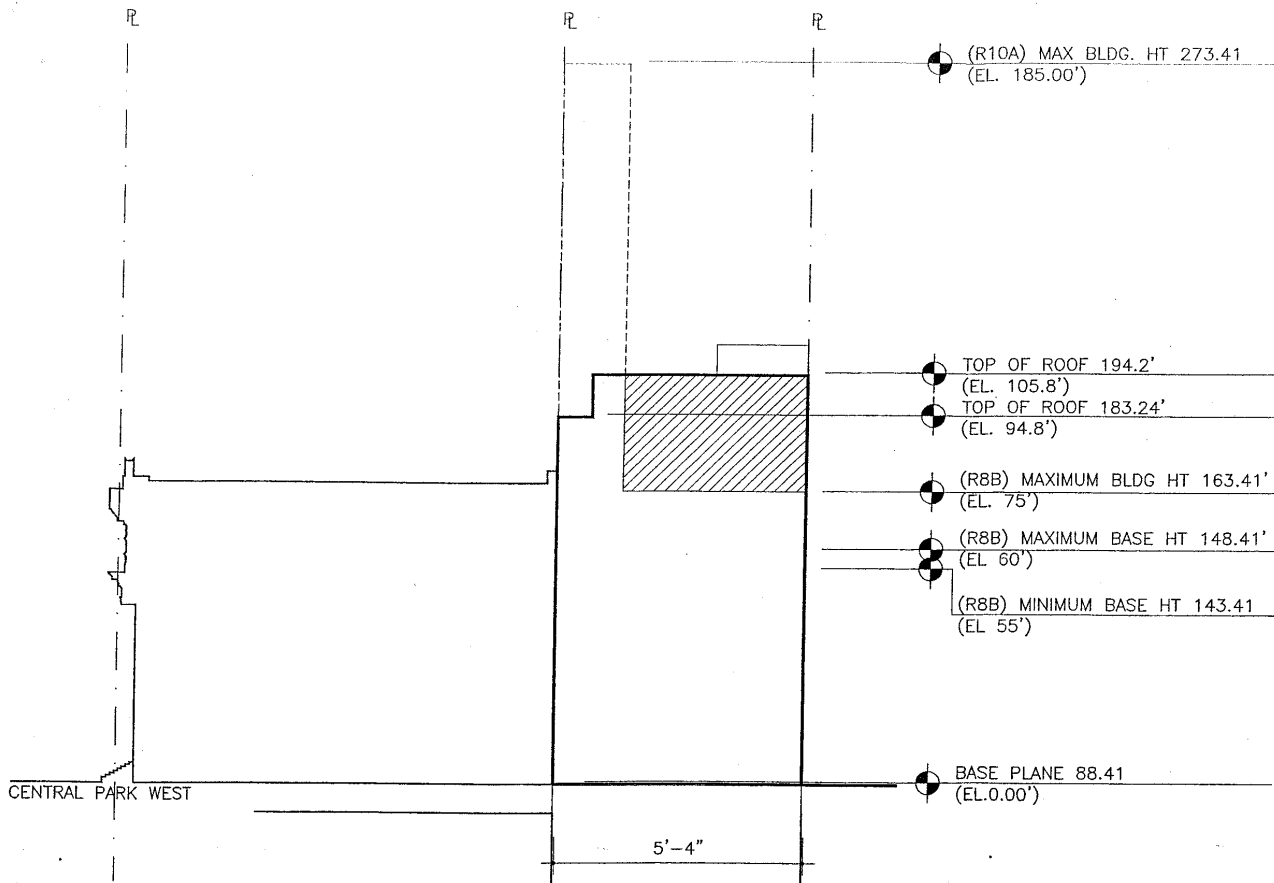
Platt Byard Dovell White
Architects LLP
20 West 22nd Street
New York, NY 10010
212.691.2440
212.693.0144 fax

10.30.06
#02350

P-3

CAL. NO. xxx-xxxx

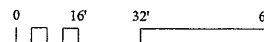
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CAL. NO.



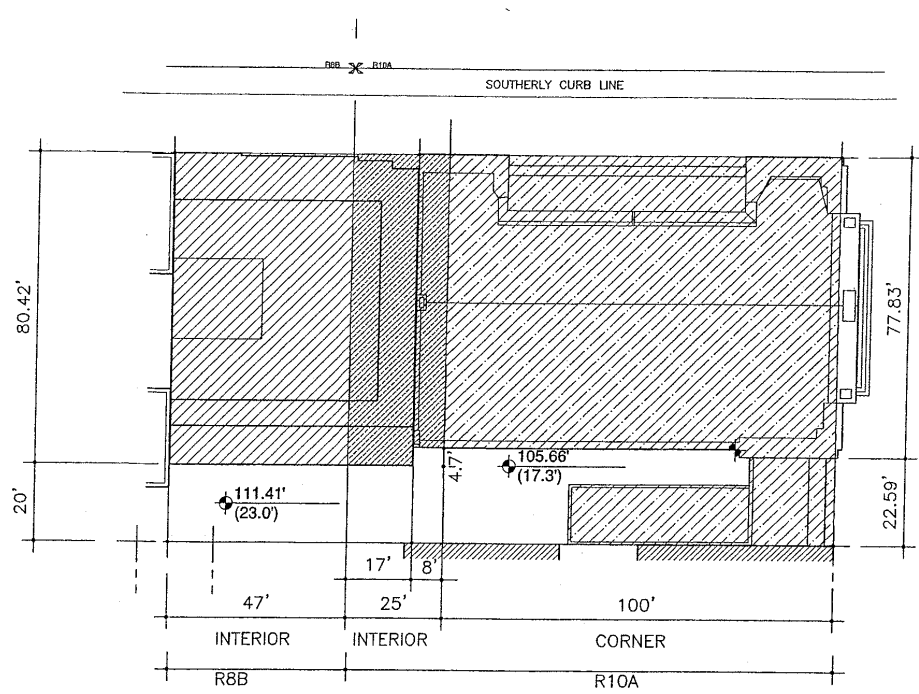
1 SECTION
THRU CENTRAL PARK WEST SCALE: 1/32" = 1'-0"

LEGEND

◆	FROM MANHATTAN DATUM FROM CURB LEVEL 0.00' (88.41)
▨	NON-COMPLYING AREA



PROPOSED STREET WALL SECTIONS		CAL. NO. xxx-xxxx	
CONGREGATION SHEARITH ISRAEL		Platt Byard Dovell White Architects LLP 20 West 22nd Street New York, NY 10010 212.691.2440 212.693.0144 fax	
		10.30.06	P-4
10 WEST 70TH STREET NEW YORK, NY		#02350	

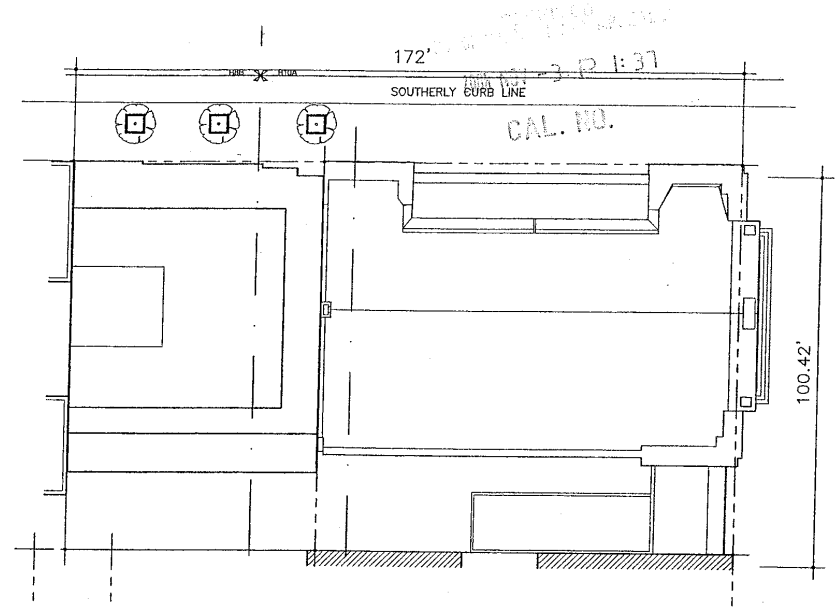


1 LOT COVERAGE

SCALE: 1/32" = 1'-0"

LOT COVERAGE, SEC. 24-11.77-24
LOT COVERAGE PERMITTED FOR INTERIOR PORTION
R8B: $0.70 \times 4,720 = 3,304$
R10A: $0.70 \times 2,510 = 1,757$
AVG: $(3,304 + 1,757) / (4,720 + 2,510) = 0.70$
LOT COVERAGE PROVIDED FOR COMBINED INTERIOR PORTION
 $(3,780 + 1,990) / (4,720 + 2,510) = 79.8\%$
DOES NOT COMPLY. REQUIRES BSA VARIANCE.
LOT COVERAGE PERMITTED FOR CORNER PORTION
R10A = $1 \times 10,042 = 10,042$
LOT COVERAGE PROVIDED FOR CORNER PORTION
 $8,791 / 10,042 = 87.5\%$ - COMPLIES

- R8B INTERIOR COMMUNITY FACILITY
- R10A INTERIOR COMMUNITY FACILITY
- R10A CORNER



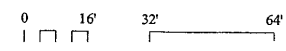
2 STREET TREE PLANTING

SCALE: 1/32" = 1'-0"

STREET TREE PLANTING, SEC. 28-112
TREES REQUIRED = 1 TREE PER 25.00' STREET FRONTAGE
FRONTAGE = $272.42 / 25 = 11$ TREES
TREES PROVIDED = 3 TREES TO BE INSTALLED
REMAINDER TO BE PURCHASED BY OWNER FOR USE BY
PARKS DEPARTMENT

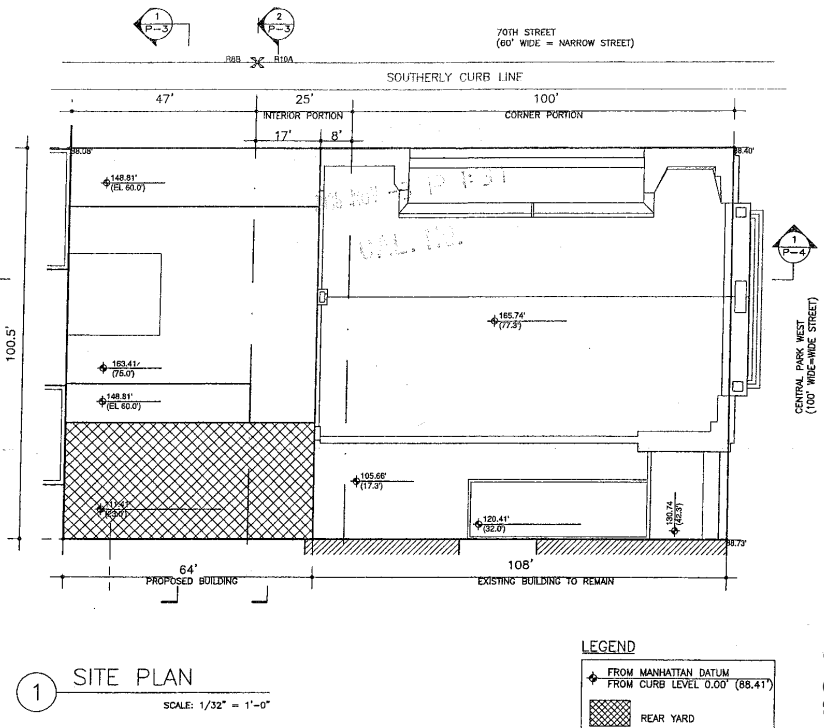


PROPOSED LOT COVERAGE CALCULATIONS AND TREE PLANTING		CAL. NO. xxx-xxxx	
CONGREGATION SHEARITH ISRAEL	10 WEST 70TH STREET NEW YORK, NY	Platt Byard Dovell White Architects LLP 20 West 22nd Street New York, NY 10010 212.691.2440 212.693.0144 fax	
		10.30.06	
		#02350	P.5

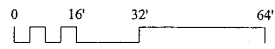


APPLICABLE SECTION	ZONING CALCULATIONS
MAP BC	1. ZONING DISTRICTS: RBB R10A
22-00	2. LOT AREA: RBB 4,720 SF R10A 12,552 SF TOTAL 17,272 SF
	3. USES PERMITTED RBB: USE GROUPS 1-4 RESIDENTIAL & COMMUNITY FACILITY R10A: USE GROUPS 1-4 RESIDENTIAL & COMMUNITY FACILITY
	4. USES PROVIDED RBB NEW USE: USE GROUP 4: COMMUNITY FACILITY USE GROUP 2: RESIDENTIAL R10A EXISTING USE: USE GROUP 4: COMMUNITY FACILITY NEW USE: USE GROUP 4: COMMUNITY FACILITY USE GROUP 2: RESIDENTIAL
24-011	5. QUALITY HOUSING REGULATIONS APPLY
23-145	6. MAXIMUM RESIDENTIAL FLOOR AREA RATIO RBB 4.00 R10A 10.00
24-11	7. MAXIMUM COMMUNITY FACILITY FLOOR AREA RATIO RBB 4.00 R10A 10.00
77-22	8. PERCENTAGE BREAKDOWN BY DISTRICT IN DIVIDED ZONING LOT RBB 27% R10A 73%
	9. FLOOR AREA RATIO CALCULATIONS FOR DIVIDED ZONING LOTS RBB 0.27 X 4.00 = 1.08 R10A 0.73 X 10.00 = 7.30 ADJUSTED MAXIMUM FAR 1.08 + 7.30 = 8.38 A. FLOOR AREA PERMITTED RBB: 8.38 X 4,720 SF = 39,553.60 SF R10A: 8.38 X 12,552 SF = 105,185.76 SF COMBINED RBB & R10A 8.38 X 17,272 = 144,739.36 SF B. FLOOR AREA PROVIDED RBB PORTION RESIDENTIAL 8,580.19 = SF RBB PORTION COMMUNITY FACILITY 13,085.11 = SF RBB TOTAL 19,665.30 = SF R10A PORTION RESIDENTIAL 2,139.27 = SF R10A PORTION COMMUNITY FACILITY 5,066.52 = SF R10A PORTION EXISTING COMMUNITY FACILITY 27,769.20 = SF R10A TOTAL 34,964.99 = SF COMBINED RBB & R10A 54,630.29 SF
24-11 77-24	10. MAXIMUM LOT COVERAGE PERMITTED RBB INTERIOR 70% R10A INTERIOR PORTION 70% R10A CORNER PORTION 100%
	11. LOT COVERAGE PROVIDED RBB INTERIOR 70% COMPLES SEE P-5 R10A INTERIOR PORTION 70% COMPLES SEE P-5 R10A CORNER PORTION 100%, EXISTING
24-12	12. APPLICATION OF LOT COVERAGE APPLIED OVER 23.00' ABOVE BASE PLANE
24-34	13. FRONT YARD REQUIREMENTS RBB NOT REQUIRED R10A NOT REQUIRED RBB NOT PROVIDED R10A NOT PROVIDED
24-35	14. SIDE YARD REQUIREMENTS RBB NOT REQUIRED R10A NOT REQUIRED RBB NOT PROVIDED R10A NOT PROVIDED
24-36 24-391	15. REAR YARD REQUIRED RBB 30' REQUIRED R10A INTERIOR PORTION 30' REQUIRED R10A CORNER PORTION NOT REQUIRED
	16. REAR YARD PROVIDED RBB INTERIOR PORTION 30.00', COMPLES, SEE P-5 R10A INTERIOR PORTION 30.00', COMPLES, SEE P-5 R10A CORNER PORTION COMPLES - EXISTING REAR YARD TO REMAIN

24-522 23-633 77-28	17. STREET WALL LOCATION & HEIGHT A. STREET WALL LOCATION RBB NO CLOSER TO STREET THAN ADJACENT BUILDING CORNER LOT-NONE REQUIRED FOR EXISTING PORTION AND BEYOND 50.00' OF INTERSECTION RBB COMPLES: SEE A-100 R10A COMPLES: SEE A-100 B. SETBACK REGULATIONS FOR NARROW STREETS RBB 15.00' SETBACK ABOVE 60.00' R10A 15.00' SETBACK ABOVE 125.00' C. SETBACKS PROVIDED FOR NARROW STREETS RBB 15.00' PROVIDED, COMPLES, SEE P-3 R10A COMPLES: SEE P-3 D. BASE HEIGHT REQUIREMENTS RBB 55.00' MINIMUM - 60.00' MAXIMUM R10A 60.00' MINIMUM - 125.00' MAXIMUM E. BASE HEIGHT PROVIDED RBB PORTION 60.0', COMPLES, SEE P-3 R10A PORTION 60.0', COMPLES, SEE P-3 F. MAXIMUM BUILDING HEIGHT PERMITTED RBB 75.00' R10A 185.00' G. MAXIMUM BUILDING HEIGHT PROVIDED RBB PORTION 75.0', COMPLES, SEE P-3 R10A PORTION 75.0', COMPLES, SEE P-3 H. REAR SETBACK REQUIREMENTS RBB 10.00' SETBACK ABOVE MAX. BASE HEIGHT R10A 10.00' SETBACK ABOVE MAX. BASE HEIGHT I. REAR SETBACKS PROVIDED RBB PORTION COMPLES, SEE P-3 R10A PORTION COMPLES SEE P-3
23-22 23-24	18. DENSITY A. FACTOR FOR DWELLING UNITS RBB 680 R10A 790 B. MAXIMUM NUMBER OF DWELLING UNITS PERMITTED RBB 7,050.19 / 680 = 10 D.U.'S R10A 2,139.27 / 790 = 2 D.U.'S TOTAL ALL 30 D.U.'S TOTAL PRO. 2 D.U.'S - COMPLES
13-42	19. ACCESSORY OFF-STREET PARKING REGULATIONS RBB NOT REQUIRED R10A NOT REQUIRED RBB NOT PROVIDED R10A NOT PROVIDED
28-00 28-11	20. QUALITY HOUSING CALCULATIONS A. BULK REGULATIONS COMPLES B. STREET TREE PLANTING 1 TREE PER 25.00' OF STREET FRONTAGE REQ. PROVIDED, SEE P-5 C. SIZE OF DWELLING UNITS MINIMUM 400' REQUIRED COMPLES: SEE FLOOR PLANS
28-12	D. WINDOWS ALL RESIDENTIAL WINDOWS TO BE DOUBLE GLAZED COMPLES: ALL RESIDENTIAL WINDOWS DOUBLE GLAZED
28-23	E. REFUSE STORAGE AND DISPOSAL NOT REQUIRED, < 9 DWELLING UNITS NOT PROVIDED
28-24	F. LAUNDRY FACILITIES NOT REQUIRED, < 9 DWELLING UNITS NOT PROVIDED
28-25	G. DAYLIGHT IN CORRIDORS NOT REQUIRED NOT PROVIDED
28-30	H. RECREATION SPACE AND PLANTING AREAS NOT REQUIRED, < 9 DWELLING UNITS NOT PROVIDED
28-41	I. DENSITY OF CORRIDOR NOT REQUIRED NOT PROVIDED
28-50 13-12	J. PARKING FOR QUALITY HOUSING COMMUNITY DISTRICT 7 ACCESSORY PARKING PERMITTED FOR 35% OF NUMBER OF DWELLING UNITS .35 X 5 = 1.75 ACCESSORY PARKING ALLOWED; PARKING NOT PROVIDED



