

**STATEMENT IN SUPPORT  
OF CERTAIN VARIANCES  
FROM THE PROVISIONS OF  
THE NEW YORK CITY ZONING RESOLUTION**

**Affected Premises:**

**CONGREGATION SHEARITH ISRAEL  
6-10 West 70<sup>th</sup> Street/99-100 Central Park West  
Block 1122 Lots 36 & 37  
Manhattan**

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## **THE APPLICATION**

This statement is filed in support of the Application by Friedman & Gotbaum LLP on behalf of the Trustees of Congregation Shearith Israel (“CSI”) pursuant to Section 72-21 of the Zoning Resolution of the City of New York (the “Zoning Resolution” or “ZRCNY”) for a variance in connection with the construction of a new community facility/residential building at 6-10 West 70<sup>th</sup> Street (the “New Building”) The New Building will be located on a longstanding single Zoning Lot consisting of CSI’s house of worship, also known as the “Spanish and Portuguese Synagogue in the City of New York,” located on the southwest corner of Central Park West and West 70<sup>th</sup> Street (the “Synagogue”), a connected parsonage with the address 99 Central Park West (the “Parsonage”), a connected 4-storey community house converted from two townhouses in 1954 (the “Existing Community House”), which is a support building in deteriorating condition connected to the Synagogue, and vacant land. The Synagogue and Parsonage together form Tax Lot 36 on Block 1122. The Existing Community House and land vacant since 1950, which will serve as the footprint for the New Building, comprise Tax Lot 37 on Block 1122. Together Tax Lots 36 and 37 constitute the Zoning Lot (the “Zoning Lot”) which is the subject of this Application. These two tax lots, in common ownership by CSI since the enactment of an “applicable amendment” to the Zoning Resolution in 1984, constitute a single Zoning Lot as the term is defined in ZRCNY Sec. 12-10.

The Zoning Lot is bisected by a zoning district boundary which results in its eastern 72.7 percent being zoned R10A and its western 27.3 percent being zoned R8B. Because the Zoning Lot predates the adoption of this zoning district boundary in 1984, it is entitled as a matter of right to utilize the zoning floor area averaging methodology provided in ZRCNY Sec. 77-22.

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Accordingly, there is more than sufficient zoning floor area to support the location of the New Building almost entirely on the RBB portion of the Zoning Lot. The existing and proposed distribution of zoning floor area across the Zoning Lot can be summarized as follows. The maximum permitted FAR over the Zoning Lot is FAR 8.36 but it is developed to only FAR 2.25. Expressed as zoning floor area rather than FAR, the Zoning Lot's maximum permissible zoning floor area is 144,510.96 zsf and its existing zoning floor area is 38,838.10 zsf. The Application calls for the demolition of the existing community house, which contains 11,078.90 zsf. The Synagogue and Parsonage to remain on the Zoning Lot contain 27,759.2 zsf, leaving 116,751.76 zsf available for development anywhere on the Zoning Lot. The New Building will contain 42,406.35 zsf, which when combined with the remaining Synagogue and Parsonage on the Zoning Lot result in a total new zoning square footage of 70,165.55 zsf, or FAR 4.06, which is less than half the Zoning Lot's permitted zoning floor area. The resulting net increase in zoning floor area attributable to approval of this Application is 31,327.45 zsf, or 27.3 percent of the Zoning Lot's available air rights after demolition of the Existing Community House.

The compliance of the existing and proposed conditions with the remaining bulk regulations across the Zoning Lot can be summarized as follows. The Existing Community House's building height (and streetwall height) is 52'-9 3/4" to top of its parapet. The New Building will have a streetwall height of 95'-1" to the top of its parapet and a building height of 105'-10" to the top of the highest occupied floor. There are conflicts with other bulk regulations which result in the following noncompliances: (1) R10A and R8B lot coverage exceedances per ZRCNY Sec. 24-11/77-24; (2) R10A and R8B rear yard exceedances for the third and fourth floors per ZRCNY Sec. 24-36; (3) R8B setback exceedance per ZRCNY Sec. 633; (4) R10A

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and R8B base and building height exceedances per ZRCNY Sec. 633; and (5) R8B rear setback exceedance per ZRCNY Sec. 663.

The proposed uses across the Zoning Lot can be summarized as follows. The two cellar levels and first four floors of the New Building will hold community facility (Use Group 3) uses associated with the Synagogue's mission (multifunction room, meat and dairy kitchens, babysitting room, expanded small synagogue, foyer servicing the main sanctuary, rabbinical and administrative offices, exhibition and archival space, educational rooms for use by its Hebrew School and a caretaker's apartment. Additionally, when the Synagogue is not using portions of the classroom space, they will be used by a Jewish day school that has leased space in the Existing Community House since 1994. The upper four stories, plus a 2,815.92 zsf penthouse, will be Use Group 2 residential space.

The charitable purpose of the New Building is to address several infringements on the mission of CSI as a house of worship, center of Jewish education and culture and provider of community programming open to the public. The Synagogue has severe circulation limitations which interfere with its religious programming. These limitations cannot be addressed through interior alterations. In addition, the physical obsolescence and the ill-configured floorplans of the Existing Community House compromise CSI's religious, educational and cultural missions. Combined, the configuration of the structures on the Zoning Lot make it impossible to utilize in a feasible manner the zoning floor area inherent in the Zoning Lot in order to address any of these programmatic difficulties. As further described throughout the Application, the New Building addresses the programmatic difficulties by providing: (1) new horizontal and vertical circulation systems for the Synagogue to eliminate systemic shortfalls in its construction and

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design that limit barrier-free access to its sanctuaries and ancillary facilities and that cannot practically be addressed through physical exterior alterations and/or enlargements to the Synagogue itself, (2) a new “Community House” within the two cellars and the first four floors of the New Building providing offices and specialized rooms supporting religious, educational and cultural uses that are essential to CSI’s mission but either cannot be accommodated within or beneath the Synagogue or can no longer be accommodated in the physically obsolescent and deteriorating Existing Community House; and (3) residential use on floors 5 – 8 (plus penthouse) to be developed as a partial source of funding to remedy the programmatic religious, educational and cultural shortfalls on the other portions of the Zoning Lot.

The New Building cannot be constructed in a manner consistent with the Zoning Resolution with regard to its yards, streetwall, lot coverage and height and setback that will overcome the current religious, educational and cultural programmatic difficulties. These zoning issues are described at length below. The need for the waivers requested in this Application stem from (1) the lack of any feasible options to modify the existing structures consistent with the Zoning Resolution that will address these severe programmatic difficulties; (2) the Synagogue’s substantial existing zoning noncompliances, (3) the otherwise as-of-right residential floors cannot begin until the fifth floor and in the R8B portion of the Zoning Lot can only rise 11 ft before hitting the 60 ft maximum streetwall height, and (4) the parallel jurisdiction of the Landmarks Preservation Commission, which has approved unanimously both the massing and the design of the New Building, and by so doing has expressed views substantially similar to CSI regarding the need to protect the architectural heritage of the landmarked Synagogue. While the landmark status of the Synagogue clearly presents hurdles in addressing the programmatic

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difficulties in a manner compliant with the Zoning Resolution, no claim is made herein for the granting of a variance based solely on the landmark status of the Synagogue or its location within a historic district. The hardships imposed by attempting to overcome the religious, educational and cultural difficulties facing CSI through a new building that complies with the Zoning Resolution would be present even if the Synagogue was not designated an individual New York City landmark and the Zoning Lot was not located within a historic district.

### **BACKGROUND OF CSI AND THE SITE**

The Congregation has worshipped in New York City for 350 years, holding its first services in Peter Stuyvesant's New Amsterdam in 1654. For almost two centuries it served as the only Jewish congregation in New York City, thus sharing its diverse history of serving its congregants and the larger community within the Dutch colonial experience, the British colonial experience and the American experience literally from its birth. The Synagogue is CSI's fifth edifice in New York City and is one of the City's earliest individually designated landmarks. Like all other religious institutions that have served the New York community continuously from colonial times forward, its history is one of creating a house of worship for its nearby congregants, and relocating to newer, larger houses of worship as the City grew and its congregants moved to newer residential quarters. This pattern can be seen with all of the City's faiths founded in the Eighteen Century or earlier. Modern Manhattan has been totally settled and the availability to seek new land on which to construct facilities commensurate with their congregations' growth has long since vanished for religious institutions on Manhattan. Moreover, the congregations of these institutions are no longer migratory. Not all are experiencing growth, but finding that with their congregations no longer migratory and new

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development exceedingly expensive, these institutions must strive to improve the sites they occupy in ways the worshippers who planned for their construction could not imagine. Yet the traditional remedy for accommodating growth for a religious institution, relocation to new site, is now geographically, demographically and financially out of the question.

The Synagogue was constructed in 1896 and remains virtually unchanged since that date. It was not built to serve the size of its present community, either as a house of worship or as an educational and cultural center. Zoning and landmarked restrictions now severely limit significant reconfiguration of the site. Relocation is cost prohibitive and in any event its stable West Side congregants, whose faith requires that they be within walking distance of its house of worship, would hardly be served by relocation.

*History.* Congregation Shearith Israel was founded in 1654 by twenty-three Sephardic Jews, who, having been kidnapped by pirates and freed by a French ship, were deposited on the shore of Peter Stuyvesant's New Amsterdam, whereupon they were immediately imprisoned in what must have been one of the earliest recorded cases of illegal immigration in the New World. Freed upon petition to the Dutch governments, these involuntary immigrants fought for their rights and prospered in the Dutch colony. Initially limited to these original immigrants, the Jewish community in the colony was relatively small and the Congregation met either in private homes or in rented quarters. On the seventh day of Passover, April 8, 1730, CSI consecrated its first synagogue building on Mill Street in what is now the Financial District and as such was the first structure designed and built to be a synagogue in North America. The first Mill Street Synagogue was replaced by a larger structure at the same location in 1818. In 1834, the Congregation moved to a new building on Crosby Street between Broome and Spring streets.

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CSI's fourth home was later built on West 19<sup>th</sup> Street, near Fifth Avenue. CSI owns and preserves the three small cemeteries associated with these earlier synagogues (55 St. James Place, opposite Chatham Square, in use 1682-1828; 76 West 11<sup>th</sup> Street, between 6th and 7th Avenues, in use 1805-1829 and 110 West 21<sup>st</sup> Street between 6th and 7th Avenues, in use 1829-1851) in which are buried some of its earliest congregants, including officers and financiers of the Revolutionary War and founders of Columbia University, the New York Stock Exchange and Mount Sinai and Montefiore Hospitals. Emma Lazarus, whose poem is inscribed on the base of the Statue of Liberty, was a congregant, as were Supreme Court Justice Benjamin Cardozo and Commodore Uriah Phillips Levy, Revolutionary War naval hero and later owner and restorer of Thomas Jefferson's Monticello.

Unique Attributes of the Synagogue. CSI built the current Synagogue in 1896, as New York City's population increased and migrated northward. It was surrounded by farmlands at the time. In the Sephardic tradition, the congregants transported and incorporated elements of its past synagogues into its new building. The floorboards in the main sanctuary were originally used as such in the previous sanctuaries. The Reader's Desk on which the Torah Scrolls are opened and read and the four large candlesticks that surround it are original to the 1730 building. The small chapel in the current Synagogue, now a room in the Synagogue but known as the Little Synagogue, contains lighting fixtures, including the Ner Tamid (the Eternal Flame), the tablet of the Ten Commandments located over the Ark, benches and religious objects also used in the Mill Street Synagogue. Many of the religious objects used in the Little Synagogue have been used in daily services since Pre-Inquisition Spain. The Torah Scrolls encased in the Ark, which are also used on a daily basis, bear the slashes sustained by the sword of a British soldier

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when the City was attacked during the War of 1812. (Legend has it the soldier was severely punished for his sacrilege.) The silver bells and ornamental plates adorning those Torah Scrolls were smithed by Myer Myers, under whom a young Paul Revere served as an apprentice in Boston. These details of CSI's rich pre-colonial and colonial architectural and ceremonial history are provided to illustrate to the Board that CSI is not only a significant center of Jewish faith and culture, but that in addition its stewardship of its archeological, historical and architectural treasures, used in its everyday services, has created a unique environment in which the exercise of faith occurs in a living museum. Jewish scholars and visitors from around the world come to visit the Synagogue, referred to by others as the "Mothership of the Jewish Experience in the Americas." Indeed, its ties with the colonial experience are so deep that it once uniquely shared attributes with the Anglican Church of the 18<sup>th</sup> and 19<sup>th</sup> Centuries in referring to the home of its religious leader as the "Parsonage" (*i.e.*, 99 CPW) and referring to its Chief Rabbi by the honorific title "Rt. Reverend."

*Ties to Historic Preservation and LPC.* This physical and cultural history of the Synagogue is an essential element of this Application. The physical appearance of the existing Synagogue has come to serve as an icon to World Jewry for the migration of Judaism to the New World and the founding of the Jewish experience in the Americas. While the Synagogue's landmark designation is, of course, an honor, it comes centuries late for a congregation that has a 350 year unblemished history of approaching historic preservation with an orthodoxy and a purpose far and away exceeding municipal regulation. This stewardship is undeniably linked to the religious, cultural and educational mission of CSI. It informs every decision regarding the use and development of its property. It may, in fact, be true that the Landmarks Commission

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would not approve applications proposing to alter the Synagogue through additions over it or jeopardize its structural integrity by building under it, but with all due respect those regulatory issues are rendered meaningless by the superseding obligations succeeding generations of congregants have accepted to preserve the Synagogue and its traditions. CSI holds any effort to alter the Synagogue to be a violation of that obligation and antithetical to its mission. Thus, this Application, while tracking the hopes of most preservationists by (1) transferring available floor area from the Synagogue footprint for use elsewhere on the Zoning Lot, (2) refraining from any form of construction or alteration above, within or below the Synagogue that might affect its integrity, and (3) dedicating itself to the continued archival restoration and maintenance of the landmarked Synagogue through capital fundraising that includes a one-time monetization of zoning floor area through developing a moderate amount of residential space, is otherwise driven by CSI's own core values as trustees of the Synagogue and its contents for the benefit of generations to come. All of the requests for relief presented in this Application are directed toward alleviating the hardships caused to that mission by the literal application of the cited provisions of the Zoning Resolution.

#### **CURRENT USES AND CONDITIONS**

As noted above, the Synagogue itself remains in constant use as a house of worship. In addition to its sanctuaries, the Synagogue contains the executive director's office, several administrative offices, the multifunction Levy Auditorium, and a kitchen and coat room within its cellar level. Although the Synagogue has a formal monumental entrance on Central Park West, it is almost never used. Thus, the monumental entrance is anything but monumental as once it is entered, without vestibule or foyer, it is reduced to small interior doors backstage of the

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altar and narrow passages to circumnavigate it. The daily route for entering and leaving the Synagogue is through its side doors on West 70<sup>th</sup> Street, which were never designed as a primary means of access or egress and which require the use of a steep interior stairway to enter the foyer leading to the sanctuaries. This access was only moderately improved by the construction of the Community House in 1954, which provided additional doors but only through indirect means and in any event did nothing to alleviate the need for the stairs.

