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REJECT THE SHEARITH ISRAEL REAL ESTATE DEVELOPMENT

Testimony by Assembly Member Richard N. Gottfried

Before Landmarks Preservation Commission

July 1, 2003

My name is Richard N. Gottfried. I am the Assembly Member representing the 75th Assembly District, which includes Congregation Shearith Israel (CSI) and the site of the proposed building.

Once again, I urge the Commission to reject the proposed project on the grounds that the project does not "contribute to a preservation purpose," nor does it "relate harmoniously" to the landmarked synagogue and the historic district. Under the law, CSI must prove both, but it does not pass either test. The Congregation has not demonstrated that its real estate development will contribute to the preservation of the synagogue landmark, and the building is grossly out of scale and conflicts with the historic district.

A growing and prosperous congregation can and should support its mission without damaging the surrounding community and violating the law.

The project does not "contribute to a preservation purpose"

Under Section 74-711(a) (1) of the zoning code, the City Planning Commission may not approve this proposal unless the Landmarks Preservation Commission issues a report finding that the proposal "contributes to a preservation purpose." This project is a plan to yield an extraordinary amount of money for CSI. CSI says it needs this income to restore the synagogue, but it has not documented this financial need nor proposed any mechanism to ensure that the income will be devoted to restoring the synagogue.

It is not enough for the Commission to conclude that the Congregation will preserve the landmark. The law requires the Commission to conclude that the development will actually "contribute" to the preservation. There must be some link between the development and the preservation.

I understand that the Commission is not in the business of financial auditing. But in order to justify a statutory finding that a real estate project will "contribute" to a preservation purpose, there must be something the Commission and the public can rely on to establish the necessary link. For example, the proceeds of the development could be deposited in an endowment or trust, dedicated to the preservation purpose. There might be an annual accounting by an independent auditor.

The Commission should not issue a favorable report for a 74-711 waiver unless the

million dollar asset for the synagogue "contributes to a preservation purpose," then enlarging the asset would contribute even more. They will argue that if a new 15 -story building is "harmonious" with a brownstone block, then surely a few more stories would not make a big difference.

The Commission should think ahead to that prospect and consider this: When CSI or a commercial partner comes back for more, on what basis will the Commission be able to turn them down?

CSI has said that this project will benefit the preservation of the synagogue and the scale of the district because it will "freeze" the unused development rights over the synagogue, so that they cannot be developed or transferred elsewhere. But they have not legally bound themselves to this promise. If the Commission believes that this "freezing" of development rights contributes to a preservation purpose, then it should insist that CSI legally bind itself to this commitment.

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Damaging precedent

Approving this real estate development would set a dangerous precedent that would seriously undermine the protection for landmarks and historic districts. When the law is ignored, diminished, or distorted for one applicant, other applicants will insist on – and likely receive – similar exemptions, because the Commission will have no legal basis for turning them down.

If this real estate development is approved, then in this and other historic districts we will soon have churches, synagogues, schools, and even ordinary property owners coming up with countless real estate schemes to make money by multiplying the height and bulk of a building. They will all be able to point to the example of CSI. And the Landmarks Preservation Commission will have given up its ability to insist on a meaningful contribution to a preservation purpose or to apply any meaningful standard of what is harmonious with a historic district.

New York City has not headed down that road and should not. The laws protecting landmarks and historic districts help strengthen the roots that hold our City together. These laws should not be ignored, diminished, or distorted.

The better alternative

CSI is a growing congregation with extraordinary resources. It has a magnificent building and sanctuary that require restoration and maintenance. The congregation has been honoring its centuries-old tradition and its religious mission by raising the necessary funds to preserve the synagogue.

Now, CSI also wants to build a new, expanded community house and support its programming. A new community house – without a real estate development component – could certainly be designed in a way that would not conflict with the landmarks and historic districts laws and applicable zoning.

CSI can and should preserve the synagogue, and build and run the new community house, by raising the necessary funds, primarily from among its members. It is not a simple matter, but that is what congregations do across New York City and across the country. And CSI is better



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Congregation provides a detailed accounting of the projected income from the development, how this income will be devoted to improving the preservation of the synagogue, and its financial inability to pay for the restoration without the proposed development.

I believe CSI is committed to restore its landmark. It may also have the resources to restore the synagogue without this real estate development. If the preservation can and will happen without the development, then the development is not contributing to the preservation, in any meaningful sense.

Even if the commission determines that development would contribute to a preservation purpose, it must determine the projected income of the development and the estimated cost of restoring the synagogue. It may well be that a much smaller and more appropriate building would satisfy the preservation purpose. If so, then the excess height and bulk would have no statutory justification.

Violation of statutory standard

The proposal involves a landmark building and is located in a historic district. Before the Landmarks Preservation Commission can act favorably on the project under Section 74-711(a) (2) of the zoning code, it must find that it "relate(s) harmoniously to the subject landmark building (and) buildings in the Historic District."

The proposed building would be on West 70th Street, a side street of the Upper West Side/Central Park West Historic District. This and many other side streets of the historic district are characterized primarily by decades-old brownstones and small apartment buildings. The proposed building would be dramatically out of scale with the buildings on the side street.

The 186-foot building would be one and one half times the height of the adjacent building. It would be about three times the height of the brownstones that make up most of the block.

It would be more than two and a half times the street wall height ordinarily permitted for the site.

It would also be several times the total bulk or FAR that would ordinarily be permitted for the site.

Nearly a hundred residents of this part of the Historic District have taken their time to contact my office and the Commission to argue that the proposed building is out of context with the district they call home. Almost no one without a direct connection to the Synagogue has weighed in to argue that the building would be appropriate.

If this building does not flunk the "harmonious" test, what *does* it take to flunk?

The plan will get worse

If this real estate development is approved, CSI or a commercial developer may, in the future, see the potential for profiting by adding more floors to the building.

CSI or the developer could then argue that since LPC had found that creating a multi-

million dollar asset for the synagogue "contributes to a preservation purpose," then enlarging the asset would contribute even more. They will argue that if a new 15 -story building is "harmonious" with a brownstone block, then surely a few more stories would not make a big difference.

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able to that than the vast majority of other congregations.

There are also foundation and government grants available to religious congregations for historic preservation.

Community input into design elements

I hope the Commission will reject this proposal. If, however, the Commission intends to permit CSI to build the project, I would ask the Commission to pause before issuing a Certificate of Appropriateness.

Please allow CSI to present its design plans to a meeting of community members and civic organizations, and receive and respond to comments about design choices that might make the building more contextual with the historic district. Then, if CSI chooses to revise its design in light of these comments, it can present the revised plan to the Commission.

Conclusion

The Landmarks Preservation Commission should stand by the law and reject the proposed real estate development. It does not "contribute to a preservation purpose" and it is not "harmonious" with the historic district. CSI should stand by its purpose and honorable tradition and turn away from the promotion of real estate development.