

**Brooklyn Borough
President
Recommendation**



CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.

2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #: 090307 MMK - 090308 ZMK

Eldert Lane Residential Development

In the matter of applications submitted by 151-45 Sixth Road Whitestone Partners, LLC, Eldert Lane Development Ltd., and the New York City Department of Parks and Recreation pursuant to a) Sections 197-c and 199 of the New York City Charter for an amendment to the City Map involving the establishment and realignment of Eldert Lane between Conduit Blvd. and Sutter Ave.; the elimination of a portion of Robert Venable Park; the extinguishment of a permanent access easement; the adjustment of grades necessitated thereby, and any acquisition or disposition of real property related thereto all within an area generally bounded by Belmont Avenue, Conduit Boulevard, Forbell Street, Sutter Avenue and Sheridan Avenue; and, b) Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map changing from an R5 District to an R6A District property bounded by Belmont Avenue, South Conduit Avenue, Eldert Lane, Sutter Avenue and Sheridan Avenue.

COMMUNITY DISTRICT NO. 5

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

Recommendation report attached

BOROUGH PRESIDENT

August 3, 2009

DATE

**RECOMMENDATION FOR THE PROPOSED
AMENDMENT OF THE
ZONING AND CITY MAP FOR
RESIDENTIAL DEVELOPMENT
090307 MMK – 090308 ZMK**

PUBLIC HEARING

The borough president held a public hearing on July 14, 2009. The representatives for the applicant for the rezoning spoke in favor and one speaker spoke in opposition.

Subsequent to the public hearing, the borough president received written testimony against the proposed development, including submissions from the Cityline Coalition and the Concerned Neighbors Association, and met with neighbors in opposition.

Opponents to the proposal raised many issues with the borough president in regards to this proposal. Concern was expressed about the proposed height and density, given the context of single- and two-family housing predominantly in the area. At six stories, it is believed that this project will infringe upon nearby residents' quality of life as well as property values.

Although not a legal truck route, Eldert Lane south of Sutter Avenue is already impacted by illegal truck traffic. It is believed that opening Eldert Lane to Sutter Avenue will result in eastbound trucks now turning onto Eldert Lane off Conduit Boulevard. There is also concern over the loss of accessory parking for 1451 Sutter Avenue if construction takes place on the unimproved section of Eldert Lane. It was also perceived that having an underground parking facility would be a haven for crime.

One resident opposed to the project informed the borough president of the developer's prior work on the site. As a result of this work, their property has endured five years of ongoing erosion, causing adverse impacts on 1447 Sutter Avenue, including swamp-like conditions in the yard and clogging of its drainage system causing damage to the home.

Other concerns included: whether the Lot 48 section of Robert Venable Park would remain a community eyesore since it is isolated from the main section of the park; the loss of promised parkland; the influx of school age children from the proposed development burdening the already overcrowded schools; and, the lack of notification provided by Community Board 5 of its June 24 public hearing.

CONSIDERATION

Support for Rezoning

It is the borough president's policy to support land use changes that provide enhanced economic development opportunities and increase the supply of housing for Brooklyn residents, especially when such projects result in affordable housing. Throughout the borough, there is a great demand for affordable housing. The borough president is concerned that too many of the borough's residents leave because they can no longer afford to live in Brooklyn. In addition, because of circumstances where affordable housing has been at risk, such as was nearly the case in Starrett City until residents learned that their units would remain protected, the borough president advocates for permanently-affordable units to remain as a resource for future generations.

The borough president supports developments that seek to increase the supply of housing for Brooklyn residents, especially when such projects result in affordable housing that remains affordable for multiple generations.

As a result, it is the borough president's policy to support new residential developments subject to ULURP providing at least 20 percent of its units as affordable, with maximum opportunities for area residents to reside in such units. It is his policy to seek that these units remain affordable forever.

The proposed development would provide 100 percent affordability to families for a reported term of not less than 60 years, with two tiers of affordability being up to 50 percent (approximately \$37,000 for a family of four) and 60 percent (approximately \$44,000 for a family of four) of the federally defined area median income. This project is consistent with other developments that have received funding from the borough president's Brooklyn Housing Development Fund.

The borough president is aware that in order to make the economics work for a successful project, the need for it to be of sufficient size is important. However, the community has expressed some legitimate concerns, therefore a balance is needed to adhere to these concerns while striving to reach the goals to make the affordable housing in this project feasible.

The borough president supports the affordable housing aspect of the land use actions before him. However, he has concerns that should be addressed, including: density and building height in proximity to Sutter Avenue; the future build-out of Eldert Lane; impacts to 1447 and 1451 Sutter Avenue; the out-parcel of Robert Venable park; and school capacity.

