

APPENDIX H

Relevant Agency Correspondence

**United States Department of the Interior****FISH AND WILDLIFE SERVICE**

New York Field Office

3817 Luker Road

Cortland, NY 13045

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo>To: Kathy SpencerDate: Sep 2, 2008USFWS File No: 80708Regarding your: ☒ Letter ☐ FAX ☐ EmailDated: August 27, 2008For project: Midtown Revitalization Project

Located: _____

In Town/County: City of Rochester / Monroe County

Pursuant to the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the U.S. Fish and Wildlife Service:

- ☒ Acknowledges receipt of your "no effect" and/or no impact determination. No further ESA coordination or consultation is required.
- ☐ Acknowledges receipt of your determination. Please provide a copy of your determination and supporting materials to any involved Federal agency for their final ESA determination.
- ☐ Is taking no action pursuant to ESA or any other legislation at this time but would like to be kept informed of project developments.

As a reminder, until the proposed project is complete, we recommend that you check our website (<http://www.fws.gov/northeast/nyfo/es/section7.htm>) every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project area is current. Should project plans change or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered.

USFWS Contact(s): Robert [Signature]Supervisor: Dana A. [Signature]Date: 9/14/08

**New York State Department of Environmental Conservation
Division of Environmental Permits, Region 8**

6274 East Avon-Lima Road, Avon, New York 14414-9519

Phone: (585) 226-2466 • FAX: (585) 226-2830

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

September 2, 2008

Kathy Spencer
Stuart I. Brown Associates
300 State Street Suite 201
Rochester, NY 14614

Received By
LaRella Associates, P.C.
SEP 03 2008
Client: _____
Proj.#: _____

Re: Midtown Revitalization Project
City of Rochester, Monroe Co.
DEC Clearinghouse #3659

Dear Ms. Spencer:

This will respond to your letter dated August 27, 2008 regarding the proposed redevelopment project for the City of Rochester Midtown Plaza. After a review of available information, I can provide you the following comments:

- Biotic Communities/Endangered and Threatened Species of Flora and Fauna

The New York Natural Heritage Program database was reviewed for known occurrences of rare or state-listed animals and plants, endangered and threatened species, significant natural communities, and for other significant habitats. No occurrences were found in the vicinity of the project site. For most sites, comprehensive field surveys have not been conducted and a definitive statement on the presence or absence of these resources cannot be positively made. This information should not be substituted for any on-site surveys that may be required for a complete environmental impact assessment.

- Historic-Architectural-Archaeological and Cultural Resources

A review of the NYS Archaeological Site Map indicates that the Midtown Plaza is located within an archaeologically sensitive area. If excavation or other construction activities are anticipated for any previously undisturbed grounds within the project footprint, it is suggested that recommendations be sought from the NYS Office of Parks, Recreation, and Historic Preservation (NYS OPRHP) regarding potential impacts on

Kathy Spencer
Midtown Revitalization Project
City of Rochester, Monroe Co.

possible historic and/or archaeological resources. In circumstances where DEC regulatory jurisdiction exists, the Department is required, pursuant to the NYS Historic Preservation Act, to consult with NYS OPRHP regarding potential impacts to historic and archaeological resources prior to making a determination of environmental significance from construction activities in these areas. Additional information can be found on NYS OPRHP's website, or by calling them at (518) 237-8643.

- State Pollution Discharge Elimination System (SPDES)

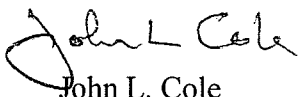
Stormwater discharges now require a State Pollution Discharge Elimination System (SPDES) Stormwater permit from this Department if they either: (1) occur at industrial facilities and contain either toxic contaminants or priority pollutants or (2) result from construction projects involving the disturbance of one (1) or more acres of land. If either of these conditions are met, coverage under statewide General Permit GP-02-01 will be required. To obtain coverage, all conditions of the permit must be met, including the preparation and implementation of an appropriate Stormwater Pollution Prevention Plan (SWPPP), and the filing of a Notice of Intent (NOI) with DEC. The General Permit, information on filing the NOI, and other stormwater related information can be accessed through the DEC's stormwater web page at: www.dec.ny.gov.

- Other DEC Permit Jurisdiction(s)

Based on the project plans and description available to date, a determination of any additional regulatory or other permit jurisdiction by the Department cannot be made at this time.

If there are any questions concerning these comments or the Department's permit process, please contact me at (585) 226-5395.

