

**JAMES A. GREER, II
25 CENTRAL PARK WEST, #4B
NEW YORK, NY 10023**

June 9, 2008

BY HAND DELIVERY

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

Subject: Congregation Shearith Israel
6-10 West 70^u Street
New York, New York
74-07-BZ

Dear Chairperson Srinivasan:

At the Board's November 27, 2007, hearing there was a lengthy colloquy (see Appendix I to this letter) between you and other members of the Board on the one hand and CSI's counsel on the other in which counsel was asked and agreed to provide written clarification respecting CSI's use of the proposed Community House for its educational program and the needs of its tenant school, Beit Rabban and the relationship of the two.

Since November 27, 2007, CSI has made three lengthy, formal submissions, and there have been two more hearings before the BSA in which CSI participated fully. Although there has been ample opportunity for it to do so, CSI has yet to provide anything remotely responsive to these undertakings by its counsel. Instead, CSI has filed voluminous documents that in fact seem designed to obscure the inconvenient reality that CSI can accommodate all its programmatic needs, including but not limited to those for classroom space, in an as-of-right building and therefore cannot meet the standard of finding (e) that it must satisfy before the Board can approve its application for rear yard / lot coverage variances.

Further, CSI's claimed programmatic classroom needs have no relevance at all to the requested upper floor and setback variances. In addition, for the lower floor variances, CSI still would have to meet the other conditions for granting variances, including showing a unique physical condition and a relationship between that unique physical condition and the lower floor rear yard variances it has requested. Also, CSI still has not shown that other areas in the proposed building – notably on the 5th and 6th floors – and the Levy Auditorium and other spaces under the Synagogue, are unavailable for the educational needs CSI simply asserts must only be on the 2nd, 3rd and 4th floors of the proposed building.

CSI has continued its obstructive behavior by not providing the required information as to usage in the same format for the existing and as-of-right buildings, and also by failing to furnish complete information about its relationship with Beit Rabban and that organization's present and proposed future programs. As a result CSI has made it impossible for the Board to make the requisite findings, including particularly finding (e). Finally, CSI has failed to show that its so-called Toddler Program is anything other than an attempt to create a theoretical use that would justify a rear setback on the second floor, a use incidentally that has no evident relationship to its core mission and is really just another revenue generating scheme.

DISCUSSION

At the BSA's April 15, 2008, hearing you advised CSI's representative, Mr. Jack Freeman, as follows:

437 I think that we want a revised set of papers that clearly outlines your arguments.
438 If your arguments have changed over time, then you need to provide us - - you've
439 heard the concerns of the Board but I think you should really give us a stand-alone
440 document which explains all this information that we've seen up till now and how this
441 project has changed at one place so it means, really, discussion of the facts as well as the
442 discussion of the findings.
443 MR. FREEMAN: And, there was some question about the
444 programmatic; the program implications for this, that you mentioned when I first came up
445 to the podium.
446 CHAIR SRINIVASAN: Yes. Well, that incorporates that
447 as well.
448 MR. FREEMAN: Okay. I just want to make sure that we
449 get all the concerns.
450 CHAIR SRINIVASAN: Okay. Thank you, Mr. Freeman. (Tr. at p.21.)

As respects its claimed programmatic needs for classroom space CSI's May 15, 2008, response is nothing more than a regurgitation of the demonstrably inadequate submissions it had previously filed. In this regard, see particularly my April 15, 2008, letter to you and its exhibits. (Opp. Ex. LL.) Moreover, buried deep within CSI's latest submission are two new pieces of information that only reinforce the Opposition's contentions that (a) CSI's claimed need for classroom space can be met entirely within an a-o-r building and (b) it is the classroom needs of Beit Rabban, its tenant school, which are driving its demand for more space.

Classroom usage: The first piece of information appears on Drawing P-10, a copy of which is attached, as Exhibit A. This shows for the first time the age groups that will be using the six proposed third floor classrooms. Four of the six are for grades 6-10; one is for grades 4-5; and one for grades 1-3.

Applying CSI's space allocation formula of 35 sq.ft. / student for young children in classroom #10¹ and 25 sq. ft./student for older children in classroom #s 7-9, and 12, and 30 sq. ft. /student in classroom # 11, the proposed third floor would accommodate at least 88 students every hour every day of the week.² As shown in the chart attached as Exhibit B, the greatest number of students in any CSI program scheduled to use this space is 50³, for its Hebrew School, for 2.5 hours on Thursday afternoon and Sunday morning.

Beit Rabban: The second piece of new information appears in a table on page 7f of the Environmental Assessment Statement filed by CSI, a copy of which is attached as Exhibit C. That table shows the "tenant school" will have 165 students and confirms the contention I made in my April 15, 2008, letter to you that it is Beit Rabban's needs for classroom space and not those of CSI which are driving CSI's push for rear yard/ lot coverage variances. In this connection, see the table/charts attached as Exhibit C, which reaffirm my longstanding view that Beit Rabban is currently the principal user of CSI's present classroom space and will continue to be so in the proposed building. Exhibit C also makes plain the blatant falsity of CSI's contention that Beit Rabban will only use space CSI needs when CSI is not using it. In fact, the reverse is true.

Curiously, the table also shows that the proposed building is intended to accommodate the 60 children in the expanded toddler program, as well as the 165 students in the Beit Rabban School. Although CSI has indicated

¹ The Classroom numbers are those used in the "CSI PROPOSED PROGRAM USAGE CHART: FLOORS 2-4" that CSI filed on March 13, 2008, and again on May 15, 2008.

² Even applying CSI's 35 sq. ft/ student formula, these six, third-floor classrooms would accommodate 68 students, which is 36% more than the maximum number of students required for CSI's Hebrew School classes, which the above-noted charts show as occupying this space for 2.5 hours on Thursday afternoon and Sunday morning.