BASE PLANE CALCULATIONS	
AVG BASE PLANE	= $\frac{88.73 + 88.41 + 88.08}{3}$
	= $\frac{265.22}{3}$
	= 88.41 = 0.00' FOR ZONING PURPOSES

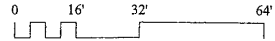


AS-OF-RIGHT SITE PLAN, ZONING CALCULATIONS, AND BASE PLANE CALCULATIONS		CAL. NO. xxx-xxxx	
CONGREGATION SHEARITH ISRAEL		10 WEST 70TH STREET NEW YORK, NY	
Platt Byard Dovell White Architects LLP 20 West 22nd Street New York, NY 10010 212.691.2440 212.693.0144 fax		10.30.06	P-1
		#02350	

FLOOR AREA SCHEDULE								
FLOOR	USE	FLOOR AREA PROPOSED		FLOOR AREA EXISTING		SUB-TOTAL COMM. FAC. FLOOR AREA	SUB-TOTAL RESIDENTIAL FLOOR AREA	COMBINED R8B & R10A FLOOR AREA
		R8B	R10A	R8B	R10A			
C2	2ND SUB-CELLAR	4,719.58	1,707.08	0	0	6,426.66	0	6,426.66
	SUB CELLAR	1,921.13	694.87	1,120.90	0	3,736.90	0	3,736.90
C1	CELLAR	2,798.46	1,012.21	10,495.14	0	14,305.81	0	14,305.81
1	COMMUNITY FACILITY	3,813.99	1,643.93	11,541.25	0	16,999.17	N.A.	
	RESIDENTIAL	778.27	0	0	0	N.A.	778.27	17,777.44
2	COMMUNITY FACILITY	2,949.36	1,087.17	6,493.80	0	10,530.33	N.A.	
	RESIDENTIAL	119.16	0	0	0	N.A.	119.16	10,649.49
3	COMMUNITY FACILITY	3,150.32	1,167.71	1,151.89	0	5,469.92	N.A.	
	RESIDENTIAL	119.16	0	0	0	N.A.	119.16	5,589.08
4	COMMUNITY FACILITY	3,171.44	1,167.71	2004.79	0	6,343.94	N.A.	
	RESIDENTIAL	119.16	0	0	0	N.A.	119.16	6,463.10
5	COMMUNITY FACILITY	0	0	6,567.47	0	6,567.47		
	RESIDENTIAL	3,309.7	1,197.1	0	0	N.A.	4,506.80	11,074.27
6	COMMUNITY FACILITY	0	0	6,567.47	0	6,567.47		
	RESIDENTIAL	2,134.74	942.17	0	0	N.A.	3,076.91	3,076.91
TOTAL R8B COMMUNITY		13,085.11						
TOTAL R8B RESIDENTIAL		6,580.19						
TOTAL R8B		19,665.30						
TOTAL R10A COMMUNITY			5,066.52					
TOTAL R10A RESIDENTIAL			2139.27					
TOTAL R10A EXIST. COMM.				27,759.20				
TOTAL R10A				34,964.99				
TOTAL COMMUNITY FACILITY						63,744.02		
TOTAL RESIDENTIAL							8,719.46	
TOTAL NEW BUILDING & EXIST. SYNAGOGUE								79,099.66
TOTAL NEW BUILDING								39,724.42

2010-3 P 231
CAL. NO.

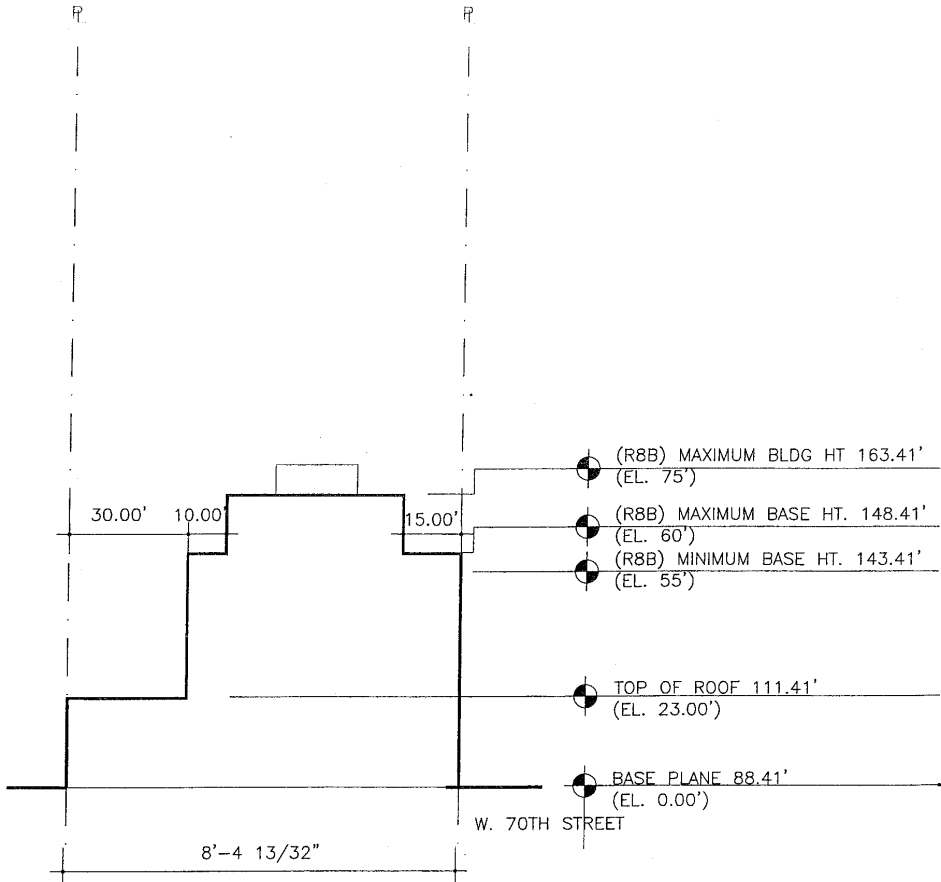
Pet. Ex. Q-7



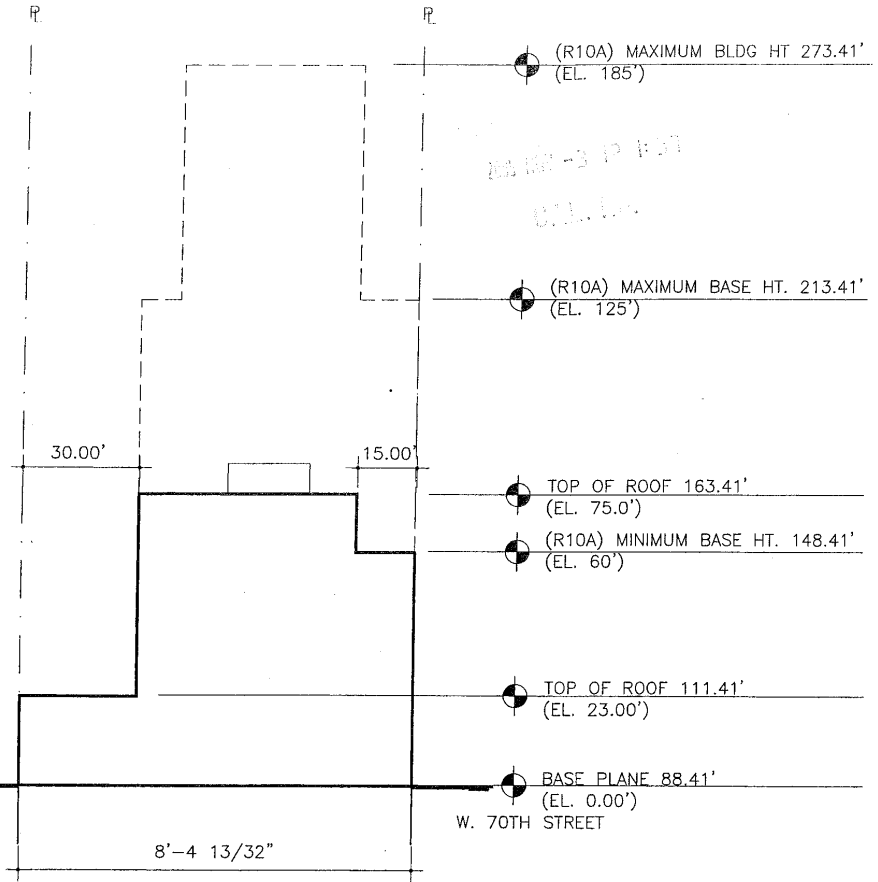
AS-OF-RIGHT FLOOR AREA SCHEDULE AND BASE PLANE CALCULATIONS		Platt Byard Dovell White Architects LLP 20 West 22nd Street New York, NY 10010 212.691.2440 212.693.0144 fax	
CONGREGATION SHEARITH ISRAEL		10.30.06	
10 WEST 70TH STREET NEW YORK, NY		#02350	P-2

CAL. NO. xxx-xxxx

P-04267

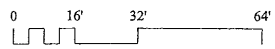


1 SECTION R8B
THRU WEST 70TH SCALE: 1/32" = 1'-0"

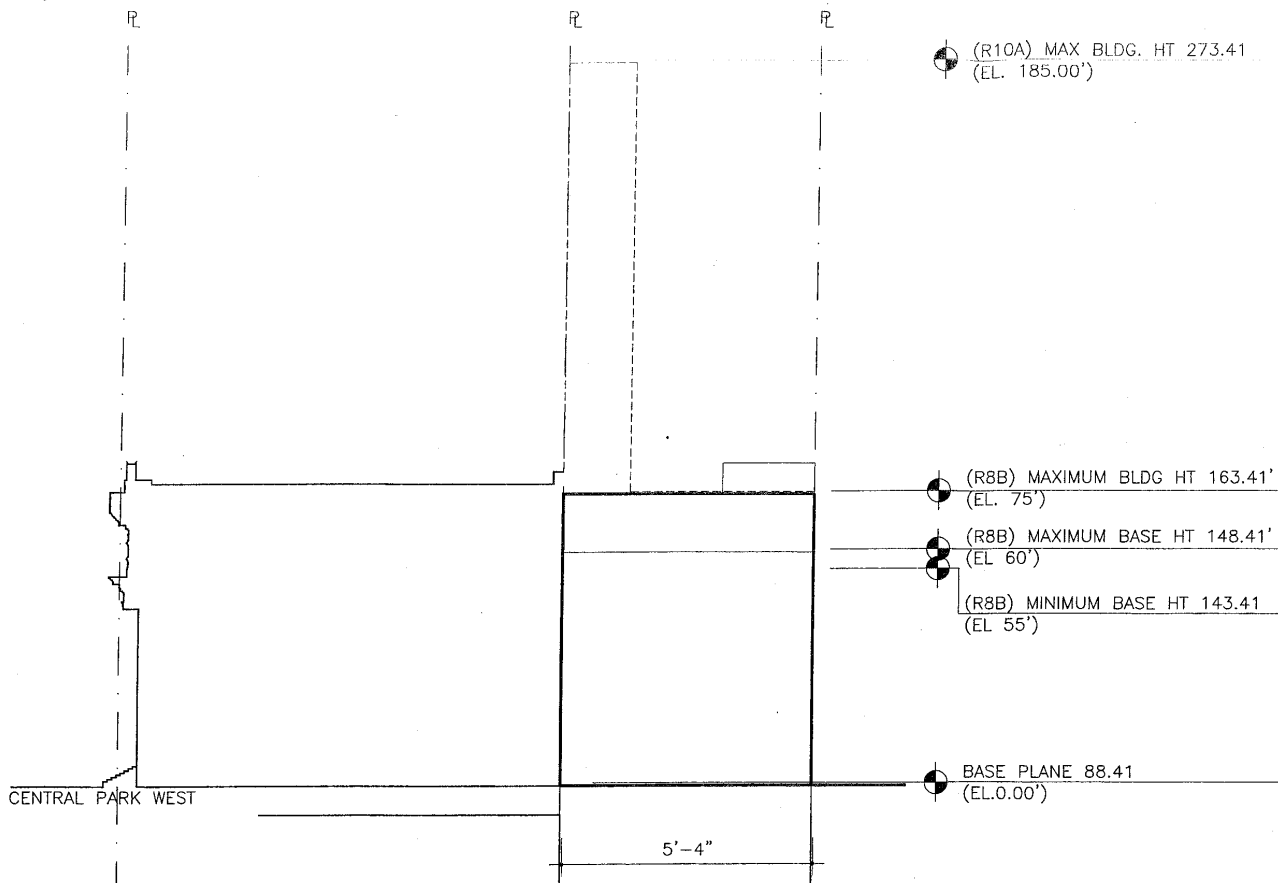


2 SECTION R10A
THRU WEST 70TH SCALE: 1/32" = 1'-0"

LEGEND
+ FROM MANHATTAN DATUM
+ FROM CURB LEVEL 0.00' (88.41)



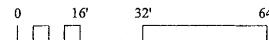
AS-OF-RIGHT STREET WALL SECTIONS		CAL. NO. xxx-xxxx	
CONGREGATION SHEARITH ISRAEL	10 WEST 70TH STREET NEW YORK, NY	Platt Byard Dovell White Architects LLP 20 West 22nd Street New York, NY 10010 212.691.2440 212.693.0144 fax	
		10.30.06	
		#02350	P-3



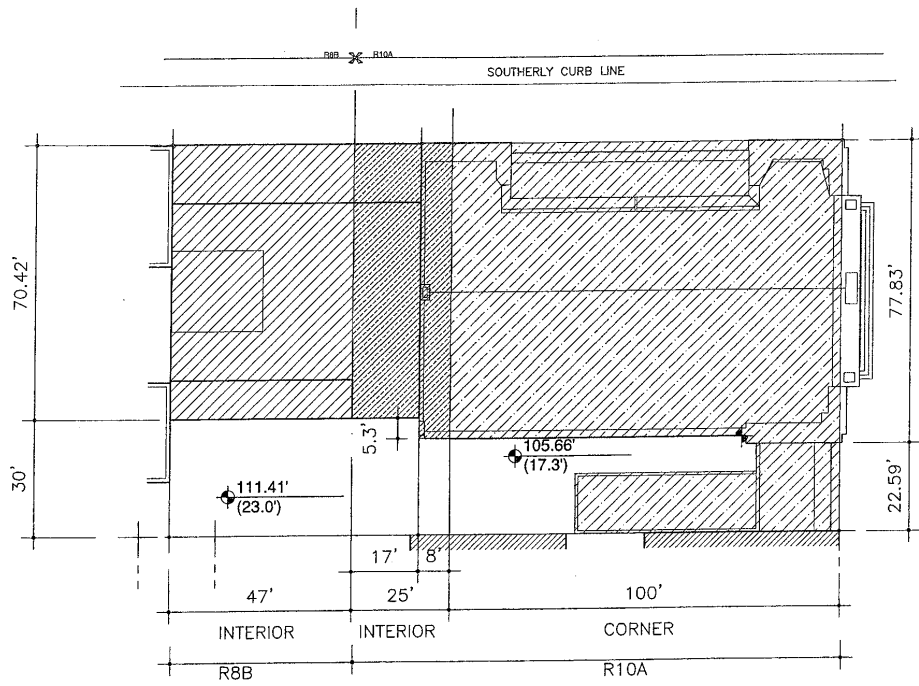
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1 SECTION
THRU CENTRAL PARK WEST SCALE: 1/32" = 1'-0"

LEGEND
◆ FROM MANHATTAN DATUM
◆ FROM CURB LEVEL 0.00' (88.41)



AS-OF-RIGHT STREET WALL SECTIONS		Platt Byard Dovell White Architects LLP 20 West 22nd Street New York, NY 10010 212.691.2440 212.693.0144 fax	
CONGREGATION SHEARITH ISRAEL	10 WEST 70TH STREET NEW YORK, NY	10.30.06	
		#02350	P-4



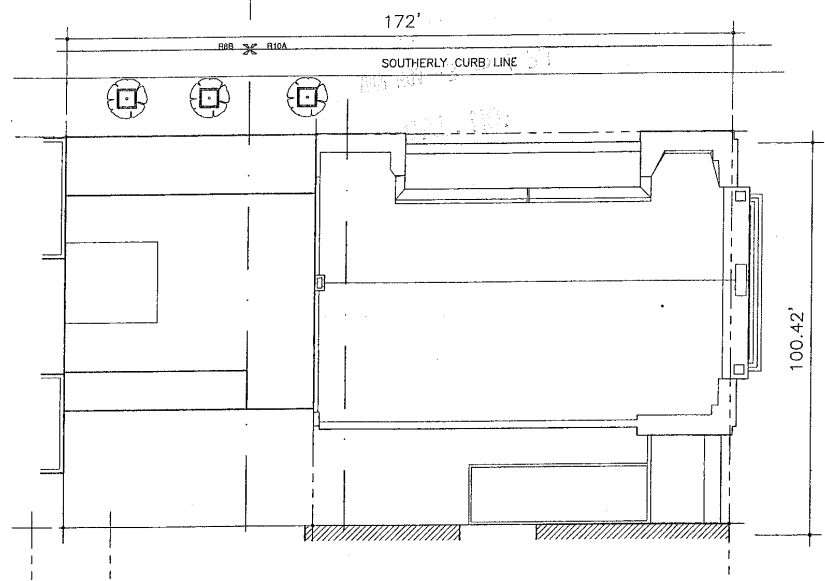
1 LOT COVERAGE

SCALE: 1/32" = 1'-0"

LOT COVERAGE, SEC. 24-11.77-24
LOT COVERAGE PERMITTED FOR INTERIOR PORTION
RBB: $0.70 \times 4,720 = 3,304$
R10A: $0.70 \times 2,510 = 1,757$
AVG: $(3,304 + 1,757) / (4,720 + 2,510) = 0.70$
LOT COVERAGE PROVIDED FOR COMBINED INTERIOR PORTION
 $(3,309 + 1,803) / (4,720 + 2,510) = .70$ - COMPLIES