Sincerely,



John L. Cole
Deputy Regional Permit Administrator
Division of Environmental Permits

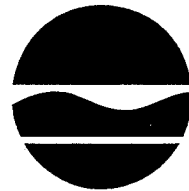
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish, Wildlife & Marine Resources

New York Natural Heritage Program

625 Broadway, Albany, New York 12233-4757

Phone: (518) 402-8935 • FAX: (518) 402-8925



Alexander B. Grannis
Commissioner

September 14, 2008

Kathy Spencer
Stuart I Brown Associates
300 State Street, Suite 201
Rochester, N Y 14614

Received By
Stuart I Brown Associates, P.C.

SEP 17 2008

Client: _____
Proj.#: _____

Dear Ms. Spencer:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to an Environmental Assessment for the proposed Redevelopment and Revitalization - Midtown Project in the City of Rochester, in accordance with the Urban Renewal Plan, area as indicated on the map you provided, located in Monroe County.

We have no records of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain any information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. For these reasons, we cannot provide a definitive statement on the presence or absence of rare or state-listed species, or of significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, at the enclosed address.

Sincerely,

Tara Seoane
Tara Seoane, Information Services
NY Natural Heritage Program

Enc.

cc: Reg. 8, Wildlife Mgr.



**New York State Office of Parks,
Recreation and Historic Preservation**

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

David A. Paterson
Governor

Carol Ash
Commissioner

June 05, 2008

Merideth B. Andreucci
Director, Business Development-Upstate
Empire State Development Corporation
400 Andrews St.
Rochester, NY 14604

Re: Midtown Plaza
Rochester, Monroe Co.
ESDC
08PR01197

Dear Ms. Andreucci:

Thank you for requesting the comments of the State Historic Preservation Office regarding the proposed demolition and redevelopment of Midtown Plaza in Rochester, as required under Section 14.09 of the State Historic Preservation Act of 1980. The meeting and site visit on May 14 and the additional information that you have provided on this project were most helpful to us in reviewing this project.

It is the opinion of the State Historic Preservation Office that Midtown Plaza is eligible for listing on the State and National Registers of Historic Places in the area of planning history, as the nation's first enclosed downtown mall. Designed by the nationally prominent architect and planner Victor Gruen and completed in 1962, the mall attracted national attention and signaled the redevelopment of downtown Rochester into a progressive center for corporate headquarters and public amenities. Midtown's atrium, the key character defining element of the complex, served as a symbolic town center and meeting place for decades. Midtown Plaza's significance in the history and architecture of downtown Rochester satisfies the exceptional significance test for properties less than 50 years old. Additional perspective on the historic and architectural significance of Midtown Plaza is included in the attached Resource Evaluation by Robert Englert. The proposed demolition of Midtown Plaza is by definition an adverse impact to this historic property [Section 14.09 (1a) NYSRPHPL] and we respectfully request further consultation to explore alternatives that could minimize or mitigate impacts.

Several listed and eligible properties are adjacent to Midtown Plaza, including the Granite Building at 124 East Main St., the Sibley, Lindsay & Curr Building at 228-280 East Main St., Rochester Savings Bank at 40-46 Franklin St., the Baptist Temple Building at 38-52 Liberty Pole Way, 316-350 East Main St., The Sibley Triangle Building at 20-30 East Ave., the Hotel Cadillac at 45-51 Chestnut St., and the First Universalist Church at 154 South Clinton Ave. At this early stage, it does not appear that the project will impact these neighboring buildings.

We look forward to working closely with you and your consultants in the near future. Please feel free to call on me at 518-237-8643 ext. 3269 if I can be of any assistance.

Sincerely,



Ruth L. Pierpont

Director

Historic Preservation Field Services Bureau

enclosure

RESOURCE EVALUATION

Date:	3/6/2008	Staff:	Robert T. Englert
Property:	Midtown Plaza	MCD:	ROCHESTER
Address:	East Main St, South Clinton Ave, Broad St, Chestnut St. Midtown Plaza.	County:	Monroe
Project Ref. No.:	08PR01197	USN:	05540.008441

I. ☐ Property is individually listed on SR/NR :

Name of listing :

☐ Property is a contributing component of a SR/NR district:

Name of District:

II. ☐ Property meets eligibility criteria

☐ Property contributes to a district which appears to meet eligibility criteria.

Pre SRB: ☐

Post SRB: ☐

SRB Date

Criteria for inclusion in the National Register.

