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The City of New York

CITY ENVIRONMENTAL QUALITY REVIEW

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November 19, 1993

NOTICE OF COMPLETION OF THE FINAL ENVIRONMENTAL IMPACT STATEMENT

CEQR No. 87-175M

ULURP No. C 900607 ZMM
C 900607(A) ZMM

SEQR No. P2-620000-00129

NINTH AVENUE REZONING PROPOSAL

Pursuant to City Environmental Quality Review (CEQR), Mayoral Executive Order No. 91 of 1977, and the regulations of the State Environmental Quality Review Act (SEQRA) as found in Part 617 of the NYCRR, a Final Environmental Impact Statement (FEIS) has been prepared on the action described below and is available for public inspection at the offices of the undersigned. The proposal requires approvals by the City Planning Commission and the Council of the City of New York pursuant to Uniform Land Use Review Procedures (ULURP). A public hearing on the Draft Environmental Impact Statement (DEIS) was held on October 20, 1993 in conjunction with the City Planning Commission citywide hearing pursuant to ULURP. The record remained open for an additional ten (10) days until October 30, 1993 to receive written comments on the DEIS from the public.



A. DESCRIPTION OF THE PROPOSED ACTION

The Ninth Avenue Local Development Corporation (the "applicant") is proposing a zoning map amendment (ULURP No. C 900607 ZMM) to rezone an area along both sides of Ninth Avenue between 35th and 41st Streets in Manhattan. The proposal would change the existing zoning of the area from light manufacturing (M1-5) to residential (R8-A) with a commercial (C1-5) overlay. The area proposed for rezoning extends approximately 100 feet deep along the eastern side of Ninth Avenue between 35th and 40th Streets and approximately 200 feet deep along the western side of Ninth Avenue between 35th Street and a point approximately 100 feet north of 40th Street.

The Ninth Avenue Local Development Corporation is also proposing a modified rezoning action pursuant to Section 7.030 of the Uniform Land Use Review Procedure. The modified proposal was submitted after the issuance of the DEIS. The modified proposal, ULURP No. C 900607 (A) ZMM, is identical to the original application except for the proposed zoning of the property bounded by Ninth Avenue, West 35th Street, a line 200 feet west of Ninth Avenue, and West 36th Street (Block 733, Lots 25, 28, 30, 31, 43, 44, 45). The modified proposal would change the existing zoning of this area from M1-5 to C6-2A, in lieu of the R8A and C1-5 districts requested as part of original application. C6-2A zones are contextual commercial districts mapped outside the central business district.

A description of the modified proposal and an analysis of its environmental effects have been incorporated into the Alternatives chapter of the FEIS. The modified proposal is referred to in the FEIS as the "C6-2A Zoning Alternative". The original proposal is referred to in the FEIS, and this Notice of Completion, as the "proposed action". The modified proposal would not result in new unmitigatable impacts or substantially different impacts than those disclosed for the original proposal in the DEIS. The conclusions disclosed in the DEIS would be substantially similar for the modified proposal.

In addition, between the issuance of the DEIS and this FEIS a C1-7A/C6-2A zoning alternative has been considered in this FEIS. The likely development scenario under this alternative would be identical to the development scenario for the modified proposal. Consequently, the potential impacts of the C1-7A/C6-2A zoning alternative would be the same as those resulting from the modified proposal. The C1-7A/C6-2A alternative would not result in new unmitigatable impacts or substantially different impacts

than those disclosed under the proposed action.

Projected Development Scenario

The environmental analysis presented in the FEIS assumes that absent the proposed action no development would occur on any parcels within the proposed rezoning area. It is projected that as a result of the proposed action, mixed residential/commercial buildings would be constructed on seven sites within the rezoning area. The analysis projects that the number of dwelling units in the rezoning area would increase by 744, the amount of retail area would increase by 39,579 sq. ft., and the amount of office and other commercial activities would increase by 2,526 sq. ft. compared to conditions in the future without the proposed action. It is assumed that development facilitated by the proposed action would be built and occupied by 1995.