Appropriate Density and Height Proximate to Sutter Avenue

The nearest residential towers within that complex is more than 500 feet from the site, fronting Lincoln Avenue. There are few structures that exceed three-stories as the area is predominately zoned R4 and R5. However, the site's proximity to the Grant Avenue subway station for the A and C lines, and the fact that part of the site fronts the very wide South Conduit Boulevard, does warrant support for the density. Conversely, for the portion of the site in proximity to Sutter Avenue, the borough president believes for its last 80 feet, the building should be reduced to four stories, decreasing the density to 120 units.

By reducing the height the developer would still be expected to accommodate more than 120 units.

Condition of Eldert Lane

Eldert Lane was partially improved from South Conduit Boulevard to within 100 feet of Sutter Avenue when the motel was constructed along the eastside of Eldert Lane. The improvement consisted of the easterly sidewalk, a catch basin near South Conduit Avenue and pavement for more than half the width of the right-of-way that was mapped to a width of 80 feet during the 1960s. The majority (ten feet in width) of the sidewalk remains the property of the motel as the city did not acquire the right-of-way that was established since the time of the map widening. The west side of the right of way is secured by a fence that also secures the development site, of which 10 feet in width is now part of the right-of-way of record. Several electrical poles suspending wires to Sutter Avenue line that side of the street. The southern 100 feet to Sutter Avenue is characterized by a substantial ditch that is framed by a retaining wall at the end of the

street improvement made for the hotel, sloping up eight feet to Sutter Avenue. Based on an easement arrangement with the City, the resident of 1451 Sutter Avenue travels into the ditch to gain access to the parking area behind that home.

By approving the proposed map, the city would no longer cloud the ownership of the motel property. However, it is unclear whether the City would seek the sidewalk to be extended or the curb to be shifted to conform to the dimension of 11 feet inside the right-of-way, as indicated in the street mapping application documents. The borough president does not anticipate that the applicant would be required to realign the easterly curb as part of the construction of the proposed building. Furthermore, he does not foresee the city making such an improvement, thus the built condition would more likely resemble a street 70 feet in width for the length of the applicant's intended development. If the city were to properly construct the street to Sutter Avenue, then the easterly curb and sidewalk would drastically shift 100 feet north of Sutter Avenue or the existing sidewalk, curb and catch basin would have to be reconstructed at considerable cost.

The borough president suggests that it may make more sense to leave the easterly right-of-way where it is, retain the existing sidewalk, curb and catch basin – and should the ditch section be built – extend the sidewalk so that it aligns with the Eldert Lane sidewalk south of Sutter Avenue. If the proposed right-of-way would remain at 60 feet, the borough president recognizes the opportunity to sell this section of demapped street width (ten feet wide) to the adjoining applicant's property. Based on this strategy, it could increase the number of housing units. The borough president believes that the City and the developer should consider amending the map in this manner.

In order to improve Eldert Lane between South Conduit Boulevard and Sutter Avenue for through traffic, the existing vehicular access for 1451 Sutter Avenue would not be feasible. As noted above, the home's parking area is accessed through the ditch that now exists in the Eldert Lane right-of-way because the grade of the right-of-way extends into the rear yard of 1451 Sutter Avenue. With potential for this section of the street to be constructed in the future, the built grade would be four to eight feet higher than the rear yard of 1451 Sutter Avenue. In order to maintain access a curb cut, with a combination of retaining walls and ramp down to the parking area, would be required. The owner of 1451 Sutter Avenue deserves assurances that these accommodations would be made without the owner incurring any expense and that interim parking arrangements are made during the period of construction. The grade difference between the proposed street grade and the lower elevation of the private property should be appropriately re-graded at the city's expense, in consultation with the homeowner, in a manner that continues vehicular access enjoyed today.

Inadvertent Truck Route

Despite Eldert Lane not being a designated truck route, trucks and buses have been reported to be turning off of South Conduit Boulevard to Sutter Avenue and then turning again to head south along Eldert Lane (a wide street) to reach Linden Boulevard in route to area bus depots and industrial distribution and production facilities. Area residents fear that opening Eldert Lane as a through street between South Conduit Boulevard and Sutter Avenue would only further entice the driver's to veer off South Conduit Boulevard at Eldert Lane. Should this section of Eldert Lane ever be constructed as a through street, appropriate signage and speed deterrents need to be placed to prevent the street from becoming an unofficial truck route.

Being a Good Neighbor

Apparently due to the raising of the grade of the property controlled by the rezoning application by fill material, the owners of 1447 Sutter Avenue have had to endure the ill-effects of stormwater runoff and the resulting soil erosion behind their home. Photographs were presented to the borough president that depicted swamp-like conditions of the yard, with clogged drains, cellar damage and back-up bathroom fixtures. Construction of the new building is expected to permanently resolve these concerns. Though in the interim, the applicant should consult with an engineer and then take immediate steps to put an end to the erosion of soil and the run off of surface water that has been adversely impacting its neighbors.