A ☒ Associated with events that have made a significant contribution to the broad patterns of our history;

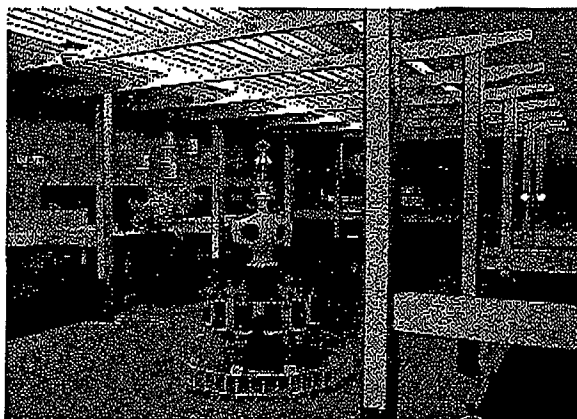
B ☐ Associated with the lives of persons significant in our past;

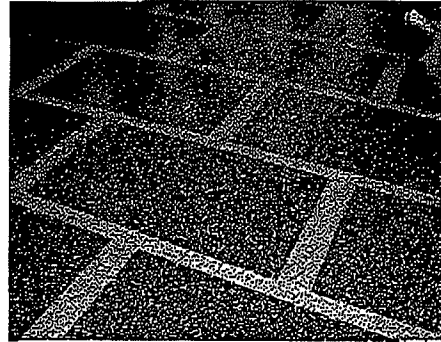
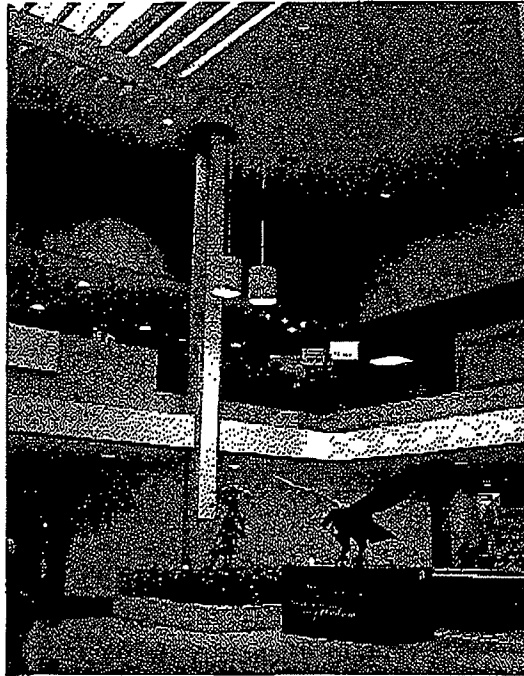
C ☒ Embodies the distinctive characteristics of a type, period or method of construction; or represents the work of a master; or possess high artistic values; or represents a significant and distinguishable entity whose component may lack individual distinction;

D ☐ Have yielded, or may be likely to yield information important in prehistory or history.

STATEMENT OF SIGNIFICANCE:

Based on the information provided, Midtown Plaza appears to meet the criteria for listing in the State and National Registers of Historic Places as a highly intact early prototype of the enclosed shopping mall developed by nationally renowned architect/planner/theorist Victor Gruen. Using pre-existing urban fabric and new construction, Midtown is arguably Gruen's best expression of his ideal commercial mall as village/community center, combining retail, office, hotel, transportation and restaurant facilities in one coordinated complex. The intact courtyard/mall space is also an excellent example of period design, employing a subtle interplay of color and texture in the hard, i.e. tile and stone, surfaces, fountains, and the distinctive 'village clock' at the center with its animated vignettes of major world cultures, expressing the then-emerging image of the 'global village'.





Victor Gruen was a prominent architect, planner, writer, and urban thinker. Born and educated in Vienna, Gruen was an influential designer of post-war American commercial architecture, and invented and/or popularized several strategies including the first enclosed shopping mall (Southdale Shopping Center, near Minneapolis), the first downtown pedestrian mall (Kalamazoo, Michigan), and store modernization. His career was documented in the recent book *Mall Maker*.

Midtown was a significant and influential example of Gruen's efforts to revitalize urban commercial cores. Rochester was the third city for which Gruen designed a downtown revitalization plan (after Fort Worth, which was not implemented, and Kalamazoo, Michigan, only a small portion of which was implemented); he went on to design dozens more.