The Proposed Action

The proposed R8A zone is a medium density residential zone that allows residential uses with a maximum FAR of 6.02 and community facility uses with a maximum of 6.5. The proposed C1-5 district is a local retail district that is mapped as an overlay district in residential zones along major avenues. C1-5 districts, which have a maximum FAR of 2, permit the development of commercial buildings as well as ground floor commercial space in residential buildings. The existing M1-5 zone is a manufacturing district that allows manufacturing and commercial uses with a maximum FAR of 5.0; community facilities, with a maximum of 6.5, are also allowed, but generally by special permit only.

Although the area proposed for rezoning is mapped as a manufacturing district, it currently does not contain any manufacturing uses. The majority of buildings on the project site are residential buildings with ground floor commercial uses that were developed before the area was zoned for manufacturing in the early 1960s. The proposed R8A\C1-5 zoning would permit new residential/commercial buildings to be developed and allow existing residential uses to be expanded.

The primary goals of the applicant in seeking the rezoning are:
1) to allow for as-of-right residential development within the project site, thereby permitting the long-standing residential community in the area to revive and expand, and 2) to increase the allowable FAR of buildings on the project site to enhance the

financial viability and likelihood of new development.

Existing and Proposed Zoning

The proposed R8A\C1-5 zoning differs from the existing M1-5 zoning in the following ways:

Permitted Uses: The current M1-5 zoning allows high performance, light manufacturing uses and commercial activities, but prohibits heavy manufacturing uses and residential uses. Residential uses that existed when the area was zoned M1-5 are permitted to remain as non-conforming uses, but cannot be expanded. New residential uses that existed when the area was zoned M1-5 are permitted to remain as non-conforming uses, but cannot be expanded. New residential buildings and enlargements are prohibited. Dwelling units that remain vacant for two continuous years cannot be re-occupied if most or all of the dwelling units in a building are vacant.

The proposed R8A\C1-5 zoning would permit the development of residential and commercial uses. Under the proposed zoning, residential and mixed residential/commercial buildings, which are now prohibited, could be developed and existing residential and mixed use buildings could be enlarged.

The use groups permitted under the proposed C1-5 zoning would be different from those allowed under the existing M1-5 zoning. M1-5 zones permit use group 4 (community facilities), use groups 5 through 11 (retail and commercial), use groups 12 through 14 (recreation), use group 16 (general service), and use group 17 (manufacturing). C1-5 zones permit use groups 1 and 2 (residential), use groups 3 and 4 (community facilities), and use groups 5 and 6 (retail and commercial).

Permitted density and bulk: Under the proposed action, residential and mixed residential/commercial buildings could have a maximum FAR of 6.02. Under the existing zoning, there is no maximum residential FAR as residential uses are not currently permitted. The existing zoning limits the maximum FAR of manufacturing and commercial uses to 5.0. Under both the existing and proposed zoning, a maximum FAR of 6.5 is allowed for community facility uses.

R8A districts are contextual zones. Use of contextual bulk requirements and the programmatic elements of the Quality

Housing Program (Article 2 of the NYC Zoning Resolution) are mandatory in R8A districts.

The proposed C1-5 overlay zone would reduce the allowable FAR of commercial uses from 5.0 to 2.0. In addition, commercial space in C1-5 zones is not permitted above the ground floor in mixed residential/commercial buildings. This restriction effectively limits the commercial FAR in such buildings to 1.0 or less.

Required Governmental Approvals

The proposed action requires a zoning map amendment to change the zoning of the project site from M1-5 to R8A with a C1-5 overlay. This action is subject to the Uniform Land Use Review Procedure (ULURP) and requires discretionary approval by the City Planning Commission and the City Council. The modified rezoning proposal (the C6-2A zoning alternative), which would also require a zoning map amendment, is subject to ULURP and would require City Planning Commission and City Council approvals.