While one is tempted to conclude that this unfortunate result was solely due to religious orthodoxy, the fact remains that the lay architectural mandates (or hubris) of the day may also have contributed to creating this unpractical result. Most of the institutional buildings facing Central Park West have similar monumental entrances that either originally or over time have been abandoned by their occupants in favor of more practical side-street entrances. Such examples are the New-York Historical Society, which uses its West 77<sup>th</sup> Street on a daily basis but rarely uses its prominent CPW entrance, and the First Church of Christ, Scientist at CPW and West 68<sup>th</sup> Street.

CSI can no longer ignore the programmatic impacts caused by this inability to enter the Synagogue and move around it in a proper manner. When constructed in 1896, CSI was a congregation of 300 families. It is now a community of 550 families. Its primary sanctuary cannot be reached without great labor. Access to its sanctuaries and their ancillary facilities are not barrier-free. CSI has studied the options for alterations to the Synagogue to address these deficiencies. The studies have concluded that there are no good options and that in any event there are no options that would not necessitate significant loss of original historic material. These access deficiencies can only be addressed by demolishing the Community House and

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replacing it with a new contiguous building designed with circulation systems that can be appended to Synagogue.

In 1954, CSI converted two adjacent rowhouses into the Existing Community House. Aside from re-cladding the façade, the scope of the alterations to the rowhouses was minimal, as evidenced by the continued presence of the shared party wall between them in many areas of the building. These original structures now comprising the Existing Community House have reached the end of their useful life and are in need of substantial improvement. The combined buildings house a 1,668 sf multipurpose room/auditorium, which is on the same level as the Synagogue's first floor albeit at a lower level and thus cannot be entered without the use of stairs. This room is used for various meetings and as a play space for a day school which leases the space to run its programs. Approximately 694 sf of offices and 2,818 sf of classrooms are located above the multipurpose room/auditorium. The entire CSI administration is housed in these quarters and all of CSI's programming for religious services and community services, which are open to public, emanates from the two small second floor office spaces. CSI's community services programming is extremely active, with a number of affiliate organizations, such as the longstanding Sisterhood providing community outreach to congregants and non-congregants, Hebra Hased Va-Amet, the City's oldest Jewish philanthropic organization, which provides dignified burials for indigents and the 1654 Society dedicated to preserving CSI's historical treasures, including the preservation of its two landmarked cemeteries in Manhattan and fostering a historical awareness of the Jewish American colonial experience. CSI has a rich and detailed history of championing the plight of the poor, homeless and hungry, both globally and within the West Side community. All of those efforts are currently administered by staff and

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volunteers from within the Existing Community House.

In addition, the Community House in the New Building needs to provide space for CSI's own Hebrew School of approximately 40 students. These facilities are shared with its tenant day-school, Beit Rabbin, which enrolls 125 children between the ages of five and seventeen in full time attendance. Beit Rabbin is a licensed private school that has been a tenant since 1994. Beit Rabbin is unaffiliated with CSI other than as its tenant and membership in CSI is not a prerequisite for admissions. The relationship between the two organizations was borne of the fact that like all other ancillary religious schools, CSI's classrooms are vacant during the hours of the regular school day. An important factor of Beit Rabbin's tenancy is that it shares CSI's missions and goals and thus was chosen as a suitable candidate to utilize CSI's classrooms and sanctuary for its program. While income is generated which supports CSI's own mission, Beit Rabbin has become a welcomed feeder for Synagogue growth and the adjacency to the Synagogue has been an important attribute to the educational and cultural teaching within the tenant school. While the focus of this Application for expanding its space is on its own pastoral and educational programming, Beit Rabbin's own growth is a validation of the need for additional space for educational religious purposes. Recently the Landmarks Preservation Commission approved the addition of a temporary trailer in the vacant portion of Lot 37 to permit these educators to alleviate the severe overcrowding in the Existing Community House.

Through the facilities housed in the Existing Community House, CSI offers a wide range of youth activities such as monthly Shabbat dinners, "toddler Shabbat" and informal Saturday religious classes. During holidays, the students participate in traditional holiday community service programs which include delivery of food packages throughout the City. For adult

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congregants, the Existing Community House provides space for educational studies in Mishneh Torah (basic principles in Jewish philosophy, ethics and law); Ladino (Judeo-Spanish language studies); Shabbat; and basic Judaism. These classes have been embraced by Jews throughout the metropolitan region seeking to reach a deeper connection with their heritage.

In addition, the lack of adequate storage space and offices in the Existing Community House has forced CSI since 1995 to relocate its seminal historical archives to an off-site storage facility in Newark, New Jersey at great expense and significant compromise to its mission. This move was also necessitated due to climate control requirements and to provide for a required additional office in the previously occupied archive area. Books, records, correspondence, sculpture and other religious artifacts are now stored within a 350 sf climate controlled storage space and a 250 sf open storage space. It has long been an aspiration to have suitable archival facilities on site so that CSI's considerable treasures, many of which could be used in connection with worship as some now are, could be made more available to the rabbinate, Judaic scholars, congregants and children in its educational programs.. The proposed plans provide for a 565 sf archival room with appropriate climate controls at the New Building's first floor level.

#### **THE LANDMARKS APPROVAL PROCESS**

A Certificate of Appropriateness for the New Building was unanimously approved by the Landmarks Preservation Commission ("LPC") on March 14, 2006. One Commissioner described the New Building's design and massing as "thoroughly modern...but speak[ing] very eloquently both to the temple adjacent and to the other brick apartment buildings." It was not only an "appropriate addition to [the Upper West Side/Central Park West historic] district, but a very positive addition . . . that will stand on its own as a landmark . . . " The official LPC March

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14, 2006 recorded transcript provides the excerpts from statements by various Commissioners preceding the unanimous vote to approve the New Building:

“...this is a fine example of what can happen i[f] careful evolution i[s] permitted...we have a contemporary design, finally in complete harmony with the classic building next to it...I think the reduction of height was one of the major things we felt from the beginning was necessary. Also, the redesign of the entrance relating to the old building is now very successful, and they work together beautifully.”

“I think the massing is appropriate. It is a massing that relates to the street and to its proximity to Central Park West. And, overall, I think the building will make a great contribution to the streetscape.”

“I do think [the proposal] is an elegant solution in many ways to what a difficult and complex problem here, to try to insert this building into the existing synagogue and adjacent property.”

“ ...I think the massing with the removal of the upper penthouse is absolutely in line with the surrounding buildings, specifically, the building adjacent, with the single setback penthouse that is partially visible...Again, I have always felt that the limestone frame that is adjacent to the temple and over the main bulk of the building is inspired.”

The New Building represents a six-storey reduction from CSI's initial LPC submission in 2003. The reduction was necessitated due to the LPC's concerns that the height of the initial submission was not in keeping with the character of the Historic District.

The reduction in height brought with it a profound change in the nature of the zoning

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waivers being sought, which is highly pertinent to this Application. As originally proposed, the New Building required the transfer of substantial zoning floor area across the zoning district boundary bisecting the Zoning Lot, in contravention of the Zoning Resolution. This would have been another objection in addition to those presented in this Application. Inasmuch as the zoning floor area being transferred was being taken from air space over the designated landmark, and because the proceeds of the development of the residential portion of the New Building (ten floors in the initial Application) were being directed to the continued restoration and maintenance of the landmarked Synagogue, CSI believed that such an action would qualify the development under the LPC's precedents for a Special Permit pursuant to ZRCNY Sec. 74-711. However, the Commission's response to the initial LPC application, and in particular the use of ZRCNY Sec. 74-711 to transfer zoning floor area across a district boundary, was mixed, with some Commissioners opposed to finding that the requisite "preservation purpose" (NYCZR Sec. 74-711(a)(i)) would be served. The partial remarks of LPC Commissioner Gratz are hereby submitted as representative of that opposition:

"We are being asked to find appropriate a high rise building under a 74-711 Special Permit proceeding that spans two zoning districts if (1) it is appropriate to the landmark site and (2) if it serves the preservation purpose. . . . While the 74-711 provision allows some flexibility in order to achieve conformity with the existing neighborhood character, that flexibility was never meant to allow something so contrary to the site. This would surely lead to an erosion of the landmarks law that I believe would be beyond our wildest nightmares."

In fashioning its response to the Commissioners' comments, CSI choose to reduce the height of

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the New Building from 14 to 8 stories plus penthouse. In so reducing the floor area of the New Building, the distribution of zoning floor on each side of the zoning district boundary resolved itself without the need for waiver or special permit. In addition, the extent of the streetwall and height and setback waivers was also reduced. In consultation with the LPC staff, it appeared that if the Commission was signaling that the larger project would fail the preservation purpose required for its support of a ZRCNY Sec. 74-711 Special Permit, there was no reason to believe the smaller building would. In returning to the LPC with the smaller New Building, CSI indicated its willingness to seek the variance requested in this Application. The Commissioners in attendance did not object to CSI's position and the Commission moved forward with its consideration of the revised Application and ultimately unanimously approved it.

This history of LPC consideration is submitted to substantiate that CSI took every available step to seek the administrative relief provided in the Zoning Resolution for seeking a special permit to modify the bulk regulations for which this variance Application now seeks waivers, thereby exhausting its administrative remedies prior to the filing of this Application.

#### **THE ZONING LOT AND ZONING NON-COMPLIANCES**

Tax Lots 36 and 37 have been in common fee ownership since 1965 and share the necessary contiguity set forth in ZRCNY 12-10 to be deemed a single Zoning Lot since that date. The Zoning Lot is a rectangle bounded on the west by Central Park West (100.5 ft frontage) and on the north by West 70<sup>th</sup> Street (172 ft frontage). On its east boundary is the building wall of 18 West 70<sup>th</sup> Street, a 9-storey multiple dwelling. Its southern lot line is shared with 91 CPW and a row house at 9 West 69<sup>th</sup> and forms an irregular pattern of rear yards and side and rear walls of various depths. The Zoning Lot's area is 17,286 sf. A zoning district boundary runs parallel to

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CPW 125 ft west of CPW. The R10A avenue portion of the Zoning Lot comprises 73 percent of the total area of the Zoning Lot. All of the Parsonage and Synagogue and approximately the easternmost 17 feet of the Existing Community House are located in the R10A portion of the Zoning Lot. The remainder of the Zoning Lot (27 percent of its total) is zoned R8B. The maximum permissible FAR for a community facility in an R10A district is 10 and for a mixed use community facility/residential building in an R8B district is 4. Because the creation of the Zoning Lot predates an applicable 1984 amendment to the Zoning Resolution, it is entitled under the provisions of ZRCNY 77-22 to utilize an average FAR across its entire area. The Applicant has calculated that averaged permissible FAR to be 8.36. Using that FAR, the R10A portion of the Zoning lot is permitted 105,022.50 sf of zoning floor area and the R8B portion of the Zoning Lot is permitted 39,488.46 sf of zoning floor area. Upon completion, the New Building will contain 42,406.35 zsf (11,197.51 zsf on the R10A and 31,208.84 zsf on the R8B portions of the Zoning Lot), which amounts to FAR 4.06, well under the amounts permitted.

With regard to the R10A portion of the Zoning Lot, development of available zoning floor area is complicated by the fact that beyond 100 ft from the avenue, the Synagogue and Existing Community House already exceed permitted lot coverage and that, if the Synagogue is going to remain unaltered and the air space above it undeveloped, the further use of the unused zoning floor area must be restricted to the same westernmost portion of the R10A in which the lot coverage exceedance exists. This distributive limitation on the Zoning Lot results in a severe limitation of the use of available zoning floor area, and its only feasible use is as set forth for the massing of the New Building. The following exceedance are created in the R10A interior portion of the Zoning Lot:

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- (1) ZRCNY Sec. 24-11/77-24: permitted lot coverage is exceeded.

Within the R8B portion of the Zoning Lot, the New Building is underbuilt based on the permitted FAR 8.36, but its massing cannot be provided in an as-of-right manner due to the unique role it must play in addressing the Synagogue's deficiencies as well in providing the types of spaces required for CSI to maintain its religious, educational and cultural activities. The following exceedances are created in the R8B portion of the Zoning Lot:

- (1) ZRCNY Sec. 24-11/77-24: permitted lot coverage is exceeded,
- (2) ZRCNY Sec. 23-633: permitted base height, setback and building height requirements are exceeded, and
- (3) ZRCNY Sec. 23-663: required rear setback is not provided.

Finally, in order to provide for the appropriate connections between the Synagogue and the New Building and in order to provide suitable floorplans and adjacencies for the portion of the New Building to be used by CSI for Community House purposes (floors 1 – 4), the first floor will fully cover the lot and floors 2– 4 will set back 20 ft from the rear property line. Such coverage is permitted for the first floor but the other three floors fail to provide the required 30 ft rear yard in either the R10A portion or the R8B portion of the Zoning Lot as set forth in ZRCNY Sec. 24-36.

### **FIFTY YEAR SITE HISTORY**

The Synagogue was built in on Lot 36 in 1896-97. The Parsonage was built on Lot 36 in 1897. The Existing Community House was created in 1954 through the combination of two turn of the century row houses on what is now a portion of Lot 37. The Community House and Synagogue have come to share the same property address: 8 West 70<sup>th</sup> Street. The now vacant portion of Lot 37 had previously been occupied by two additional CSI-owned row houses, both  
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of which were demolished in 1950. The remaining portion of Lot 37 was added to CSI's Zoning Lot in 1965. No use or bulk modifications have occurred since 1954. In 2006 the LPC approved the installation of one trailer for educational purposes on the vacant portion of Lot 37.

### **THE NEW BUILDING DEVELOPMENT PROGRAM**

CSI is a modern vibrant house of worship for 550 families in a 112-year old building initially designed for 300 families and two early 20<sup>th</sup> Century townhouses glued together in the 1950's to form a community house. Growth aside, CSI's hardships are also due to the evolution in programming, from a simple house of worship as was the custom in the design of 19<sup>th</sup> Century sacred sites, to the provider of highly specific spaces and support for dynamic programs - educational, cultural and political - extending far beyond religious study. For half a century CSI made do with a community house which was actually two townhouses given a combined façade and connected at the closest floors. The unsuitability of the current spaces for CSI's existing programs limits both the size of the programs and their quality, either of which are suitable grounds for meeting the findings in ZRCNY 72-21(a). In addition, however, and just as important a hardship, the existing conditions limit the future opportunity to create new religious, pastoral and educational programs consistent with modern religious communities (see attached Exhibit A, Proposed Usage Chart: Floors 2-4)<sup>1</sup>. CSI's requirements as a religious institution must be examined in terms of both the programs offered and needed to be offered, and their respective populations. Accordingly, and in response to the Board's request, the key components of CSI's program are set forth as follows:

#### **A. Religious Worship and Synagogue Accessibility.**

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<sup>1</sup> See also, Programmatic Diagrams/Existing & Proposed, submitted December 28, 2008.  
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CSI's Sabbath services on Friday evenings following sunset and Saturday mornings from 8:15 to 11:30AM are observed in the Main Synagogue, as are thirteen additional major holidays. The Main Synagogue is a highly formal 5,050 sf room seating 380 in pews on a main floor and an additional 320 in the balcony. Saturday services attract up to 500 worshippers. While large, its formal fixed seating and the liturgical laws governing its use restrict it to predominantly religious convocations.

