



# CITY OF CONCORD

## REPORT TO MAYOR AND THE CITY COUNCIL

FROM: Matthew R. Walsh, Deputy City Manager – Development

DATE: September 27, 2023

SUBJECT: Authorization for the City Manager to amend an existing Trail and License Agreement with The Friends of the Concord-Lake Sunapee Rail Trail to build and maintain a multi-use rail trail on City property, and to allow tree cutting and a temporary log yard (if needed).

### **Recommendation:**

Accept this report to authorize the City Manager to (1) amend the 2018 Trail and License Agreement (“License Agreement”) with The Friends of the Concord-Lake Sunapee Rail Trail to build and maintain a multi-use rail trail on two additional City properties in the vicinity of Horse Hill Road and Broad Cove Road; (2) amend the License Agreement to allow tree removal as needed for the trail; and (3) authorize the City Manager to enter into a temporary access agreement which will allow the Friends to use City property as access to the trail and as a log yard for processing/chipping of trees removed on a city-owned parcel, if such location is needed.

### **Background:**

The Friends of the Concord-Lake Sunapee Rail Trail (“The Friends”), a 501(c)(3) non-profit organization is securing rights to use the former Concord-Claremont rail line as a multi-use trail. The group’s ultimate goal is to have a 34-mile trail that would allow users to go from Concord to Lake Sunapee.

In 2018, the City entered into a license agreement allowing the Friends to construct the trail on City land located on the east side of Carter Hill Road, more particularly described as City of Concord Assessing Map 37Z, Lot 26 and Map 37Z, Lot 78<sup>1</sup>. In 2021, the City amended the license agreement to include the property along the former railroad corridor on City of Concord Assessing Map 36Z, Lot 2 (Lehtinen Park) and Map 33, Lot 36 (parcel north of North Yard State Forest), both of which are properties managed by the Concord Conservation Commission.

The License Agreement provides the Friends a thirty (30) foot right of way on the aforementioned City properties for the trail. Per the terms of the license agreement, the trail shall be no more than ten (10) feet in width with an additional two (2) feet of clearing on each side for shoulder space, unless otherwise authorized by the City. The trail’s pavement surface shall

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<sup>1</sup> The license agreement incorrectly referenced the land owned by the City as Map 37Z, Lot 79, which is incorrect because it describes an abutting parcel that is not owned by the City. The amended license agreement will correct the lot reference, as it should be Map 37Z, Lot 78.

consist of 3/8" stone dust. The License Agreement requires the Friends of the Concord Lake Sunapee Rail Trail to secure all local, state, and federal permits and approvals necessary for the trail and related improvements prior to construction.

Additionally, the Friends are allowed to clear brush and other obstructions for purposes of constructing the trail; however, the agreement is currently silent regarding whether trees may be removed.

The Friends have already completed the section of the trail in Concord from Fisherville Road to shortly past the Barn at Bull Meadow building at 63 Bog Road. The Friends recently obtained funding to complete the remaining section of the trail to extend to the easterly side of Carter Hill.

At this time, the Friends are requesting:

1. To amend the License Agreement to include two additional lots on the westerly side of Carter Hill, which are needed to continue the trail connection from Concord to Lake Sunapee;
2. To amend the License Agreement to allow the removal of trees which are currently obstructing the path to construct the full width of the trail along the abandoned railroad; and,
3. To obtain a temporary access agreement (if needed) to obtain access to the railroad corridor and for use as a temporary log yard for processing of trees that are removed.

These requests are more fully described below.<sup>2</sup>

## **Discussion**

### 1. Proposed Additional Lots

The Friends are seeking to amend the license agreement to include two additional lots identified as City of Concord Assessing Map 32Z, Lot 88 (conservation land along Horse Hill Road) and Map 37Z, Lot 22 (the City water pump station lot along Broad Cove Road). The abandoned railroad runs along these lots, and are needed for future construction of the trail. A map showing these lots are attached.

Lot 32Z, 88 is managed by the Concord Conservation Commission, which reviewed the request at their September 13, 2023 meeting, and supports the request. The trail network known as the O'Reilly-Fleetham Trail (Map 3 in the City of Concord Trail Guide) is located on this property, and a portion of the proposed trail will overlap with the existing trail.

Lot 37Z, 22 is owned by the City. A water pump station is located at the property which is used to withdraw water from the Contoocook River to support the City's potable water. The General Services Department has reviewed this request and supports the concept of the trail over the pump station property. General Services shall be consulted on final design plans for trail improvements at this property prior to construction.

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<sup>2</sup> The Friends recently approached the City administration to begin preliminary discussions about the construction of a parking lot near Carter Hill Road. The potential locations for a parking lot and access are under review, and will need future City Council approval once a location is decided.

## 2. Tree Removal

The Friends are also seeking permission to amend the license agreement to allow the removal of trees to accommodate the trail. The license agreement contemplated the removal of brush, vegetation and other obstructions, but did not specifically address tree removal.

In order to accommodate the construction of the remaining trail width (10-foot wide trail with 2-foot shoulders on either side) along the abandoned corridor, the trees that have grown within the railroad corridor and which are obstructing the path for the trail will need to be removed. The amended license agreement would allow the removal of trees on the City parcels included in the license agreement, subject to the review and approval by the City administration. It should be noted that there are certain areas where the trail is close to Bog Road, and the tree removal will be visible from the road. The Friends will install fencing or posts if needed as a physical and/or visual barrier between the trail and the road.

## 3. Temporary Access Road and Lot Yard (If Needed)

There are two locations that are currently being reviewed by the Friends as potential construction staging locations / log yards, and both of these potential sites are adjacent to Bog Road. One of the sites is located on City land, and if that site is chosen, the Friends will need a temporary access agreement. A map showing the two proposed locations is attached.

The Friends intend to use the temporary staging area / log yard to accommodate the processing of the trees that need to be removed for construction of the future trail. These trees will be chipped and then removed from the site. The chosen site will also be used for access by the logging/construction company to access the railroad corridor. It is anticipated that the work will be conducted this fall.

Upon completion of the project, the Friends will ensure that the access road is adequately blocked to prevent vehicular traffic and the area is reseeded as needed. For either location, the Friends will also be required to obtain a temporary driveway permit to use the log yard for ingress and egress to the trail during logging and trail construction.

It should be noted that the Friends shall be required to obtain all required State and local permits, including a Conditional Use Permit to address potential impacts to wetland buffers. The Friends will need to determine whether permitting through the State of New Hampshire Department of Environmental Services is required. The cost of the construction of the trail, including all permitting, shall be at the expense of the Friends.

w/att: Map of the proposed lots to be added and potential sites for log yard.