B. PROBABLE IMPACTS OF THE PROPOSED ACTION

Open Space

The proposed action would have open space impacts, but these impacts would not be significant.

The proposed action is expected to add approximately 1,190 residents and 1,623 workers and visitors to the project site. Each of the projected development sites would provide private open space on site for the use of residents, as mandated by the Quality Housing Program. The combined area of the private open space would total approximately 0.8 acres.

The project site and surrounding area are currently undeserved by publicly accessible open space, and are projected to remain so in the future without the proposed action. The proposed action would exacerbate this open space shortfall in the residential open space analysis, resulting in an open space impact. However, because open space would be provided on site for the use of residents, as required by the Quality Housing Program, the open space impact would not rise to the level of significance.

Traffic and Transportation

Future Build Traffic Volumes and Conditions. The Future Build 1995 levels of service were calculated on the same baseline capacity network as the Future No Build. The proposed action would result in significant traffic impacts at the following intersection approaches:

<u>Approach</u>	<u>Peak</u>	<u>No Bld.</u>	<u>Build</u>	<u>Change</u>
38th St. EB @9th Ave.	Mid	0.875	0.886	0.011
39th St. WB @ 8th Ave.	Mid	0.978	0.989	0.011

Each of the identified significant traffic impacts would be fully mitigated by readily available traffic signal adjustments (see the mitigation section below for a description of the mitigation measures).

Mass Transportation. The proposed rezoning would result in an additional 109 bus passengers in the AM peak hour, and 246 additional bus passengers in the PM peak hour. The rezoning would result in demand volumes exceeding No Build capacities on the M34 (eastbound) and the M16 (westbound) during the morning peak, and on the M34 (eastbound) and M16 (eastbound) during the PM peak. Measures to mitigate these impacts are presented in the mitigation section below.

Noise

The traffic analysis was used as the basis for determining potential noise increases in the proposed 9th Avenue rezoning area as a result of increases in traffic volumes.

Noise levels were measured at 4 receptor locations:

Location 1	406 West 40th Street
Location 2	495 9th Avenue
Location 3	458 9th Avenue
Location 4	429 9th Avenue

Noise levels at Location 2, 3 and 4 fall into the "Marginally Unacceptable" category for residential activities. Noise levels at Location 1 fall into the "Clearly Unacceptable" category. The proposed action could result in significant noise impacts on buildings that could be developed as a result of the proposed

rezoning at the following locations:

Blocks 733, Lots 25, 28, 30, and 31;
Block 734, Lot 37;
Block 735, Lot 30;
Block 736, Lots 30 and 33 - 38;
Block 737, Lots 30 - 33;
Block 762, Lots 1 - 2; and
Block 763, Lots 72 and 73.

Mitigation measures are described in the mitigation section below.

Hazardous Materials

Due to the presence of underground storage tanks on Block 763, Lot 67, containing petroleum products, there is potential for significant impacts resulting from contamination of the soil and groundwater on adjacent Lots 72 and 73 by existing or past leakage from the tanks. Mitigation measures for these impacts, consisting of an "E" designation on the zoning map, are presented in the mitigation section below.

C. PROPOSED MITIGATION MEASURES

Traffic Mitigation Measures

The proposed project would result in significant impacts on two intersection approaches under 1995 Build conditions. Both of these impacts would be fully mitigated by a 1-second change in signal timing. The following are the projected volume/capacity ratios on each impacted approach under No Build, Build and with Mitigation conditions:

<u>Intersection Approach</u>	<u>Peak Hr.</u>	<u>No Bld</u>	<u>Build</u>	<u>Bld. W Mitig.</u>
38th St. EB @ 9th Ave.	Midday	0.875	0.886**	0.852
39th St. WB @ 8th Ave.	Midday	0.978	0.989**	0.959

** = Significant Impact

As these data indicate, the proposed mitigation measures would fully mitigate the impacts of the project with no adverse impact

on any adjacent approaches. NYCDOT will examine the appropriateness of the proposed mitigation measures in the year proposed and determine if implementation is warranted.