Daily morning and evening services also take place 365 days per year in the Small Synagogue, actually the interior of one of its Colonial-era structures which has been re-located to each structure the Congregation has subsequently built. The Small Synagogue is an approximately 746 sf space seating 50, again in pews. It is well-sized for these daily services but again its fixed pews and religious significance limits its general use. Often times, a "talk" is held in conjunction with services and for this function it is too small to allow all those who wish to attend an opportunity to participate.

Handicapped congregants, and those who are ill and/or elderly are either entirely unable to attend these services and related functions, or must be physically carried down stairs from either sanctuary in order to attend religious functions in the cellar-level Levy Auditorium. Testimony at the hearing from both the Rabbi and the Director of Jewish Life stated that the difficulties associated with lack of access to these facilities transcended mere inconvenience for many of the congregants, especially the older ones for whom the activities in the Synagogues and the associated rooms are the staple of their social interaction. To arrive late, or with the stigma of having to be carried between these religious rooms, in many cases serves as an impediment to attendance at all. CSI is dedicated to the continuing participation of its infirm congregants.

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Worship in the Jewish faith extends beyond the four walls of the sanctuaries in which services are performed. At CSI, most of these continuing rituals of faith can only occur in the sub-grade Levy Auditorium (2,726 sf), which shares all of the accessibility hardships attributed in the preceding paragraph to the Synagogues. The activities of faith and community include:

1. Kiddush: *Kiddush* festivities, which follow each Saturday and holiday service, provide both a social and religious forum for the congregants. Most, but not all, who attend the services attend *Kiddush*, where prayers and blessings are bestowed in accordance with Jewish ritual. The flow of congregants from the sanctuary to the location of the *Kiddush* is as important and custom-driven event as how one leaves a church. Under existing physical conditions, many who would like to attend *Kiddush* are unable to descend the existing stairs that link the two sanctuaries to the Levy Auditorium.
2. Life Cycle Events: Approximately two to three scheduled Bar or Bat Mitzvahs, baby namings and bris (circumcisions) per month are held in the Synagogue's Main Sanctuary. The ritual meal and communal gathering that follows each can only be held in the Levy Auditorium. Many of these events generate attendance in excess of the Levy Auditorium's limit of 150 occupants, causing CSI to turn away many of its own members for moments in life that should be centered on Synagogue life. The New Building's larger multi-function room will permit CSI to accommodate congregants (and potential future members) whose family members and guests exceed 150 persons for a particular life cycle event.
3. Weddings: Approximately eight to ten weddings per year are held in the Main Sanctuary but as many as an additional twelve to fifteen weddings are unable to take place due to CSI's occupancy and facility limitations, and schedule conflicts with the above life cycle events. The New Building's multi-function room will accommodate a modern the modern Orthodox wedding without the celebration party being forced to move offsite as now typically occurs.

Woven through all of these religious events is the traditional Jewish connection with food. The *Kiddush*, weddings and other life cycle events require the availability of working kitchens, in the Orthodox Jewish experience two working kitchens as meat and dairy must be kept separate. The facilities available adjacent to the Levy Auditorium are in such poor condition that approximately 95 percent of weddings and life cycle events are now catered with food brought in for warming rather than cooking because the existing dairy kitchen is only

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partially functional. The New Building's proposed meat and dairy kitchens will enable both the wedding ceremony and the post-ceremony gathering to be held at CSI.

The Proposed Multi-Function Room will minimally address the interferences with religious observance and custom. It will be located in the sub-cellar of the New Building. It will be easily and fully accessible from the sidewalk on in. Its size (6,432 sf) and new kitchens will enable a greater number of congregants and their families to more fully partake in the Jewish traditions which are integral to their faith. The multi-function room will be the site of after-service components of Sabbath *Kiddush*, Bar and Bat Mitzvahs, baby namings and other Life Cycle events. As indicated in the October 25, 2007 submission to the Board, CSI will not lease the multi-function room to outside catering entities. CSI's bylaws specify that all ceremonies must be conducted under the auspices of CSI's rabbi and with CSI's Sephardic customs, all but assuring the celebrants are CSI congregants.

In addition to the additional religious and life cycle programming the new multi-function room will allow, there are two other communal/family programs which are currently severely compromised by the limitations in the Levy Auditorium (in addition to the accessibility limitations discussed elsewhere):

1. Family Education: The Congregation-wide program currently brings up to 50 children and 100 adults together. Due to the scheduling difficulties associated with the Levy Auditorium, the classes need to be arbitrarily subdivided into Saturday sessions from 12:30 to 2 PM following *Kiddush* and Sunday mornings. The New Building will enable CSI to schedule the entire Family Education Program on Saturday afternoons following services and *Kiddush* in the multi-function room.
2. Music, Film and Lecture Series: Approximately three to eight evening events are scheduled each month in the Levy Auditorium with attendance ranging from relatively few to 200 persons. The New Building will allow for fluidity: smaller

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events can take place in the adult fourth floor classrooms and larger events can take place in the multi-function room.

**B. CSI Hebrew School**

CSI's Hebrew School currently serves approximately 35 to 50 students between grades one and ten under significantly substandard learning conditions. Sunday classes are held in the existing Community House from 9:30AM to Noon in four 3<sup>rd</sup> floor classrooms and a single 4<sup>th</sup> floor classroom. Weekday classes are held from 3:30 to 6:00PM in these same classrooms.

Conflicts with the Hebrew School Program. Due to the age disparity among the children and age-specific learning requirements, classes need to be broken into seven separate learning groups. These groups exceed the number of available classrooms in the existing Community House. Older children cannot share rooms dedicated to younger students because the lower grade rooms have smaller tables and chairs which are unsuitable for the older students. Moving furniture from room to room has been tried but is counter-productive and disruptive to classes in session. Combining grade levels within a classroom or relocating to either existing auditorium has proven detrimental to classroom order and destroys the intimate learning environment every school seeks. These same classrooms are occupied by Beit Rabban most weekdays from approximately 8:00AM to 5PM. It must be noted that while men's' and ladies' bathrooms are located on the third floor, no facilities are located on the fourth floor and none are appropriate for the younger children.

Future Hebrew School Programming Needs. The New Building will provide appropriately sized and barrier-free classrooms will be dedicated to specific grade levels. The third floor provides individual classrooms for first through third grade children; fourth through fifth grade children; eighth grade children; and ninth through tenth grade children. Two

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classrooms for sixth through seventh grade children are also provided on this floor. In contrast to the current rationing of too few classrooms, flexible scheduling will permit the Adult Education Program, Hebrew School and private study sessions to co-exist in the three 4<sup>th</sup> floor classrooms as need arises and as the respective programs expand and grow. Programmatic and accessibility issues that face current and future students are resolved in the New Building: (1) all classrooms are accessible by elevator and/or stairs; (2) seven large, well-ventilated classrooms will allow for more focused learning and social interaction; and (3) bathroom facilities for boys and girls are located on both the third and fourth floor.

Ongoing Supplemental Tutoring for Children. Approximately 20 boys and girls now meet individually with the Cantor for private lessons in preparation for Bar and Bat Mitzvah. These learning sessions take place in the Cantor's study. The students also participate in ongoing supplemental tutoring and voice training, which is available on Sunday mornings, every afternoon and on weekends (daytime or evenings). Due to program deficiencies with respect to the availability of smaller, private study areas, one-on-one tutoring often occurs in shared settings, which compromises learning due to distractions and noise. The New Building's additional classrooms will provide the necessary facilities for one-on-one study.

### **C. Adult Education**

Adult education is a mainstay for any religious community and CSI's inability to provide an adult educational setting for congregants from ages 19 to 90 is an indisputable hardship. In line with CSI's mission, the Adult Education program also includes a social action component, which is dedicated to facilitating outreach and providing assistance to members and non-members alike. Under the umbrella of the Social Action Justice League, various CSI sub-groups

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pay visits and deliver food to homebound elderly, mourners and new mothers within the community. The social action programs are also hindered by the existing Community House deficiencies, to the detriment of the entire West Side community it serves.

Adult education currently takes place in the Synagogue's first floor Elias Meeting Room (the "Elias Room," approximately 775 sf) and serves as the only social and cultural activity for many of CSI's most senior members. To reach the Elias Room, one must enter the existing Community House, walk up a flight of stairs into the main Synagogue building and pass through the Small Synagogue, which is often also in use at the same time. This pathway is extremely challenging for some and impossible for others (seniors and non-seniors alike), denying participation in the adult education program entirely due to the physical constraints of entering and passing through the two buildings. Currently, the following adult education classes occur in the Elias Room:

- |              |  |
|--------------|--|
| 1. Sundays   | Courses in Jewish Thought & Law<br>8:40-9:40AM; 40-50 adults<br>9:45-11AM; 5-15 adults |
| 2. Monday    | Courses in Jewish Law & Lore (Talmud)<br>7:30-9:00PM; 17 adults (once/month)           |
| 3. Wednesday | Poetry Group<br>3:00-4:00PM; 15-20 adults  |
| 4. Thursdays | Meditations<br>11:00AM-Noon; 10-20 adults  |
| 5. Saturdays | Bible Class (following Saturday service)<br>1.25 hrs; 20-50 adults                     |

Conflicts with Adult Education Programming. The Elias Room is also the only room available for meetings by CSI's Board of Trustees; CSI's Sisterhood Board of Trustees and other

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CSI-affiliated organizations. Cumulatively, difficulties arise because the Elias Room is the only appropriately sized and furnished setting for adult group activities other than worship, which results in overbooking and scheduling conflicts. At other times, it is inappropriate for a respective gathering's size (either too many or too few attendees), particularly with respect to the Adult Education Program and Social Action Justice League for which attendance is very high. On high capacity days (*i.e.*, Saturday and Sunday) when services/programs/classes occur simultaneously, shifting activities from the Elias Room to the existing Community House is not a viable option. The second floor classrooms have desks and chairs suitable for Early Childhood/Toddler events rather than adult programs and the Saturday Youth Group (see below) occupies the entire third floor on Saturdays with children divided by age into the four existing classrooms. The proposed New Building will permit relocation of the Adult Education Program to upper level classrooms while making the Elias Room more available for smaller meetings and conferences.

Future Adult Education Programming Needs. New and expanded adult programs are necessary, all of which project increased member participation based on the current size and demographics of the CSI congregation and community. CSI's Rabbi has indicated that he would like to offer concurrent adult education classes (*e.g.*, Beginners' Judaism, Hebrew Learning and Prayer, Jewish Law and Philosophy, Talmud and Bible). Current attendance, for example, has amounted to as many as 50 students participating in Jewish Thought and Law classes. Past reliance on the Elias Room as the focal point for adult education has basically allowed one class at a time to be scheduled there. Neither the Levy Auditorium nor the existing Community House Auditorium are appropriate spaces for smaller classes. With increased adult classroom

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availability and scheduling flexibility, more adults will be able to participate, for example, in an expanded Jewish Thought and Law program, as well as avail themselves of private study sessions. While it is difficult to estimate the projected increase in member participation, the Rabbi has further indicated that the members will be polled to see which additional nights are preferable for specific study programs and classes will be scheduled accordingly in appropriately sized rooms within the New Building. The Social Action Justice League (and its sub-groups) will be able to schedule regular meetings in the New Building rather than gathering in private homes as is now required.

**D. Caretaker's Apartment**

When the Community House was originally built in 1954, a caretaker's apartment was included as an accessory use to the community facility and is noted as such on the building's Certificate of Occupancy. Due to the CSI's heirloom status and the numerous priceless religious artifacts and relics contained within the Synagogue, it is critical to CSI's program that the caretaker continue to live on-premises to ensure that the electrical, plumbing and heating systems remain in good working order, and that any potential emergency can trigger an immediate response. CSI is protected with fire, flood, carbon monoxide and carbon dioxide detectors as well as a closed circuit television system, all of which are monitored by the caretaker both in his apartment and at the lobby's security desk. CTV cameras surround CSI's exterior and also monitor its historic exhibits within the Synagogue. Currently, the caretaker oversees a staff of one fulltime security guard and three full-time maintenance workers.

**E. The Toddler Program**

CSI's toddler program takes place in the existing Community House lower level

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auditorium, an open space serviced by stairs down from the door. The stairs are extremely difficult to negotiate for toddlers, most of whom have to be carried up and down by caregivers with other children in tow, limiting drop-off and pick-up to a narrow mezzanine-like foyer packed with strollers at the top of the stairs. There is no natural light or air in this sub-grade space. Storage space for the program is wherever there is unused space in the Synagogue's lobby. There are no adjacent bathrooms. The children must utilize an adult bathroom at the Synagogue's cellar level.

CSI's Toddler Program is open to all in the community and enjoys a diverse and multicultural membership. It currently operates three mornings each week (Monday, Wednesday and Saturday from 9:00AM to Noon) with 20 children, ages 2-4, in attendance. The program is over-subscribed.

Conflicts with the Toddler Program. The entranceway used for the Toddler Program is the main entrance used by all building visitors. Because it is crammed with baby strollers and at designated times those dropping off and picking up children, there is a considerable conflict in the immediate egress and entrance. There is also an inherent security conflict as the attention of staff and caregivers on the children negotiating the stairs means less attention is being given to other children in strollers immediately inside or outside the doors. All schools and daycare programs must provide a safe environment for entering and leaving their buildings, and at the moment the situation for the Toddlers is far from ideal. Finally, the Toddlers must use the Synagogue's lavatories, which bring them into contact with other visitors and users of the facilities.

Future Toddler Programming Needs. The proposed New Building's design would enable

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CSI to offer daycare to a greater number of families within the surrounding community, for more hours per day and more days per week. Approximately 60 toddlers (a 66% increase) would be able to attend on Mondays through Thursdays from 8AM to 6PM and on Fridays from 8AM to 4PM. Both the programmatic and accessibility issues that now face these very young children are resolved in the New Building: (1) the second floor toddler classes would be accessible by elevator (or stairs) with stroller storage located at designated storage area; 2) six large individual classrooms would allow the children to be grouped for age-appropriate play and more focused learning; (3) the smaller groupings would allow for a more conducive rest/nap period associated with full or half day programs essential for small children; and (4) bathroom facilities for boys and girls would be located in the classrooms.