³ As noted in my previous communications to the BSA, this figure appears to be a gross exaggeration.

its Toddler Program will share the proposed 2nd floor classroom space with Beit Rabban during the week, it nowhere reveals how that will work. Indeed, CSI has never responded to the Board's November 27, 2007, information request, articulated by Commissioner Ottley-Brown:

to break down, if
355 you could, the ages and amounts of people that would be using the facility at any given
356 time; how many pre-schoolers? How many teenagers? That kind of thing, so that we
357 can sort of get a better fleshed out idea of how the building is anticipated to be used and
358 who is going to be using it. Tr. at p. 10 (See Appendix I)

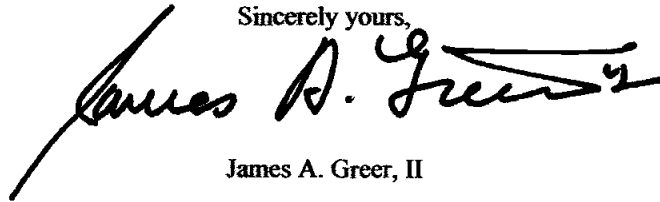
As is clear from Appendix I, you and Commissioner Hinkson made essentially the same request.

Also attached, as Exhibit D, is a series of tables and charts showing existing and proposed classroom usage for each day of the week. As this demonstrates, Beit Rabban is and will continue to be by far the largest user of CSI classroom space on weekdays. Further, it shows with great clarity that, by comparison, CSI's classroom usage is trivial, both in terms of the numbers of people and the hours of usage.

Conclusion

Based on the foregoing, it is abundantly clear that CSI does not need the vast amount of classroom space the proposed building would provide and that it could accommodate all its own programmatic needs in an as-of-right building. Accordingly, as respects its request for rear yard variances CSI cannot satisfy the requirement of **Finding (e): "...within the intent and purposes of this Resolution the variance, if granted, is the minimum variance necessary to afford relief; ..."** Therefore, the BSA must deny CSI's request for the rear yard/lot coverage variances.

Sincerely yours,



James A. Greer, II

Atts: Appendix I; Exhibits A, B, C and D

APPENDIX I

COMM. OTTLEY-BROWN: Could you perhaps, in
209 writing, go into more detail about the current program in terms of the Hebrew School and
210 the adult education program? The amount of people who attend that; whether or not they
211 are occupying space simultaneously or if they operate on different days?
212 MR. FRIEDMAN: I'd be happy to do that. Two of our
213 three speakers will address those points specifically but we will provide you all those
214 answers in writing. Tr. p 10

CHAIR SRINIVASAN: Although, I would say that it

.....

345 would be very helpful in - - and just going back to what Commissioner Ottley-Brown had
346 said, which is somehow tabulate to us how the program is currently being used in which
347 areas and then why you need the expansion? And, explain to us both the space needs as
348 well as its location and relate that to the waiver.

349 I think one of the issues that has come up is that in an as-of-right situation, you
350 can expand this program to meet all these needs except for maybe the rear yard waiver.

351 So, I think it's really important to clarify that to us why you need - - yes, The forth below are extracts from the
hearing transcript that contain this colloquy:

352 Commissioner Hinkson.

353 COMM. HINKSON: And, also, if you can add - - just it

354 would be good for me to sort of get a better idea of the programming is to break down, if
355 you could, the ages and amounts of people that would be using the facility at any given
356 time; how many pre-schoolers? How many teenagers? That kind of thing, so that we
357 can sort of get a better fleshed out idea of how the building is anticipated to be used and
358 who is going to be using it. Tr. P. 16.

359 MR. FRIEDMAN: Well, fine, but so that we can be

360 responsive, I'm assuming, again, that this would be limited to the synagogue's use and
361 not including the tenant.

362 If you believe the tenant serves any useful purpose, I'll be happy to add those
363 numbers as well.

364

365

366 on the synagogue's use.

CHAIR SRINIVASAN: All right.

MR. FRIEDMAN: But, we're predicating this application

367 CHAIR SRINIVASAN: Right. And, I think that's what

368 may have been confusing in the papers, because you do talk about the tenant's school and
369 it's one thing you can have the tenant's school and then you would have to explain to us
370 what the program need is for that but if, in fact, this volume of community facility space
371 is fundamentally needed for Shearith Israel Congregation, then I think we need to see an
372 explanation of that.

373 MR. FRIEDMAN: Fine.

374 CHAIR SRINIVASAN: So, then, the tenant's school issue

375 can just actually be a separate - - it may not really be a part of the equation anymore
376 unless it's about the usage of space.

377 MR. FRIEDMAN: We don't consider it part of the

378 equation but if the Board wants us to, I guess that's my question, we'd be happy to do it.

379 CHAIR SRINIVASAN: But, I think it relates partially to

380 whether you can have simultaneous use and, in fact, when the day school is functioning,
381 does it take away from the congregation in using the spaces for its own needs?