Gruen's plan for the revitalization of downtown Rochester followed the same formula as his other downtown plans: separating pedestrians from vehicular traffic; creating a network of ring highways (or, in Rochester's case, integrating with an already planned highway network) and parking garages that would bring suburbanites downtown and provide a place to park; and modernizing storefronts to create a more up-to-date look. The goal was to enhance downtown retail, and specifically to attract middle-class suburbanites to shop downtown, by making downtown attractive, multifunctional and modern to compete with the amenities offered in the suburbs.

Gruen's specific plan for Midtown was innovative in that it incorporated many different functions into a single complex: retail, parking, "public space," hotel, office, public transportation (bus terminal), restaurant, public auditorium, meeting rooms, "children's play and amusement area," private technical schools, bank, post office, art galleries. As Gruen intended, Midtown has functioned as and has been perceived as a town square/public gathering place for Rochester. At the same time, it was private space, an early example of the privatization of "public" space seen in the evolution of shopping malls, theme parks, and other post-World War II environments.

Rochester implemented Gruen's recommendations quite completely, possibly more completely than any other city for which Gruen did a revitalization plan. That original design is quite intact, particularly in the atrium, which is virtually unaltered and includes works of art designed for the space as well as nearly all its original materials and finishes.

Midtown was the first downtown enclosed mall in the country. It is not known how many other such malls were created, but they appear to have been somewhat widespread as neighboring Buffalo and Syracuse both have later examples.

Midtown Plaza opened to tremendous acclaim and national press; Rochester was hailed as having discovered the solution to downtown decay (even the World Book Encyclopedia cited Rochester for this achievement); planners from around the country came to see what Rochester had done; even the U.S. Congress held a hearing in Midtown.

- It was praised in *Architectural Forum*
- *Washington Star* called it "the Nation's most spectacular center-city revival;" many other big-city papers also hailed it
- The Urban Land Institute enthusiastically endorsed it
- The World Book Encyclopedia featured it as the best answer to downtown problems
- The public enthusiastically embraced Midtown at the time it was constructed; Rochesterians who were here in the 1960s and 1970s recall the thrill of going to Midtown. It was an important part of mid- to late-20th century Rochester culture.

The underground garage that was an integral part of the Midtown plan was particularly heralded as innovative and significant.

Midtown is associated with two prominent Rochester families, the Formans and McCurdys. Gilbert McCurdy and Maurice and Fred Forman, owners of two of Rochester's most prominent department stores, observed (and contributed to) the migration of retail business to the suburbs in the mid-1950s and decided to work together to "effect significant and long-lasting improvements in our downtown area." It was their vision for the revitalization of downtown that led them to contact Gruen and to work closely with the city to implement Gruen's plan. The construction of Midtown was an innovative and very successful example of a public-private partnership. The specific financing structure used to create Midtown was never repeated.

-- Background information provided in part by the Landmark Society of Western New York, 133 South Fitzhugh St., Rochester, NY 14608

-- If you have any questions concerning this Determination of Eligibility, please call Robert T. Englert at 518-237-8643. ext 3268



New York State Office of Parks, Recreation and Historic Preservation

The Governor Nelson A. Rockefeller Empire State Plaza • Agency Building 1, Albany, New York 12238
www.nysparks.com

David A. Paterson
Governor
Carol Ash
Commissioner

June 9, 2008

Ms. Kristen Mucitelli-Heath
Special Advisor to the Commissioner
Empire State Development
NYS Dept. of Economic Development
30 South Pearl St.
Albany, NY 12245

Mr. Steve Golding
Director, Downtown Development
City Hall
Room 005-A
30 Church Street
Rochester, NY 14614

Dear Ms. Mucitelli-Heath and Mr. Golding:

The Office of Parks, Recreation and Historic Preservation (OPRHP) has concluded that Midtown Plaza is eligible for listing on the State and National Registers of Historic Places pursuant to Section 14.09 of the Parks, Recreation and Historic Preservation Law. The basis for the agency's determination, which identifies the atrium portion of this site as the most salient feature, is described on the attached letter and fact sheet.

We are aware that redevelopment of the Midtown Plaza site to serve as the future headquarters of the telecommunications firm PAETEC and other commercial uses is a high priority for New York State and the City of Rochester – as evidenced by Governor Paterson's announcement, during a visit to the site in March, that New York State is committing up to \$65 million to the project.