Without the New Building requested in this Application, CSI's existing programmatic deficiencies as described above will remain unattended and continue to get worse. The continuation of these deficiencies through CSI's inability to construct the New Building would seriously undermine the religious, educational and cultural mission of CSI. Only through the approval of this Application can these deficiencies be eliminated.

The additional space in the New Building allocated to CSI's religious, educational and cultural mission is the first such increase in space for CSI since 1954. The addition of this space will permit the Synagogue leaders to address the needs of its 550 families (approximately 1,320 individuals), which is a 30 percent increase above the 380 families (or approximately 900 individuals) that were congregants in 1954 and estimated to be several times the number of families served when the building was opened in 1896. The proposed New Building includes 6 offices areas totaling approximately 1,546 sf, whereas the Synagogue and Existing Building

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contained only 13 office areas within 2,344 sf. These new office areas will be utilized by CSI's new assistant Rabbi; program director, secretary and assistant; archivist and tour director. In addition to these administrative spaces, the creation of a suitable multipurpose room for larger ceremonies, meetings, life cycle ceremonies, lectures, etc and the addition of classrooms will address significant shortfalls in CSI's ability to serve both its members and the community.

EXISTING AND PROPOSED CSI PROGRAM AREAS (LOT 37)

FL.		CLASSROOM (SF)	OFFICE (SF)	MULTI- FUNCTION (SF)	KITCHEN (SF)	BABY- SITTING (SF)	LOBBY/ EXHIBIT (SF)	Synagogue Expansion( SF)	ARCHIVE/ LIB. (SF.)	CARE- TAKER (SF)	RES. (SF.)
C2	PROPOSED		73.00	5,537.00							
C1	PROPOSED				708.00	385.00					1,655.42
	EXISTING			1,484.00	450.00		315.00				
1st	PROPOSED		475.00			1,017.57	1,864.00	1,320.00	565.00		
	EXISTING	1,108.00	440.00								
2nd	PROPOSED	1,127.00	1,473.00								
	EXISTING	1,063.00	127.00						349.00		
3rd	PROPOSED	2,600.00									
	EXISTING	647.00	127.00							1,133.00	
4th	PROPOSED	1,409.00								1,249.00	
5th	PROPOSED										4,512.00
6th	PROPOSED										4,512.00
7th	PROPOSED										4,512.00
8th	PROPOSED										4,512.00
PH	PROPOSED										2,815.92

Finally, the addition of residential use in the upper portion of the building is consistent with CSI's need to raise enough capital funds to correct the programmatic deficiencies described throughout this Application. The requested residential use is as-of-right throughout the Zoning Lot and more than enough zoning floor area is available as a matter of right. The proposed residential floor area uses only 16 percent of the Zoning Lot's available zoning floor area, and represents 53.3 percent of proposed New Building zoning floor area, 40.7 percent of the New Building's gross floor area and 32.4 percent of the proposed zoning floor area (based on the entire Zoning Lot). When completed with the New Building, more than fifty-one percent of the development rights on the Zoning Lot (74,345.41 zsf) will remain unused. The development

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rights used for the New Building have been native to the Zoning Lot for almost three-quarters of a century and have not been acquired from an adjacent lot for development purposes.

Groups and individuals opposing this Application have inaccurately and misleadingly mischaracterized the concept of “monetization,” as undue profit-taking when it is nothing of the kind. The term “monetization” refers only to a process of conversion of an economic asset from one form to another, much in the way the fields of chemistry convert solids to liquids or physics converts energy to matter. On a factual level, it is entirely possible to monetize an asset at a significant loss. As applied to the principles in this Application, monetization refers exclusively to the conversion of unused developed rights inherent to the Zoning Lot created by the adoption of the Zoning Resolution in 1961 to built floor area on the same Zoning Lot, and implies neither gain nor loss. The Financial Analysis prepared by Freeman/Frazier & Associates demonstrates that the conversion of 23,000 sf of unused development rights already owned by CSI on the Zoning Lot into 23,000 sf of built residential floor area is an economic wash, occurring without generation of either profit or loss to CSI. The utilization of such unused floor area by a community facility for residential purposes is not uncommon, with several precedents in Community Board 7 alone, *e.g.*, Trinity School, Lincoln Center and current proposals by Fordham University and West-Park Presbyterian Church. (See Finding A for discussion on DOB Objections relevant to the above).

For all of the reasons set forth above, CSI can no longer meet its religious, educational and cultural programmatic needs without significantly modifying the access and egress for the sanctuaries. Simply put, the hardships can be reduced to CSI having totally outgrown its current facilities and having ignored the consequent growing pains for several decades longer than it

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should. As stated, there are hardships getting into the buildings and once inside there just as severe hardships associated with conducting CSI's religious, pastoral, educational and cultural missions. Because there is no practical solution that includes alteration work within the Synagogue, and because any such alteration work would be contrary to CSI's mission, the solution must be found within the footprint of the New Building..

### **THE OBJECTIONS**

The following objections were received from the Department of Buildings (the "DOB") on August 28, 2007:

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 .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. 20.00' 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 23-633.
5. Proposed base height in R8B does not comply. 94.80' provided instead of 60.00' contrary to Section 23-633.
6. Proposed maximum building height in R8B does not comply. 113.70' provided instead of 75.00' contrary to Section 23-633.
7. Proposed rear setback in an R8B does not comply. 6.67' provided instead of 10.00' contrary to Section 23-663.

### **ZRCNY Sec. 72-21 REQUIRED FINDINGS**

**There are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular Zoning Lot; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with**  
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**the use or bulk provisions of the [zoning] resolution; and that the alleged practical difficulties or unnecessary hardships are not due to circumstances created generally by the strict Application of such provisions in the neighborhood or district in which the Zoning Lot is located. ZRCNY Sec. 72-21(a)**

The unique physical conditions peculiar to and inherent in CSI's Zoning Lot include: (1) the presence of a unique, noncomplying, specialized building of significant cultural and religious importance occupying two-thirds of the footprint of the Zoning Lot, the disturbance or alteration of which would undermine CSI's religious mission; (2) a development site on the remaining one-third of the Zoning Lot whose feasible development is hampered by the presence of a zoning district boundary and requirements to align its streetwall and east elevation with the existing Synagogue building; and (3) dimensions of the Zoning Lot that preclude the development of floorplans for community facility space required to meet CSI's on-site religious, educational and cultural programmatic needs. These physical and regulatory constraints are unique to this Zoning Lot. The strict application of the ZRCNY provisions raised as objections to the approval of the New Building will preclude CSI from developing the New Building or any substantially similar building and as such represents a practical difficulty in developing any feasible as-of-right New Building. Such strict compliance with the ZRCNY would therefore present a serious hardship in the furtherance of CSI's religious, educational and cultural mission.

For the programmatic reasons described above, none of CSI's religious, educational or cultural programmatic difficulties can be addressed through further development or alteration to the Synagogue on Lot 36 which contains 10,854 zsf or 67.7 percent of the Zoning Lot's total area, yet is developed with only 27,759.2 zsf, or 19.2 percent of the Zoning Lot's allowable 144,510.96 zsf of zoning floor area. That therefore leaves the footprint of Tax Lot 37, which measures 64 ft by 100.5 ft, (37.2 percent of the Zoning Lot's total area), currently improved with

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a building in very poor condition, as the only area capable of being developed so as to remedy the current programmatic difficulties. In order to overcome these difficulties, it is necessary to both exceed the permitted lot coverage and the rear setback and yard requirements, all of which are calculated by reference to the dimensions of Tax Lot 37. Because the New Building must align itself with the west elevation of the Synagogue for its entire width in order to make the necessary programmatic connections, the resulting width of Tax Lot 37 is too narrow to provide compliant lot coverage (in fact the Synagogue already exceeds its permitted lot coverage, making it even more difficult for the New Building to comply) and compliant rear yard conditions.

Although the New Building is located almost entirely within the R8B portion of the Zoning Lot and is developed thereon in excess of the FAR 4 permitted for a development in an R8B district, this Application does not request any waivers with regard to the distribution of zoning floor area because the Zoning Lot qualifies for the averaging methodology set forth in ZRCNY Sec 77-211, which governs zoning lots divided by district boundaries. This provision provides that a qualifying zoning lot is permitted to use an FAR over the entire zoning lot, which represents an average maximum permitted FAR based on the proportional division of the zoning lot so divided. ZRCNY Sec. 77-21 specifies the distribution of zoning floor area when the Zoning Lot either predates the adoption of the 1961 ZRCNY or predates a subsequent amendment to the 1961 ZRCNY that is deemed “applicable” to the calculation of zoning floor area on a specific zoning lot.

CSI purchased Lot 36 in 1895, the two row houses now comprising the Existing Community House on Lot 37 in 1949 and the now vacant portion of Lot 37 in 1965 (previously occupied by two CSI owned townhouses) (see previously submitted Deeds). On April 9, 1984

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CPC adopted a zoning map and text amendment to the 1961 ZRCNY that, *inter alia*, re-located the then-existing R8/R10 boundary line, which ran 200 ft west of Central Park West, to a point 125 ft west of CPW and further amended the zoning map to convert these two districts to R8B and R10A respectively. This legislative amendment thereby extended the midblock district 75 feet east of its previously existing boundary, thus creating a new split lot condition 47 feet into the CSI Zoning Lot. Uniformly, DOB, CPC and BSA have held that the re-drawing of a zoning district boundary across an existing Zoning Lot qualifies as an “applicable” subsequent amendment thereto for the purposes of ZRCNY Sec. 77-21, thereby permitting the distribution of zoning floor area across the Zoning Lot to be calculated using the averaging method provided in ZRCNY Sec. 77-211.

Accordingly, the averaged FAR permitted anywhere on the CSI Zoning Lot is 8.36, allowing 105,022.50 zsf on the R10A portion and 39,488.46 zsf on the R8B portion of the CSI Zoning Lot. The New Building will contain 42,406.35 sf zfa, of which 11,197.51 sf will fall within the R10A and 31,208.84 sf will fall within the R8B. This amounts to a total New Building FAR of 4.06, well under the FAR permitted and very close to the R8B maximum permitted zfa without averaging. While the Zoning Resolution permits the averaging methodology, thereby permitting as a matter of right the development of floor area over twice the permitted FAR 4, it does not provide in this case a similar mechanism for providing relief from the R8B height and setback, streetwall and rear yard provisions correlating to the FAR 4 massing established for R8B Quality Housing developments. This alone creates practical difficulties in this case; as it is essential that the New Building’s massing accommodate its role in providing circulation space for the Synagogue and appropriately sized floorplates for the Community House, which cannot

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be achieved within the R8B Quality Housing provisions regulating lot coverage, yards and height and setback.

**Lot Coverage in R10A and R8B.** (Objection 1) ZRCNY Sec. 24-11 imposes a maximum lot coverage of 70 percent for interior lots, or portions of Zoning Lots that are interior lots. There is no similar requirement for corner lots within 100 ft of a corner. The CSI Zoning Lot is partially a corner lot, which portion is entirely zoned R10A and fully covered by the Synagogue and Parsonage, and partially an interior lot. The maximum permitted lot coverage is exceeded in the remaining R10A portion located beyond 100 ft from the avenue. Within the R8B portion of the Zoning Lot, the New Building covers 79.8 percent of the lot measured from above its groundfloor, below which is exempt from the calculation. The New Building requires a lot coverage waiver (216 zsf in the R10A and 477 zsf in the R8B, which adds approximately 640 zsf to the footprints of those three floors<sup>2</sup>) and rear yard waiver (see below) to remedy the improvement of the circulation space within the Synagogue and the replacement of the dysfunctional Community House with a new Community House space in the New Building, which supports rather than conflicts with CSI's programmatic functions and mission objectives.

The lot coverage waiver, in tandem with provision of the 20 ft rear yard, is required to meet CSI's educational purposes, specifically the Toddler Program, the Hebrew School and the Adult Education Program. The floorplate configuration for classrooms housing these three

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2

R8B		R10A	
Max Lot Coverage Allowed	Lot Coverage Provided	Max Lot Coverage Allowed	Lot Coverage Provided
3,306.45	3,783.5 (477.05)	1,758.75	1,974.9 (216.15)

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functions is the minimum response to the Zoning Lot's unique conditions on the CSI Zoning Lot, which must also accommodate on a 64 ft wide development footprint the intricate and interconnected needs of the landmarked Synagogue as well. If the groundfloor were available for school uses, a community facility school might well be able to fit the 15 classrooms called for in this Application with an allowable rear yard. However, the floor usually providing the most flexibility for community facility schools, the groundfloor, is entirely unavailable for educational purposes because the Synagogue must "take" all of the groundfloor and portions of floors 2 – 4 for an elevator and landing as well for its own remedial purposes. There are no reasonable alternatives to dedicating nearly the entire first floor of the New Building to Synagogue use because (1) both the CSI community and the Landmarks Commission agree that the Synagogue envelope cannot and should not be compromised to provide new necessary space for Synagogue purposes and (2) the Synagogue's continued use as a house of worship can no longer be compromised by accessibility issues which can only be addressed by "taking" the full footprint on the New Building's first floor.

Without a waiver permitting lot coverage in excess of 70 percent, the New Building cannot provide the floorplans that can address the existing programmatic difficulties in either the Synagogue or the new Community House.

**Rear Yard in R10A and R8B.** (Objections 2 & 3) ZRCNY Sec. 24-36 requires a rear yard of not less than 30 ft for interior lots or portions of Zoning Lots which are interior lots in R8B and R10A districts. ZRCNY Sec. 24-33 permits community facilities to build within a required rear yard to an elevation of 23 ft or one storey above grade, whichever height is lower.

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The New Building does not provide a 30 ft rear yard for its first four floors, those floors constituting the community facility portion of the building to be occupied by the Community House. The first floor is fully built to the rear property line as permitted. Floors 2-4 provide only a 20 ft rear yard because those floors must align properly with the Synagogue and must provide the appropriately sized offices and classrooms. The Application is limited to requesting a waiver from the rear yard requirement for floors 2 through 4 only. Above those floors, the remaining residential floors of the New Building provide a fully compliant rear yard.

With respect to CSI's program and classrooms, the project architects determined that provision of a 30' rear yard (rather than the currently requested 20' rear yard) would result in a loss of approximately 494 zsf per floor (640 gsf), or 1,482 zsf overall on floors two, three and four, which represents a twenty-five percentage loss in total classroom square footage. In practical terms, the 15 classrooms and necessary ancillary space required to meet CSI's programmatic needs and mission objectives can not be then be accommodated within a bulk envelope (*i.e.*, the allowable footprint above the first floor) which is 64 ft wide by 70.5 ft deep, minus approximately 100 zsf from each floor "taken" by the Synagogue for its elevator shaft on each floor. When taking into account that each floor must provide for adequate circulation and two egress points to stairs, separate lavatories and an adequate total number of offices, it becomes impossible to provide the required classrooms at a standard size within a 64 ft by 70ft footprint, times 3. When one adds the individual bathrooms that must be directly accessed from within each of the six Toddler classrooms, the impossibility becomes even more evident. While a wider site might permit the classrooms to be shifted 90 degrees so that their length could run parallel to the front and rear property lines, the narrowness of the site requires that the

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classrooms be stacked with their length running north and south, thus generating the noncomplying rear yard condition on floors 2 – 4.