Tr. P. 17

382 So, if you actually chart it out, we may have a better understanding.

383 MR. FRIEDMAN: Fine.

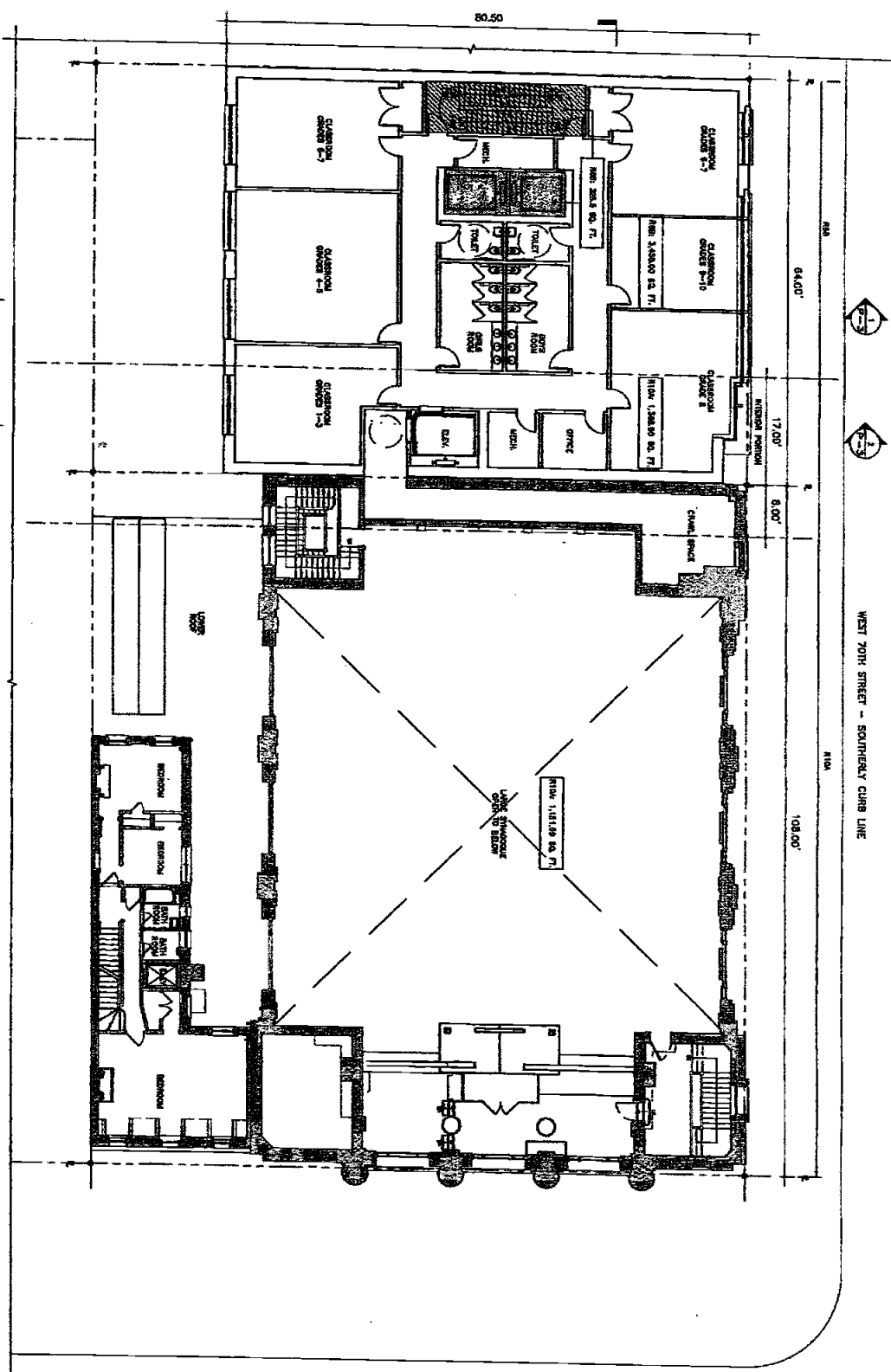
384 CHAIR SRINIVASAN: And, if you actually intend or a

385 part of your program mission is to expand the types of uses that you have on the site,

386 which may not be accommodated, including a nursery school, then we should understand

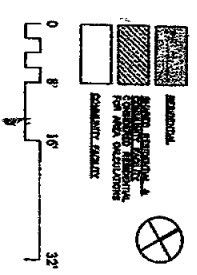
387 that as well.388MR. FRIEDMAN: Fine. Thank you. Tr. p. 18

GABER - EXHIBIT A

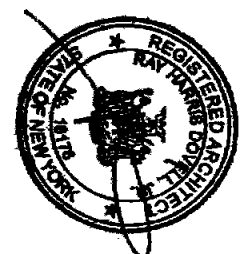


1 PLAN
THIRD FLOOR
SCALE: 1/8" = 1'-0"

NOTHING SHOWN ON THIS PLAN IS GUARANTEED OR WARRANTED BY THE ARCHITECT. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN OF THE BUILDING AS SHOWN ON THIS PLAN. THE ARCHITECT DOES NOT REPRESENT OR WARRANT THE ACCURACY OF ANY INFORMATION PROVIDED BY OTHER SOURCES.



COMMUNITY FACILITY/RESIDENTIAL THIRD FLOOR PROPOSED		Project: Park Blvd Dorell White Address: 15 City: New York, NY 10010 Phone: 212.867.5410 Fax: 212.867.0144
CONGREGATION SHEARITH ISRAEL	6-10 WEST 70TH STREET NEW YORK, NY	12.26.07 R02350 TCV, P - 10



