



AGENDA ITEMS #: #23-07  
COUNCIL MTG OF: January 17, 2023  
FROM: David Caron, Town Administrator  
OFFERED BY: Administration  
PREPARED BY: Administration  
SUBJECT: Harvest Estates

**STAFF REPORT**  
*Public Hearing 2-7-23*

**PURPOSE:** To request that the Town Council accept a deed for a dedicated access under which the Council laid out a Class A Trail located at 29 Village Brook Lane.

**TOWN ADMINISTRATOR COMMENTS:** Please see comments within this staff report.

**BACKGROUND:**

Harvest Estates is a subdivision off Hampstead Road which includes Harvest Drive and Village Brook Lane. During the approval process in 1987 and subsequent discussions on this matter in 2006, the Planning Board concurred not to connect Harvest Drive and Village Brook Lane but instead reserved a 50-foot easement for emergency vehicle access only between the two streets. The area in question is paved, with bollards to prevent its use as a street. Over the years, this area has been used for pedestrian and bicycle travel, predominantly by students traveling to and from East Derry School.

The new owners of 29 Village Brook Lane have objected to the use of this land for pedestrian access, thus necessitating Council action.

**DISCUSSION:**

The Council first discussed this matter with Atty Keith on August 2 and directed that the process begins to designate this land as a Class A Trail pursuant to RSA 231-A, which would provide for pedestrian access. Counsel believes the approval process should follow the procedure for laying out highways (public hearing with 30 days' notice). The Council on September 20, 2022, adopted Resolution #2022-066 to designate the area as a Class A Trail.

The original developer of the subdivision was to convey a deed for this dedicated access. Now that the Town has received a deed, the Council is able to accept that deed.

**FISCAL IMPACT:**

No fiscal impact

**RECOMMENDED MOTION:**

Please see Resolution #2023-008 for Council action after the February 7, 2023, public hearing.

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## RESOLUTION Number 2023-008

To ratify the acceptance of a deed for a dedicated easement and an earlier vote to accept the easement as a Class A Trail at Harvest Estates

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WHEREAS, Section 5.1 of the Town Charter vests in the Town Council the powers of the legislative and governing bodies; and

WHEREAS, RSA 231-A provides for the acceptance of a dedicated access easement as a Class A Trail; and

WHEREAS, an "Easement for Future Access"—a dedication—is shown on a plan recorded in the Rockingham County Registry of Deeds as Plan D-18363 and said access runs from Lot 10115-23 (also known as 29 Village Brook Lane) and land that was later subdivided as Harvest Estates;

WHEREAS, the developer that dedicated the easement from then undeveloped land to the subdivision known as Belle Brook Estates, Cooper Homes, Inc., has now deeded the access to the Town of Derry; and

WHEREAS, the Town Council voted on September 20, 2022 to accept the dedicated access pursuant to RSA 231-A:5 as a Class A trail;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the deed for the dedicated access is accepted and the Council's September 20, 2022 vote to accept the dedication as a Class A Trail across lot 10115-23 as shown on the Plan D-18363 with all of the restrictions and rights noted in the September 20, 2022 vote is hereby ratified.

This Resolution shall take effect immediately upon its passage.

Adopted: February 7, 2023.

Attest:

X \_\_\_\_\_  
Joshua Bourdon, Council Chair

Date: \_\_\_\_\_

X \_\_\_\_\_  
Tina Guilford, Town Clerk

Date: \_\_\_\_\_