

MEMORANDUM

TO: Mayor Randy Casale and Beacon City Council Members

FROM: Keane & Beane, P.C.

RE: River Ridge – Parcel L

DATE: July 26, 2018

On March 13, 2018, the Planning Board adopted a Resolution granting Subdivision and Site Plan Approvals for the construction of eighteen (18) attached townhouses for property located at 12 Ferry Street a.k.a. Parcel L (the “Resolution”). As part of the application, the Applicant proposed to improve the existing, informal pedestrian connection between Wolcott Avenue and Ferry Street by means of a sidewalk and concrete stairs with bollard-style lighting (the “Ferry Street Walkway”). Since the improvement is within the City right-of-way it is subject to review and approval by the City Council.

The Resolution provides that the Ferry Street Walkway is to be constructed at the Applicant’s sole cost, subject to approval by the City Council. In the event the City Council does not approve the construction of the Ferry Street Walkway, the Applicant is required to fund an escrow account for the City’s use in making its own improvements to the Ferry Street walkway. The amount deposited by the Applicant into the escrow account would be the estimated costs of constructing the Ferry Street Walkway as shown on the Site Plan. In the event the City does not use the funds for improvements to the Ferry Street Walkway within five (5) years of the date of the Resolution (i.e. by March 13, 2023), the funds must be returned to the Applicant. The Resolution requires the escrow account to be funded prior to the issuance of a Building Permit. Therefore, the Applicant is seeking a determination from the City Council regarding the Ferry Street Walkway.

The City Council should review the Applicant’s proposed plans for the Ferry Street Walkway and determine whether it would like the Applicant to construct it, or post funds into an escrow account for the City’s use in making improvements to the Ferry Street Walkway.

Once constructed by the Applicant, the improvements would be offered for dedication to the City and the City Council would be asked to formally accept the dedication of the new improvements. The improvements include the concrete walkway with stairs and platforms, 42” bollard lighting, and metal pipe tube railings. Electricity would be provided by the City. The stair and lighting design is currently

under review by City staff and the City Engineer. It is recommended that if and when the City accepts the dedication it should require the Applicant to post a maintenance bond to warrant against any construction defects.

The Council should discuss maintenance obligations with the Applicant. For example, who will be responsible for maintenance and snow clearing (1) before dedication of the improvements is accepted by the City, and (2) after the improvements are accepted by the City? The Applicant proposes that after dedication the City will be responsible, except for that portion of the sidewalk that enters private property near Units 1 and 2. This is inconsistent with Beacon City Code §191-12.1 which provides that the adjacent property owner is responsible for maintenance of sidewalks in a public right-of-way. Whether it is ultimately decided that the City will maintain, or that the Applicant (Homeowner's Association) will maintain, it is recommended for purposes of uniformity that the entity's obligations should extend to the entirety of the Ferry Street Walkway, including portions in the right-of-way and on private property.

If the City Council desires to have the Applicant construct the Ferry Street Walkway, the City Council should consider granting the Applicant a **License Agreement** or **Temporary Construction Easement** to perform the work within the City right-of-way. The work may also be subject to administrative permits issued by the Building Department and/or Highway Department. Further, the City should consider accepting a **Sidewalk Easement Agreement** for the small portion of the sidewalk along Wolcott Avenue that is proposed on private property near Units 1 and 2.

Lastly, and unrelated to the Ferry Street Walkway, the City Council should consider accepting and authorizing the Mayor to sign the proposed **Stormwater Control Facility Maintenance Agreement and Easement** which is a routine document required for most development applications. It obligates current and future property owners to maintain the stormwater management facilities located on the property. In the event the owners fail to do so, the City has an easement to enter the property and perform the necessary maintenance then charge the costs to the owners. In this regard, the City has a right but not an obligation to perform the maintenance.

Drafts of the **Sidewalk Easement Agreement** and **Stormwater Control Facility Maintenance Agreement and Easement** are enclosed for your review. Both Agreements are currently under review by the City Attorney's office and City Engineer's office. Once received by the Applicant, the proposed **License Agreement** or **Temporary Construction Easement** will be forwarded to the Council for its review.