2008 MAY 13 PM 4:05

EXHIBIT D - SUMMARY - PAGE 1 OF 4

Beit Rabban
 Toddler
 Congregation

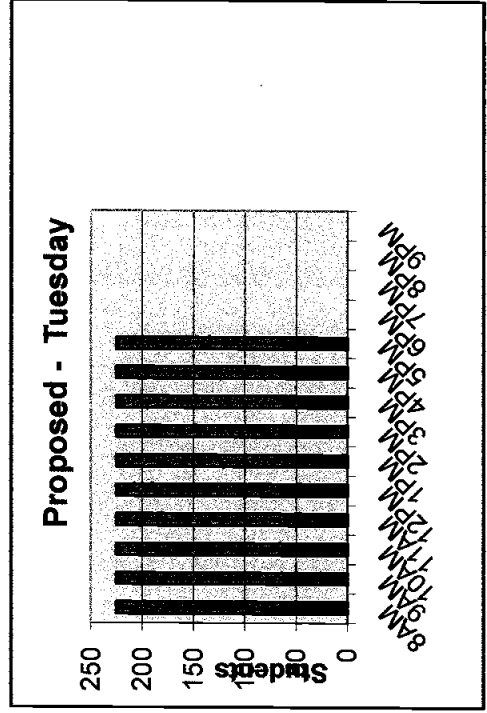
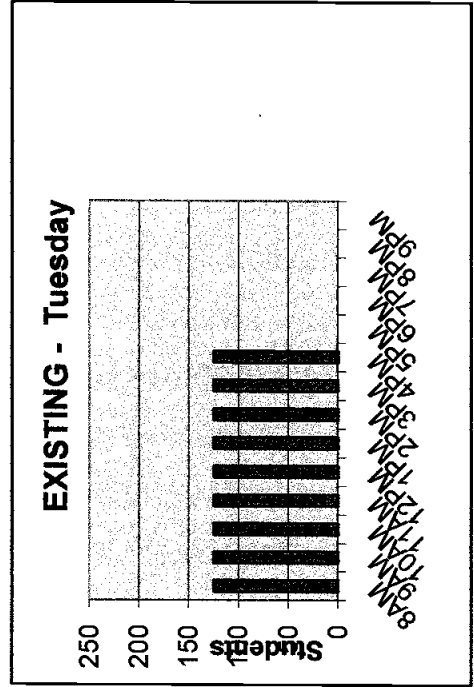
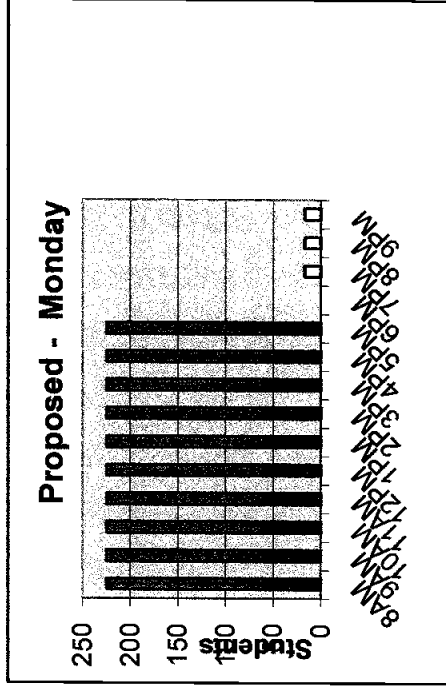
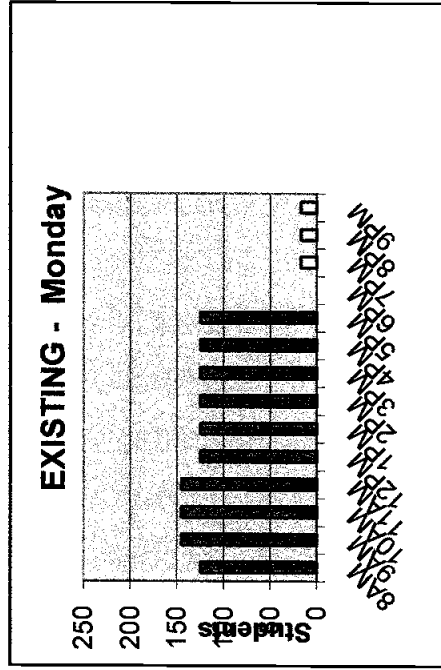