LOT COVERAGE PERMITTED FOR CORNER PORTION
R10A = $1 \times 10,042 = 10,042$
LOT COVERAGE PROVIDED FOR CORNER PORTION
 $8,791 / 10,042 = 87.5\%$ - COMPLIES

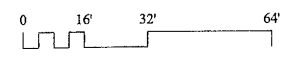
- RBB INTERIOR COMMUNITY FACILITY
- R10A INTERIOR COMMUNITY FACILITY
- R10A CORNER



2 STREET TREE PLANTING

SCALE: 1/32" = 1'-0"

STREET TREE PLANTING, SEC. 28-112
TREES REQUIRED = 1 TREE PER 25.00' STREET FRONTAGE
FRONTAGE = $272.42 / 25 = 11$ TREES
TREES PROVIDED = 3 TREES TO BE INSTALLED
REMAINDER TO BE PURCHASED BY OWNER FOR USE BY
PARKS DEPARTMENT



AS-OF-RIGHT LOT COVERAGE CALCULATIONS AND TREE PLANTING		CAL. NO. xxx-xxxx	
CONGREGATION SHEARITH ISRAEL		Platt Byard Dovell White Architects LLP 20 West 22nd Street New York, NY 10011 212.691.2440 212.693.0144 fax	
		10.30.06	P-5
10 WEST 70TH STREET NEW YORK, NY		#02350	

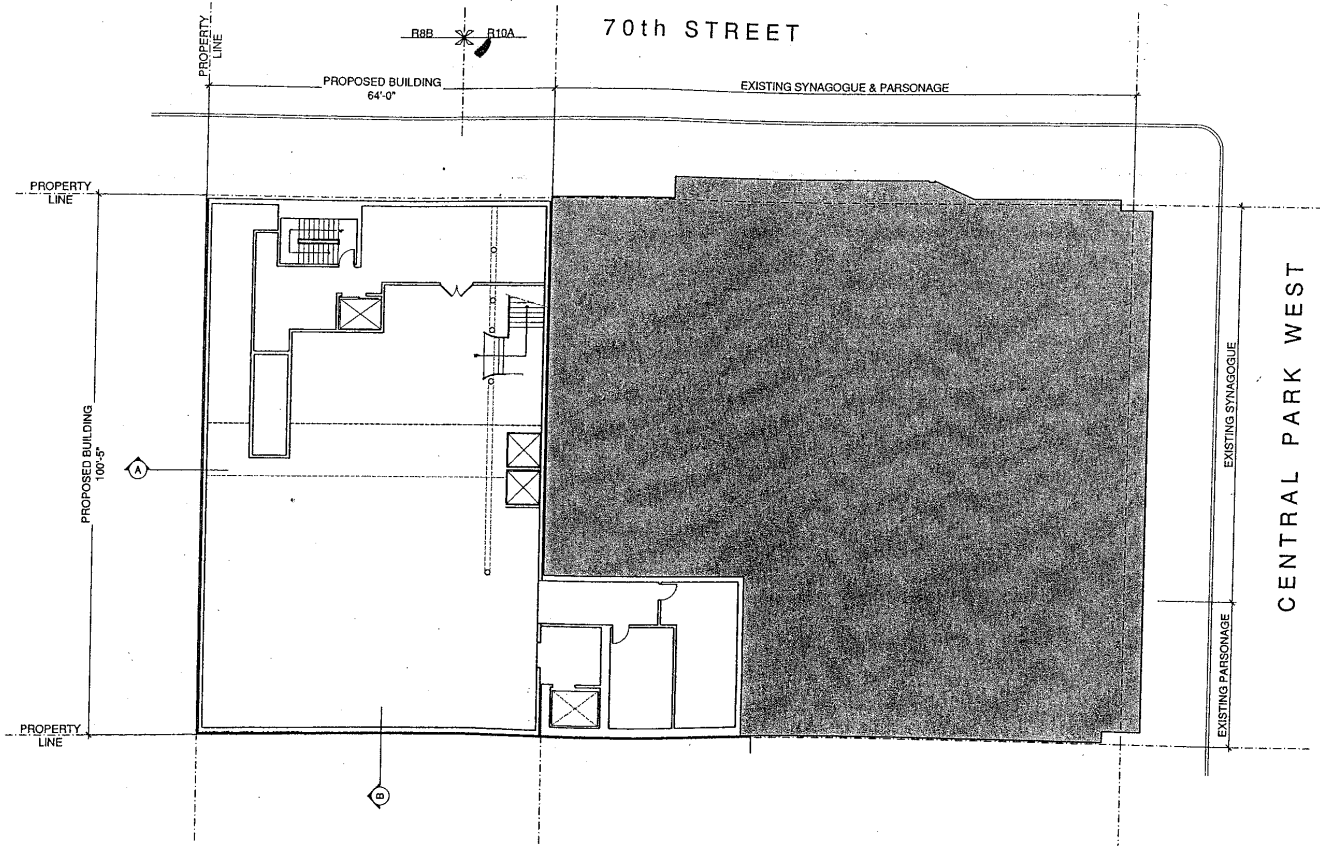
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CONGREGATION SHEARITH ISRAEL
10 West 70th Street