The application drawings do not depict a building elevation for the Sutter Avenue side of the development. The residents of 1447 and 1451 Sutter Avenue are concerned that the future residents of the proposed apartment building would have direct views into their yards and home, thereby compromising privacy. In order to minimize those concerns, the Sutter Avenue side of the building should not be constructed with any windows.

Because the existing rear yard grade of 1447 and 1451 Sutter Avenue are approximately eight feet below street grade, the proposed building's cellar wall, primarily housing the parking garage, would be exposed for the full length of these properties. The exterior finish treatment of the concrete cellar wall will have a substantial bearing on what is seen from the rear of these homes. At the expense of the developer, the exposed portion of the cellar should have a finished quality developed in consultation with the property owners of 1447 and 1451 Sutter Avenue.

Robert Venable Park

The vast majority of Robert Venable Park is undergoing a wonderful renovation that will turn the park into a gem for the Cityline community. Though, there is a 4,000 sf section of the park that fronts Sutter Avenue adjacent to 1447 Sutter Avenue that is disconnected from the main section. According to the Department of Parks and Recreation (DPR) the lot is for maintenance operations. When visited by the borough president's office on July 29, 2009, staff noticed a vacant lot with several feet of weed strewn overgrowth, enclosed by a generic chain-link fence. The grade also sloped down to the lower-lying rear yard of 1447 Sutter Avenue, though it was not clear whether the park contributed to the storm water runoff and soil erosion that adversely impacted the private home. In order for all of Robert Venable Park to be an asset to the community, the developer in consultation with DPR should achieve implementation of the following improvements to the lot 48 portion: aesthetically fence the perimeter; reconstruct the sidewalk; and, adequately grade the land to prevent erosion and runoff from adversely impacting 1447 Sutter Avenue.

School Capacity

According to the project's environmental assessment statement, the development would result in 48 additional students attending city elementary schools. The primary school that serves this location is PS 159, which is currently at 95 percent capacity based on solutions that include a schoolyard-placed mini-school and an adjacent annex. The project would bring the school to 100 percent capacity. This is not an ideal situation given that grades typically have varying number of students and that mini-schools tend to have a limited useful life-span. The borough president notes that a nearby elementary school, PS 214, has a similar utilization, being even more reliant on temporary mini-schools.

Between these sites is the Grant Avenue Field municipal parking lot, paved partially over a two-track subway tunnel. Given the scarcity of city-owned land, this parking field might

present an opportunity to address capacity constraints of PS 159 and PS 214 by incorporating an early childhood center to include pre-k and kindergarten students. The Board of Education should explore the feasibility building such a facility while preserving the municipal parking lot.

RECOMMENDATION

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve the requested actions on the condition that the side of the proposed building facing Sutter Avenue be set back above the 4th floor an additional 80 feet from the side lot line.

Be it further resolved that:

For Eldert Lane:

1. Consideration should be given by the City and the developer of modifying the proposed street mapping action by retaining the existing easterly right-of-way of Eldert Lane as adopted in 1966 and shifting the proposed westerly right-of way 10 feet to the east.
2. Should it be deemed necessary to improve the 100 feet length of Eldert Lane adjacent to 1451 Sutter Avenue, the following be adequately addressed:
 - a. that the grade difference between the proposed street grade and the lower elevation of the private property be appropriately re-graded at the city's expense, in consultation with the homeowner, in a manner the continues vehicular access enjoyed today; and,
 - b. that appropriate signage and speed deterrents be placed to prevent the street from becoming an unofficial truck route

Applicant Actions

1. The applicant for the rezoning take immediate steps to put an end to the erosion of soil and the run off of surface water that has been adversely impacting its neighbors, especially on 1447 Sutter Avenue.
2. No exterior window openings be incorporated into the Sutter Avenue side of the building and that the exposed portion of the cellar have a finished quality developed in consultation with the property owners of 1447 and 1451 Sutter Avenue.

Robert Venable Park

The applicant, in consultation with the Department of Parks and Recreation, implement the following improvements to the lot 48 portion of Robert Venable Park:

- a. aesthetically fence the perimeter
- b. reconstruct the sidewalk
- c. adequately grade the land to prevent erosion and runoff from adversely impacting 1447 Sutter Avenue

School Capacity

In order to address the capacity constraints of PS 159 and other nearby schools such as PS 214, the Board of Education should explore the feasibility of incorporating an early

childhood center to include pre-k and kindergarten students as part of the Grant Avenue Field municipal parking lot.