EXHIBIT D - SUMMARY - PAGE 2 OF 4

Beit Rabban
 Toddler
 Congregation

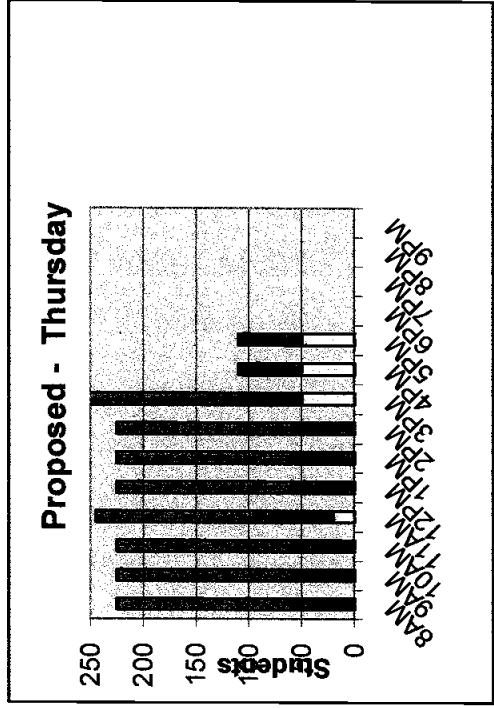
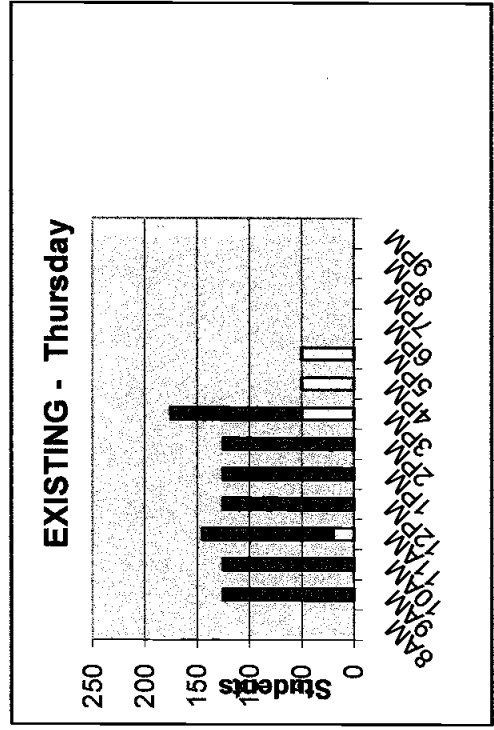
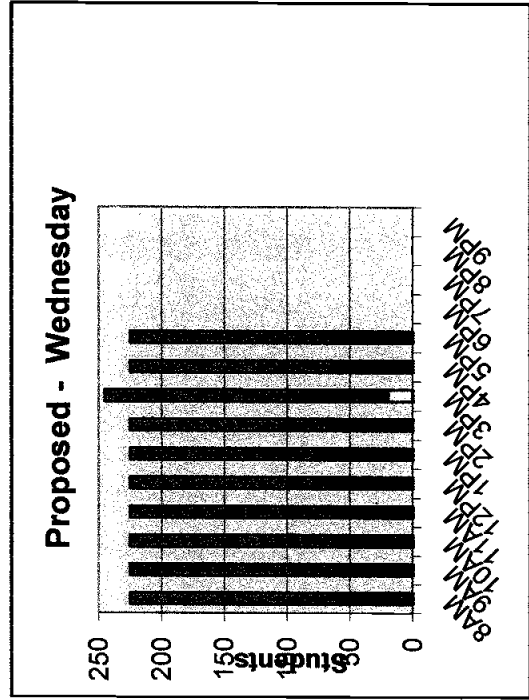
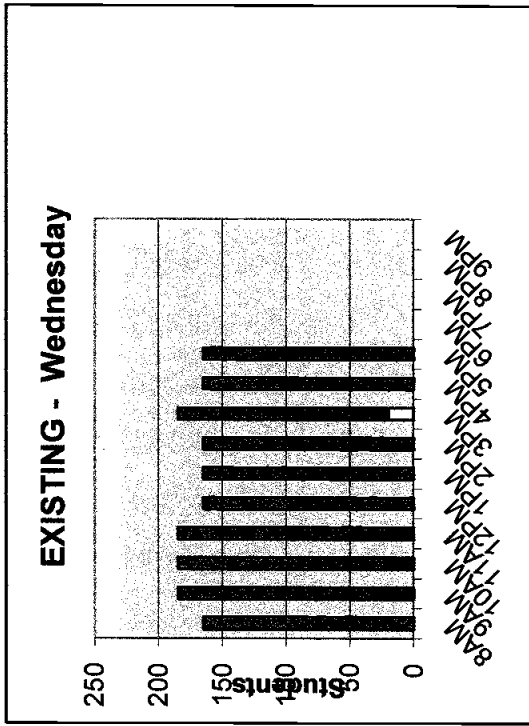