PROPOSED MIXED USE BUILDING
March 14, 2006 - Amended Application

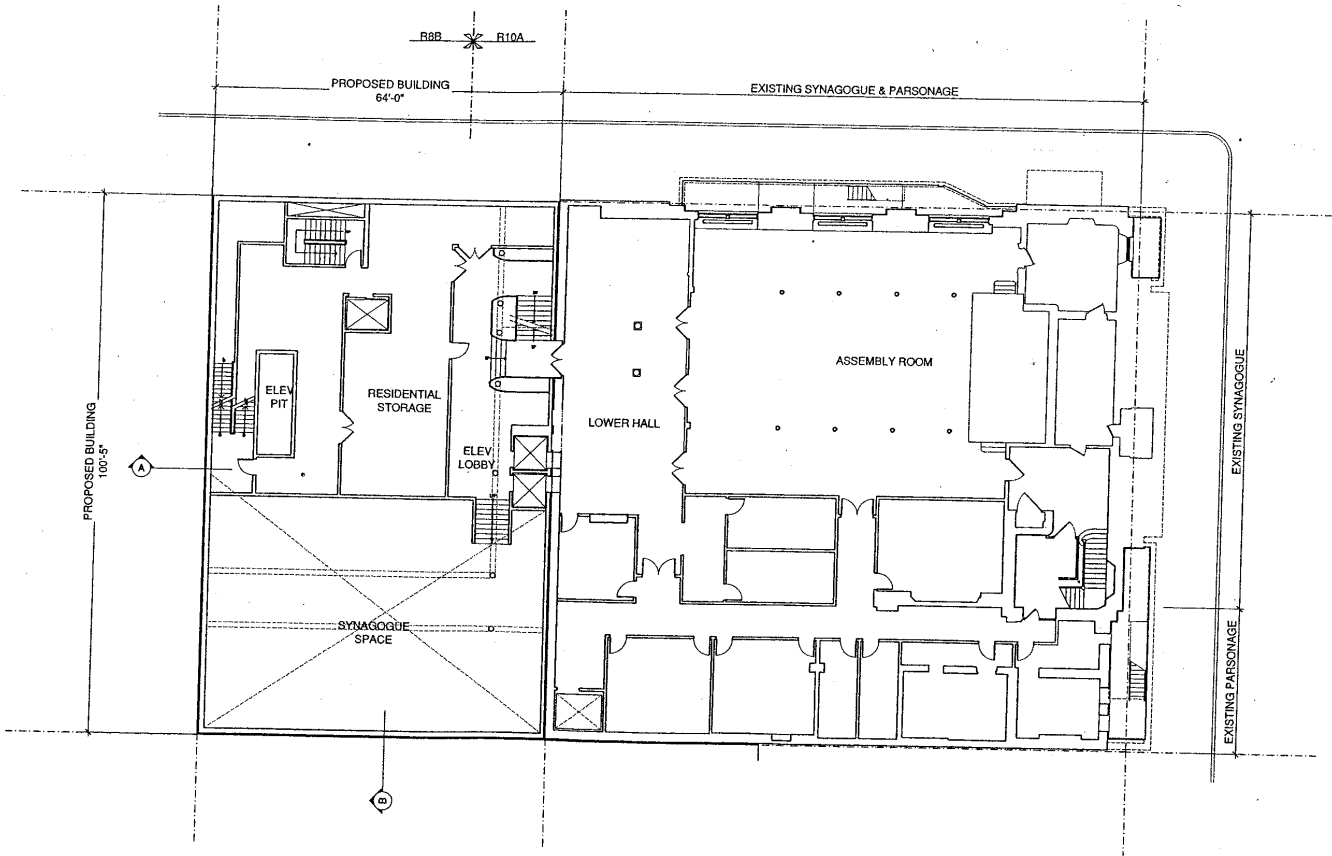
Platt Byard Dovell White
Architects LLP

NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY

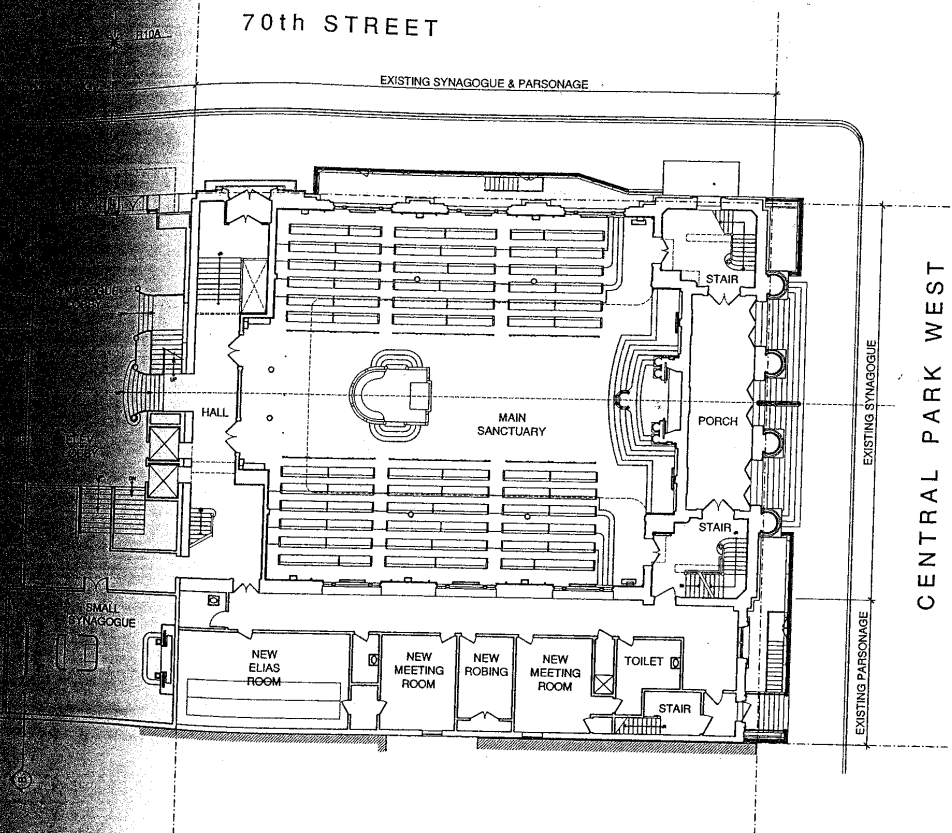


PROPOSED SUB CELLAR

NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY



Drawings Submitted For BSA Ex Parte Meeting Nov. 2006 14

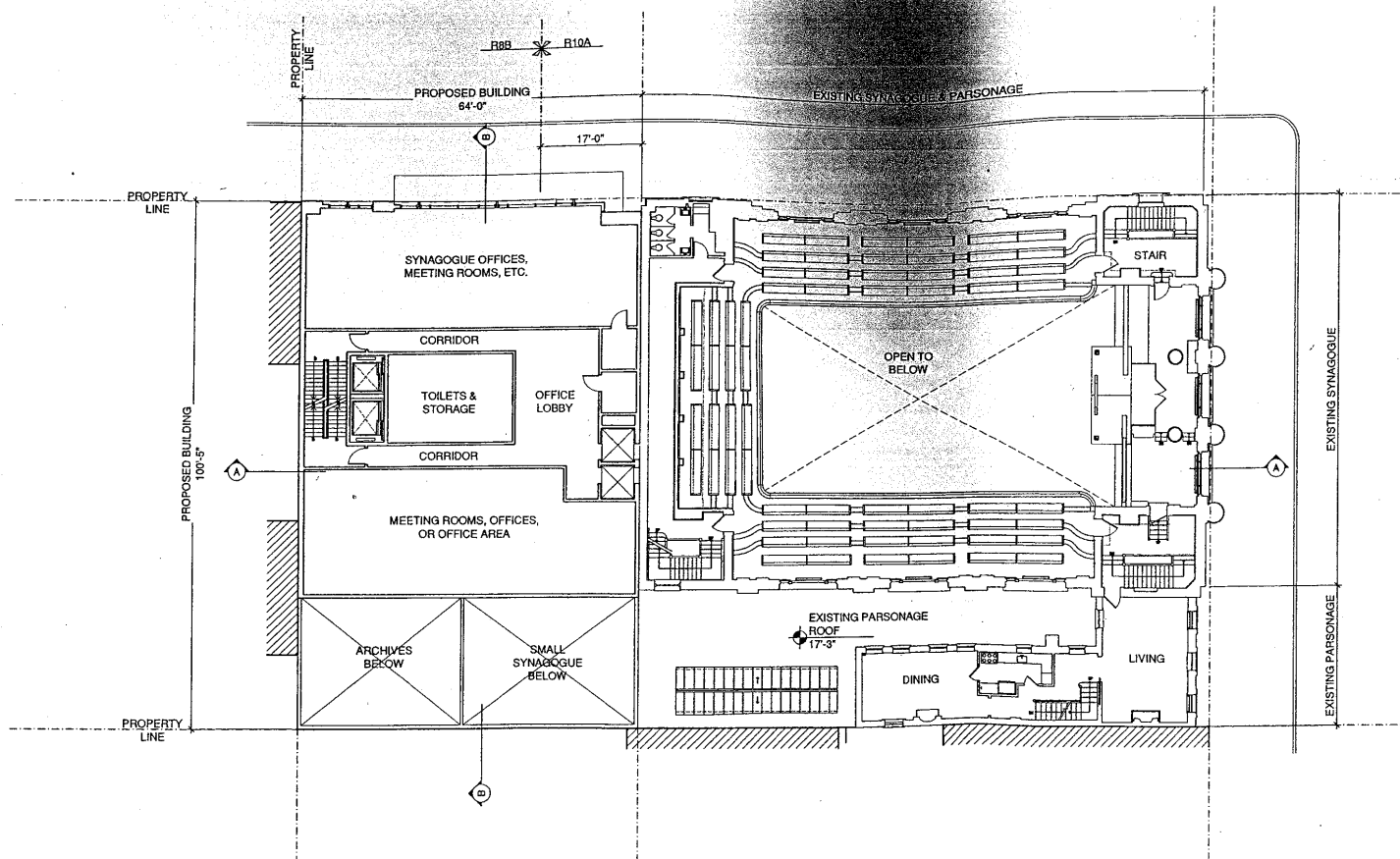


NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY

PROPOSED GROUND FLOOR PLAN

Pet. Ex. Q-14

P-04274

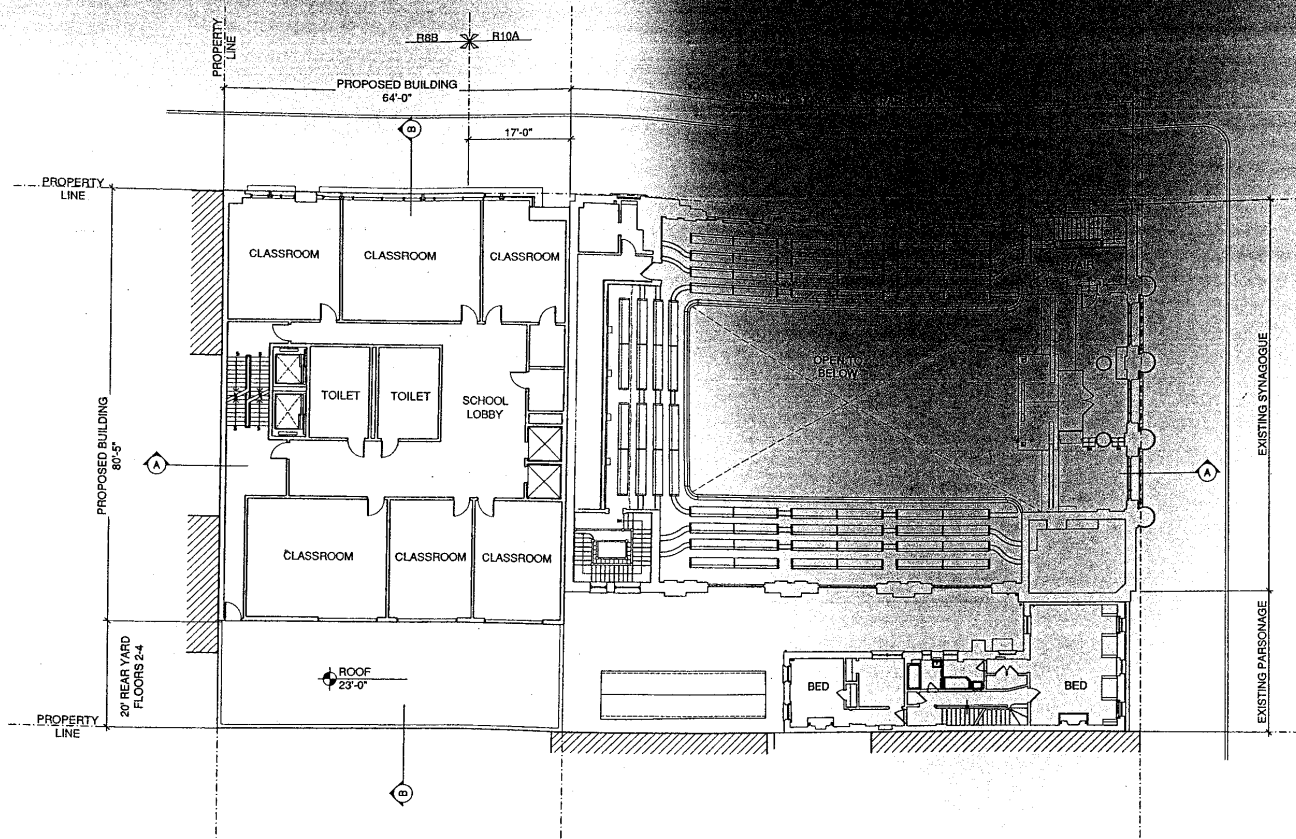


NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY

PROPOSED SECOND FLOOR PLAN

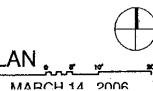


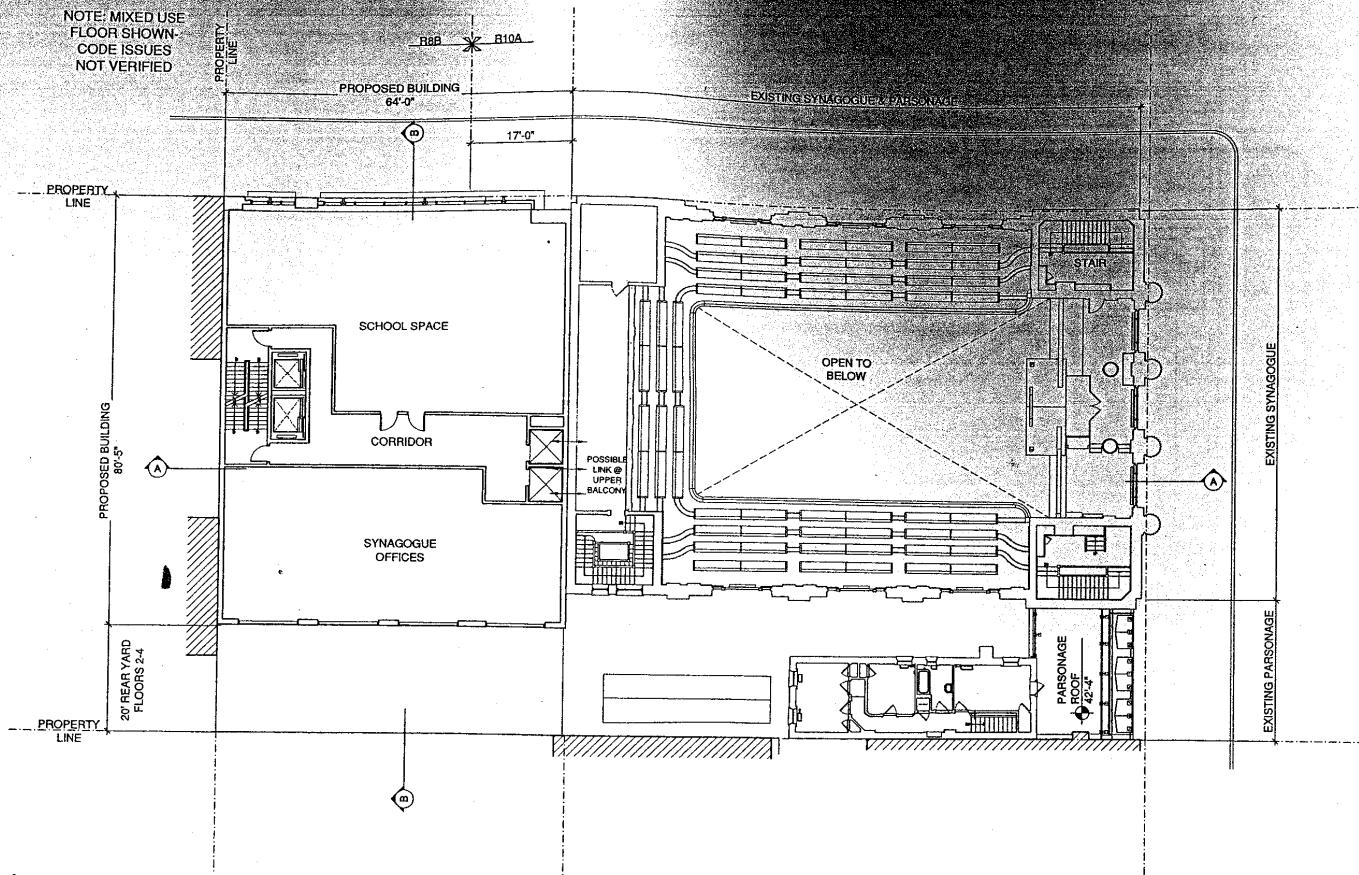
1" = 10'-0"



NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY

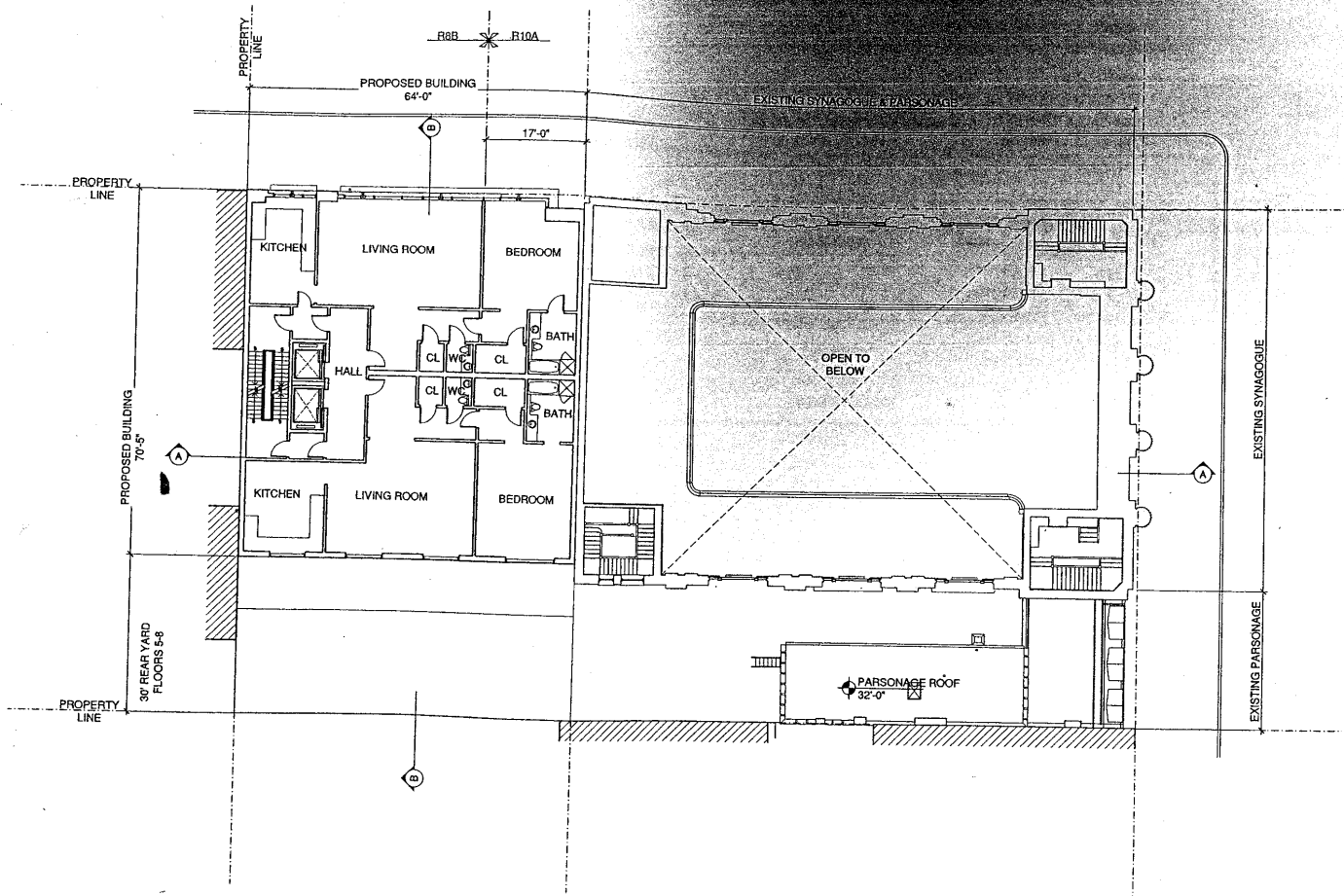
PROPOSED THIRD FLOOR PLAN



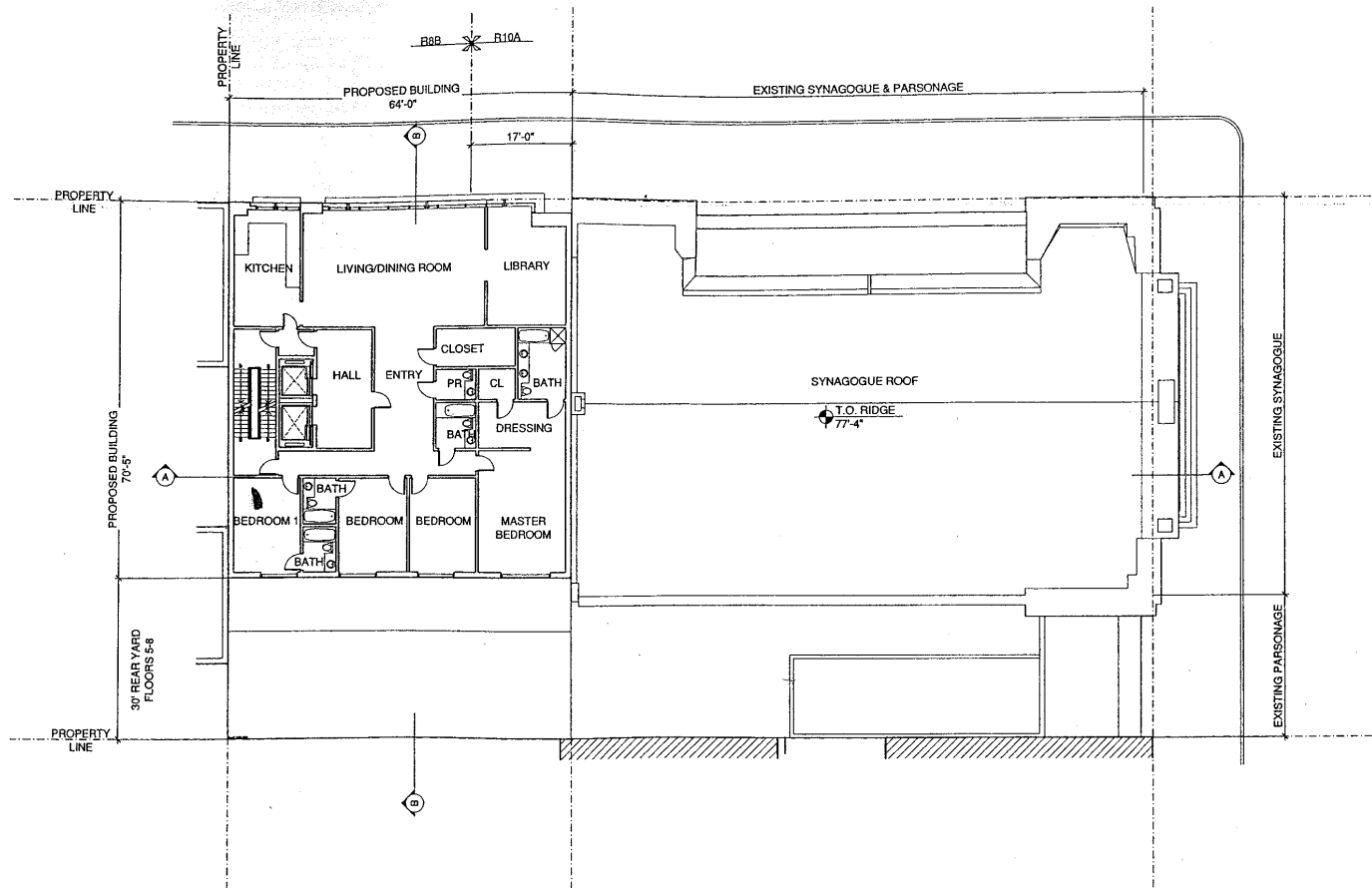


PROPOSED FOURTH FLOOR PLAN

NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY



PROPOSED BUILDING

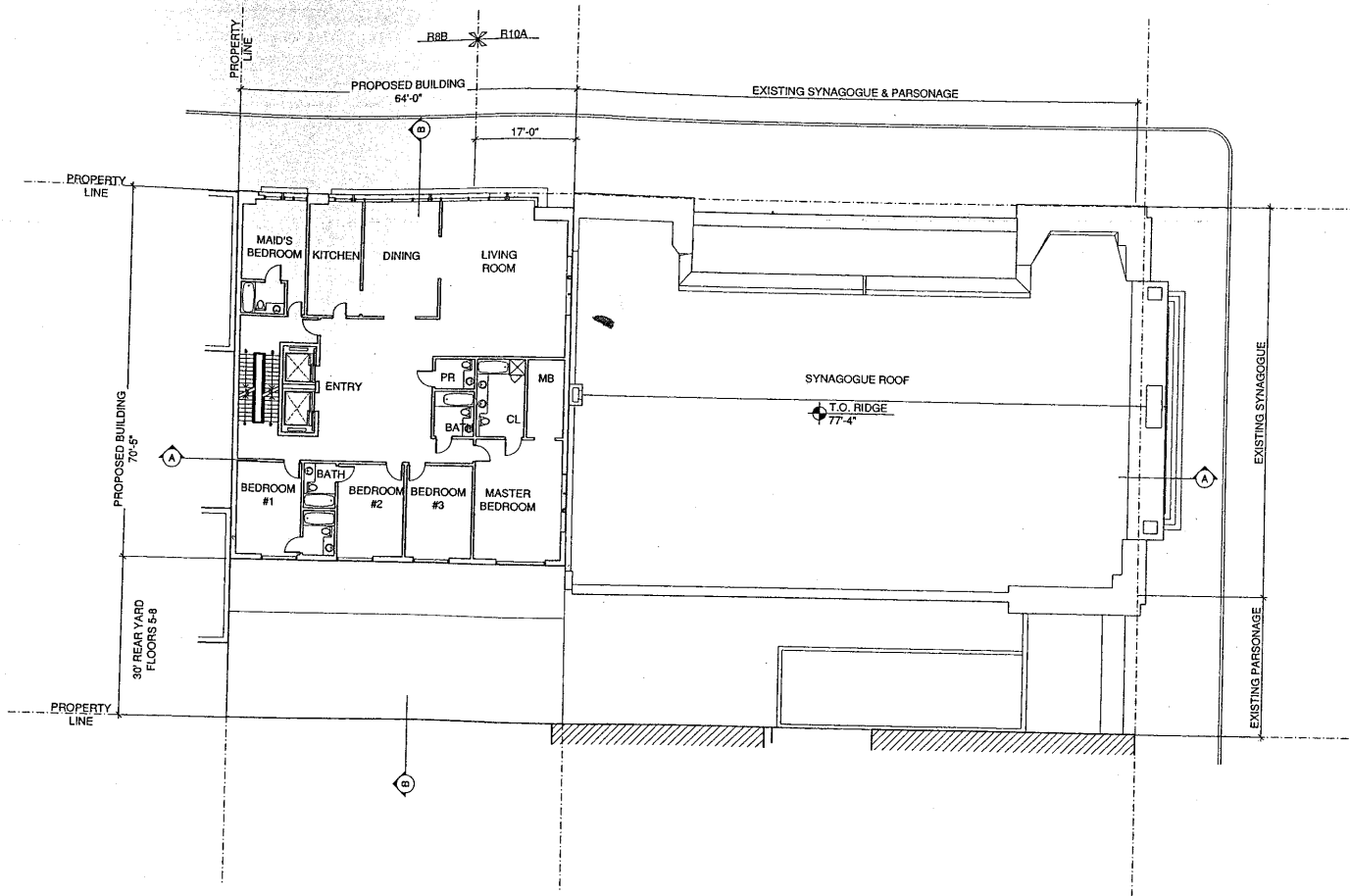


NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY

PROPOSED SIXTH FLOOR PLAN

MARCH 14, 2006

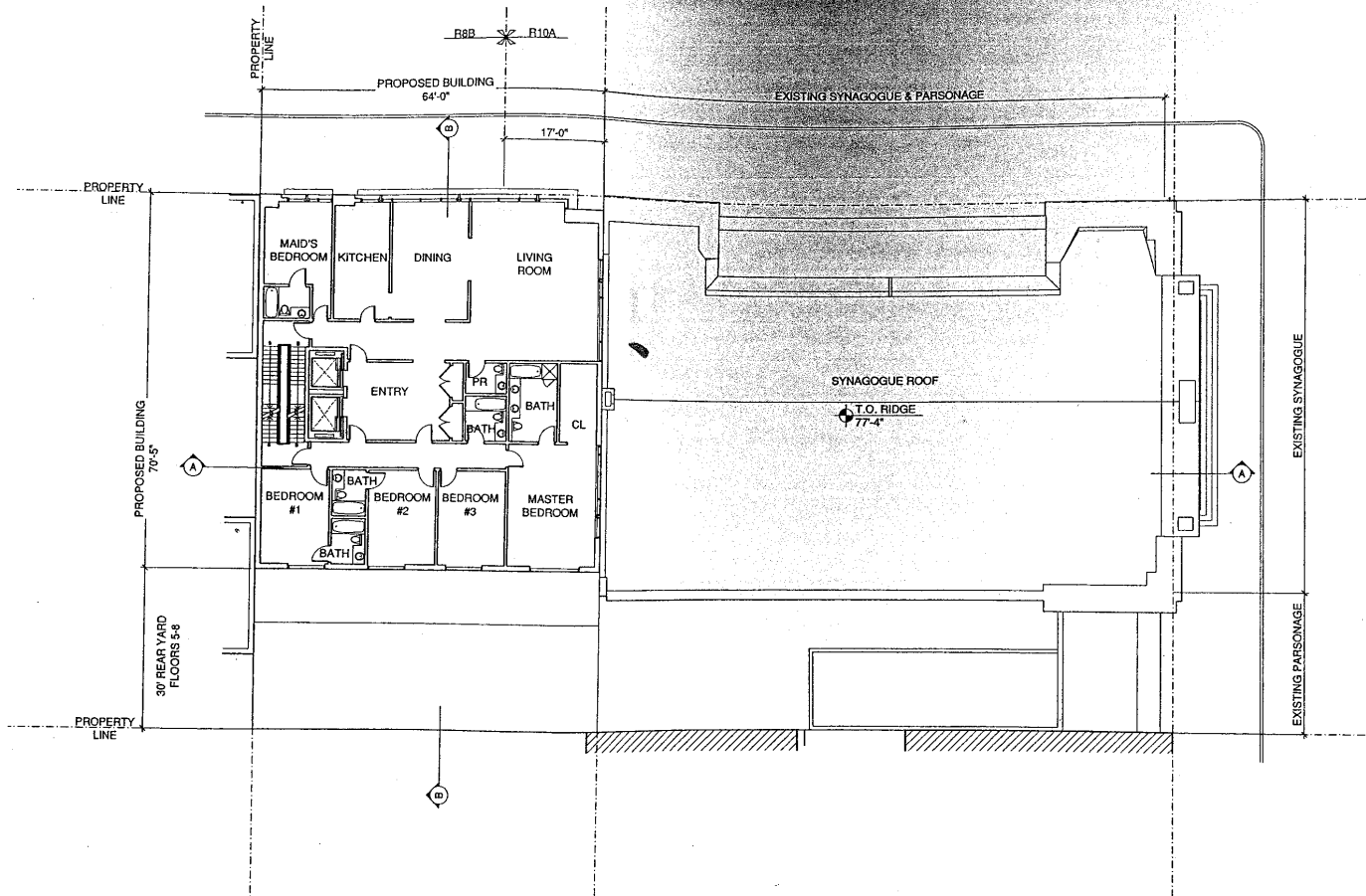




NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY

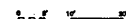
PROPOSED SEVENTH FLOOR PLAN

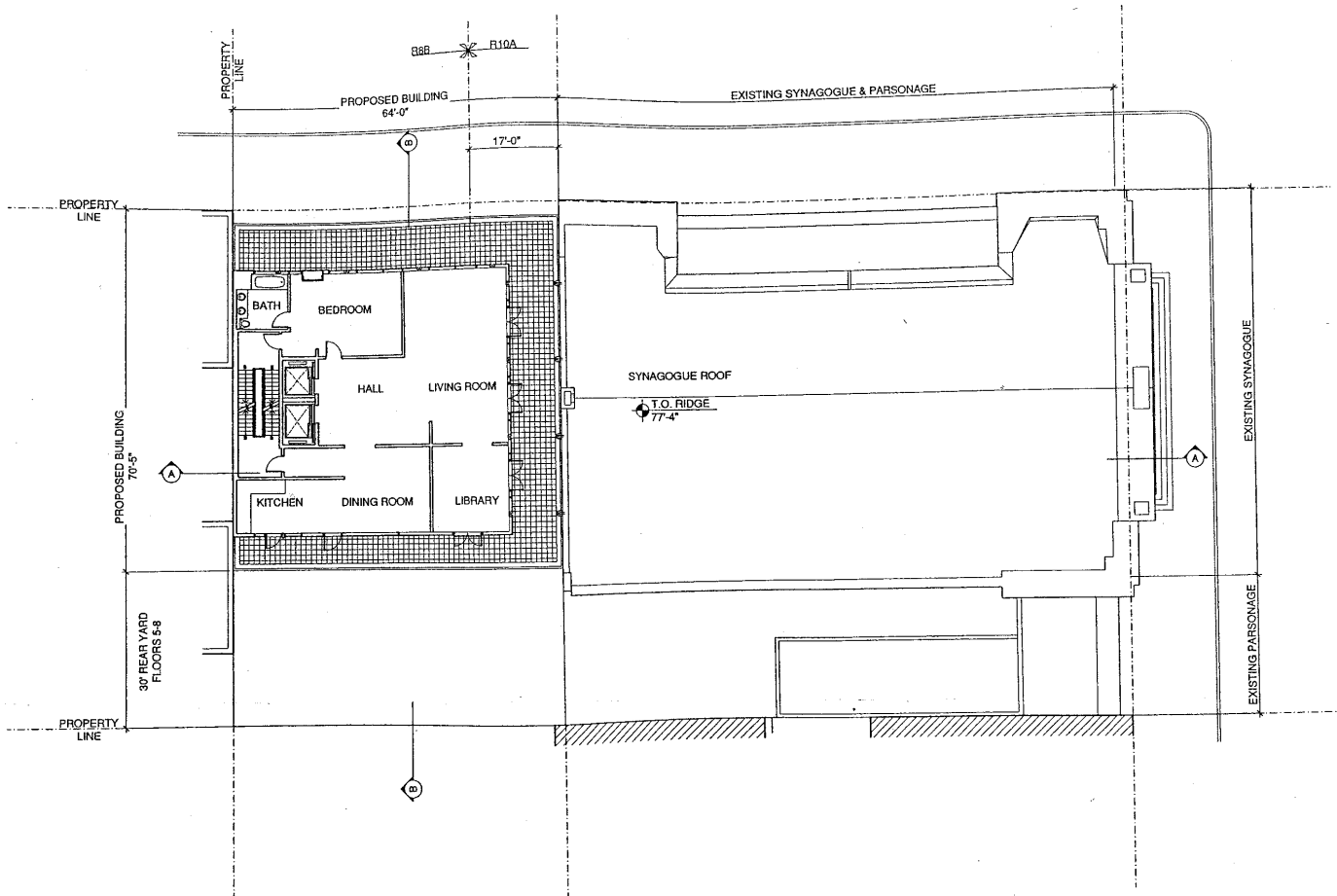




NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY

PROPOSED EIGHTH FLOOR PLAN