Specifically, the critical square footage loss in absence of a rear yard waiver affects three classrooms on each floor and seriously compromises CSI's program in the following manner:

- Second Floor Toddlers' Program: The 494 sf/thirty-five percent reduction in the three southerly classrooms will decrease the number of toddlers that the program will be able to accommodate by approximately fourteen children.
- Third Floor Classrooms: The 494 sf/thirty-five percent reduction in the three southerly classrooms negatively impact CSI's Hebrew School, Youth Group and Youth Tutoring Program. The grade 6-7 and grade 4-5 classrooms will each be reduced by thirty-four percent of their respective square footage; and the grade 1-3 classroom will be reduced by thirty-eight percent of its square footage.
- Fourth Floor Classrooms: The fourth floor provides only three classrooms in total, thus the 494 sf reduction represents a thirty-five percent loss of its total classroom square footage, which negatively impacts CSI's Adult Education Program and Youth Group and Youth Tutoring Program. The two westerly adult education classrooms will both be reduced by thirty-four percent of their respective square footage and the grade 9-10 classroom will be reduced by thirty-eight percent of its square footage.

CSI has worked carefully with its project architects to develop the proposed building in a manner that meets its programmatic requirements, which include serving existing members and the institution itself as CSI's natural life-cycle evolves with respect to the prospective new

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members, while at the same time minimally impacting the adjacent buildings. This can only be achieved with approval of the 20' rear yard waiver which will permit CSI's program to flourish as described in the Application submissions and during presentations to the Board.

Height and Setbacks in R8B only. (Objections 4, 5 & 6) ZRCNY Sec. 23-633 governs height and setback requirements requires for buildings in contextual zoning districts such as R10A and R8B. The regulations establish a base height, require a setback above the base height and establish building height. The portion of the New Building within the R10A is fully compliant. In an R8B district, the permitted base height can range between 55 and 60 ft above curb, at which point the front elevation must set back 15 ft. The overall building height cannot exceed 75 ft. The New Building has a base height of 94.8 ft, a setback of 12 ft and a building height of 105.8 ft. The unique aspects of the Zoning Lot, including the footprint of the Synagogue, the presence of the zoning district boundary in the only portion of the Zoning Lot capable of development, combined with the interests of the LPC in providing a front elevation harmonious—with both the designated landmark and the historic district --render it impossible to provide any useful development in accordance with the applicable provisions of ZRCNY Sec. 23-633.

With regard to LPC's consideration of the location and height of the streetwall, the Commission took note of all of the surrounding buildings in approving the New Building, none of which comply. The 9-storey building to the west, 18 West 70<sup>th</sup>, located entirely within the R8B district, has a base height of approximately 100 ft, with no setback. With an FAR of 7.23, it is almost twice its permitted bulk. The buildings directly to the north and south, 101 CPW and 91 CPW respectively, each of 15- and 13-stories, also exceed these zoning requirements in the R8B

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portion of their Zoning Lots to an extent much greater than the New Building. The FAR of 101 CPW is 13.92 and the FAR of 91 CPW is 13.03. In reducing the New Building from the 14-storey initial application to the approved 8-storey plus penthouse New Building, the Commission worked closely with CSI's architects to gauge the precise elevations for the New Building's base, its setbacks and its height so as to strike a balance with the monumental architecture of the Synagogue to its east and the considerably noncompliant streetwalls to its west and north.

The Applicant's previous December 28, 2007 submission included analysis of the building heights of other community facility institutions located along the nearly one-mile long R10A/R8B district boundary line between West 65<sup>th</sup> Street and West 86<sup>th</sup> Street to determine the potential precedent, if any, of the Board's approval of the height and setback objections on the future development along the R10A/R8B district boundary along Central Park West. Approximately twenty residential zoning lots were also examined to determine whether they shared CSI's singular and unique condition, which is defined by the existence of a substantial amount of zoning floor area available for transfer as a matter of right throughout the zoning lot coupled with the presence of an existing obsolete, underperforming structure located directly on the R10A/R8B district boundary. No such analogous singular and unique condition for a community facility or residential site was found to exist within the defined north-south R10A/R8B expanse.

In response to the Board's November 2007 request for additional information with respect to the Site's uniqueness, the Applicant provided a building height summary of other community facility institutions located along the nearly one-mile long R10A/R8B district boundary line between West 65<sup>th</sup> Street and West 86<sup>th</sup> Street to determine the potential precedent,

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if any of the Board's approval of the height and setback objections on the future development along the R10A/R8B district boundary along Central Park West. Approximately twenty residential zoning lots were also examined to determine whether they shared CSI's singular and unique condition, which is defined by the existence of a substantial amount of zoning floor area available for transfer as a matter of right throughout the zoning lot coupled with the presence of an existing obsolete, underperforming structure located directly on the R10A/R8B district boundary. No such analogous singular and unique condition for a community facility or residential site was found to exist within the defined north-south R10A/R8B expanse (see December 28, 2007 submission). Furthermore, each of these twenty buildings (plus the four community facility buildings) contained more zoning floor area than the proposed New Building and existing Synagogue combined. Accordingly, approval of this Application (including its request for height and setback waivers) will not serve as precedent for taller buildings, for bigger buildings or for special treatment of buildings located on zoning district boundaries unless those zoning lots are also improved with dysfunctional buildings which must either be altered or replaced.

Rear Setback. (Objection 7) ZRCNY Sec. 23-663(b) requires that in both R10A and R8B districts no part of a building that exceeds the maximum base height established in ZRCNY 23-663(b) can be located within 10 ft of the rear lot line. The New Building's height complies with the maximum base height provisions applicable in an R10A district (minimum 60 ft/maximum 125 ft). The New Building exceeds the maximum 60 ft base height requirement applicable in an R8B district, thus triggering the provisions of ZRCNY Sec. 23-663(b). Its base height rises to 94.8 ft, while providing a 6.5 ft setback rather than the required 10 ft setback. This

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3.5 ft setback differential was imposed by LPC's interests in the aesthetic concerns for centering the New Building in relation to the Synagogue and occurs only at the residential levels. CSI has endeavored to minimize any potential impact on the adjacent westerly building by providing terraces on floors 6-8 the produce a fully compliant outer courts which reduces the amount of bulk within the original area of rear setback noncompliance in the Site's R8B portion by twenty-five percent (or 544.18 zsf). As discussed previously, the ground floor of the New Building, by which is permitted to be built full because its use will be an eligible community facility use group, must spatially align with the Synagogue to provide the necessary circulation space and to provide for the expansion of the Little Synagogue.

**Because of the physical conditions there is no reasonable possibility that the development of the Zoning Lot in strict conformity with the provisions of this resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such Zoning Lot. ZRCNY Sec 72-21(b)**

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 ("Freeman Frazier") to provide a Feasibility Study analyzing potential mixed use development on Lot 37. Freeman Frazier's May 13, 2008 submission examines the proposed New Building with eight-stories (plus penthouse) and complying rear courtyard at floors six through eight. This analysis compared the rate of return that could be expected from the New Building containing 15,243 sf of residential sellable floor area with two hypothetical as-of-right mixed-use building scenarios: (1) the New Building with only seven stories, a complying rear courtyard, and with penthouse removed ("AOR #1"); and (2) the New Building with only seven

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storeys plus penthouse, and a complying courtyard ("AOR #2"). Freeman Frazier 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 that a financially feasible mixed-use building could be developed in strict conformity with the Zoning Resolution. The 21,798 sf building describe as AOR #1 yields 13,454 sf of residential sellable area. The total investment for such a project would be \$25,728,000 on a net project value of \$28,576,000, producing a capital annualized loss to a developer of \$983,000. The 18,006 sf building describe as AOR #2 yields 11,835 sf of residential sellable area. The total investment for this project would be \$25,084,000 on a net project value of \$26,098,000, producing a annualized return of 0.93 percent.

In comparison, the New Building as proposed herein with 15,243 sf of residential sellable area requires an investment of \$26,731,000 on a net project value of \$34,039,000. This is a 10.66 percent rate of return, which Freeman Frazier posits to be minimally sufficient consideration as an investment opportunity.

**The variance, if granted, will not alter the essential character of the neighborhood or district in which the Zoning Lot is located; will not substantially impair the appropriate uses or development of adjacent property; and will not be detrimental to the public welfare. ZRCNY Sec. 72-21 9 (c)**

The Variance, if granted, not alter the essential character of the neighborhood or the historic district; nor will it either substantially impair the appropriate uses or development of the adjacent properties or be detrimental to the public welfare. It is indisputable that a diversity of uses has been what has distinguished New York City neighborhoods and the Upper West Side is no exception. Approval of this Application will add 8,957.14 sf of Use Group 4 Use to CSI's  
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current total of 38,838.10 sf, or an approximately 23 percent increase. It will add 22,352.31 sf of Use Group 2 residential use to a block developed with hundreds of thousands of feet of residential use. There will be no significant environmental consequences attributable to adding this minimal amount of square footage to the existing condition, which already includes the Synagogue, Parsonage and Community House. Moreover, at eight stories and one penthouse, the New Building will be a minor addition to the streetscape. It is dwarfed by the 13-storey 91 CPW to its south and the 15-storey 101 CPW to its north (both developed in excess of FAR 13) and has been limited by the LPC to the same height as 18 West 70<sup>th</sup> to its west. Viewed from the east in Central Park, it will rise but a few stories over the pitched roof of the Synagogue. Typically, the residential midblocks surrounding the Site (including West 70<sup>th</sup> Street) are 4 to 14 storeys tall. The neighboring building, 18 West 70<sup>th</sup> Street, rises nine-storeys with an elevation of 95'-1". Located directly east of this building are three five-storey town houses that rise to approximately the same elevation as the Synagogue's 69'-7" attic level. The Synagogue and townhouses "frame" the New Building and its westerly neighbor to create a balanced visual context in keeping with the existing neighborhood character (See Proposed Elevation, P-17).

With regard to the New Building's impacts on the landmarked Synagogue and the historic district, the LPC has spoken definitively on the acceptability of the new design as appropriate regarding both urban design and preservation values. CSI has worked hard to earn the LPC's acclimation and enthusiasm for the New Building and believes the LPC Certificate of Appropriateness should be considered the final word on its impact regarding urban design and historic preservation.

With regard to CSI's rear and side property line neighbors, the interior rear yard and rear

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yard setback waivers will have minimal impact. To that extent, construction at the ground floor only will extend to Lot 37's southern lot line because full lot coverage up to 23 ft above mean curb elevation is permitted as a matter of right on interior lots (or portions of Zoning Lots deemed interior lots) for qualifying community facilities. The rear yard waiver is required for floors 2 through 4 because a 20 ft rear yard is provided instead of 30 ft. Noncompliances with rear yard and rear yard setback requirements for the relatively small portion of this Zoning Lot deemed an interior lot are more than adequately compensated by the fact that yard conditions of the existing adjacent buildings, are both idiosyncratic and deep, producing distances between rear walls of up to 120 ft.

By providing the terraces on floors 6-8, the New Building will retain the operability of three more lot line widows on the east lot line wall of 18 West 70th than the building as originally proposed. In addition to benefiting those lot line windows, this modification has the following consequential effects:

1. The sixth, seventh and eighth floor floorplans are reduced by 165.37 zsf each and the ninth floor floorplan by 58.07 zsf.
2. The net sellable floor area in the proposed building is reduced by 556.2 zsf, with a consequent reduction in sales proceeds but without any material savings in construction costs, thereby reducing the rate of return.
3. The extent of the required rear wall setback variance in the R8B portion of the site is reduced by twenty-five percent as now less bulk will be located within the noncompliant zone.

Although not required pursuant to CEQR analysis standards, AKRF examined at the Board's request the potential for new shadows to be cast on nearby buildings and streets from the proposed New Building, and a diagrams series was prepared which shows the existing shadows and the new (incremental) shadow, if any, that would be added by the Proposed Building. The  
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diagrams illustrate a plan view (*i.e.*, view looking down at the buildings) to show the length of the shadows and an angled view to show any shadows that fall onto building facades. Diagrams were prepared for December 21, when shadows are longest; March 21 (which is equivalent to September 21), the vernal /autumnal equinox; and June 21, when shadows are shortest.

The proposed New Building would cast very few incremental (and insignificant) shadows. In general, the shadows cast by the New Building would be similar in length to those cast by the adjacent building nine-storey 18 West 70th Street building, and only a small increment of new shadow would be added to the existing shadows already cast on the block. The new shadows would be as follows:

- Winter Shadows: On December mornings, when long shadows are cast by all buildings, most of the street, sidewalks, and building facades are in shadow. The New Building would add a small area of new shadow to two rowhouse structures on the north side of West 70th Street. This incremental shadow would occur only until about 1 PM (see the diagrams for December 21 at 10 AM and 1 PM).
- Spring and Fall Shadows: In March and September, incremental shadows would be cast on the streetbed and sidewalks of West 70th Street in the midday (1 PM). This shadow would join other similar shadows from the building next door and would not fall onto the building facades across the street. As shadows from all buildings grow longer during the afternoon, the shadows would stretch farther and by 4 PM, very small incremental shadows would fall onto the West 70th Street facade of the apartment building at 101 Central Park West.
- Summer Shadows: In June, when shadows are shortest, the New Building would cast small incremental shadows onto the street and sidewalk in front of the building during the afternoon. These would not reach the facades of the buildings across the street.

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The Applicant is also sensitive to “quality of life” issues that potentially impact the immediate area surrounding the CSI, particularly with respect to trash removal following the larger weddings and life cycle events at the Synagogue. As such, two alternatives are being considered by CSI: (1) garbage bags will be "cold-stored" in the New Building's enlarged cellar level trash room; and/or secondly, CSI will contract with a private carter for morning removal of garbage following each event. These alternatives will enable CSI to manage the post-function environment in a manner that provides the least disruption, physically and visually, along the West 70<sup>th</sup> Street block front.

Lastly, approval of this Application will neither serve as a precedent for development of larger, out-of-character residential buildings or for special treatment of residential buildings located directly on zoning district boundaries within the immediate neighborhood or the Historic District unless those zoning lots are improved with dysfunctional buildings which must either be altered or replaced.

Previous analysis requested by the Board specifically targeting potential residential “soft-sites” that were at least fifty percent underdeveloped yielded seventeen such zoning lots. Not even one underdeveloped residential “soft sites” existed along the R10A/R8B district boundary between West 65th Street and West 86th Street (see attached Exhibit B, Sanborn Map-Pages 1 through 4). Predominantly, the residential buildings were either overdeveloped at a greater than 10.0 FAR with footprints divided by the district boundary line, or overdeveloped at a greater than 10.0 FAR with a building adjacent to this same boundary line. Accordingly, there is negligible evidence to support precedent which could be garnered by future developers to the detriment of the residents within the Site’s immediate vicinity or the Upper West Side/Central

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Park West Historic District. The Variance, if granted, will not alter the essential character of the neighborhood or the district in which the Zoning Lot is located. No credible evidence has been proffered by those groups or individuals opposing the Application which demonstrates that the Board's grant to the Variance will substantially impair the appropriate (and legal) uses or developments of adjacent property; or that such a grant would be detrimental to the public welfare.