EXHIBIT D - SUMMARY - PAGE 3 OF 4

Beit Rabban

Toddler

Congregation

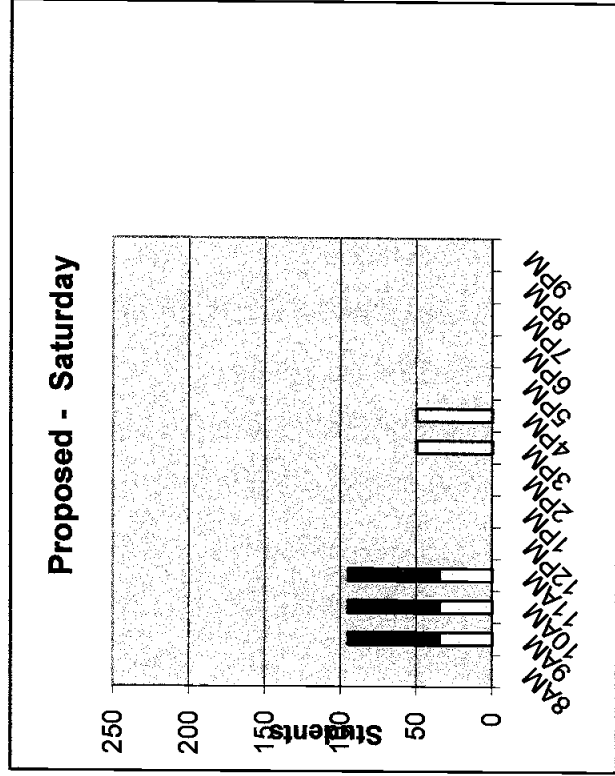
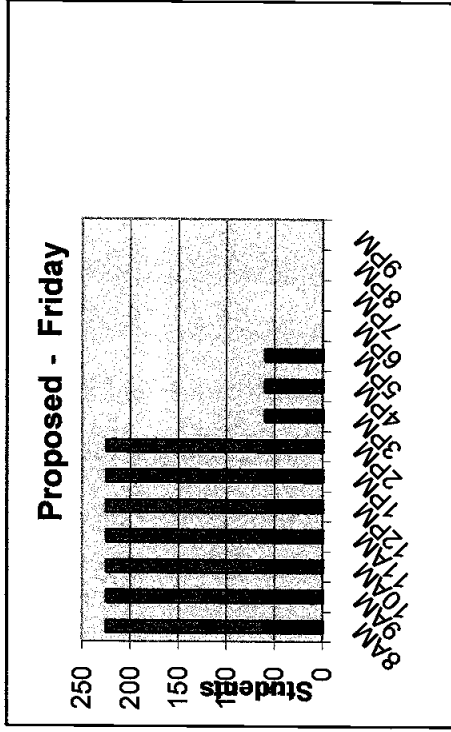
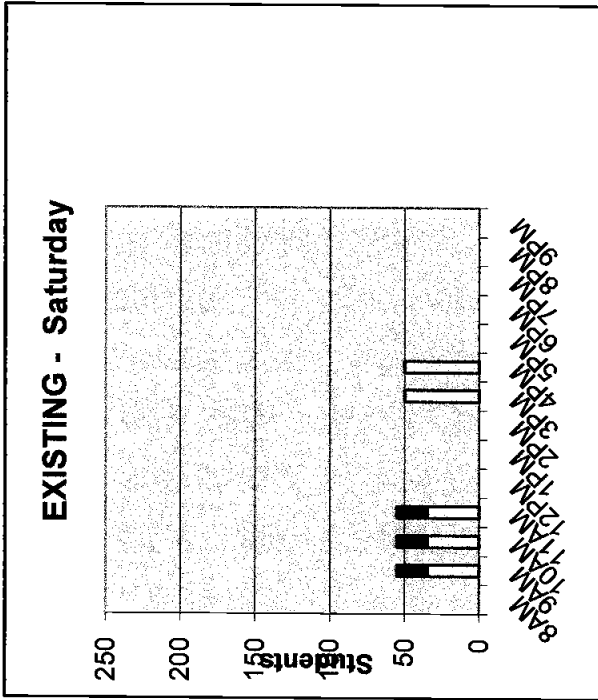
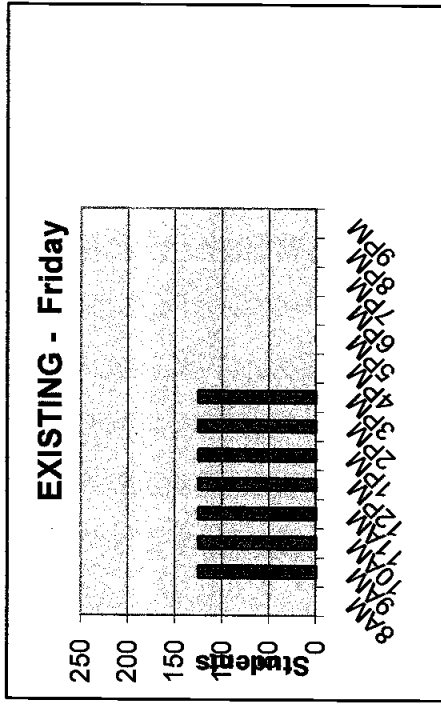
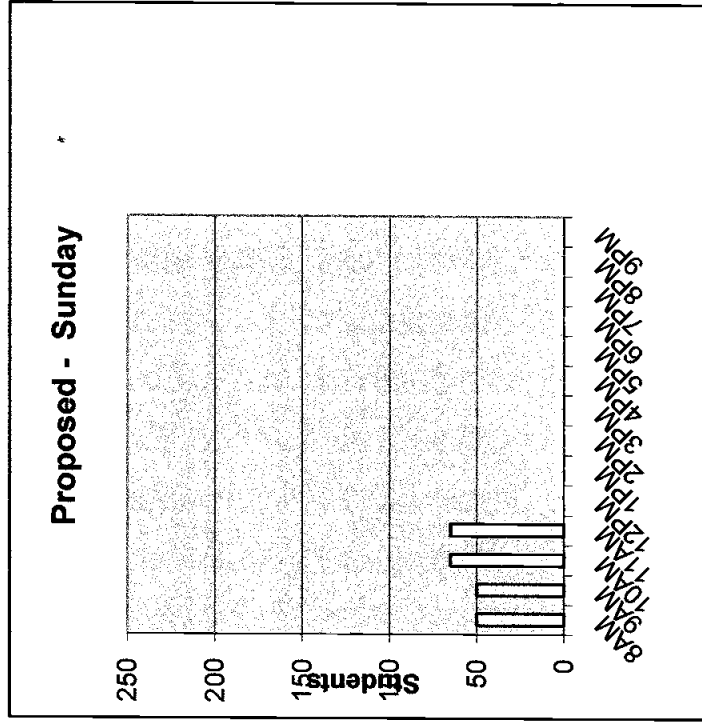
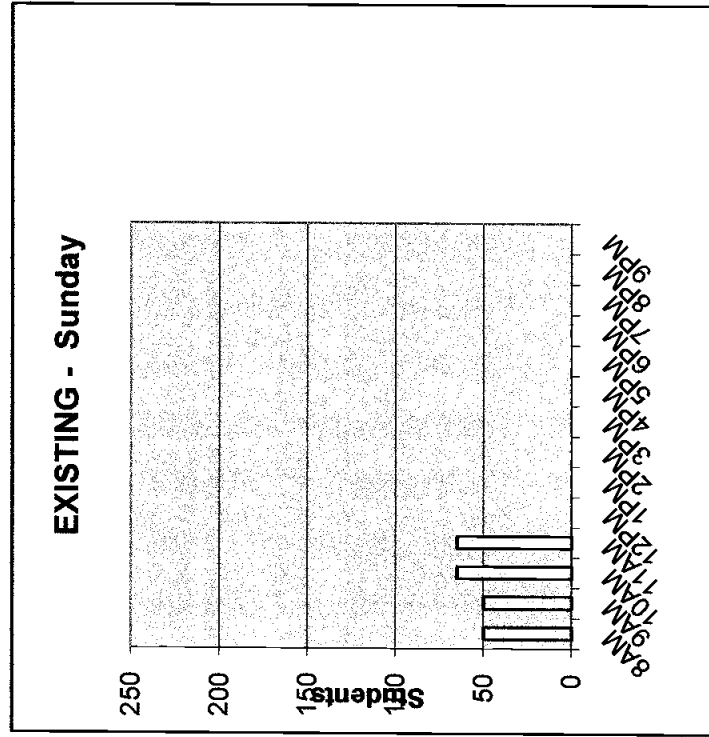


EXHIBIT D - SUMMARY - PAGE 4 OF 4

Beit Rabban
 Toddler
 Congregation



events in the Multi-Function Room, in addition to five apartments housing an estimated 13 residents. Table 1 provides an estimate of the solid waste demand that would result at the New Building. The increment generated by the New Building would actually be smaller, since the solid waste generated by the existing Community House would no longer be present.