Bus Mitigation Measures

To mitigate the projected impacts of the proposal on local bus routes in the study area, additional bus runs would be required on the M34 and M16 routes and follows:

<u>Route</u>	<u>Peak Hr.</u>	<u>Available Capacity</u>	<u>Mitigation Action</u>
M34 EB	AM Peak	-6	1 Additional Bus Run
M16 WB	AM Peak	-12	1 additional Bus Run
M16 EB	PM Peak	-10	1 additional Bus Run
M34 EB	PM Peak	-58	1 Additional Bus Run

Because No Build Volumes on the M34 westbound in the AM peak would already exceed capacity, additional buses added to correct those conditions would eliminate the impact projected in the AM peak due to the proposed project on that route. Each of these changes would be sufficient to mitigate the capacity shortfall on these routes. It is the practice of the NYCTA to monitor ridership on its routes and to increase service, within fiscal and operational constraints, to accommodate new ridership when it occurs.

Noise Mitigation Measures

Any new or refurbished dwelling units must have window-wall noise attenuation sufficient to maintain interior noise levels at 45 dB(A) or below -- the maximum interior noise level (L) for residential buildings. In order to achieve these levels, an "E" designation would be required on the zoning map at the following locations: Block 733, lots 25, 28, 30 and 31; Block 734 lots 37; and Block 735, lot 30. The text of the "E" designation would be as follows:

Future development at these locations must include a minimum of 35 dB(A) window-wall attenuation and alternate means of ventilation. Alternate means of ventilation include but are not limited to the following:

- a) provision of central air conditioning;

- b) provision for air conditioning sleeves for use by an air conditioner or HUD approved fans.

All air intake exhaust openings must be directed away from adjacent residential areas.

In addition, the proposed rezoning would require an "E" designation on the zoning map at the following locations: Block 736, Lots 30 and 33-38; Block 737, Lots 30-33; Block 762, Lots 1-2; and Block 763, Lots 72 and 73. The text of the "E" designation would be as follows:

Future development at these locations must include a minimum of 40 dB(A) window-wall attenuation and alternate means of ventilation. Alternate means of ventilation include but are not limited to the following:

- a) provision of central air conditioning;
- b) provision for air conditioning sleeves for use by an air conditioner or HUD-approved fans.

All air intake exhaust openings must be directed away from adjacent residential uses.

Hazardous Materials Mitigation Measures

To mitigate the ~~potential significant~~ impacts on Block 763, Lots 72 and 73, as described above, an "E" designation on the zoning map is required. The text of the "E" designation would be as follows:

Due to the presence of underground storage tanks containing petroleum products on Block 763, Lot 67, there is potential for contamination of the soil and groundwater by existing or past leakage from the tanks. To determine if contamination exists on the site and to determine and perform any appropriate remediation, the following tasks must be undertaken by the fee owners of the lots restricted by the "E" designation prior to any demolition or excavation on the adjacent lots prior to development.

Task 1

The fee owners of the lots restricted by the "E" designation must submit to the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Review and Enforcement (BERE) for review and approval, a

soil gas, soil and groundwater testing protocol including a description of methods, and a site map with all sampling locations clearly and precisely represented. No sampling program should begin until written approval of a protocol is received from DEP BERE. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by DEP BERE upon request.

Task 2

A written report with findings and a summary of the data must be presented to DEP BERE after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by DEP if the results indicate that remediation is necessary.

Written notice shall be given by DEP BERE if it determines that no remediation is necessary.

If remediation is necessary according to the test results, proposed remediation plan must be submitted to DEP BERE for review and approval. The fee owners of the lots restricted by the "E" designation must perform such remediation as determined necessary by DEP BERE. After completion of remediation, the fee owners of the lots restricted by the "E" designation should provide proof that the work has been satisfactorily completed.

