



## **CITY PLANNING COMMISSION**

September 23, 2009/Calendar No. 3

C 090308 ZMK

IN THE MATTER OF an application submitted by Eldert Lane Residential Development, Ltd. and the Department of Parks and Recreation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 18a changing from an R5 District to an R6A District property bounded Belmont Avenue, South Conduit Avenue, Eldert Lane, Sutter Avenue, and Sheridan Avenue, Community District 5, Borough of Brooklyn, as shown on a diagram (for illustrative purposes only) dated June 15, 2009.

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The application for an amendment of the Zoning Map was filed by Eldert Lane Residential Development, Ltd., and the Department of Parks and Recreation on February 2, 2009, for a rezoning from an R5 District to an R6A district to facilitate the development of a six-story 130-unit residential building located along Eldert Lane, South Conduit Avenue and Belmont Avenue in the East New York Section of Brooklyn Community District 5.

### **RELATED ACTION**

In addition to the special permit which is the subject of this report (C 090308 ZMK), implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

**C 090307 MMK**      Change to the City Map for the establishment and realignment of Eldert Lane between South Conduit Avenue and Sutter Avenue, elimination of parts of Robert Venable Park, the extinguishment of a permanent access easement, and the adjustment of grades.

### **BACKGROUND**

The applicants are seeking approval to rezone two city blocks from R5 to R6A, and change the City Map to facilitate the development of a 130-unit housing project, located in East New York, Brooklyn Community District 5.

#### ***Site and Area Description***

The rezoning area is located in the eastern part of the East New York Section of Brooklyn

Community District 5 and is bounded by Sutter Avenue to the south, Eldert Lane to the east, South Conduit and Belmont Avenues to the north and Sheridan Avenue to the west. Along the western boundary of the rezoning area is Robert Venable Park, which is not subject to the proposed rezoning and which is currently being improved by the Department of Parks and Recreation. The remainder of the rezoning area is developed with two one-family homes in the southeastern corner of the rezoning area on Sutter Avenue and the private applicant's property which is vacant.

The private applicant's property (the development site) is located on the eastern side of the rezoning area and consists of 16 vacant lots (Block 4257, lots 1, 6, 21-26, 28, 30-35 and 45) and is currently zoned R5. On July 21, 1999, the City Planning Commission approved an application (C 930237 MMK) by the Department of Parks and Recreation (DPR) to amend the City Map. The map change involved, among other actions, the elimination, discontinuance and closing of Grant Avenue between Belmont Avenue and Sutter Avenue, the elimination, discontinuance and closing of a portion of Eldert Lane between South Conduit Avenue and Sutter Avenue, the establishment of Robert Venable Park and the delineation of easements. The application entailed the mapping of the private applicant's property as parkland with the intent of the City to acquire the property in order to add it to Robert Venable Park. Subsequently, however, DPR's plans changed and the applicant's parcel was not acquired. Since DPR never took possession of the applicant's property and the use of the applicant's property for park purposes was never established, the property remained zoned R5 and New York State Park Alienation legislation is not required to eliminate the parkland.

To the south of the development site in an R6 district are the Linden Plaza apartments, a 1,527-unit affordable housing complex, which encompasses five seventeen- and eighteen-story towers, six townhouse complexes and four parking facilities on an elevated concrete deck over the MTA-New York City Transit's Pitkin Avenue Subway Yard in an R6 district.

The R4 zoning district located to the east of the site is comprised of primarily low density residential uses including semi-detached 2- and 3-family row houses, attached 2- and 3-family

homes and single family dwellings, along with community facility uses, and vacant lots. To the north and west are low-density residential uses mainly consisting of 2- and 3-family detached and semi-detached homes in an R5 district. There is some commercial activity along South Conduit Avenue in C1-2 and C2-2 overlay districts, such as fast food restaurants and a Motel on the corner of Eldert Lane and South Conduit Avenue.

The area is well-served by the A subway train which stops at the Grant Avenue Station one block to the north, the Q7 and Q8 buses along Pitkin Avenue one block to the north and the B14 on Sutter Avenue just south of the site.

### ***Zoning Map Change (C 090308 ZMK)***

The applicants are requesting the rezoning of the subject area from R5 to R6A. R5 allows all housing types at a maximum FAR of 1.25 with a maximum building height of 40 feet. Developments utilizing the infill zoning provisions have a maximum FAR of 1.65 and a height limit of 33 feet. Community facilities have a maximum FAR of 2.0 in R5 districts. The proposed R6A is a contextual district that allows residential and community facility uses at a maximum FAR of 3.0, and a maximum building height of 70 feet.

### ***City Map Amendment (C090307MMK)***

The City Map amendment would entail the de-mapping of the eastern, privately-owned and undeveloped portion of Robert Venable Park (the development site). Also, Eldert Lane would be re-established to its full length between South Conduit Avenue and Sutter Avenue its mapped width widened from 50 to 60 feet. Eldert Lane is currently mapped and built at a width of 50 feet from South Conduit Avenue to a point 100 feet north of Sutter Avenue.