**The practical difficulties or unnecessary hardships are inherent in the Zoning Lot and were not created by the Applicant or its predecessor in title. ZRCNY Sec 72-21(d)**

CSI acquired Lot 36 in 1895 and the separate portions of Lot 37, in 1949 and 1965, respectively. Both were purchased specifically for development of the Synagogue and Community House, respectively. Conditions since the last alterations to the property in 1954 now impose economic hardships that could not have possibly been envisioned at the time the buildings were developed. Accordingly, neither the current nor the past Trustees have taken any steps leading to or increasing the extent of the conditions that result in the objections giving rise to this Application.

**Within the intent and purposes of this resolution the variance, if granted, is the minimum variance necessary to afford relief. ZRCNY Sec. 72-21(e)**

The Application provides nothing more than the waivers necessary to resolve CSI's religious, institutional and cultural programmatic difficulties. Specifically, the waivers are those minimally necessary to permit the New Building envelope to provide, in part: (1) the minimally necessary number of classrooms and the minimally necessary number of offices; both of suitable size, design and quality required, (2) a modest increase in the size of the Little Synagogue, (3) a multi-function room with ancillary kitchen facilities of suitable size and configuration for the

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many functions -- social, religious and educational -- any religious institution is called upon to provide, (4) archival facilities such that CSI's papers and relics can be brought back from an off-site facility and integrated into the religious, educational and cultural missions of CSI, (5) the incorporation in the New Building of a system of circulation designed to provide improved and barrier-free access to the sanctuaries in the Synagogue, and (6) the addition of residential units at floors 5 through 8 (plus penthouse) levels, representing a small amount of the unused zoning floor area available after the new community facility floor area is taken into account.

These programmatic elements described above must occupy a specific floor area and floor area configuration, which in the aggregate result in the New Building's development in a manner which requires the waivers described above. The waivers requested in this Application have been carefully reviewed so as to assure they both qualitatively and quantitatively represent the smallest necessary waiver to address each of the programmatic hardships. Indicative of the Board's continued focus on the Site's uniqueness and potential for precedent should it grant the waivers requested herein, the Applicant researched the prevalence of additional lots owned by nonprofits with potential for expansion similar to CSI's and has distinguished the four sole existing sites from the instant facts of this Application. The sites relevant to the Chair's request front on to Central Park West, and are within or partially within the R10A district established in 1984 running 125 ft west of Central Park West. All of the properties fall within the boundaries of the Central Park West Historic District.

First Church of Christ Scientist (CPW at West 68<sup>th</sup> Street). The First Church of Christ Scientist is an individually designated New York City Landmark. However, unlike CSI it falls entirely within the R10A district and thus not pertinent to the midblock zoning issues giving rise to many of the CSI objections. The four-story, 27-unit residential building to its west, not controlled by a Church entity, is on the zoning lot with the split R10A/R8B condition, and thus transfers

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of unused development rights in either direction would require a new zoning lot merger which would not be eligible for the averaging methodology found in ZRCNY Article 77 permitting transfers of zoning floor area across district boundaries. Thus the Church has no as-of-right development footprint. Accordingly, the Church's land use profile has nothing in common with CSI.

Universalist Church of New York (CPW at West 76<sup>th</sup> Street). The Universalist Church is not an individually designated landmark. The building is mainly used as a catering and banquet hall for social functions, business parties, fashion shows and commercial promotional events. There is an agreement in place with surrounding buildings that it will not utilize or sell its development rights in exchange for monetary support for building upkeep. It is unclear what if any church-related programming is conducted on this site. The building occupies the entire zoning lot, of which 75 percent of the footprint is located in the R10A district and 25 percent located in the R8B district, thus permitting banquet and catering operations to exist both in the R10A and the R8B midblock. There is no development footprint on this zoning lot. The adjacent 16-unit, five-story residential brownstone along its western lot line is owned by an unrelated entity and thus transfers of unused development rights in either direction would require a new zoning lot merger which would not be eligible for the averaging methodology that permits transfers of zoning floor area across district boundaries. The lack of on-site development opportunity, the special restriction freezing development in exchange for financial support from its neighbors, the extensive on-site catering business and apparent lack of programmatic hardship (other than as a catering venue) distinguish this from CSI's programmatic hardships.

New-York Historical Society (CPW at West 77<sup>th</sup> Street). The N-YHS site is, for the purposes of this discussion, a highly idiosyncratic site. Its zoning lot consists of 150 ft frontage along West 77<sup>th</sup>, a wide street, 204 ft full blockfront frontage along CPW and a 275 ft frontage along West 76<sup>th</sup> Street, a narrow street. The zoning lot is improved with the original N-YHS structure, a designated landmark, which occupies the rectangle formed by the West 77<sup>th</sup> Street and CPW frontage, with a minor irregularity owing to the N-YHS loading bay on West 76<sup>th</sup>. The remainder of the zoning lot is an adjacent vacant 10,000 sf lot facing West 76<sup>th</sup> Street. The R10A/R8B zoning district boundary runs through the N-YHS building parallel to CPW for only the southern-most 75 ft, as it then turns west such that most of the building with West 77<sup>th</sup> Street frontage falls within the R10A district. As a result, the vacant lot is not hampered with a split lot condition. All of the vacant lot, and only a small percentage of the N-YHS building, falls within the R8B portion of the zoning lot.

This vacant lot, actually once part of a row of townhouses when purchased and given to the N-YHS, has never been used or built upon for any programmatic purpose, *i.e.*, it is a property separate from the N-YHS building held for

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investment purposes or, should the need arise, a potential expansion site. Standing on its own, the vacant lot is an appropriately sized development parcel of standard width and depth that could easily accommodate an FAR 4 multiple dwelling of 40,000 sf. The N-YHS has recently successfully prosecuted an application through LPC which, *inter alia*, corrected its own accessibility issues for visitors to the building without recourse to the footprint of the vacant lot.

American Museum of Natural History (CPW at West 77-81<sup>st</sup> Streets). AMNH is an obvious *sui generis* situation with no relevance to the CSI zoning lot. Located on four City blocks of land and multiple buildings owned by the City and leased to the AMNH Trustees, it has no development potential unless initiated by the City. Moreover, its property includes public park land which cannot be developed.

In relation to these institutions, CSI's zoning lot is unique and substantially distinct for the following reasons: (1) CSI's zoning lot is the only zoning lot to include on it an existing obsolete, inefficient structure which must be replaced to overcome significant programmatic difficulties, (2) the CSI zoning lot is the only zoning lot with a development footprint that at the same time is the as-of-right recipient of considerable zoning floor area from the R10A portion of the lot but is also bifurcated by a zoning district boundary which splits the already small footprint into narrow strips, (2) the CSI zoning lot is the only zoning lot in which the LPC has approved a plan for approving internal circulation of a sacred site through features which can only be provided in an adjacent new building, (3) the CSI zoning lot is the only zoning lot which has a development footprint with an as-of-right envelope that is wholly impractical and financially infeasible to develop, and (4) the CSI zoning lot is the only zoning lot in which correction of the programmatic difficulties associated with a working house of worship and the replacement of a dysfunctional community house deprives the site the opportunity to include residential uses anywhere on the zoning lot below El. 49.1 ft.

Without the waivers requested in this Application, CSI will not be able to build a

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Community House in a manner which addresses the access deficiencies of the Synagogue, nor can it hope to provide better classrooms, offices, and specialized facilities that are critical to the continuation of its religious, educational and cultural missions. In every category the demand for these programmatically required elements is increased, and CSI considers it essential to provide these services without compromising the landmarked Synagogue building.

### **CONCLUSION**

CSI has one of the longest histories of any existing religious institution in the City of New York, of attending to the needs of its congregants and the community. From the basement where it held its first services in 1654 through to the construction of the Community House in 1954, CSI has proceeded slowly and carefully to provide worship and cultural space. While this is its fifth location, a change of real estate venue averaging once every 75 years can hardly be considered aggressive. It has been in its present house of worship since 1896. Since that time its only expansion has been in 1954, at which time it combined the two rowhouses to form the current Community House. Now, 53 years since taking its last measures to adjust its space for programmatic purposes, it needs to do so again. It began those measures in 2001 with a \$9 million restoration of the Synagogue, raised entirely from within the Congregation. That work continues, under such strict (and self-imposed) preservation guidelines that it has been the subject of glowing reviews by such local entities as the Landmarks Conservancy and such foreign interested parties as the Vatican, which has sent a delegation to observe the work.

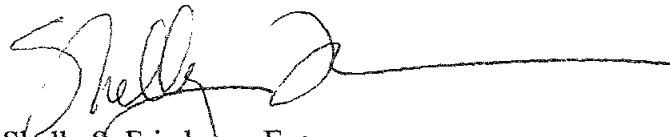
Having begun the work to preserve this sacred site with a world-class restoration, CSI must now address with equal conviction the gap between what its facilities can provide and its programmatic goals. The gap is presently wide, but through careful analysis a plan has emerged

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that leaves the Synagogue untouched but requires that CSI utilize 42,406.35 sf (or 36 percent) of the 116,751.76 sf of unused floor area available to it on its Zoning Lot to redress these deficiencies. The successful deployment of that floor area resolves a complex matrix of Synagogue circulation issues, educational issues and administrative issues. Successful deployment includes the construction of 22,352.31 sf of new residential space, a small fraction of the available floor area intended to subsidize the endeavor. This successful deployment cannot occur without the approval of this Application.

On the basis of the foregoing statements, the Applicant respectfully requests that the Board make the requisite findings and grant the requested variances.

Respectfully submitted,



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FRIEDMAN & GOTBAUM, LLP

Dated: New York, New York  
May 13, 2008

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## CSI PROPOSED PROGRAM USAGE CHART: FLOORS 2 – 4

Floor	Classroom	SF	Program	Hours	Class Size
<b>2<sup>nd</sup> Fl.</b>	Rm. #1 NW corner	326.89	Community Toddler Program	M-TH 8AM-6PM FRI- 8AM-6PM SAT- 9AM-Noon	<b>60+ children overall in toddler program; children will be grouped age- appropriately &amp; by activity as required; Maximum projected capacity: 9 (provides approx. 35ft/child)</b>
	Rm. #2 North Center	323.54	Community Toddler Program	M-TH 8AM-6PM FRI- 8AM-6PM SAT- 9AM-Noon	Maximum projected capacity: 9 (provides approx. 35ft/child)
	Rm. #3 NE corner	318.21	Community Toddler Program	M-TH 8AM-6PM FRI- 8AM-6PM SAT- 9AM-Noon	Maximum projected capacity: 9 (provides approx. 35ft/child)
	Rm. #4 SE corner	408.06	Community Toddler Program	M-TH 8AM-6PM FRI- 8AM-6PM SAT- 9AM-Noon	Maximum projected capacity: 12 (provides approx. 35ft/child)
	Rm. #5 South Center	434.41	Community Toddler Program	M-TH 8AM-6PM FRI- 8AM-6PM SAT- 9AM-Noon	Maximum projected capacity: 12 (provides approx. 35ft/child)
	Rm. #6 SW corner	426.31	Community Toddler Program	M-TH 8AM-6PM FRI- 8AM-6PM	Maximum projected capacity: 12 (provides approx. 35ft/child)



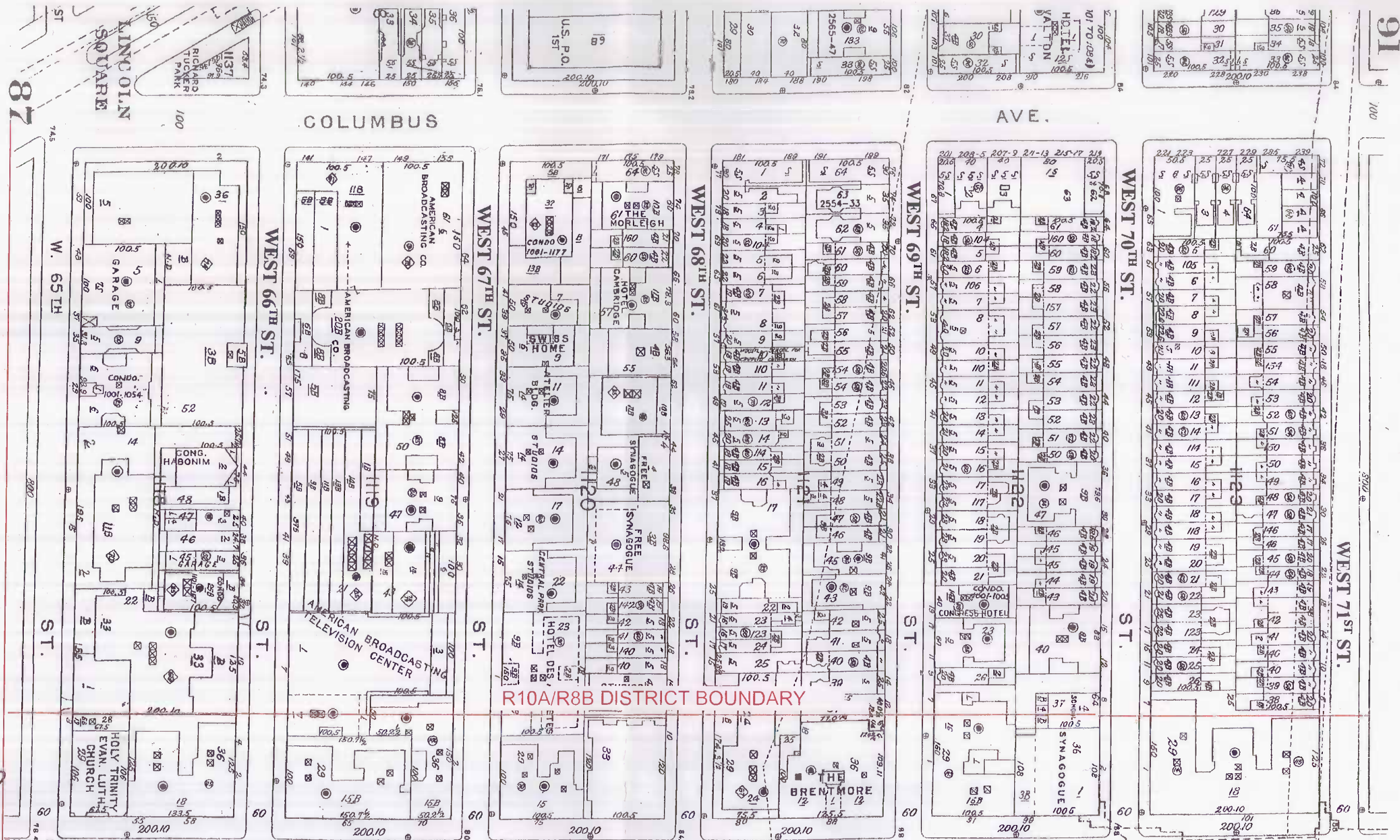
## CSI PROPOSED PROGRAM USAGE CHART: FLOORS 2 – 4

