

Conway Rec Path Phase II (Revised) Review

2026 update of the March 12th, 2025, Review of the proposed 2nd Phase of the Conway Rec Path. Mount Cranmore to Intervale Crossroad

As almost everyone who lives in or near the Mt. Washington Valley knows, the conversations surrounding the Second Phase of the Conway Rec Path have been loud, sometimes boisterous and have been going on for a long time. Many people thought that the decision made by Conway's Board of Selectmen at their November 25, 2025, meeting that decision being to not sign the EDA Grant Application as Amended, was going to bring this to closure. Others, seemingly the Mount Washington Valley Trails Association, just looked at this as another bump in their road and once again, Conway Voters will be faced with making a decision about ***"Phase 2 of the North Conway Alternative Transportation and Recreational Path (commonly known as the Rec Path)"*** as Article 46 on the April 14th, 2026, Ballot. With this petitioned article being placed before Conway voters a few of our clients have again asked us to review where the project stands and what changes have been made since our review of last year. We have compared the current project environment to last year's work, and we have taken a somewhat deeper dive into project details as details are important. In the information that follows there will be questions, observations, and thoughts. Some will be brought forward from last year, but others will be new.

PLEASE NOTE – The HEB Plan Set titled "Design Drawings for the MWVTA Multi-Use Pathway Phase II – HEB Project 2020-078B" Issued July 19, 2024, were used for this 2026 review as they were for the review in 2025. The plans have not been updated or if they have, updated plans have not been released.

Article 46, that is before Conway's Voters for April 2026, speaks to the 2nd Phase of the Rec Path however, before moving there, we believe there are questions that deserve answers related to the 1st Phase of the Rec Path.

About Phase I of the Rec Path

- The southern portion of Rec Path Phase I begins at Hemlock Lane and travels northward to end at Mt. Cranmore. As one moves northward along the path they first move over property identified by the Town of Conway as PID 235-55. The path continues generally traveling atop numerous other parcels: 230-113.01, 230-126.1, 230-87.01, 219-211, 230-123.2, 219-310.3, 219-311, 219-310.1, 219-257, Hawk Road (unnumbered), 219-260.1, 219-243, 214-84.2 and ending at 214-84.1. [Conway's online GIS](#), as of March 19th, 2026, identifies only two of the affected parcels as owned by the town, those being PID 230-123.2 and 219-311. None of the others are owned by the town, many are owned by the State and others by private entities such as Mt. Cranmore.

Two important questions that need to be answered about Rec Path Phase 1 before Rec Path Phase II should even be considered:

- 1. Does the Town of Conway truly own Phase I?***
- 2. Are all the necessary easements in place to allow Phase 1 to exist on lands that are not owned by the Town of Conway? We could located only two recorded easements at the Carroll County Registry of Deeds, these being for PID's 214-84.1 & 214-84.2 recorded at Registry Book 3460 Page 480.***

Please know that this review follows the HEB plan sheets as laid out. The July 2024 plans depict the 2nd Phase of the Rec Path as beginning at Intervale Crossroad and ending at Mount Cranmore. Additionally, all references to Town of Conway PID's (TOC PID) means Conway tax records, parcel identification numbers. These are available on line at <https://www.axisgis.com/ConwayNH/#>

Notes & Facts from the plans or noted documents will generally be in black font.
Questions/Observations/Thoughts will be in Blue Font

