CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

September 5, 2017

NEGATIVE DECLARATION

Project Identification
CEQR No. 17DCP098K
ULURP Nos. 170240ZMK, 170241ZRK
SEQRA Classification: Unlisted

Lead Agency
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271
Contact: Robert Dobruskin
(212) 720-3423

Name, Description and Location of Proposal:

Sea Park North Rezoning
The Applicant, the Arker Companies, is seeking a zoning map amendment affecting Block 7011, Lots 1, 11, 43-47, 49, 51-54, 96, 97, and part of 95 ("the Affected Area") in the Coney Island neighborhood of Brooklyn, Community District 13. The Affected Area is bounded by West 28th Street to the east, Neptune Avenue to the north, Mermaid Avenue to the south, and West 29th Street to the west. The zoning map amendment would replace existing R5 and R5/C1-2 zoning districts to a variety of R5, R6, R6A, and R7A/C2-4 zoning districts. The rezoning proposal would eliminate the existing C1-2 commercial overlay mapped on Block 7011, Lots 95 (part of), 96, and 97 while retaining the underlying R5 zoning on these parcels. In addition to the zoning map amendment, the Applicant seeks a zoning text amendment (collectively the "Proposed Actions") to Appendix F 'Inclusionary Housing Designated Areas' to establish a Mandatory Inclusionary Housing (MIH) Area mostly coterminous with the Affected Area, excluding Lots 95-97. The Proposed Actions would facilitate a proposal by the Applicant to construct two residential buildings totaling 160,770 gross square feet (gsf) at 2828 West 28th Street (Lot 11, the "Project Site") containing up to 153 affordable dwelling units and up to 68 spaces of at-grade parking.

In addition to the Proposed Actions, the Applicant intends to seek discretionary financing to facilitate the development of affordable housing on the Project Site. This application therefore underwent a coordinated review with the NYC Department of Housing Preservation and Development (HPD) and

the New York City Housing Development Corporation (HDC) acting as involved agencies under CEQR.

The Affected Area currently contains a variety of land uses, with a total of 132,358 gsf of residential uses (116 affordable units and 35 market rate units), 17,796 gsf of commercial uses, and 12,587 gsf of community facility uses. Lot 11, the Applicant-owned Project Site, is a 89,357 sf corner lot and through lot currently improved with a 15-story, 102,000 gsf residential building, containing 116 low-income (created through the Mitchell-Lama program) and 6 market rate units, and it is expected to remain in the future with the Proposed Actions.

The non-Applicant owned sites are developed as follows: a one-story, 8,712 gsf church with 35 accessory parking spaces (Lot 1); a four-story, 6,200 gsf mixed-use building containing six dwelling units and ground floor retail (Lot 43); a 6,800 gsf four-story mixed-use building containing seven dwelling units and ground floor retail (Lot 44); a four-story vacant building (Lot 45); a three-story, 3,541 gsf mixed-use building with two dwelling units and ground floor retail (Lot 46); a two-story, 7,751 gsf mixed-use building with ground floor retail store and a community center on the second floor (Lot 47); a one-story 3,146 gsf commercial building with ground floor retail (Lot 49); three 3-story, 3,541 gsf mixed-use buildings, each with two dwelling units and ground floor retail (Lots 51-53); a three-story, 3,836 sf mixed-use building with two dwelling units and ground floor retail (Lot 54); a two-story, 1,344 gsf single-family residence (p/o Lot 95); a two-story, 1,344 gsf single-family residence (Lot 96); and an existing two-story, 1,344 gsf single-family residence (Lot 97).

The Project Site is located within a R5 zoning district with a C1-2 commercial overlay mapped at a 150-foot-depth along the Neptune Avenue and Mermaid Avenue frontages. R5 districts allow for a maximum FAR of 1.25 for residential uses (Use Groups 1 and 2) and 2.0 for community facility uses (Use Groups 3 and 4). The C1-2 commercial overlay allows for a maximum FAR of 1.0 for commercial uses (Use Groups 5 and 6) and primarily serves local retail needs. In connection with the proposal, the applicant seeks to subdivide Lot 11 into two zoning lots (11A to the south and 11B to the north). The Applicant proposes rezoning the Project Site to R6 (Lot 11A) and R6A (Lot 11B) medium-density districts that allow residential (Use Groups 1 and 2) and community facility uses (Use Groups 3 and 4) with a maximum residential FAR of 2.42 for R6 districts and 3.0 for R6A districts. Under MIH, R6A districts are allowed a maximum residential FAR of 3.6. Maximum building height in R6 districts is governed by the sky exposure plane, while maximum base height before setback in R6A districts is 60 feet with a maximum building height of 70 feet. Parking is required for 50 percent of market rate units and 25 percent of affordable units in both R6 and R6A districts.