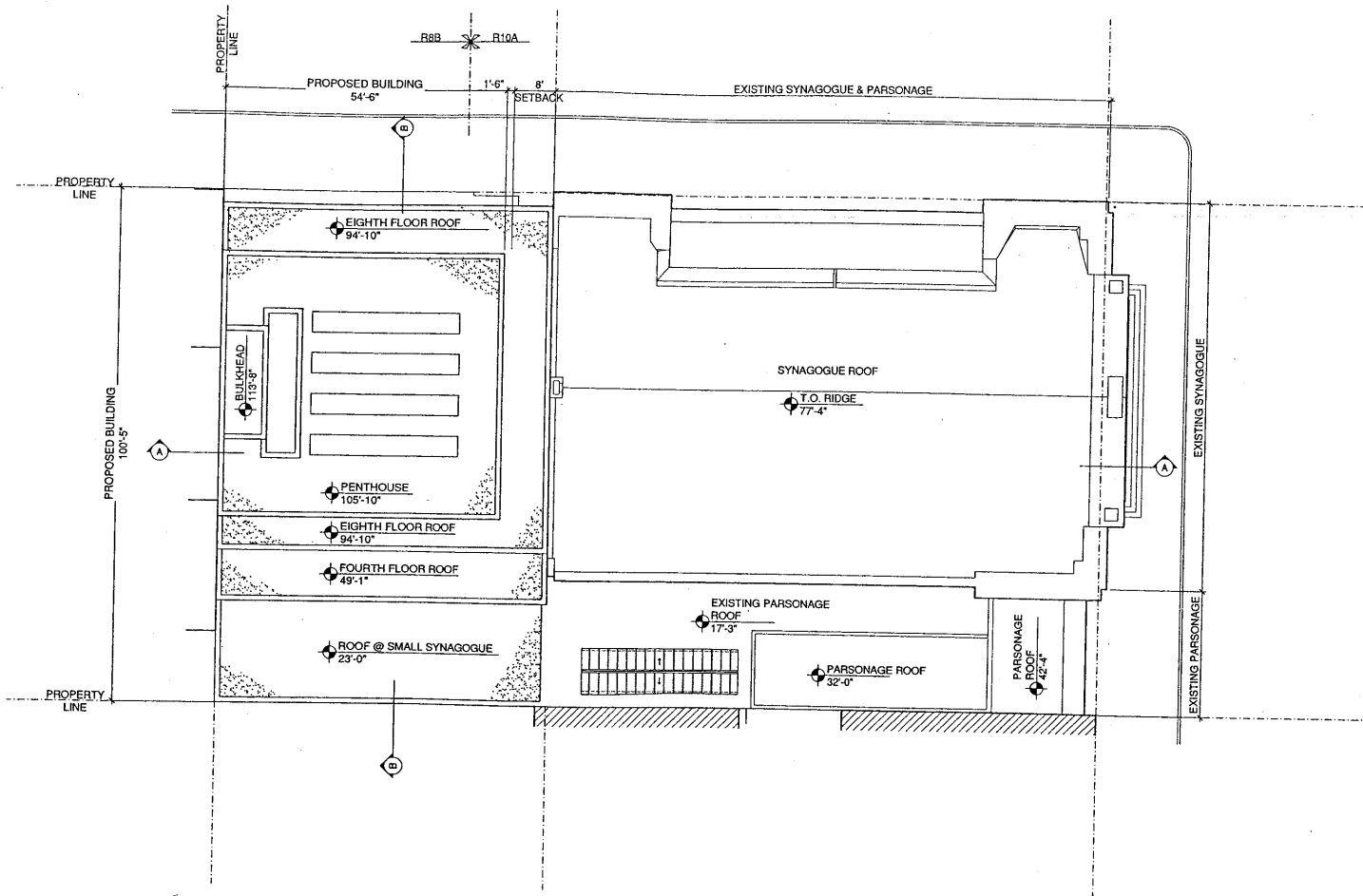


NOTE: INTERIOR PARTITIONS
FOR ILLUSTRATIVE
PURPOSES ONLY

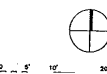
PROPOSED PENTHOUSE FLOOR PLAN

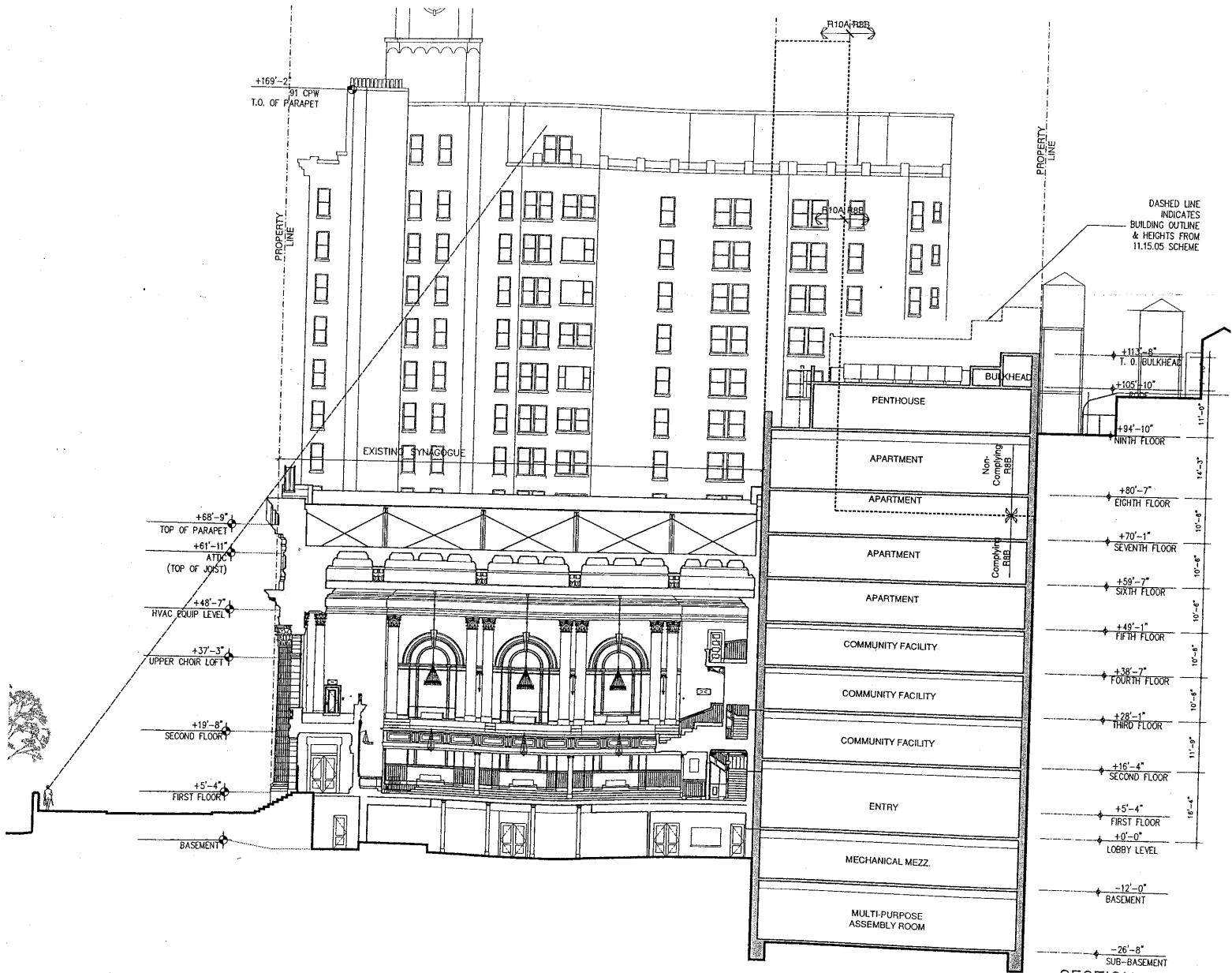


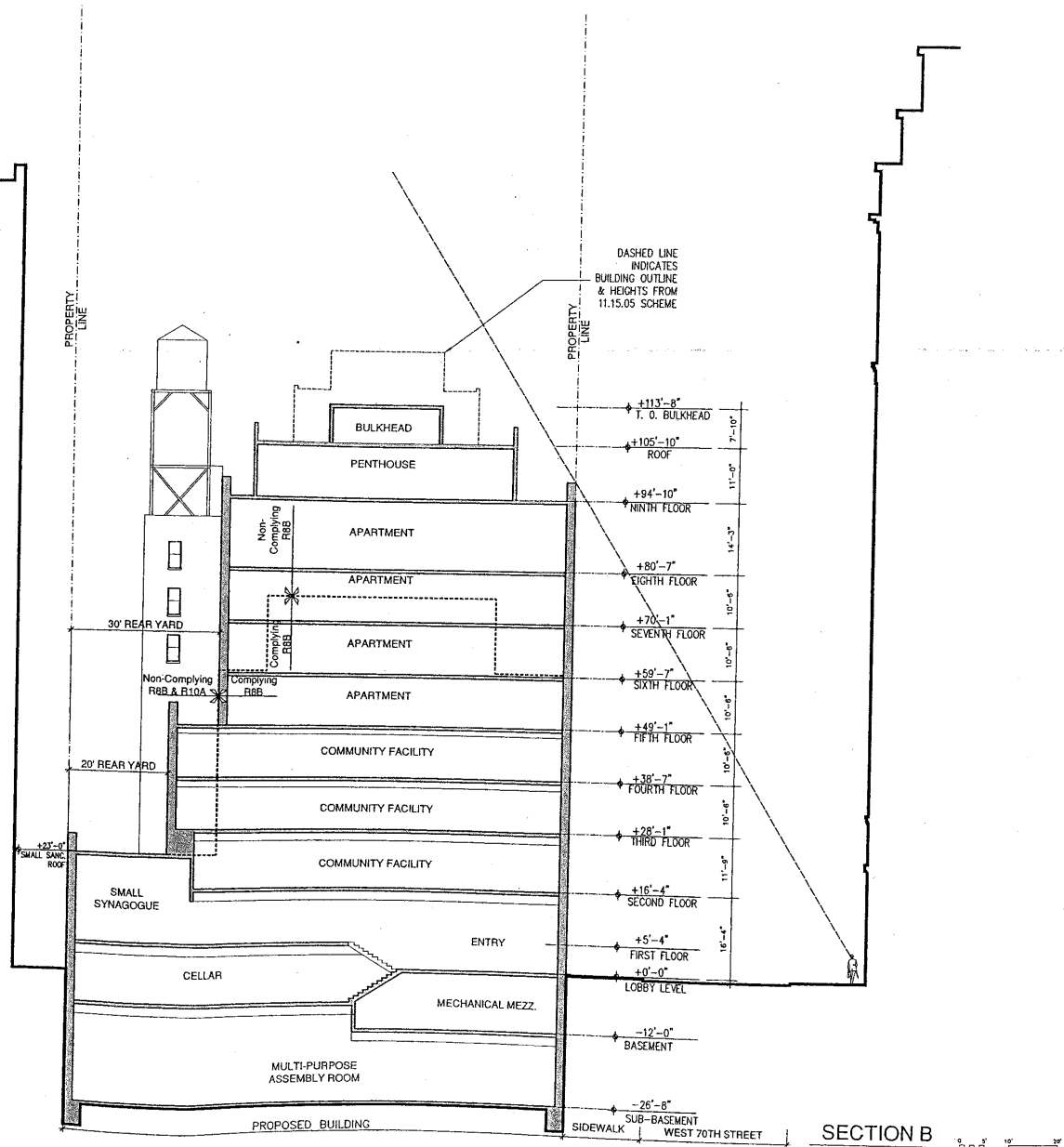
MARCH 14, 2006

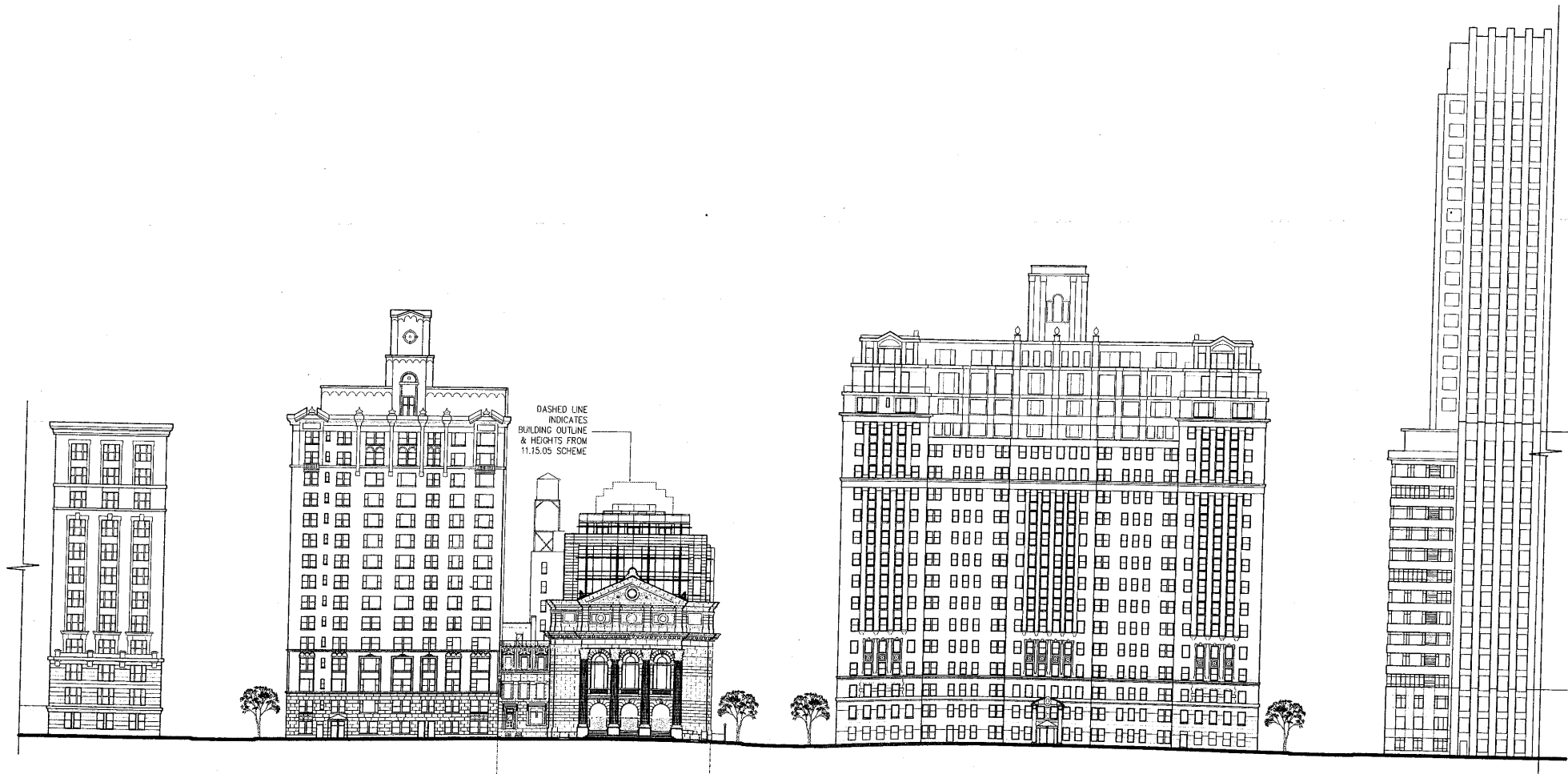


ROOF PLAN









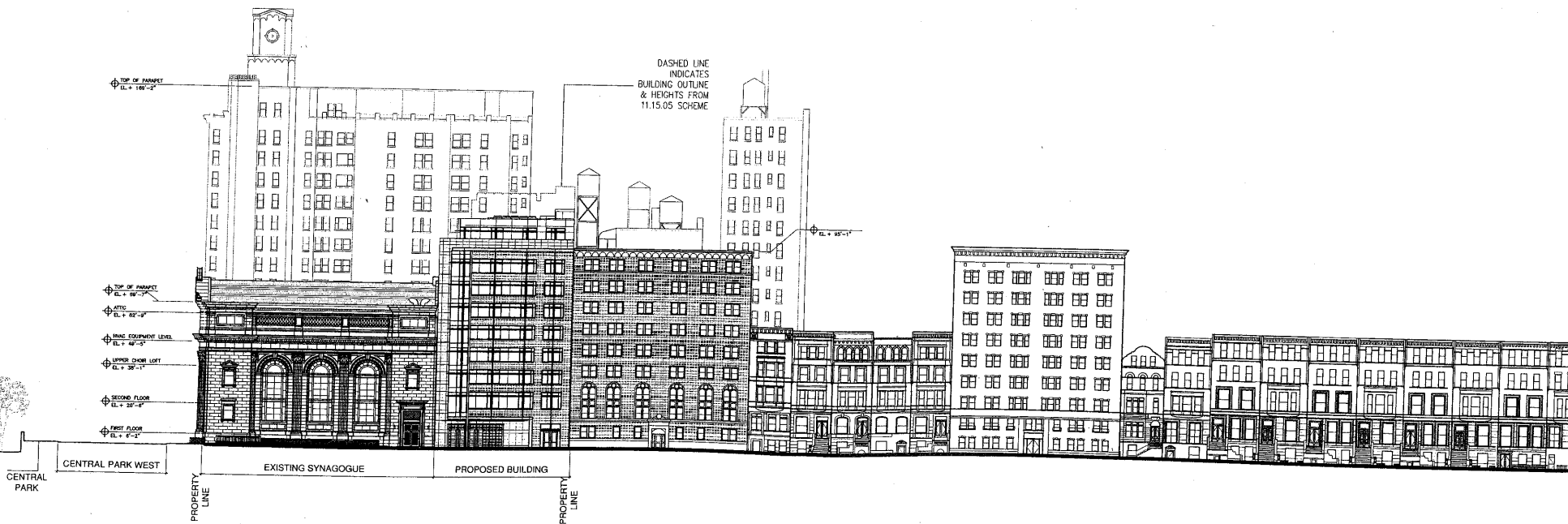
DASHED LINE
INDICATES
BUILDING OUTLINE
& HEIGHTS FROM
11.15.05 SCHEME

CENTRAL PARK WEST

PROPOSED EAST CONTEXT ELEVATION

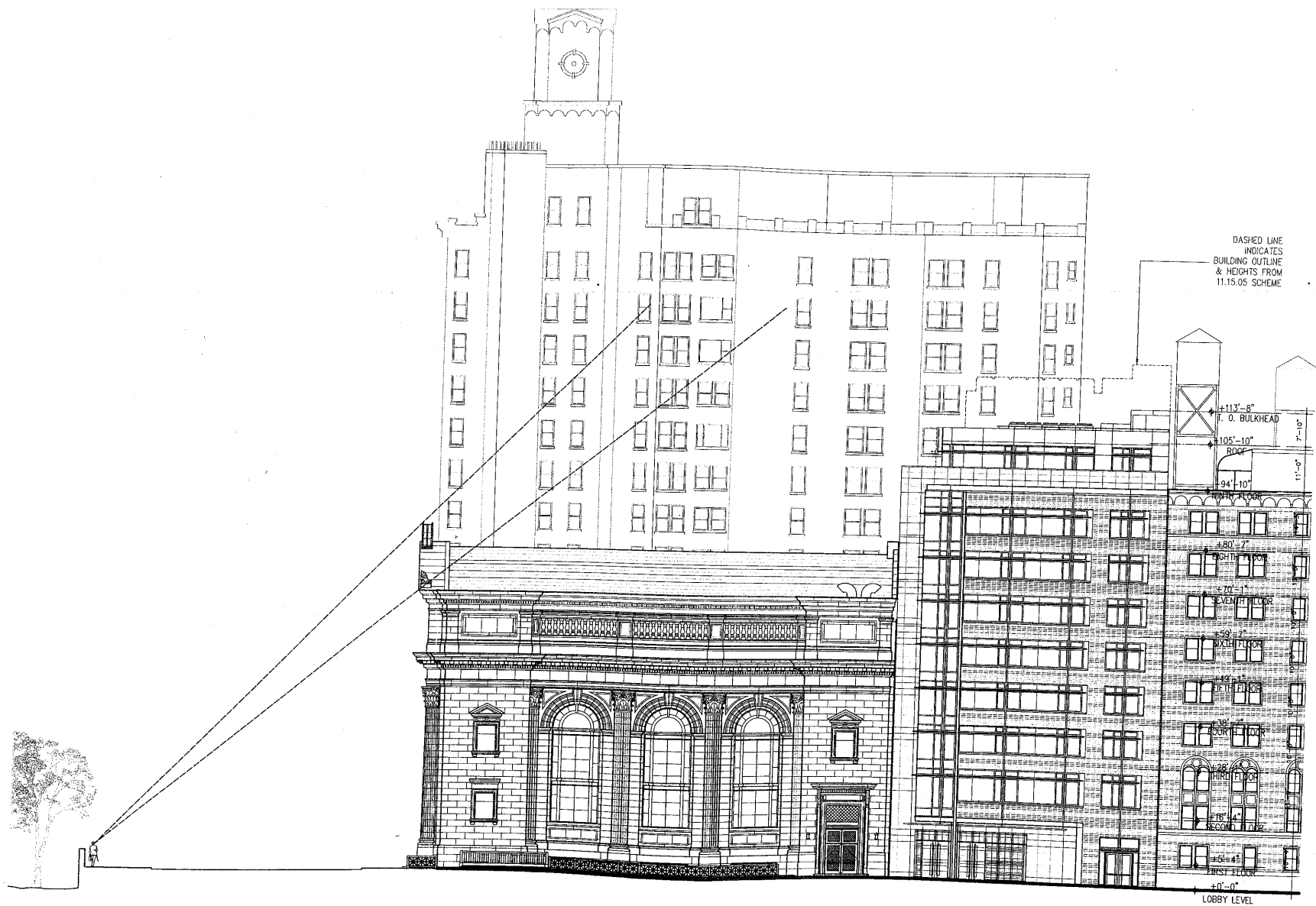


Drawings Submitted For BSA Ex Parte Meeting Nov. 2006 27



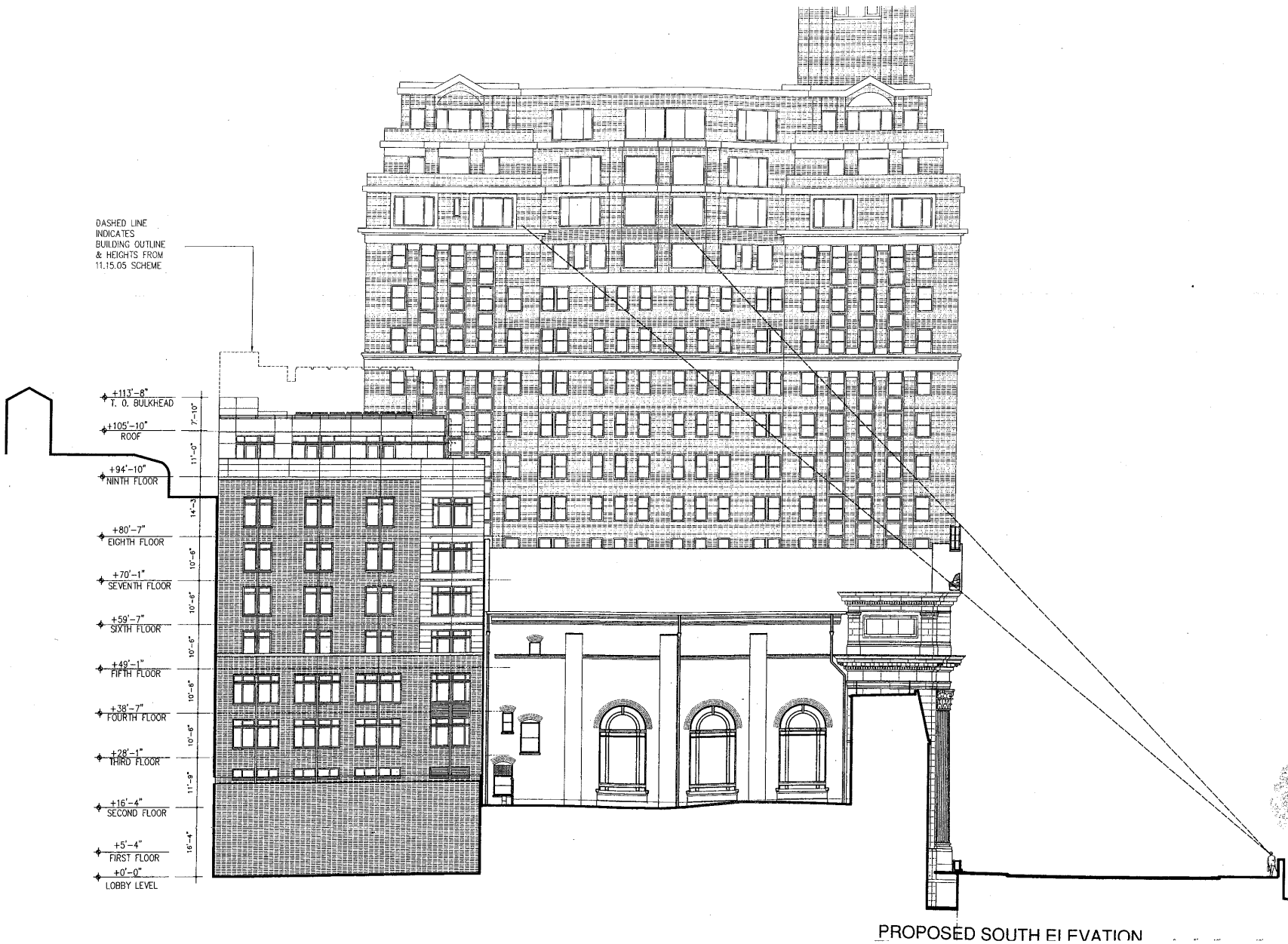
PROPOSED NORTH CONTEXT ELEVATION

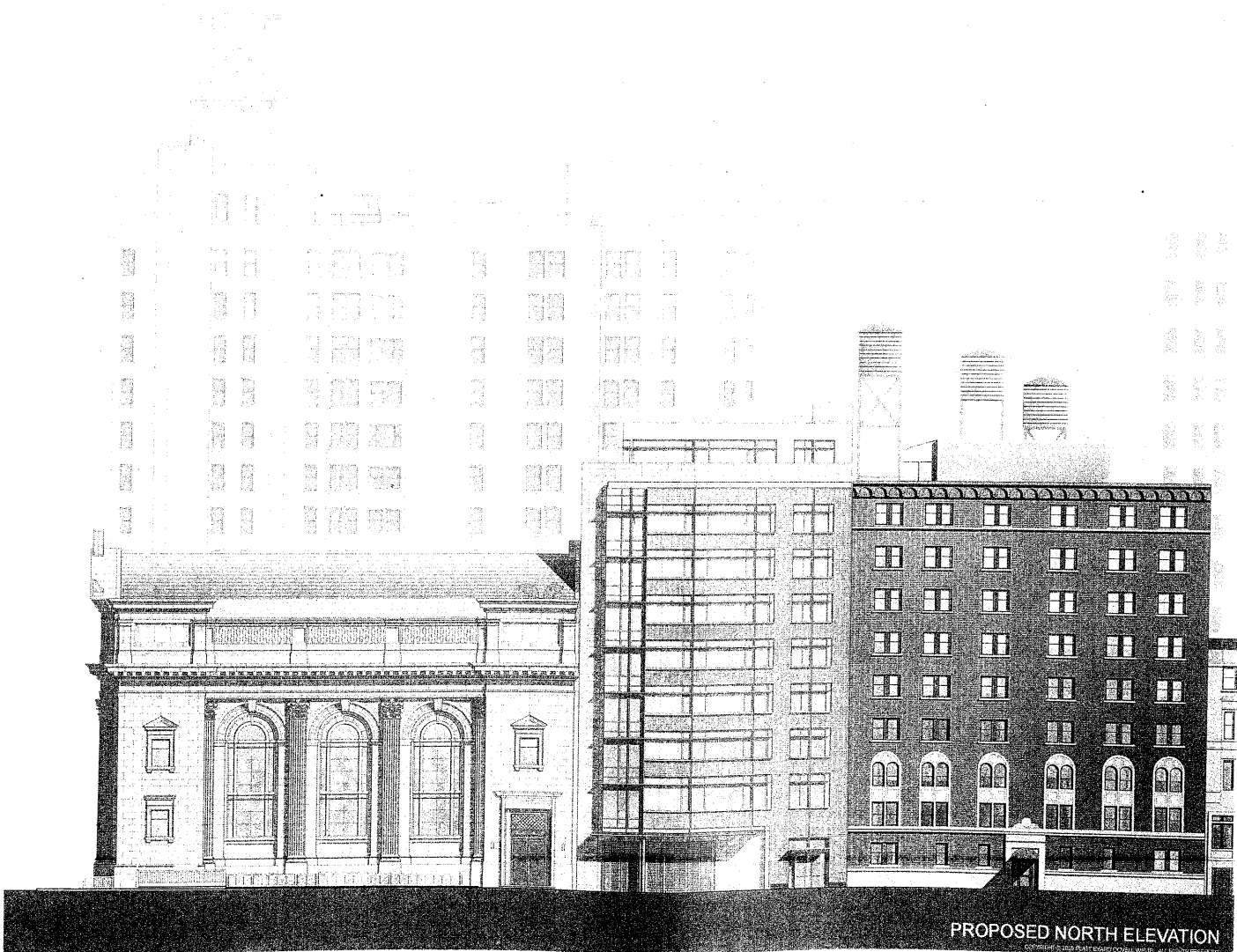
0' 10' 20'