**Table 1
Solid Waste Generation**

New Use	Rate (lbs./week/person)	People (per Week)	Solid Waste (lbs./week)
Residential	17	13	221
Community Facility Employees	13	50	650
Private School Students	4	165	660
Expanded Toddler Program	4	60	240
Multi-Function Room: Increased Events	2	180	360
TOTAL			2,131
<p>Note: Rates from <i>CEQR Technical Manual</i>, Table 3M-1. For the Toddler Program, the rate for elementary schools was used. For the events in the multi-function room, no rate is available in the <i>CEQR Technical Manual</i>; the solid waste rates used are those provided for catered events in the <i>American Museum of Natural History, Planetarium and North Side Project, Final Environmental Impact Statement</i>, 1996.</p>			

SC17
ZABIAN →

For the multi-function room, the estimates in Table 1 are based on an additional two events per month at the Synagogue (or 0.5 additional events per week). To be conservative, this estimate assumes full occupancy of the multi-function room (360 people), although attendance at the new events could be smaller.

New residents would generate approximately 221 pounds of solid waste per week, while the solid waste generation by community facility use would be approximately 1,830 pounds per week. It is anticipated that waste generated by such uses (approximately 2,131 pounds per week, see Table 1) would be collected and disposed of by the New York City Department of Sanitation. This amount of waste represents a very small amount relative to the amounts of solid waste collected weekly on a given route for the Department of Sanitation and would not affect the City's ability to provide trash collection services. Accordingly, the proposed action would have no significant adverse impacts on solid waste management and, pursuant to *CEQR Technical Manual*, no further analysis is necessary.

CSI is sensitive to concerns raised regarding trash removal following weddings and life cycle events at the Synagogue. To address these concerns, two alternatives for trash removal are being considered by CSI: (1) refrigerated storage of trash in the New Building's trash room; and/or (2) removal of garbage by a private carter on the morning following each event.

ENERGY

The proposed action would result in new construction on Lot 37; all new structures requiring heating and cooling are subject to the New York State Energy Conservative Code, which reflects State and City energy policy. Therefore, no adverse energy impacts will be created and, pursuant to the *CEQR Technical Manual*, no detailed energy assessment is necessary.

TRAFFIC AND PARKING

The proposed action would result in a mixed-use building with five residential units and new community facility space, including a multi-function room and an expanded Toddler Program. The residential units

EXHIBIT B-1

CSI PROPOSED CLASSROOM CAPACITY - 3RD FLOOR (MON-WED)

	#7	#8	#9	#10	#11	#12	TOTAL	CSI	COMMUNI BEIT RABBAN
	800	15	11	12	16	20	12	86	0
	900	15	11	12	16	20	12	86	0
	1000	15	11	12	16	20	12	86	0
	1100	15	11	12	16	20	12	86	0
	1200	15	11	12	16	20	12	86	0
	1300	15	11	12	16	20	12	86	0
	1400	15	11	12	16	20	12	86	0
	1500	15	11	12	16	20	12	86	0
	1600	15	11	12	16	20	12	86	0
	1700	15	11	12	16	20	12	86	0
	1800	15	11	12	16	20	12	86	0
							946		860

CLASSROOMS 7, 8, 9 & 10 @ 25 SQ. FT./STUDENT

CLASSROOM 11 @ 30 SQ. FT./STUDENT

CLASSROOM 12 @ 35 SQ. FT./STUDENT

EXHIBIT B-2

CSI PROPOSED CLASSROOM CAPACITY - 3RD FLOOR (THURS)

	#7	#8	#9	#10	#11	#12	TOTAL	CSI	COMMUNI BEIT RABB/NOT USED	800	900	1000	1100	1200	1300	1400	1500	1600	1700	1800		
	15	11	12	16	20	20	12	86	0	86	0	800										
	15	11	12	16	20	20	12	86	0	86	0	900										
	15	11	12	16	20	20	12	86	0	86	0	1000										
	15	11	12	16	20	20	12	86	0	86	0	1100										
	15	11	12	16	20	20	12	86	0	86	0	1200										
	15	11	12	16	20	20	12	86	0	86	0	1300										
	15	11	12	16	20	20	12	86	0	86	0	1400										
	15	11	12	16	20	20	12	86	0	86	0	1500										
	15	11	12	16	20	20	12	86	50	0	36	1600										
	15	11	12	16	20	20	12	86	50	0	36	1700										
	15	11	12	16	20	20	12	86	50	0	36	1800										
							150	946	0	688	108											

CLASSROOMS 7, 8, 9 & 10 @ 25 SQ. FT./STUDENT
 CLASSROOM 11 @ 30 SQ. FT./STUDENT
 CLASSROOM 12 @ 35 SQ. FT./STUDENT

EXHIBIT B-3

CSI PROPOSED CLASSROOM CAPACITY - 3RD FLOOR (FRI)

	#7	#8	#9	#10	#11	#12	TOTAL	CSI	COMMUNI BEIT RABBAN
800	15	11	12	16	20	12	86	0	86
900	15	11	12	16	20	12	86	0	86
1000	15	11	12	16	20	12	86	0	86
1100	15	11	12	16	20	12	86	0	86
1200	15	11	12	16	20	12	86	0	86
1300	15	11	12	16	20	12	86	0	86
1400	15	11	12	16	20	12	86	0	86
1500	15	11	12	16	20	12	86	0	0
1600	15	11	12	16	20	12	86	0	0
1700	15	11	12	16	20	12	86	0	0
1800	15	11	12	16	20	12	86	0	0

CLASSROOMS 7, 8, 9 & 10 @ 25 SQ. FT./STUDENT

CLASSROOM 11 @ 30 SQ. FT./STUDENT

CLASSROOM 12 @ 35 SQ. FT./STUDENT

EXHIBIT B-4

CSI PROPOSED CLASSROOM CAPACITY - 3RD FLOOR (SAT)

	#7	#8	#9	#10	#11	#12	TOTAL	CSI	COMMUNI BEIT RABBAN	COMMUNI BEIT RABBAN
800	15	11	12	16	20	12	86	0	0	800
900	15	11	12	16	20	12	86	35	0	900
1000	15	11	12	16	20	12	86	35	0	1000
1100	15	11	12	16	20	12	86	35	0	1100
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1600	15	11	12	16	20	12	86	0	0	1600
1700	15	11	12	16	20	12	86	0	0	1700
1800	15	11	12	16	20	12	86	0	0	1800