D. PROBABLE IMPACTS OF THE MODIFIED PROPOSAL AND PROPOSED MITIGATION MEASURES

Open Space

Neither the proposed action nor the modified proposal would result in significant impacts on active or passive open space resources in the project area. The study area would continue to be below the City's standards for residential open space (active, passive and total) and for commercial open space (passive only).

Traffic and Transportation

Traffic Volumes and Conditions: The analysis of the total trips generated under the modified proposal indicated that the higher amount of retail space would increase the total number of trips relative to those projected under the proposed action. Due to the higher number of vehicular trips under the modified proposal, the potential for additional significant traffic impacts beyond those projected under the proposed action was analyzed. LOS analyses demonstrate that the modified proposal would result in impacts at the same two locations projected under the proposed action, while also resulting in a significant traffic impact at a third intersection. The following is a comparison of v/c ratios under the No Build, Build, and modified proposal at these approaches:

<u>Intersection Approach</u>	<u>Peak Hr.</u>	<u>No Bld</u>	<u>Build</u>	<u>Modified Proposal</u>
38th St. EB @ 9th Ave.	Midday	0.875	0.886 **	0.886 **
39th St. WB @ 8th Ave.	Midday	0.978	0.989 **	0.989 **
36th St. EB @ 10th Ave.	Midday	0.854	0.858	0.872 **

 ** = Significant Impact

An additional Midday peak impact was identified at one approach under the modified proposal. Through a one-second change in signal timing, similar to the mitigation proposed at the other two impact locations under the proposed rezoning, the impact at 38th Street would be removed, with a Build with Mitigation v/c ratio of 0.838 on that approach.

Due to the nature of the retail uses projected to be developed under the modified proposal, an analysis of potential traffic impacts on Saturday was performed. The results of those analyses indicated that neither the proposed action nor the modified proposal would result in a significant traffic impact on Saturday.

Mass Transportation: The proposed action is projected to result in significant impacts on four local bus lines in the AM and/or PM peak hours. The total number of bus trips (two-way) under the modified proposal would be approximately the same in the AM peak period and 63 and 30 trips more than under the proposed action in the Midday and PM peak hours, respectively. Although volumes would be somewhat higher under the modified proposal, the same bus impacts projected to occur under the proposed action would also occur under the modified proposal, as follows:

Significant Impact

<u>Route/Direction</u>	<u>Peak Hr.</u>	<u>Proposed Action</u>	<u>Modified Prop.</u>
M34 EB	AM Peak	X	X
M34 EB	PM Peak	X	X
M16 WB	AM Peak	X	X
M16 EB	PM Peak	X	X

The total number of subway trips would be somewhat higher in the Midday and PM peak periods under the modified proposal than under the proposed action. Subway impact screening procedures confirmed that the proposed action would not have a significant impact at any of the subway entrances in the study area. Due to the higher volumes under the modified proposal, the potential for impacts at nearby station stairways had to be confirmed by passenger counts and entrances to the IND system at 35th Street @ 8th Avenue, and to the IRT system at 34th Street @ 7th Avenue. These studies confirmed that neither the proposed action nor the modified proposal would result in significant impacts on the subway system.

Noise

Significant noise impacts under the modified proposal would be similar to those under the proposed action. The mitigation measures for the proposed action would also be required under the modified proposal.

Hazardous Materials

A Phase I study was performed to assess the potential for soil and groundwater contamination. Those studies indicated potential contamination of Site 7 (Block 763, Lots 72 and 73) from underground storage tanks on Block 763, Lot 67. Therefore, under the modified proposal and the proposed action, an "E" designation would be required to be added to the zoning map for Block 763, Lots 72 and 73 to insure that development of those parcels would not result in significant impacts due to soil and/or groundwater contamination.

E. PROJECT IDENTIFICATION

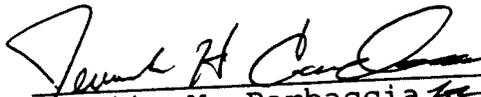
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SEQRA No. P2-620000-00129

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