The remainder of the Affected Area (with the exception of Lots 95-97 and the Project Site) would be zoned R7A/C2-4. The maximum base height in a R7A district is 75 feet and the maximum building height is 90 feet or 95 feet with a qualifying ground floor (at least 13 feet in height). A maximum residential FAR of 4.0 is permitted, while under MIH, a maximum residential FAR of 4.6 is permitted. Parking is required for 50 percent of market-rate dwelling units and 15 percent of

affordable units in the R7A district. The proposed C2-4 commercial overlay is typically mapped to serve local retail needs (Use Groups 5-9) and permits a maximum FAR of 2.0, requiring 1 parking space per 1,000 square feet of floor area. Parking may be waived if the total number of spaces required for all uses is below 40.

The Applicant proposes mapping MIH Options 1 and 2. Option 1 requires that at least 25% of future residential floor area be set aside for families with incomes averaging 60% Area Median Income (AMI) (including 10% of residential units intended for families with incomes averaging 40% AMI). Option 2 requires that 30% of residential floor area be set aside for families with incomes averaging 80% AMI. For analysis purposes, pursuant to HPD's Extremely Low and Low-Income Affordability (ELLA) Program, a minimum of 70% of the units on the Applicant-owned site are assumed to be affordable at 80% of Area Median Income (AMI) or below, while the remaining 30% of the units are assumed to be affordable at up to 100% of AMI. On the remaining non-Applicant owned sites, 20% of the units are assumed to be affordable at 80% of AMI and below.

The Proposed Actions would facilitate a proposal by the Applicant to construct two entirely residential buildings totaling 160,770 gsf that would provide 153 units of affordable housing and up to 68 spaces of at-grade parking. However, for the purposes of providing a conservative analysis, the Environmental Assessment Statement (EAS) analyzes 192 affordable dwelling units (135 units affordable at 80% AMI and below) on Lot 11 (Projected Development Site 1). Lot 11 would be subdivided into Lot 11A (to the south) and Lot 11B (to the north). Lot 11A would contain the existing 15-story building on the site, while a northern recreational area would be removed and a western recreational area would be reconfigured and decreased in size in order to accommodate a new parking lot as well as the subdivision of the land needed to accommodate the Applicant's Proposed Project. Lot 11B would be developed with two new buildings, a primarily eight-story residential building (Building 1) and an eight and seven-story residential building (Building 2). An on-grade outdoor recreational area accessible to the building's tenants would be provided to the rear of the 8-story portion of Building 2. A similar private outdoor space would also be provided at the northern end of the site adjacent to the 7-story portion of Building 2.

In addition to the Applicant-owned Projected Development Site 1, five other sites within the Affected Area are projected to be developed in the future with the proposed actions. Lot 1 (Projected Development Site 2) would be developed with a 75,750 gsf mixed-use building containing 58,090 gsf of residential floor area (69 dwelling units, 14 affordable), 7,680 gsf of ground floor commercial space, and 38 cellar level parking spaces. Lots 45 and 46 (Projected Development Site 3) would be merged resulting in the development of a 18,248 gsf mixed-use building, containing 14,281 gsf of residential dwelling units (17 dwelling units, 3 affordable), and 3,967 gsf of commercial space. Lot 47 (Projected Development Site 4) would be developed with a 18,622 gsf mixed-use building with 10,329 gsf of residential floor area (10 units, 2 affordable), 3,876 gsf of ground floor commercial space and 3,875 gsf of community facility space. Lot 49 (Projected Development Site 5) would be developed with a 14,905 gsf building, containing 11,325 gsf of residential floor area (14 dwelling units, 3 affordable), and 3,146 gsf of ground floor commercial space. Lots 51-54 (Projected

Development Site 6) would retain existing uses, with a vertical expansion on Lots 52 and 53, resulting in a total of 24,992 gsf of residential floor area, 26 dwelling units, 4 of which would be affordable, and 4,819 gsf of commercial space.

The combined development of existing and projected development of all six sites in the future with the proposed actions would generate 383,184 gsf of residential uses (452 dwelling units, of which 334 would be affordable and 118 would be market rate), 23,488 gsf of commercial uses, 12,587 gsf of community facility uses, and 151 parking spaces.

Within the Affected Area, several lots are not slated for development. Lots 95, 96, and 97 are currently located within a 150-foot deep C1-2 commercial overlay but would not be located within the proposed 100-foot deep C2-4 commercial overlay. The existing C1-2 commercial overlay is proposed to be removed while the underlying R5 residential zoning would be retained, and the existing buildings on those sites are currently near the maximum allowable bulk for R5 districts. Additionally, lots 43 and 44 each contain at least six residential units and as such are assumed to be rent-regulated and excluded from the soft site analysis.

Absent the proposed actions, it is assumed that the six Projected Development sites would remain in their existing condition with 114,001 gsf of residential uses, 13,021 gsf of commercial uses, 12,587 gsf of community facility uses, and 78 parking spaces. No new as-of-right development is expected to occur on these sites as the sites are generally built close to or in excess of the permitted commercial and residential FAR under the existing zoning.

The difference between the future with the proposed actions and the future absent the proposed actions would yield an increment of 320 dwelling units, 10,467 gsf of commercial uses, and 73 accessory parking spaces.

The analysis year for the proposed actions is 2020.