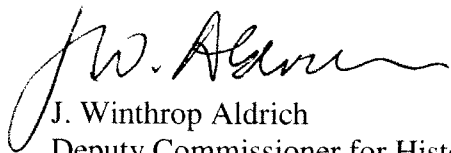
OPRHP's determination does not stop the Midtown Plaza revitalization initiative. Rather, the eligibility finding requires the City and ESDC to consider the historic values of the atrium as the project proceeds. Specifically, the City of Rochester and ESDC should explore whether there are feasible design alternatives – considering economic, engineering, and design factors – that avoid or mitigate adverse impacts on the facility, particularly the atrium portion. OPRHP looks forward to working with ESDC in this review.

The alternatives analysis could identify a project design that incorporates the existing historic resource, or portions thereof, into the overall redevelopment design for the Midtown Plaza site. If no feasible options are identified, other possible mitigation measures, including appropriate recordation prior to any demolition work, would be considered.

This review can be efficiently incorporated into project analysis being undertaken under the State Environmental Quality Review Act – consideration of historic resources can be seamlessly folded into the development of the Environmental Impact Statement required for the Midtown Plaza project. The 14.09 historic preservation review should not delay the City's and ESDC's existing project schedule. In fact, undertaking the 14.09 review at the front end of project design avoids the risk of delay at a future stage of the project (for example, the 14.09 review will expedite federal requirements under Section 106 of the National Historic Preservation Act, which would apply if any federal funds are dedicated to the Midtown Plaza project in the future).

Please don't hesitate to contact me if I can provide additional information or guidance to assure the timely analysis of historic preservation issues in the overall Midtown Plaza project. Our agency stands ready to assist in advancing this vitally important economic development initiative.

Very truly yours,



J. Winthrop Aldrich
Deputy Commissioner for Historic Preservation

Enclosures

cc w/enc: Merideth Andreucci
Director, Business Development-Upstate
Empire State Development Corp.
400 Andrews St.
Rochester, NY 14604

Thomas Richards, Corp. Counsel
Law Dept.
City Hall
30 Church St.
Rochester, NY 14614

Doraine Laudisi, Sr. City Planner
Dept. of Community Dev.
City Hall
30 Church St.
Rochester, NY 14614

RESOURCE EVALUATION

Date: 3/6/2008 Staff: Robert T. Englert
Property: Midtown Plaza MCD: ROCHESTER
Address: East Main St, South Clinton Ave,
Broad St, Chestnut St. Midtown Plaza. County: Monroe
Project Ref. No.: 08PR01197 USN: 05540.008441

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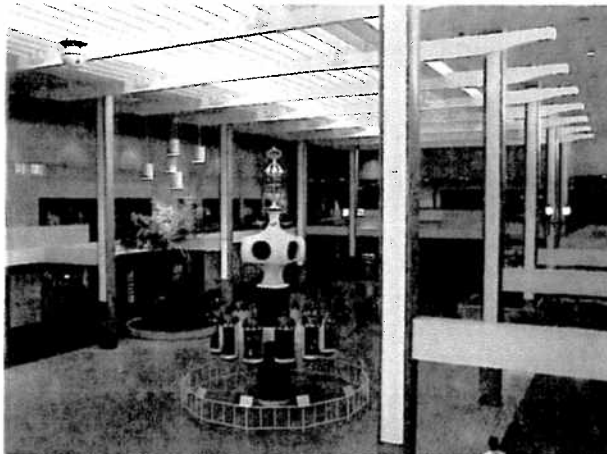
Pre SRB: ☐ Post SRB: ☐ SRB Date

Criteria for inclusion in the National Register.

- A ☒ **Associated** with events that have made a significant contribution to the broad patterns of our history;
- B ☐ **Associated** with the lives of persons significant in our past;
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-- If you have any questions concerning this Determination of Eligibility, please call Robert T. Englert at 518-237-8643. ext 3268

Empire State Development

Finger Lakes Regional Office

November 3, 2008

John Bonafide
NYS Office of Parks, Recreation & Historic Preservation (OPRHP)
Field Services Bureau
PO Box 189
Waterford, NY 12188-0189

**Re: Adverse Impact Determination
Midtown Plaza
Rochester, Monroe County, NY
OPRHP Project No. 08PR01197**

Dear Mr. Bonafide:

As you are aware, the Empire State Development Corporation ("ESDC") is providing funding to the City of Rochester (the "City") to assist in the undertaking of the Midtown Redevelopment Project (the "Project") in downtown Rochester. The City has secured lead agency status for the purposes of review under the New York State Environmental Quality Review Act ("SEQRA") and is in the process of preparing a draft generic environmental impact statement (GEIS) for the Project.