Floor	Classroom	SF	Program	Hours	Class Size
3 <sup>rd</sup> Fl.	Rm. #7 NW corner	391.57	CSI Hebrew School	SUN- 9:30AM-Noon TH- 3:30PM-6:00PM	Maximum projected capacity: 11-16 (provides approx. 25-35ft/child)
			CSI Youth Group	SAT- 9AM-Noon	
			CSI Youth Tutoring	MON-FRI- unspecified time	
	Rm. #8 North Center	278.43	CSI Hebrew School	SUN- 9:30AM-Noon TH- 3:30PM-6:00PM	Maximum projected capacity: 8-11 (provides approx. 25-35ft/child)
			CSI Youth Group	SAT- 9AM-Noon	
			CSI Youth Tutoring	MON-FRI- unspecified time	
	Rm. #9 NE corner	318.21	CSI Hebrew School	SUN- 9:30AM-Noon TH- 3:30PM-6:00PM	Maximum projected capacity: 9-13 (provides approx. 25-35ft/child)
			CSI Youth Group	SAT- 9AM-Noon	
			CSI Youth Tutoring	MON-FRI- unspecified time	
	Rm. #10 SE corner	408.06	CSI Hebrew School	SUN- 9:30AM-Noon TH- 3:30PM-6:00PM	Maximum projected capacity: 12 (provides approx. 35ft/child)
	Rm. #11 South Center	587.72	CSI Hebrew School	SUN- 9:30AM-Noon TH- 3:30PM-6:00PM	Maximum projected capacity: 17 (provides approx. 35ft/child)
	Rm. #12 SW corner	426.31	CSI Hebrew School	SUN- 9:30AM-Noon TH- 3:30PM-6:00PM	Maximum projected capacity: 12- 17 (provides approx. 25ft/adult; 35ft/child)
			CSI Youth Group	SAT- 9AM-Noon	
			CSI Youth Tutoring	MON-FRI- unspecified time	

## CSI PROPOSED PROGRAM USAGE CHART: FLOORS 2 – 4

Floor	Classroom	SF	Program	Hours	Class Size
<b>4th Fl.</b>	Rm. #13 SE corner	409.79	Adult Education	<u>SUN</u> - 8:40AM-10:45AM; <u>MON</u> -7:30PM-9PM; <u>WED</u> - 3PM-4PM; <u>THU</u> - 11AM-Noon; <u>SAT</u> - 3:30PM-4:30PM	Maximum projected capacity: 12 -16+ (provides approx. 25ft/adult; 35ft/child)
			CSI Youth Group	SAT- 9AM-Noon	
			Youth Tutoring	MON-FRI- unspecified time	
	Rm. #14 South Center	587.72	Adult Education	<u>SUN</u> - 8:40AM-10:45AM; <u>MON</u> -7:30PM-9PM; <u>WED</u> - 3PM-4PM; <u>THU</u> - 11AM-Noon; <u>SAT</u> - 3:30PM-4:30PM	Maximum projected capacity: 17 -23+ (provides approx. 25ft/adult 35ft/child)
	Rm. #15 SW corner	410.57	Adult Education	<u>SUN</u> - 8:40AM-10:45AM; <u>MON</u> -7:30PM-9PM; <u>WED</u> - 3PM-4PM; <u>THU</u> - 11AM-Noon; <u>SAT</u> - 3:30PM-4:30PM	Maximum projected capacity: 12 -16+ (provides approx. 25ft/adult 35ft/child)

Note: Beit Rabban and CSI will also share classrooms as mutual programs required.



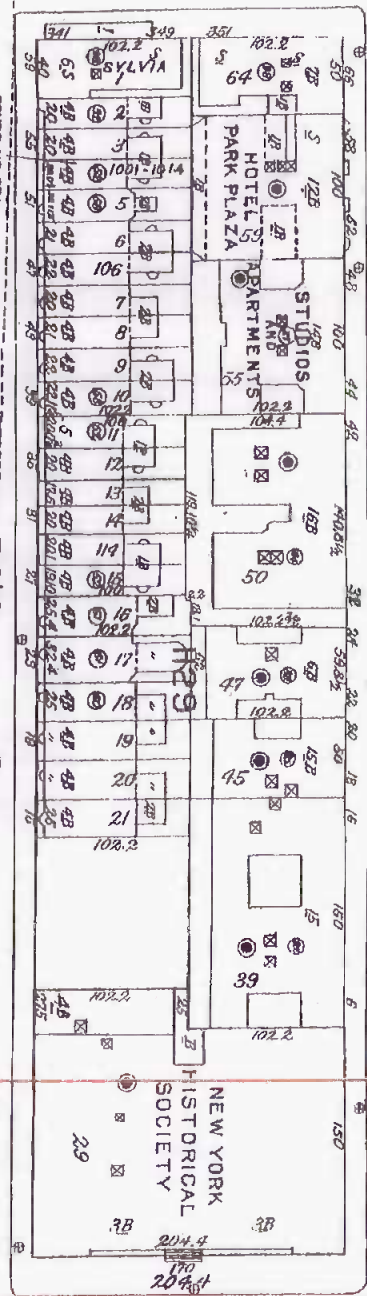
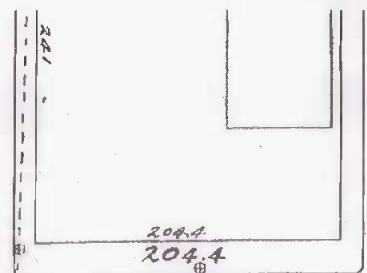
John Somerindyke Lib. 85 P. 299, Lib. 486 P. 302, Lib. 487 P. 402 Maps No. 2, 185 & 688

Jacob Harsen Lib. 380 P. 161

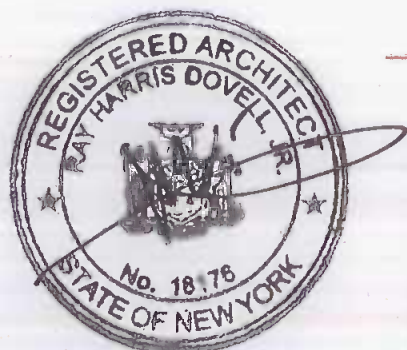
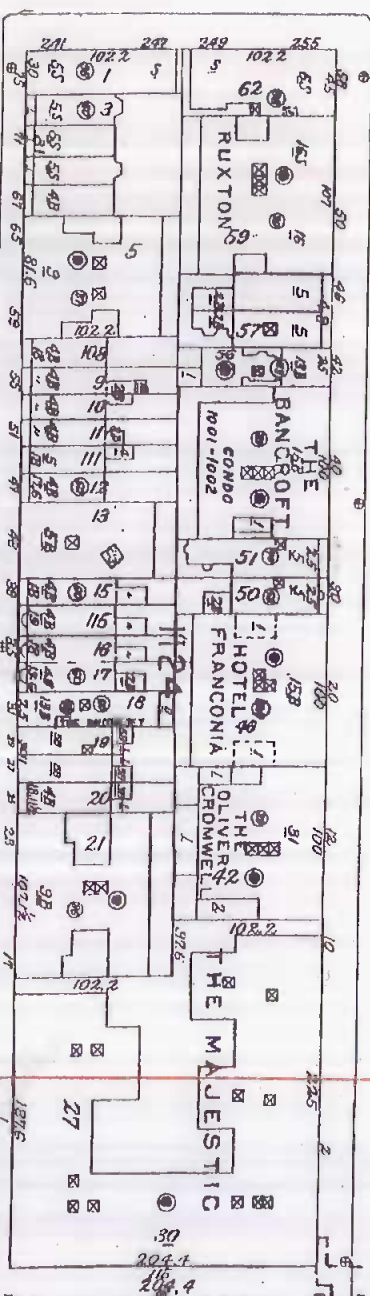
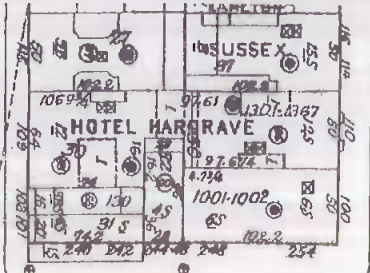
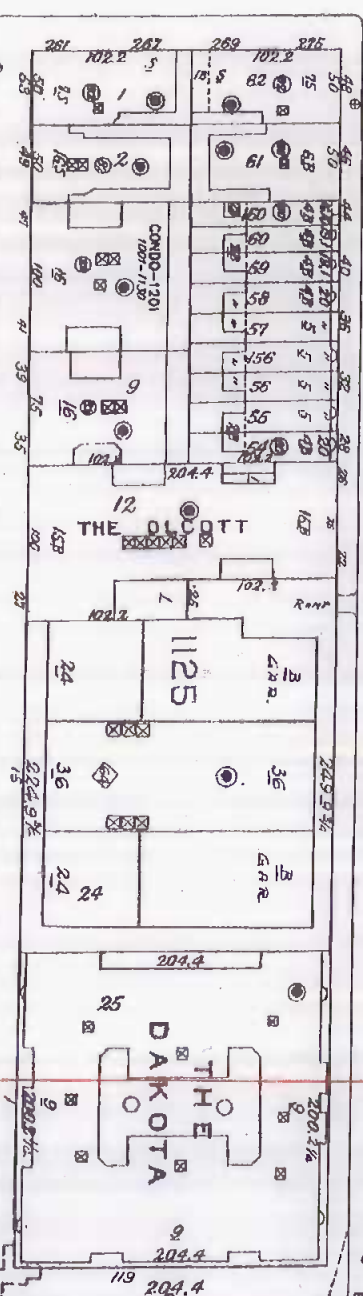
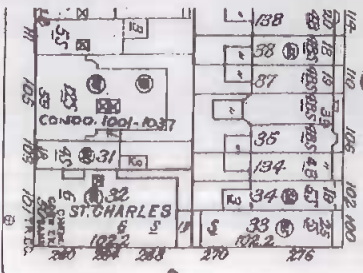
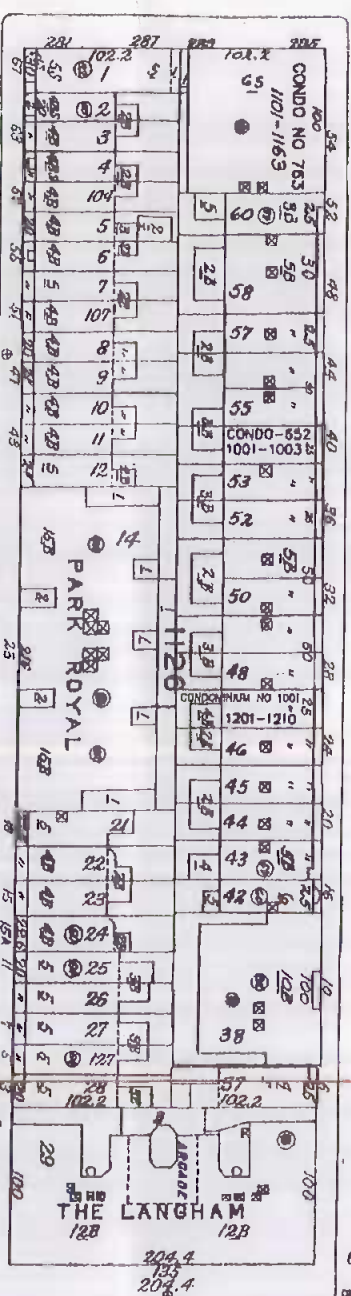
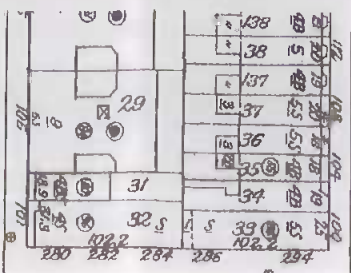
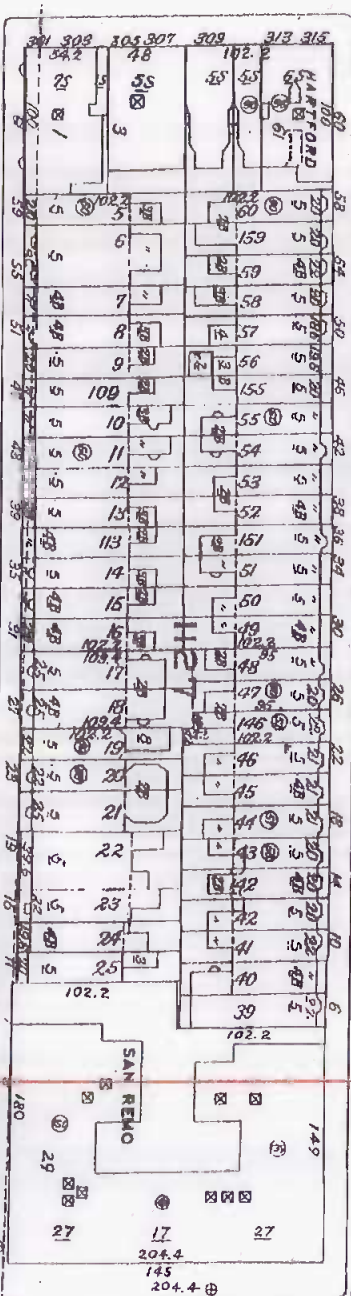
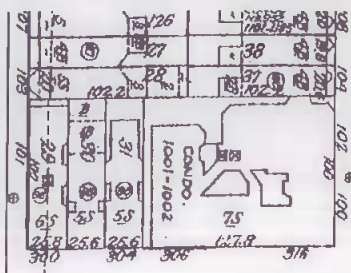
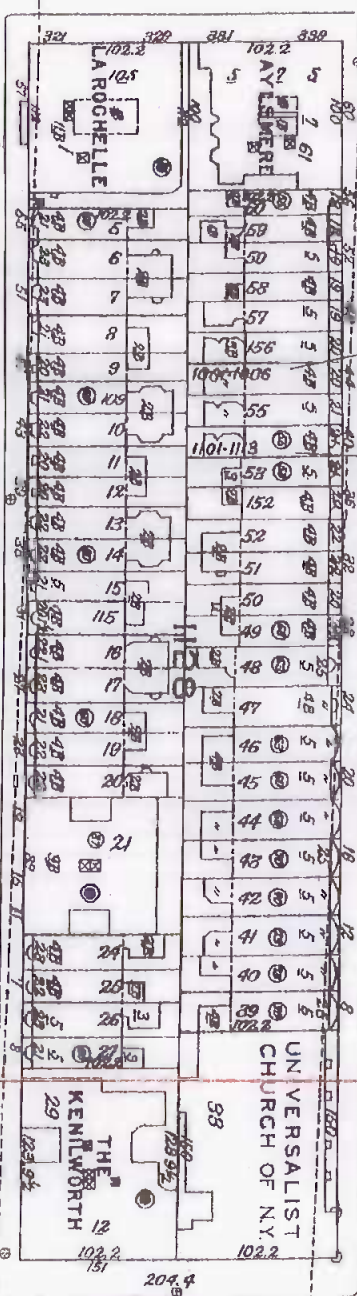
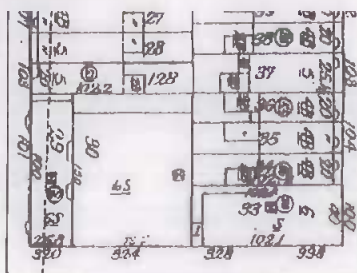
SOUTHERN LIMIT OF R10A  
EXTENDING 125' WEST OF CENTRAL