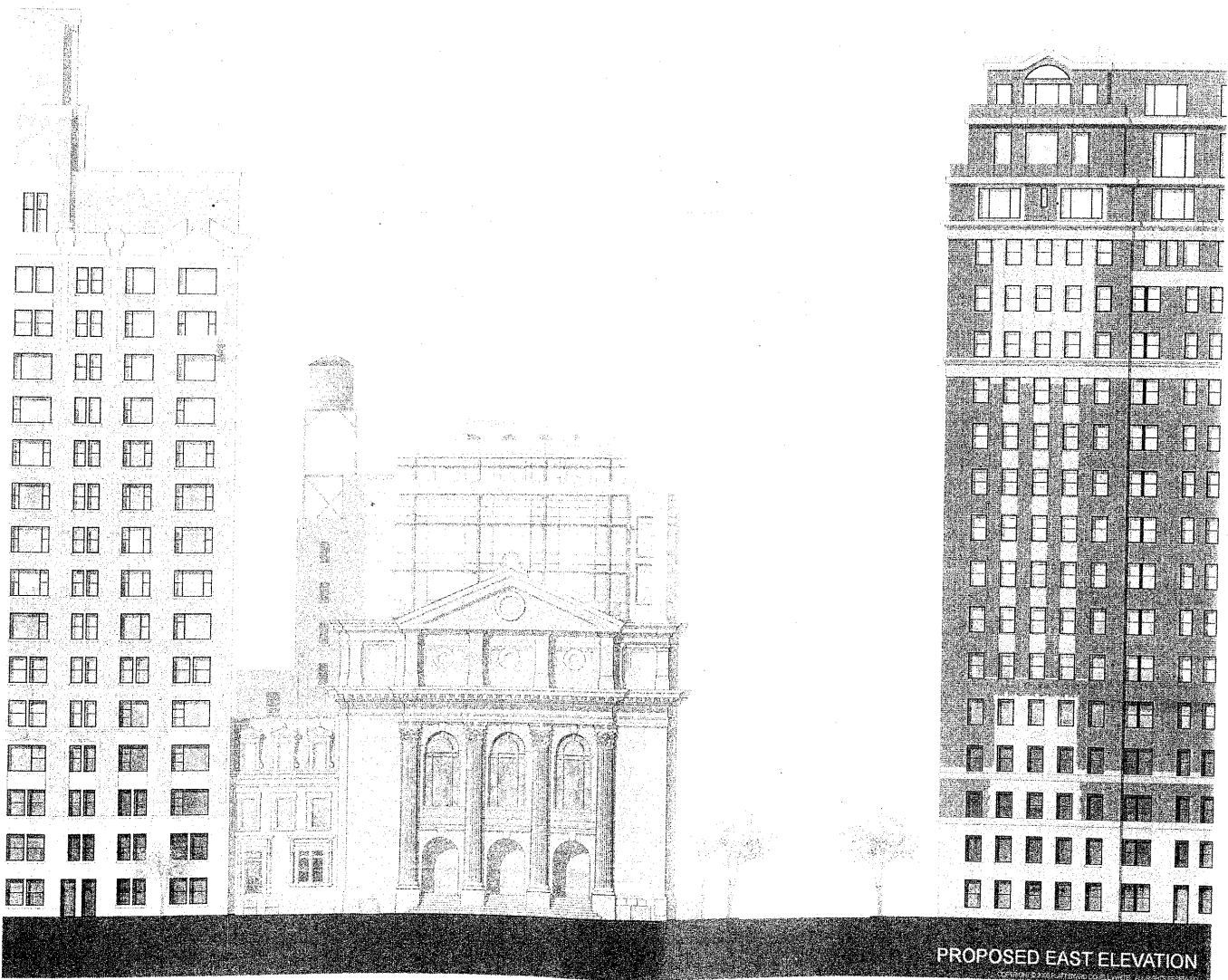
PROPOSED NORTH ELEVATION



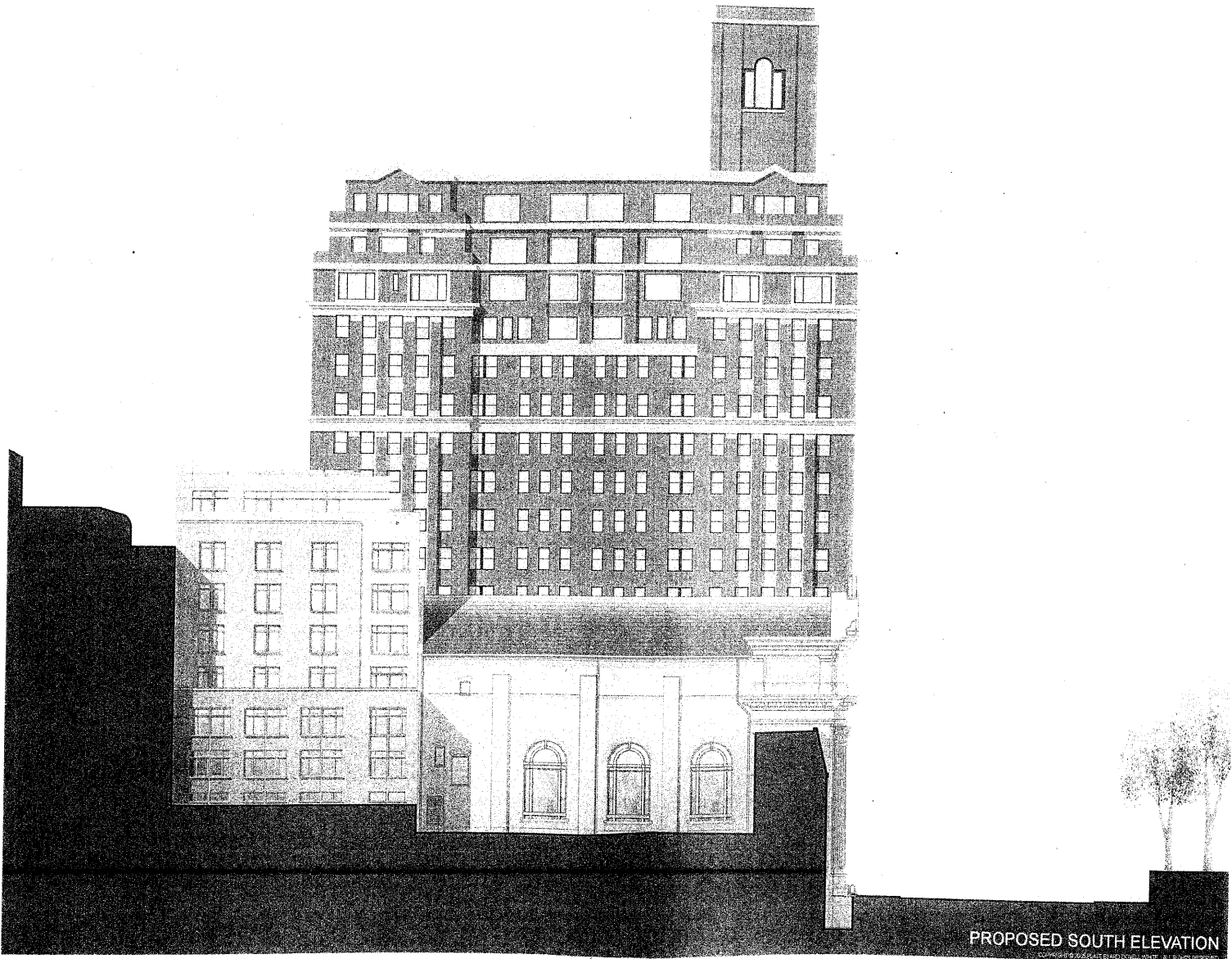




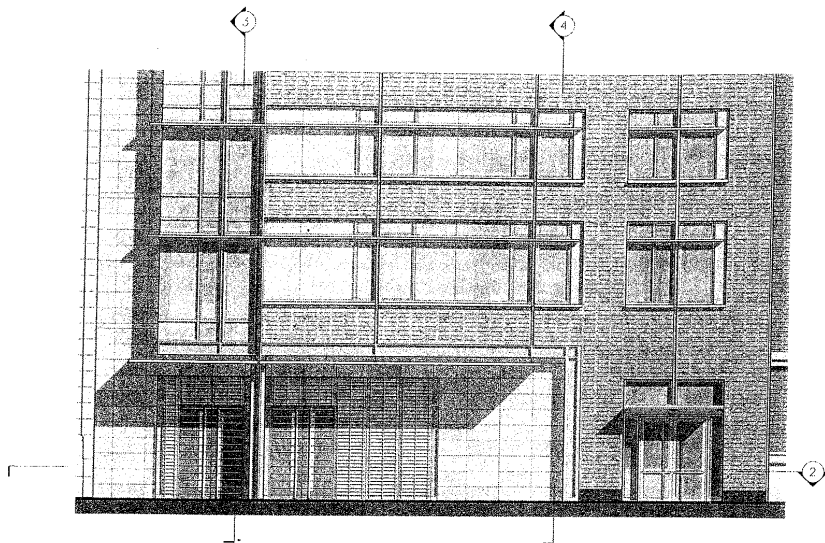
PROPOSED NORTH ELEVATION



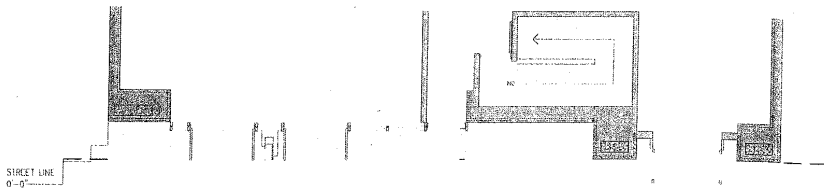
PROPOSED EAST ELEVATION



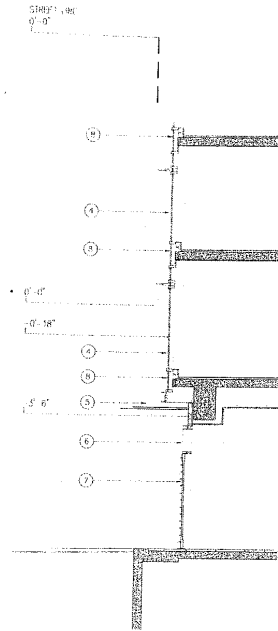
PROPOSED SOUTH ELEVATION
COMPILED AND ADJUSTED BY THE ARCHITECT



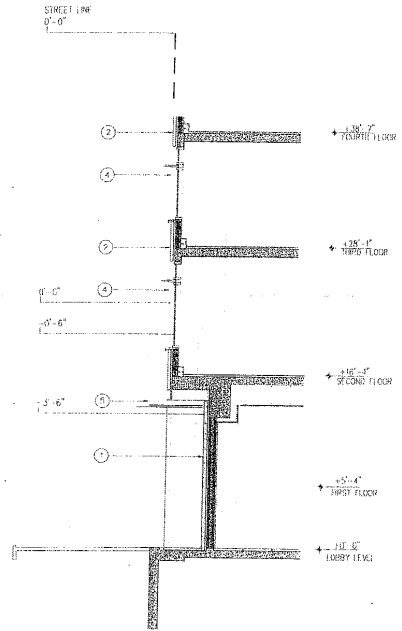
1 PARTIAL NORTH ELEVATION



2 PLAN DETAIL AT STREET LEVEL



3 DETAIL SECTION



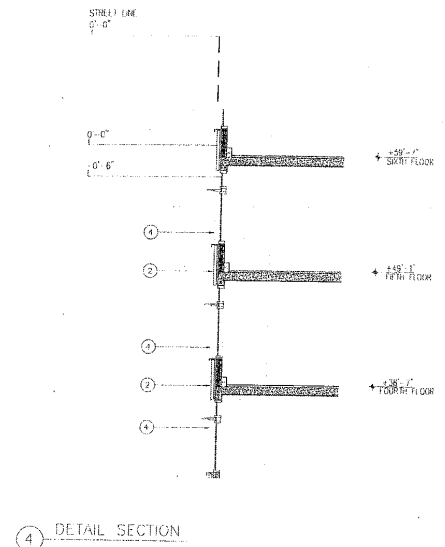
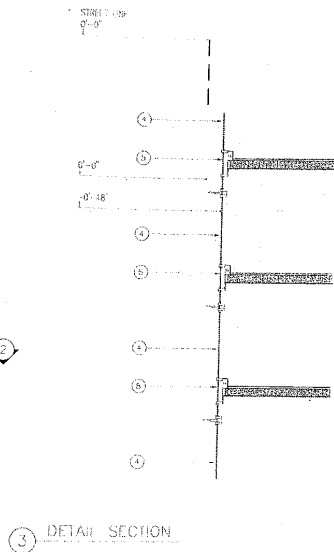
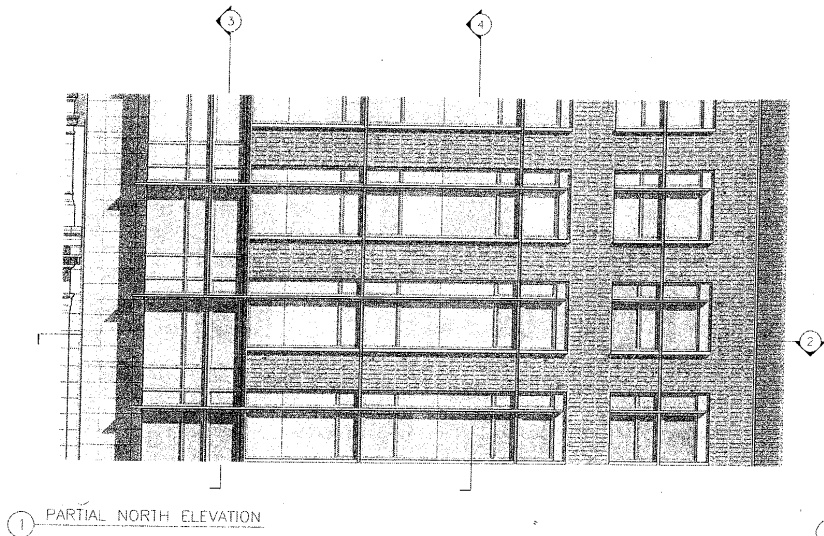
4 DETAIL SECTION

KEY

1. LIMESTONE RAINSCREEN
2. PANELIZED BRICK
3. METAL PANEL
4. PAINTED ALUMINUM WINDOW ASSEMBLY
5. METAL AND GLASS CANOPY
6. DECORATIVE METAL SCREEN
7. WOOD DOORS WITH METAL INLAIS
8. SPANDREL GLASS

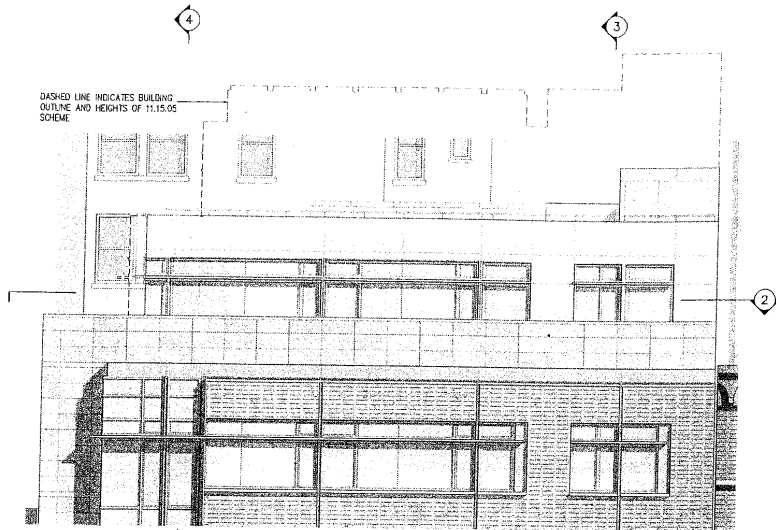
DETAIL PLAN/ SECTION/ ELEVATION AT BASE

0' 0" 10' 0" 20'

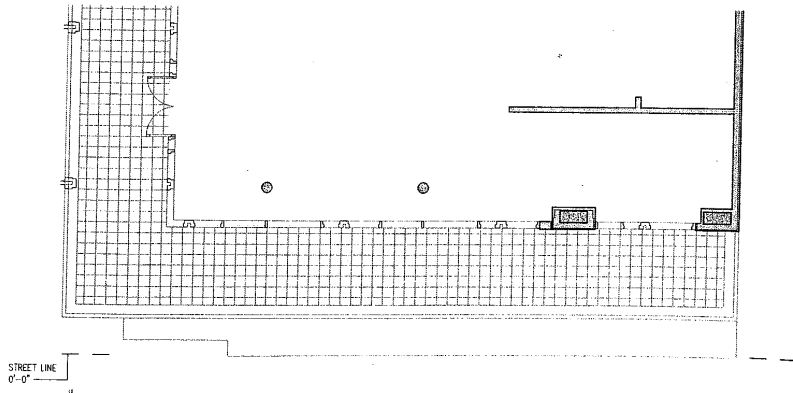


- KEY
- 1. LIMESTONE RAINSCREEN
 - 2. PANELIZED BRICK
 - 3. METAL PANEL
 - 4. PAINTED ALUMINUM WINDOW ASSEMBLY
 - 5. SPANDREL GLASS

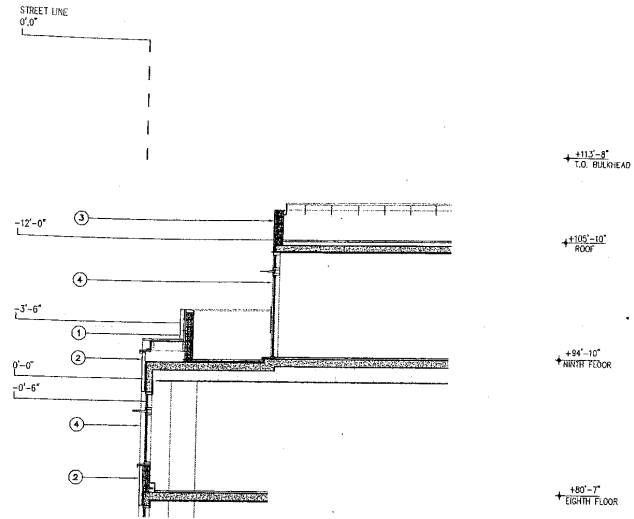
DETAIL PLAN/ SECTION/ ELEVATION AT MID



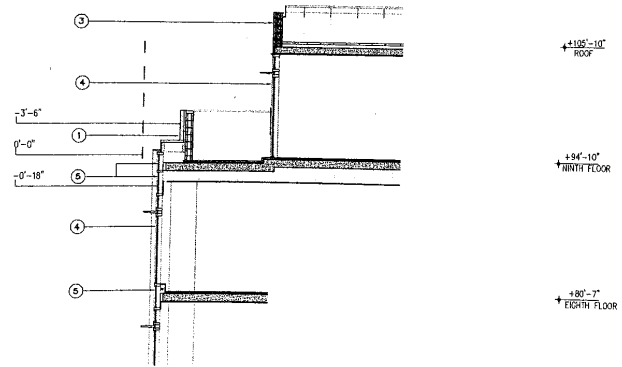
1 PARTIAL NORTH ELEVATION



2 PLAN DETAIL AT PENTHOUSE



3 DETAIL SECTION



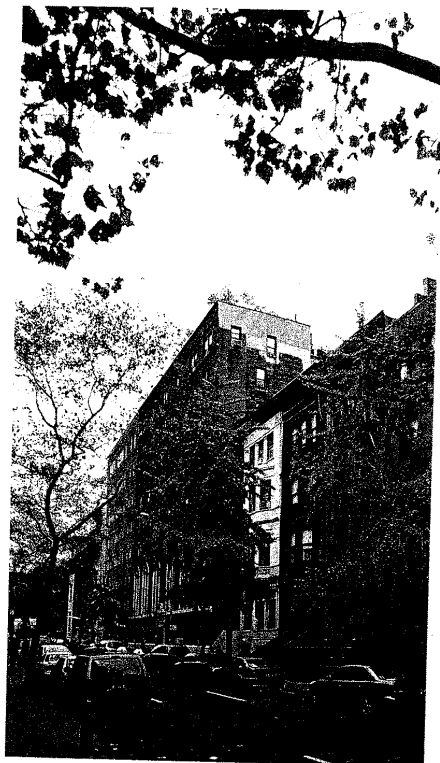
4 DETAIL SECTION

- KEY
- 1. LIMESTONE RAINSCREEN
 - 2. PANELIZED BRICK
 - 3. METAL PANEL
 - 4. PAINTED ALUMINUM WINDOW ASSEMBLY
 - 5. SPANDREL GLASS