In your letter to me on June 5, 2008, your office indicated that the entire Midtown Block, and in particular the former Midtown Plaza, is eligible for inclusion on the State and National Registers of Historic Places ("S/NRHP") because it was one of the first enclosed downtown shopping malls in the U.S.

In response to this letter and discussions at subsequent meetings, ESDC and the City, as part of the SEQRA GEIS process, solicited the participation of OPRHP and various other interested agencies, organizations, and individuals to participate in a review process with the intention to determine if there are reasonable and/or prudent alternatives that could avoid adverse impact to S/NRHP-eligible resources while still achieving the overall revitalization goals and objectives of the Midtown Project. Over the last two months, these agencies, organizations and individuals worked with the Project consultant team to formulate and evaluate a series of alternative redevelopment plans to attempt to achieve this balance.

New York State Department of Economic Development
400 Andrews Street Suite 710 Rochester New York 14604
Tel 585 325 1944 Fax 585 325 6505
Web Site: www.empire.state.ny.us

However, as a result of this review process, we have not been able to identify a reasonable or prudent alternative that avoids any effects to the Midtown Plaza or Midtown Block. To date, the process has yielded alternatives that look to mitigate such impact through either partially retaining the enclosed shopping mall atrium portion of the Midtown Plaza or various levels of interpretation of the atrium's former location as an outdoor plaza element.

Given the above, ESDC has made a preliminary Determination of Adverse Impact associated with the Project. The City intends to report this determination and the evaluation of mitigation alternatives developed as part of the consultation process to date in their draft GEIS that will be issued on November 10, 2009, with the next forty days (40) for public review and comment. ESDC and the City intend to continue consultation, with a target of reaching a consensus on the terms of either a programmatic agreement or letter of resolution prior to the issuance of SEQRA findings for the Project.

Pursuant to our obligations under Section 14.09 of the State Historic Preservation Act, we would appreciate OPRHP's review and concurrence regarding ESDC's determination with regard to this Project.

Please contact Paul Tronolone at 716.284.2556 or me at 585.325.1944 ext. 222, if there is any additional information you require.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Merideth Andreucci', written in a cursive style.

Merideth Andreucci, Director
Business Development Upstate

cc: Stephen Gawlik, ESDC
Richard Dorado, ESDC
Mike Fitzner, ESDC
Paul Tronolone, ESDC
Rachel Shatz, ESDC
Ken Schoetz, ESDC
Art Ientilucci, City of Rochester
Doraine Laudisi, City of Rochester
Thomas Richards, City of Rochester
Mark Tayrien, LaBella Associates



New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

David A. Paterson
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November 7, 2008

Merideth B. Andreucci
Director, Business Development-Upstate
Empire State Development Corporation
400 Andrews St.
Rochester, NY 14604

Re: ESDC
Midtown Plaza
Rochester, Monroe Co.
08PR01197

Dear Ms. Andreucci:

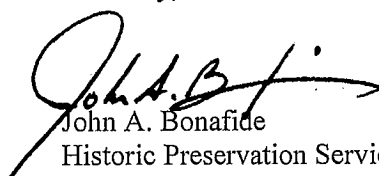
Thank you for providing your Agency's Impact finding statement regarding the proposed demolition and redevelopment of Midtown Plaza in Rochester, as required under Section 14.09 of the State Historic Preservation Act of 1980.

We have reviewed your findings statement and concur with your determination that the undertaking will have an Adverse Impact on the resource known as the Mid-Town Plaza. As previously defined by this office, the Mid Town plaza includes the commercial-retail development, the Victor Gruen atrium, and the commercial tower building. The removal of any one component or the entire complex constitutes an adverse impact to the historic resource.

Based on meetings held in Rochester where interested parties have been brought to the table to discuss options for the site, alternative proposals, and the needs of current and prospective developers/tenants, we believe that your agency is making significant efforts to explore prudent and feasible options. We would encourage you to bring this process to conclusion by selecting a preferred alternative and providing this office with the documentation that supports the option.

We look forward to continued consultation on this project. If I can be of any further assistance I can be reached at (518) 237-8643, ext.3263.

Sincerely,


John A. Bonafide
Historic Preservation Services
Coordinator

cc: Paul Tronolone, ESDC (via e-mail)