CENTRAL PARK WEST  
PBDW P 31 MAY 0002  
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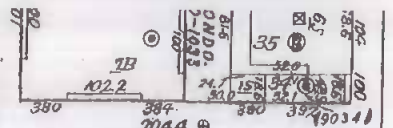
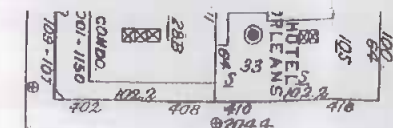
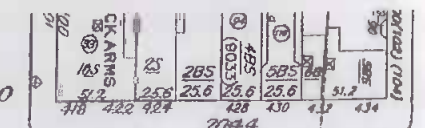
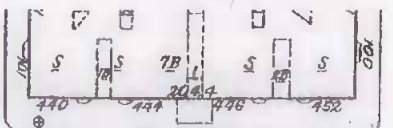
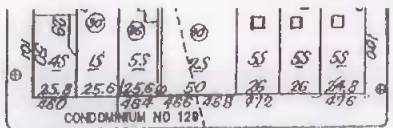


CENTRAL PARK WEST  
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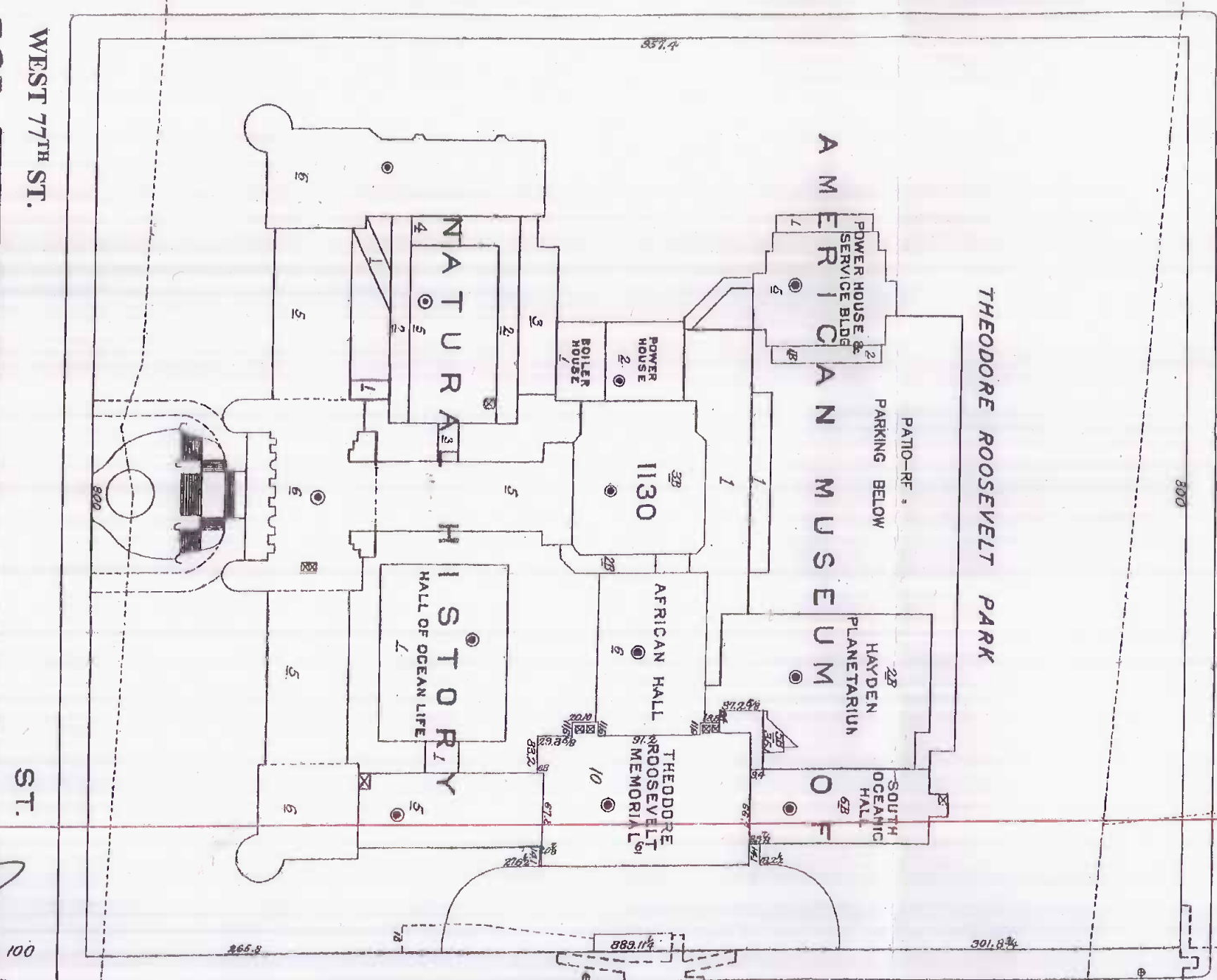
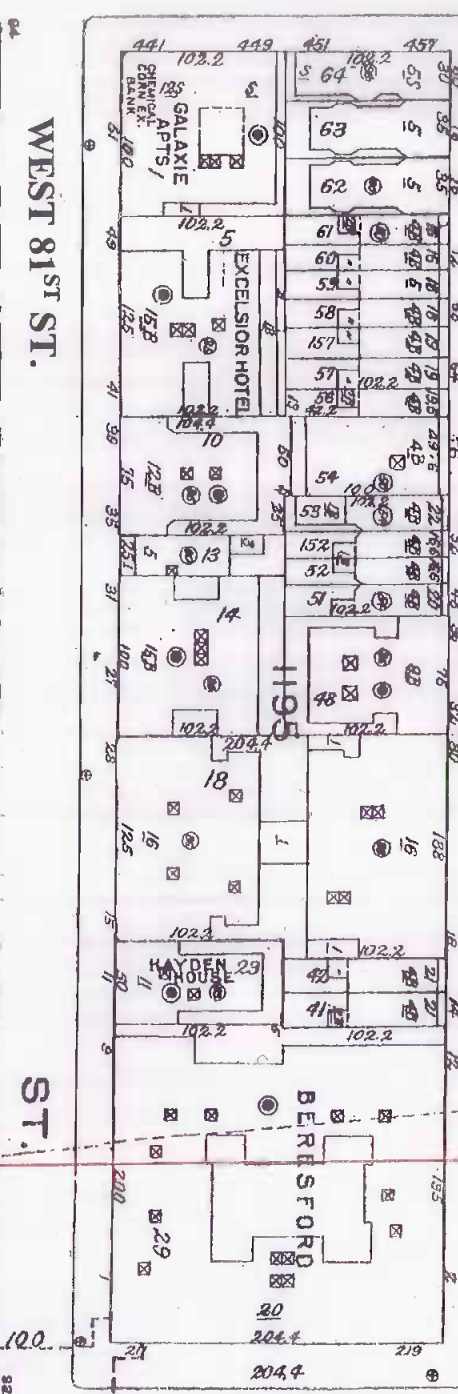
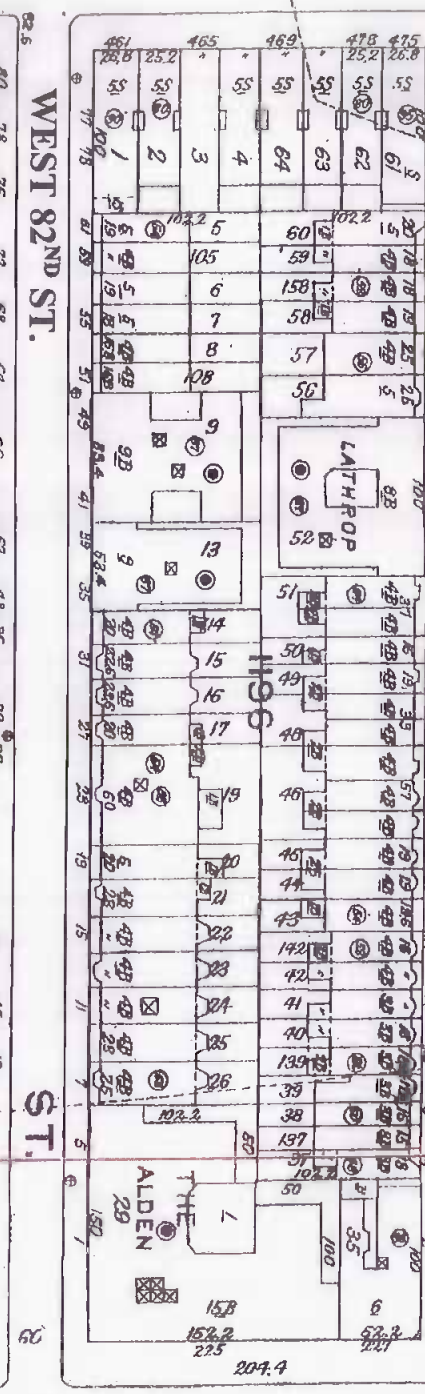
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COLUMBUS

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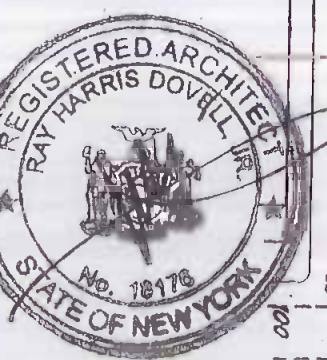
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B3RD



91

WEST 77TH ST.

Joseph Coacachate Lib. 53 P. 329

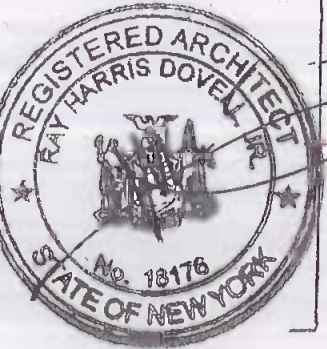


CENTRAL PARK

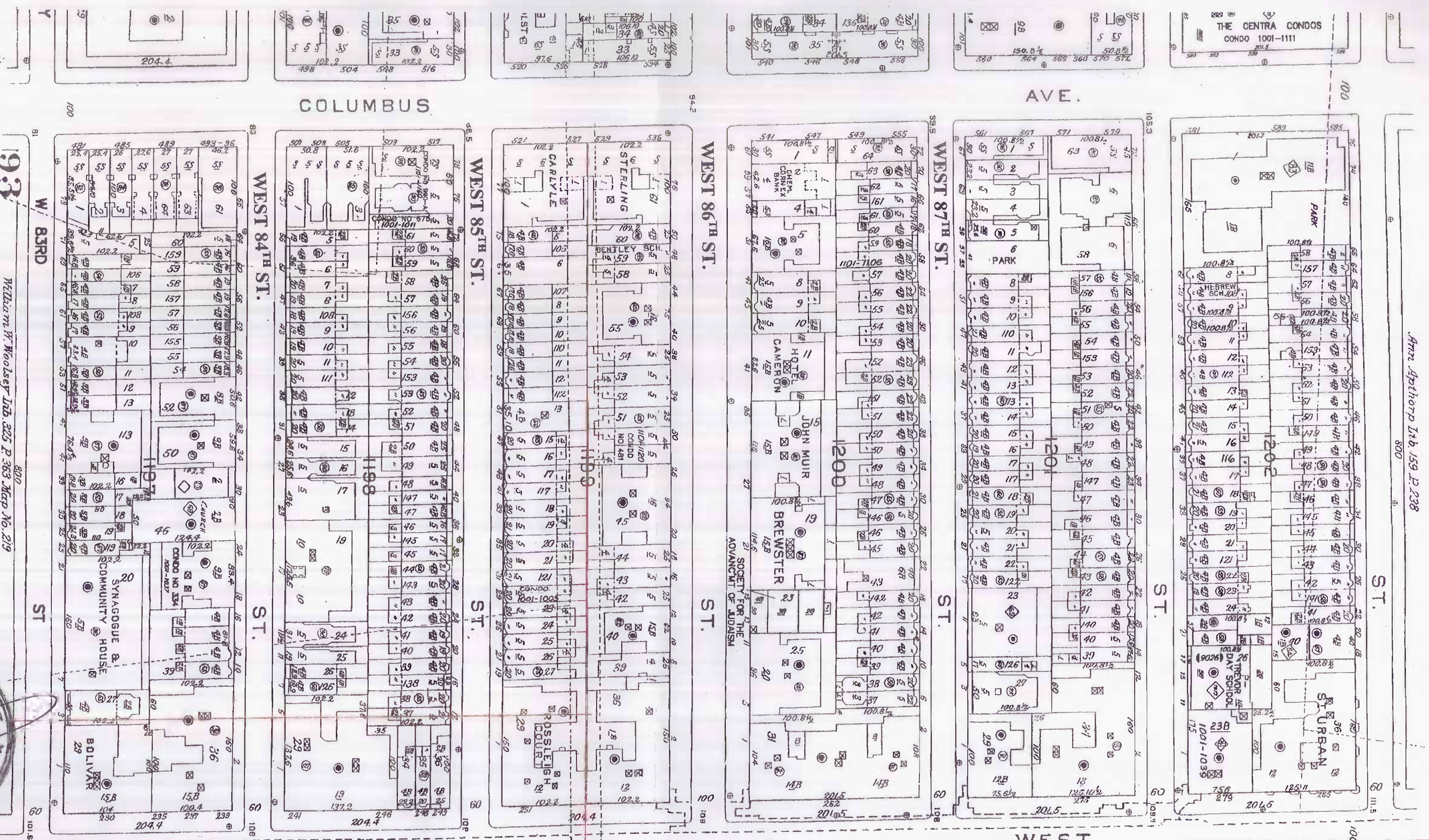
WEST

CENTRAL PARK WEST  
PBDW  
03.11.08  
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NORTHERN LIMIT OF R10A  
EXTENDING 125' WEST OF CENTRAL  
PARK WEST



CENTRAL PARK WEST  
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