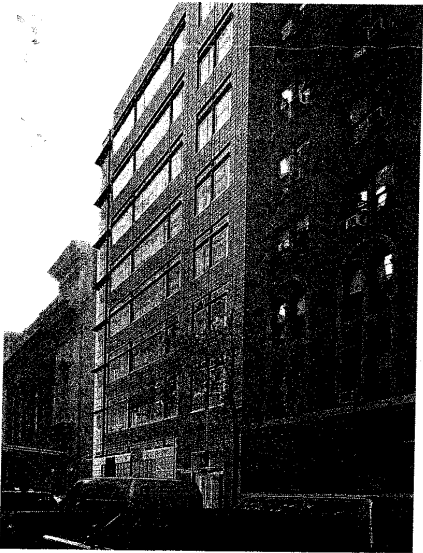
DETAIL PLAN/ SECTION/ ELEVATION AT TOP



VIEW #1: FROM CORNER OF CENTRAL PARK WEST AND WEST 70TH STREET



VIEW #2: FROM W 70TH STREET



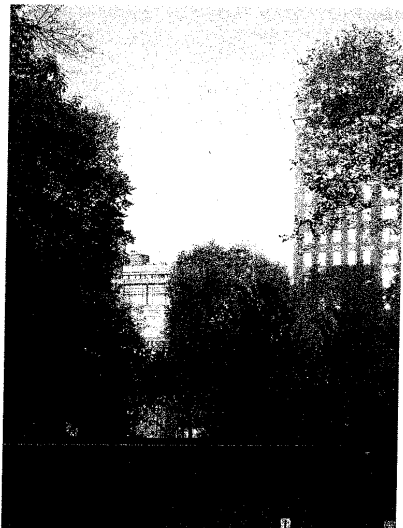
VIEW #3: FROM W 70TH STREET



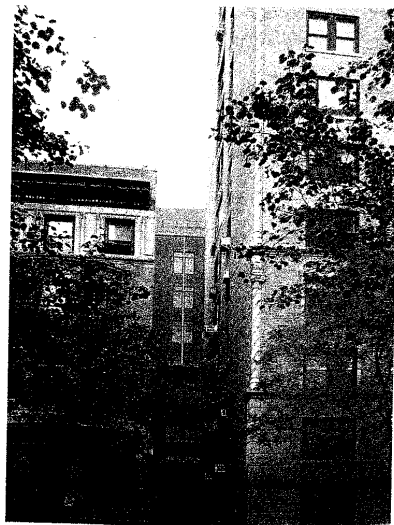
VIEW #4: FROM CORNER OF W 70TH STREET



VIEW #5: FROM CENTRAL PARK WEST



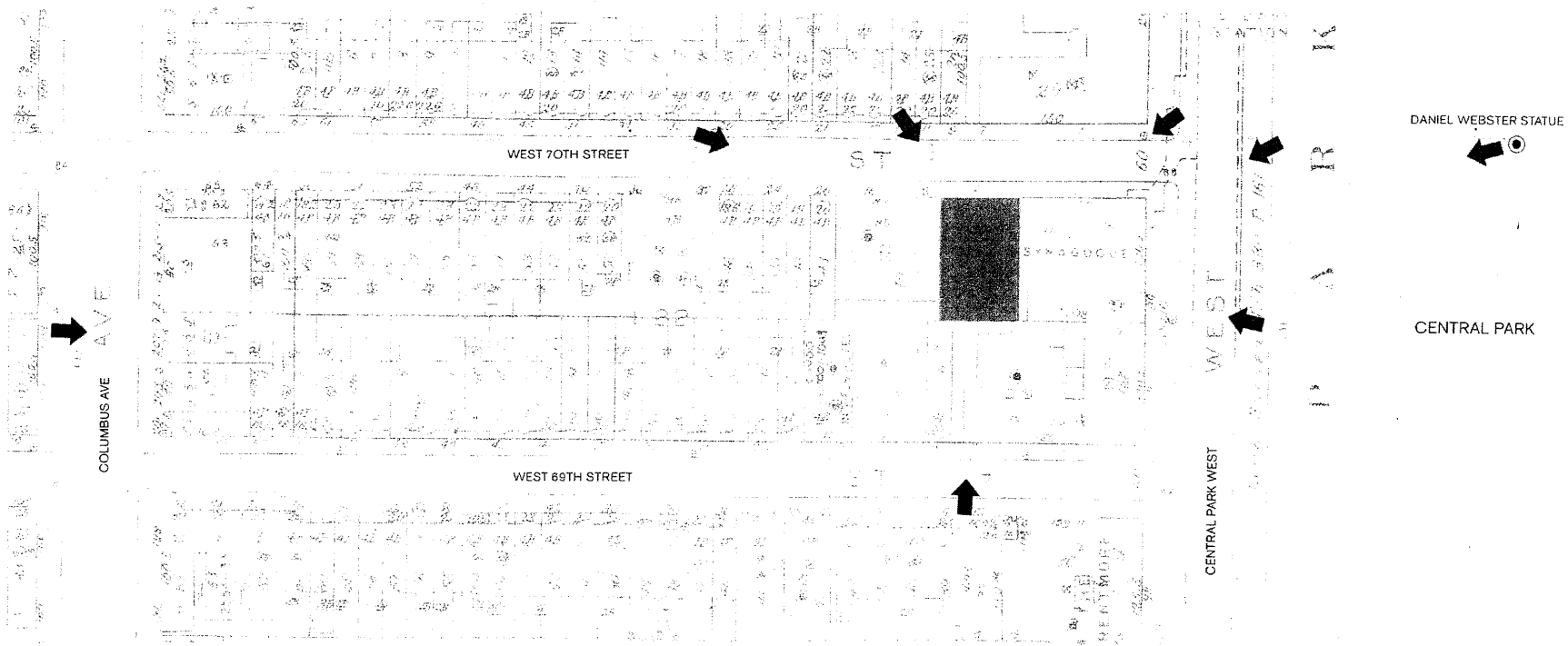
VIEW #6: FROM CENTRAL PARK



VIEW #7: FROM W 69TH STREET

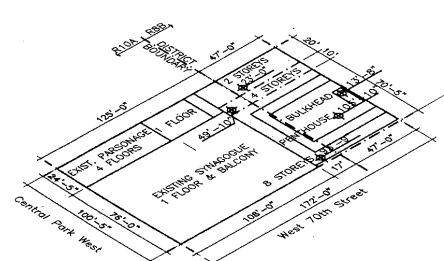
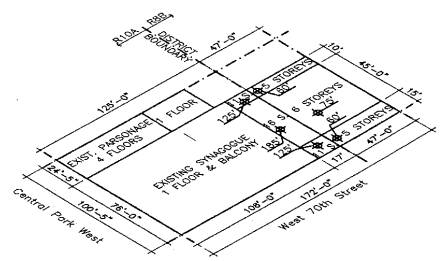


VIEW #8: FROM COLUMBUS AVENUE



VIEW LOCATION MAP 

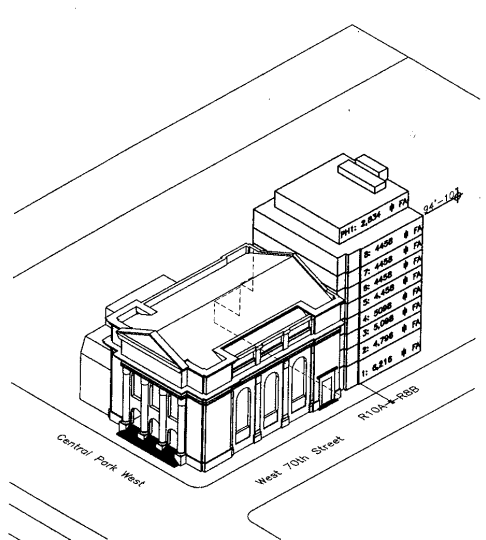
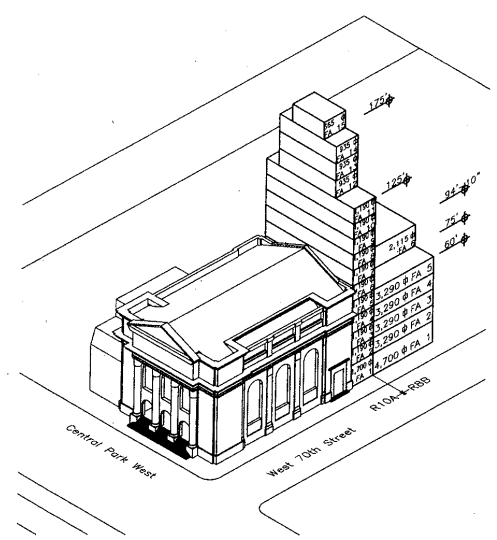
10 WEST 70th ST.
PLATT BYARD DOVELL WHITE ARCHITECTS LLP
STEPHEN TILLY, Architect



LOT AREA:
R8B- 4,720 SF
R10A-1,707 SF
COMBINED - 6,427 SF

REQUIREMENTS (PRELIMINARY LIST)		
	R8B	R10A
STREET WALL HT. (MAX.)	60'	125'
BUILDING HEIGHT (MAX.)	75'	185'
FLOOR AREA RATIO (AVG)	8.38	8.38
REAR YARD	30'	30'
LOT COVERAGE (OVER 23')	70%	70%
INITIAL SETBACK	15'	15'

ZONING AREAS (PROPOSED)			
FLOOR	R8B	R10A	TOTAL
1	4,582 S.F.	1,634 S.F.	6,216 S.F.
2	3,539 S.F.	1,257 S.F.	4,796 S.F.
3	3,761 S.F.	1,337 S.F.	5,098 S.F.
4	3,761 S.F.	1,337 S.F.	5,098 S.F.
5	3,290 S.F.	1,168 S.F.	4,458 S.F.
6	3,290 S.F.	1,168 S.F.	4,458 S.F.
7	3,290 S.F.	1,168 S.F.	4,458 S.F.
8	3,290 S.F.	1,168 S.F.	4,458 S.F.
PH-1	2,444 S.F.	390 S.F.	2,834 S.F.
TOTAL	31,247 S.F.	10,627 S.F.	41,874 S.F.

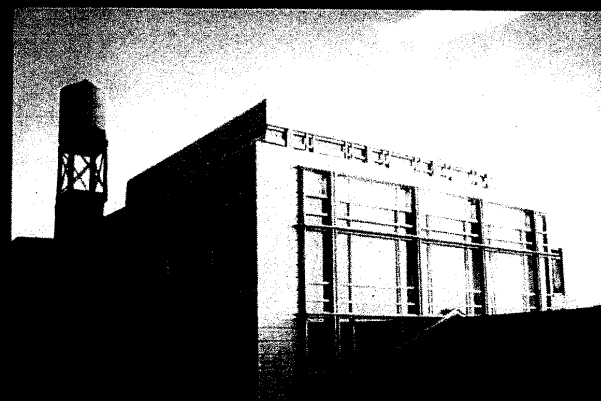


EXISTING AS OF RIGHT ZONING ENVELOPE @ DEVELOPMENT SITE (BASED ON HEIGHT AND SETBACK LIMITATIONS)


PROPOSED ZONING ENVELOPE AT DEVELOPMENT SITE

LOT AREA AT DEVELOPMENT SITE: 6,427 SF
PERMITTED FLOOR AREA:
R10A- 14,305 SF
R8B- 39,554 SF
COMBINED - 53,859 SF

PROPOSED FLOOR AREA:
R10A- 10,627 SF
R8B- 31,247 SF
COMBINED - 41,874 SF



MODEL PHOTOS

G	Garage
C	Commercial
I	Industrial
M	Manufacturing
W	Warehouse
	Camera Position

Radius diagrams must show the zoning district boundaries, dimensioned, labeled and distinctly color coded as follows:

Orange for Residential Districts
 Red for Commercial Districts
 Light Green for Manufacturing Districts

If a land use survey is required (applications for change in use), it should be distinctly color coded as follows:

Yellow for Residential Uses
 Red for Commercial Districts
 Purple for Manufacturing/Industrial Uses
 Blue for Community Facility Uses
 Grey for Vacant Land
 Green for Open Space

Item L: Photographs

A set of unmounted, 8" by 10", glossy photographs must be submitted with the application. The photographs must show the actual conditions on the lot from all sides of the street within the area of notification, the rear of the lot, the side of the lot and the frontage of lots within 100 feet of the rear of the lot in question.

The front of each photograph must be properly labeled to include the street, the address, the outline of the actual site in question and compass points. The back of the photograph must indicate the name and address of the photographer and the date the photograph was taken. In addition, the address of the site should be included.

Item M: Financial Feasibility Study

Financial information is not required for special permit applications. For not-for-profit organizations and individual one, two and three family residential bulk variance applications, financial information is generally not required at the time of filing. However, in certain instances the examiner or the Board may, after reviewing the issues raised in the application, request that financial data be provided.

For all other variance applications, a financial analysis must be submitted at the time of filing or the application will not be accepted.

The financial submission should illustrate the hardship caused by the claimed unique physical conditions present at the site. Financial data is requested by the Board to explain why a reasonable return on the property is not possible and to demonstrate, in part, why the variance proposed is the minimum variance necessary to provide relief to the property owner.

Questions regarding the submission of financial information may be addressed to the Board's Deputy Director, Roy Starrin, by calling (212) 788-8797.

The following guidelines apply to the submission of financial data:

1. Submissions must be prepared by a Certified Public Accountant and/or qualified real estate professional, other than the owner or applicant. The qualifications of the person who prepared the financial submission must be included with the submission.
2. For an application for a use variance, separate financial analyses must be performed for the existing use, conforming or legal use, alternative conforming use(s) and proposed use. For a bulk variance application, separate financial analyses must be performed for the existing, complying and proposed conditions.
3. The economic hardship that arises from the unique physical conditions must be quantified and the cost to remedy such hardship should be given in dollar figures.
4. Generally, for rental development proposals, the following information is required: market value of the property, acquisition costs and date of acquisition; hard and soft costs (if applicable); total development costs; construction/rehabilitation financing (if applicable); equity (total cost less financing); breakdown of rental income by floor and square footage, vacancy/collection loss percentage and estimate; effective income; operating expenses; real estate taxes; water and sewer charges; net operating income; debt service; cash flow estimate and percentage return on equity (cash flow divided by equity).
5. Generally, for cooperative or condominium development proposals, the following information is required: market value of the property, acquisition costs and date of acquisition; hard and soft costs (if applicable); total development costs; construction/rehabilitation financing (if applicable); equity; breakdown of projected sellout by square footage, floor and unit mix; sales/marketing expenses; net sellout value; net profit (net sellout value less total development costs); and percentage return on equity (net profit divided by equity).

6. All construction cost estimates must be submitted by an architect, engineer, builder or contractor, other than the owner or applicant and must be signed and sealed. A published cost reference source may be supplied by the applicant's real estate analyst instead.
7. All site valuations, rental and/or sellout estimates must be substantiated with comparables, with narrative adjustments for time, location, age, zoning and physical characteristics. Other types of adjustments must be justified.

Item N: Certificate of Occupancy

A copy of the current Certificate of Occupancy, if the property has one, must be attached to the application.

Item O: Letter to Administrative Official

The Board's Rules of Procedure require that a copy of each BZ application form be forwarded by the applicant to the administrative agency from whose order or determination the appeal is made "immediately upon filing with the Board".

The Buildings Department is the administrative agency whose decision is being appealed in most of the most of the Board's zoning variance and special permit applications. One copy of the notice letter sent to the Department of Buildings by the applicant must be submitted to the Board with the application within 10 days of the filing with the Board. The same procedure applies to applications involving a Department of Small Business Services objection.

Item P: Notification of Filing

The Board's Rules of Procedure require the applicant to forward a copy of each BZ application, with all supporting documentation to:

- * The affected Community Board(s) or Borough Board;
- * The affected City Councilmember;
- * The affected Borough President; and
- * The City Planning Commission.

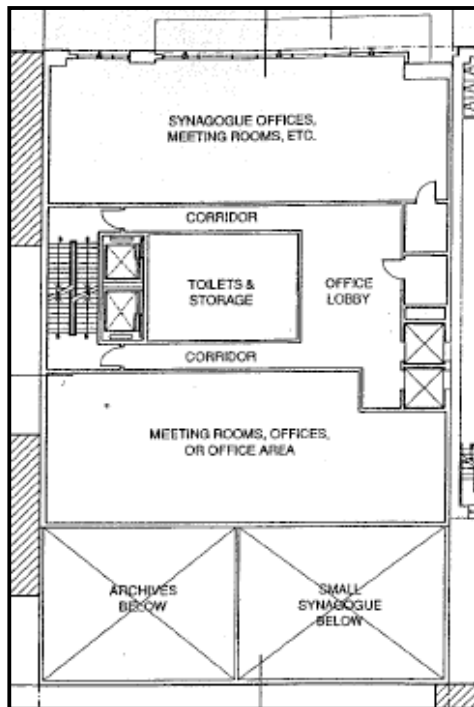
(Service to the affected Community Board or Borough Board and the City Planning Commission shall be served on the respective Chairperson. For the City Planning Commission, notify the Chairperson through Mr. Allan Geiger, 22 Reade Street, New York, N.Y. 10007.)

The applicant may forward the application to the above listed entities prior to filing at the Board or within three business days after filing the application. If, at the time of filing, the applicant has already forwarded the application to the above listed entities, a copy of the required proof may be submitted to the Board with the BZ application.

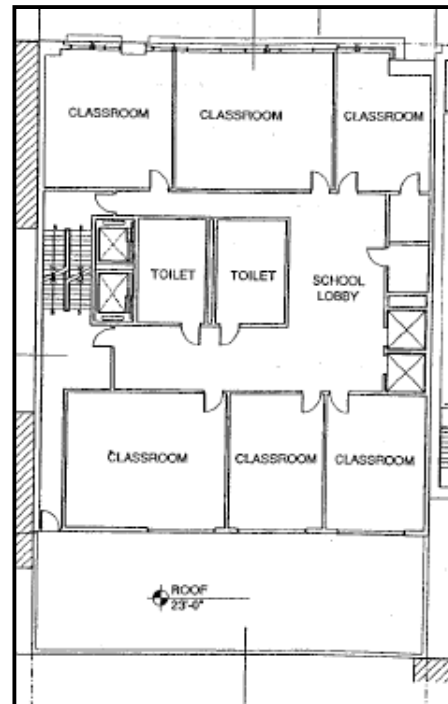
Drawings Shown to BSA

Nov. 8, 2006 Ex Parte Meeting

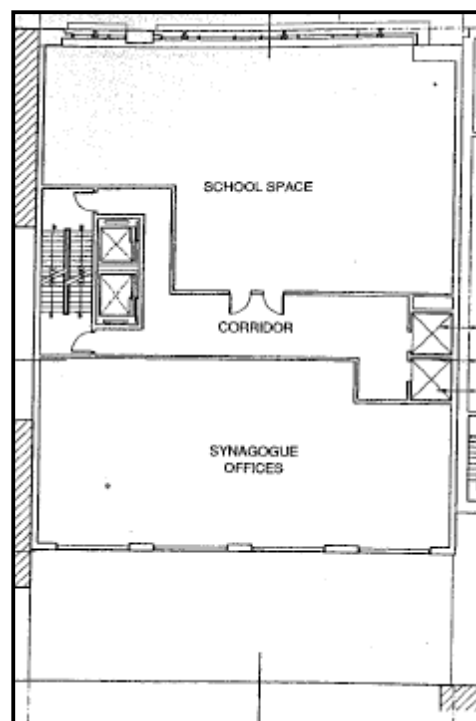
Uses of Floors 2, 3, 4 - Later Contrived



Second Floor R-4275 Pet. Ex.Q-15



Third Floor R-4276 Pet. Ex.Q-16



Fourth Floor R-4277 Pet. Ex.Q-17