

MEMORANDUM

TO: Mayor Randy Casale and Beacon City Council Members

FROM: Keane & Beane, P.C.

RE: The View – Passive Use Easement and Pedestrian Access Easement

DATE: May 4, 2017

The approved Site Plan for “The View” at 26 Beekman Street includes easements to be conveyed to the City for public use of a walkway extending from Beekman Street toward Wolcott Avenue (Route 9D) and a 690 s.f. pocket park along Beekman Street near the entrance to the proposed apartment building. The area of the proposed walkway currently ends at the property on which the West End Lofts project is proposed. It is proposed that the West End Lofts project plans will continue the walkway to connect to Wolcott Avenue thereby creating a continuous walkway linking Beekman Street to Wolcott Avenue.

Attached are two proposed easements which have been signed by the owner: (1) Passive Use Easement for the public access to the pocket park, and (2) Pedestrian Walkway Easement for the public access to the pathway. The location of the easement areas are depicted on the attached plan entitled “Additional Easements to be Granted by DMS Consolidators Ltd to the City of Beacon,” prepared by Gary R. LaTour, L.S., dated August 12, 2016 revised October 7, 2016.

The two easement agreements contain the same or similar provisions, including but not limited to the following:

1. Public use is limited to dawn to dusk.
2. The property owner is responsible for repair and maintenance of the easement area.
3. The City cannot use or allow the public to use the easement area for any purpose other than the “Permitted Use” which is for passive repose (pocket park) and pedestrian ingress and egress (walkway).
4. The City will indemnify and hold harmless the property owner from claims for personal injury and/or property damage arising out of the public’s use of the easement area.

5. The City and the property owner will provide each other with certificates of insurance.
6. The agreements will be recorded in the Dutchess County Clerk's Office and will be binding on future owners.

With respect to the Pedestrian Walkway Easement, the property owner has the right to widen or otherwise modify the walkway without the City's consent, subject to the issuance of all applicable permits from the City. The modification of the walkway cannot reduce its width and cannot adversely affect the use of the easement area as a public pedestrian walkway.

Until a connecting walkway is constructed on adjacent property where the West End Lofts project is proposed, the property owner may construct and maintain fencing at the northern and southern boundary of the easement area, subject to approval by the City Building Inspector.

The two resolutions before the City Council authorize the Mayor or City Administrator to sign the Easement Agreements and any other document necessary to effectuate their purpose.