To avoid the potential for significant adverse impacts related to air quality, noise and hazardous materials, an (E) designation (E-447) has been incorporated into the Proposed Actions, as described below.

The (E) designation requirements related to air quality would apply to the following sites:

Projected Development Sites:
Block 7011, Lot 11 (Projected Development Site 1)
Block 7011, Lot 1 (Projected Development Site 2)
Block 7011, Lots 45 and 46 (Projected Development Site 3)
Block 7011, Lot 47 (Projected Development Site 4)
Block 7011, Lot 49 (Projected Development Site 5)
Block 7011, Lots 51, 52, 53, and 54 (Projected Development Site 6)

The (E) designation text related to air quality is as follows:

Projected Development Sites:
Block 7011, Lot 11A (Projected Development Site 1, Building A)
Any new commercial or residential development on the above-referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 91 feet above grade, and at 389 feet from Mermaid Avenue to avoid any potential significant adverse air quality impacts.

Block 7011, Lot 11B (Projected Development Site 1, Building B)
Any new commercial or residential development on the above-referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 91 feet above grade, and at most 240 feet from Neptune Avenue to avoid any potential significant adverse air quality impacts.

Block 7011, Lot 1 (Projected Development Site 2)
Any new commercial or residential development on the above-referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 101 feet above grade.

Block 7011, Lots 45 and 46 (Projected Development Site 3)
Any new commercial or residential development on Block 7011, Lot 46 must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 81 feet above grade, and at most 71 feet from West 28th Street to avoid any potential significant adverse air quality impacts.

Block 7011, Lot 47 (Projected Development Site 4)
Any new commercial or residential development on the above-referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 81 feet above grade, and at most 71 feet from West 28th Street to avoid any potential significant adverse air quality impacts.

Block 7011, Lot 49 (Projected Development Site 5)
Any new commercial or residential development on the above-referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning

(HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 81 feet above grade, and at most 109 feet from West 29th Street to avoid any potential significant adverse air quality impacts.

Block 7011, Lots 51, 52, 53, and 54 (Projected Development Site 6)
Any new commercial or residential development on the above-referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 101 feet above grade.

The (E) designation requirements related to noise would apply to the following development site:

Projected Development Site:
Block 7011, Lot 11 (Projected Development Site 1)
Block 7011, Lot 1 (Projected Development Site 2)

The (E) designation text related to noise is as follows:

Projected Development Sites:
Block 7011, Lot 11 (Projected Development Site 1)
To ensure an acceptable interior noise environment, future Residential/Commercial/Community Facility uses must provide a closed-window condition with a minimum of 28 dBA window/wall attenuation on the northern façade facing and within 100 feet from Neptune Avenue to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, air conditioning.

Block 7011, Lot 1 (Projected Development Site 2)
To ensure an acceptable interior noise environment, future Residential/Commercial/Community Facility uses must provide a closed-window condition with a minimum of 28 dBA window/wall attenuation on the northern façade facing and within 100 feet from Neptune Avenue to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, air conditioning.

The (E) designation requirements related to hazardous materials would apply to the following development sites:

Projected Development Sites:
Block 7011, Lot 11 (Projected Development Site 1)
Block 7011, Lot 1 (Projected Development Site 2)
Block 7011, Lots 45 and 46 (Projected Development Site 3)
Block 7011, Lot 47 (Projected Development Site 4)
Block 7011, Lot 49 (Projected Development Site 5)
Block 7011, Lots 51, 52, 53, and 54 (Projected Development Site 6)

The (E) designation text related to hazardous materials is as follows:

Task 1
The applicant submits to OER, for review and approval, a Phase 1 of the site along with a soil and groundwater testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented.

If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2
A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from the test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

An OER-approved construction-related health and safety plan would be implemented during evacuation and construction and activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or

groundwater. This plan would be submitted to OER for review and approval prior to implementation.
All demolition or rehabilitation would be conducted in accordance with applicable requirements for disturbance, handling and disposal of suspect lead-paint and asbestos-containing materials. For all projected and potential development sites where no E-designation is recommended, in addition to the requirements for lead-based paint and asbestos, requirements (including those of NYSDEC) should petroleum tanks and/or spills be identified and for off-site disposal of soil/fill would need to be followed.

Statement of No Significant Effect:

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the Environmental Assessment Statement, dated September 1, 2017, prepared in connection with the ULURP Application (Nos. 170240ZMK, 170241ZRK). The City Planning Commission has determined that the Proposed Action will have no significant effect on the quality of the environment.

Supporting Statement:

The above determination is based on an environmental assessment which finds that:

1. The (E) designations for air quality, noise, and hazardous materials would ensure that the proposed actions would not result in significant adverse impacts.

2. No other significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

This Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

Should you have any questions pertaining to this Negative Declaration, you may contact Samuel Nourieli at (212) 720-3425.

Olga Abinader, Deputy Director
Environmental Assessment & Review Division
Department of City Planning

Date: September 1, 2017

Marisa Lago, Chair
City Planning Commission

Date: September 5, 2017