CLASSROOMS 7, 8, 9 & 10 @ 25 SQ. FT./STUDENT

CLASSROOM 11 @ 30 SQ. FT./STUDENT

CLASSROOM 12 @ 35 SQ. FT./STUDENT

EXHIBIT B-5

CSI PROPOSED CLASSROOM CAPACITY - 3RD FLOOR (SUN)

	#7	#8	#9	#10	#11	#12	TOTAL	CSI	COMMUNI BEIT RABBAN
800	15	11	12	16	20	14	88	0	0
900	15	11	12	16	20	14	88	50	0
1000	15	11	12	16	20	14	88	50	0
1100	15	11	12	16	20	14	88	50	0
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1300	15	11	12	16	20	14	88	0	0
1400	15	11	12	16	20	14	88	0	0
1500	15	11	12	16	20	14	88	0	0
1600	15	11	12	16	20	14	88	0	0
1700	15	11	12	16	20	14	88	0	0
1800	15	11	12	16	20	14	88	0	0

CLASSROOMS 7, 8, 9 & 10 @ 25 SQ. FT./STUDENT

CLASSROOM 11 @ 30 SQ. FT./STUDENT

CLASSROOM 12 @ 35 SQ. FT./STUDENT

Exhibit-D Summary
 WHAT AM I LOOKING AT - NEED EXPLANATION

Beit Rabban
 Toddler
 Congregation

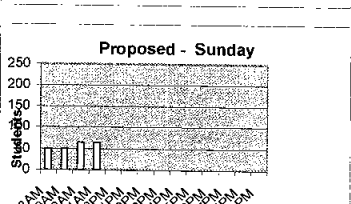
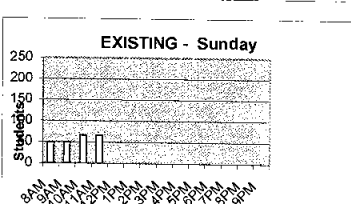
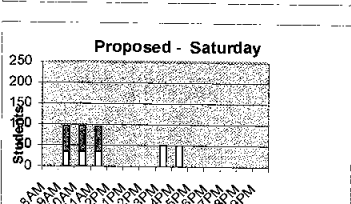
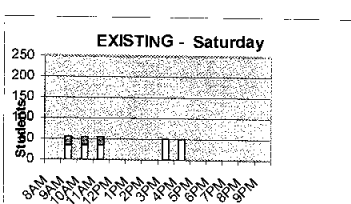
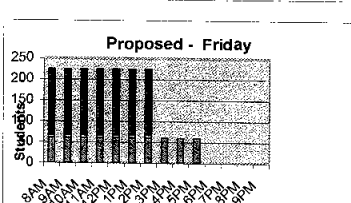
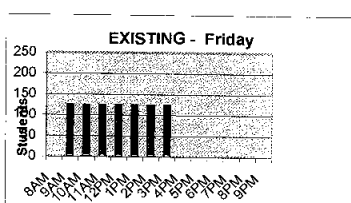
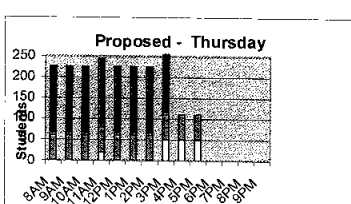
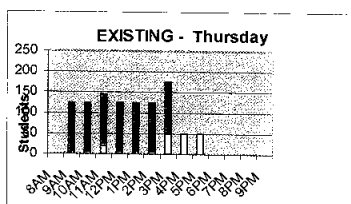
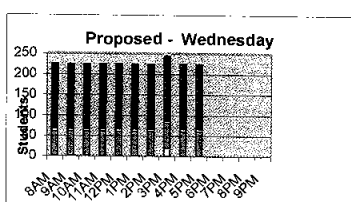
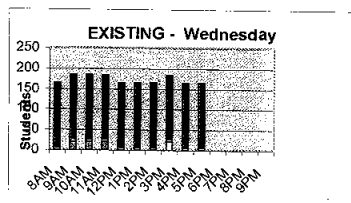
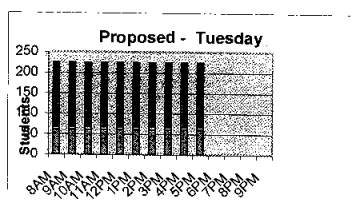
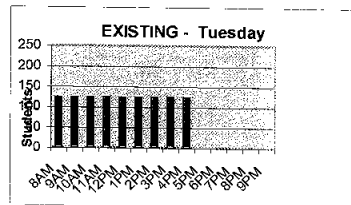
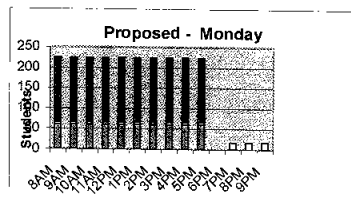
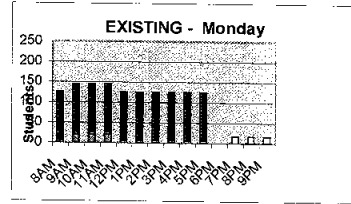


Exhibit D existing and proposed classroom usage for each day of the week.

As this demonstrates, Beit Rabban is and will continue to be by far the largest user of CSI classroom space on weekdays.

Further, it shows with great clarity that, by comparison, CSI's classroom usage is trivial, both in terms of the numbers of people and the hours of usage.

The Green columns to the left show the Toddler usage, which in fact may be usage by Beit Rabban. In any event, combining Toddler (yellow) and Congregation (green) usage and comparing to Beit Rabban (red), these chart visualize that Beit Rabban is the driving user of the space, not the Congregation.