### ***Project Description***

If the applications are approved, the private applicant intends to develop a 60 foot high, six-story, 122,095 square-foot building fronting on Belmont Avenue, South Conduit Avenue and Eldert Lane with 130 studio, 1-, 2- and 3-bedroom rental units intended to be affordable at 60 percent of Area Median Income (AMI). 41 parking spaces provided below grade parking garage,

accessed by a ramp on Sutter Avenue. 20,930 square feet of open space with seating and plantings would be located on the western side of the building facing Robert Venable Park. The proposed building would exceed the maximum building height, floor area and lot coverage allowed under the current R5 zoning.

### **ENVIRONMENTAL REVIEW**

This application (C 090308 ZMK), in conjunction with the related application (C 090307 MMK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 09DCP027K. The lead agency is the City Planning Commission.

After a study of the potential impacts of the proposed actions, a Negative Declaration was issued on June 15, 2009.

### **UNIFORM LAND USE REVIEW**

This application (C 090308 ZMK), in conjunction with related applications (C 090307 MMK), was certified as complete by the Department of City Planning on June 15, 2009, and was duly referred to Community Board 5 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02 (b).

### **Community Board Public Hearing**

Community Board 5 held a public hearing on this application on June 24, 2009, and on that date, by a vote of 20 in favor, 6 in opposition and 0 abstentions, adopted a resolution recommending approval of the application subject to a Community Benefits Agreement.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application on August 3, 2009 subject to the following conditions:

That the side of the proposed building facing Sutter Avenue be set back above the 4<sup>th</sup> floor an additional 80 feet from the side lot line.

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 he continues vehicular access 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 lot 43 portion of Robert Venable Park:

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

School Capacity

In order to address the capacity constraints of P.S. 159 and other nearby schools such as P.S. 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.

**City Planning Commission Public Hearing**

On August 5, 2008 (Calendar No. 2), the City Planning Commission scheduled August 19, 2008,

for a public hearing on this application (C 090308 ZMK). The hearing was duly held on August 19, 2009 (Calendar No. 39), in conjunction with the public hearing on the related application (C 090307 MMK). There were four speakers in favor none in opposition. The speakers in favor of the project included the developer, a representative of the developer, a project architect and a representative of the Department of Parks and Recreation.

The developer's land use consultant gave a general overview of the project and highlighted that the developer intends to provide affordable housing for New Yorkers. Referring to the erosion issue discussed in the Borough President's recommendation, he stated that the developer would build a retaining wall and manage all potential storm water runoff.

The project architect highlighted the green features of the building, including insulation and a light colored roof.

The representative for the Department of Parks and Recreation stated that the parcel retained as park adjacent to the property at 1447 Sutter Avenue would be used for storage and that the Department was studying means to protect the adjacent property from erosion and to provide attractive fencing.

The developer also appeared in favor.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the applications for the zoning map amendment (C 090308 ZMK) and the related amendment to the City Map (C 090307 MMK) are appropriate.

The proposed R6A district would establish mandatory quality housing regulations and be adjacent to an existing R6 district with a complex of 18-story apartment buildings on top of a 30-foot high deck to the south. It would allow a building height of up to 70 feet, which would not be

inconsistent with the surrounding building heights.

The Commission notes that the parkland to be eliminated has never been acquired by the City and has impeded the development of a privately-owned, vacant and underutilized site. In addition, the realignment and reestablishment of Eldert Lane between South Conduit Avenue and Sutter Avenue would reestablish the original street grid and improve circulation in the area. Both the Zoning Map and City Map actions would facilitate the development of 130 units of housing intended to be affordable in a neighborhood in sore need of affordable housing opportunities.

Regarding the recommendation of the Borough President to lower the height of the building, the Commission notes that this recommendation is out of scope.

Moving the right of way of Eldert Lane 10 feet east of the line proposed by the applicant, as recommended by the Borough President, would be out of scope and would result in an irregular street pattern that would map Eldert Lane on partially privately-owned property and property currently used as outdoor recreation space by a City-owned homeless shelter located on 338 Forbell Street.

Regarding the Borough President's recommendation that adverse impacts on neighboring properties be minimized, the Commission is pleased that both the Department of Parks and Recreation and the developer have stated at the Commission's public hearing that they would coordinate with the adjacent private property owners to minimize the impact of erosion on their properties, and that they would help to protect the privacy of their neighbors and aesthetically improve the property lines facing the adjacent properties.

With regard to the school capacity issue raised by the Borough President, the Commission notes that the Environmental Review for the proposed actions did not find a significant impact of this project on schools and daycare facilities.

**RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 18a, changing from an R5 District to an R6A District property bounded Belmont Avenue, South Conduit Avenue, Eldert Lane, Sutter Avenue, and Sheridan Avenue, Community District 5, Borough of Brooklyn, as shown on a diagram (for illustrative purposes only) dated June 15, 2009.

The above resolution (C 090308ZMK), duly adopted by the City Planning Commission on September 23, 2009 (Calendar No. 3), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN**, *FAICP, Chair*  
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**BETTY Y. CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, NATHAN LEVENTHAL,**  
**SHIRLEY A. MCRAE, KAREN A. PHILLIPS**, *Commissioners*

**ANNA HAYES LEVIN**, *Commissioner*, **ABSTAINING**