Sheet C1.01

1. Station 100+00 to 114+00
2. Gravel parking area with 19 spaces, 1 HC space The Town of Conway (T.O.C) Site-Plan Review Regulations require parking areas to be paved with parking spaces 9' wide by 18' depth. The proposed parking area for the Rec Path alongside Intervale Crossroad is to be gravel, which would require a waiver under typical T.O.C review. Additionally, parking spaces on gravel are typically designed at 10'-11' wide by 20' depth. The reason for the larger size being that spaces on gravel are not permanently defined so therefore drivers tend to park somewhat haphazardly. 19 spaces will likely not be available.
3. How has the required number of parking spaces been calculated? While a recreation path may require less parking than many land uses, the paths beginning and end points, in relationship to where the users come from, will drive this requirement. At the northern end (Intervale) the 20-space lot (as designed) will likely be inadequate as most users will drive there, park and then enter the path. Also not considered is the new Hotel Indigo. This hotel offers approximately 70 guest rooms and promotes "Outdoor Recreation" as an amenity. If the Rec Path were to be constructed it would be a short 750' walk from the hotel to the beginning of the Path. If the rooms are calculated at double-occupancy and twenty-five percent of the guests choose to walk to the Rec Path that could be 35 pedestrians each day walking to and from the Rec Path along Intervale Crossroad where there's no sidewalk. Additionally, should the Intervale Crossroad parking lot be full, it's likely that north-end users will use the Scenic Vista parking area on the opposite side of NH Rte. 16. That means additional pedestrian traffic crossing Rte. 16 where there are no provisions for pedestrian crossing and then walking alongside Intervale Crossroad or the railroad corridor where there are no sidewalks.
4. Edge of parking is approximately 22' off centerline of RR Tracks – Has this been approved by NHDOT?
5. No fence separating parking from RR – a fence is required by NHDOT.
6. Pedestrian crossing Intervale Crossroad. A new pedestrian crosswalk will be striped across Intervale Crossroad to allow Path users to walk, bike or be wheeled from the parking area to the beginning of the Rec Path. Has the probable number of crossings per day been determined? It's likely the number of pedestrian/vehicle interactions will be significant and with the proposed crosswalk located where it is vehicles will be approaching with significant curves in the road from both directions.
7. From Station 102+00 the path travels approximately southward alongside the railroad tracks to Station 129+00, the path traveling approximately one-half mile along the west side of the railroad tracks. This is an active railroad track system, used daily by the Conway Scenic Railroad. This railroad right of way is used by Conway Scenic Railroad under an agreement with the New Hampshire Department of Transportation, the owner of this right-of-way or "railroad corridor". This section of railroad is used for all Conway Scenic trips to destinations north of North Conway. As of this writing, there is no agreement with NHDOT to locate the Rec Path within the railroad corridor, nor has there

been any invitation to CSRR to talk about the plan to have a Rec Path located immediately adjacent to their active railroad.

8. At station 113+00 less than 15' centerline of path to centerline of tracks. Standard spacing of RR tracks is 14.5' centerline to centerline. See the NHDOT "Typical X-Section" dated Feb 21, 2008.
9. At station 113+00 the fence between Rec Path and centerline of RR is $\pm 5.5'$. A train car is 11' – 12' in width. Note reads "existing abandoned railroad to remain."
 - Who determined that this has been "abandoned"? That needs verification from the State of NH and CSRR and considering that this corridor is being used regularly, it has not been abandoned.
 - General Railroad Proximity Note: As explained earlier this section of railroad is owned by the State of New Hampshire and is used regularly by the Conway Scenic Railroad. From conversations that we have had with State of NH (Louis Barker NHDOT Bureau of Rail & Transit) and Conway Scenic Railroad (David Swirk, President and GM) it is our understanding that no agreements are in place with either entity to construct the Rec Path where designed. A legal agreement between the Rec Path group and the State of New Hampshire will be necessary. Additionally, an agreement with Conway Scenic Railroad may also be necessary. Lastly for this topic – there are ongoing discussions to reopen the rail lines between northern NH (and beyond) to Portland. There's a likelihood that the number of trains per day and the types of trains (passenger and/or freight) will increase in the future.

Sheet C1.02

1. Station 115+00 to 139+00
2. Note re: Existing abandoned RR ties to be removed. As mentioned earlier – this railroad corridor has not been abandoned, and ties should not be removed. Has this been confirmed with CSRR/State of NH?
3. At PC 128+80.71 path turns to cross over active railroad tracks. This is a particular concern item to CSRR. As explained earlier there does not seem to have been a railroad "traffic study" or any comparison to an estimated number of Rec Path users that will be crossing the active railroad corridor. Similar to the noted concerns where pedestrians are going to be interacting with automobiles at road and driveway crossings, those same users will likely be interacting with trains at this railroad crossing. Adults, children, and pets. Walkers, bikers, people in wheelchairs all moving over an active railroad.
4. After crossing tracks, moves onto PID 215-106 T.O. Conway
5. Shows tree line to tree line dimension of 30' This is the overall tree line to tree line width indicated for the path. While 30' tree line to tree line may eventually be the case, years after the path is constructed and the adjacent earth "healed", the construction tree line-to-tree line width will be closer to 50' – 60'. A Caterpillar (brand) 725 articulated dump truck has an SAE turning radius of 294" (24.5'). A 24.5' radius means a 45' outside turning radius. That truck, which is common for this type of construction, simply cannot turn around without making a multiple-point turn, within the 30' detailed right of way. There will need to be two different easements for each property the path travels over – permanent and temporary or "construction". The permanent easement is just that – it allows the Rec Path to be constructed atop someone's property as if the Town of Conway owned that property. It is not ownership, but it is permission. This type of easement will be granted in perpetuity which means it can never be withdrawn by the present or future landowner unless somehow both parties approved the withdrawal. The temporary or "construction easement" is just that, it is a temporary permission granted by a landowner for construction activity to take place atop their land with this activity ending once the associated construction work has been completed. Usually, this type of easement will

contain restrictions about what can happen on the property where the easement has been granted and how the property will be left at the time the easement expires.

6. At station 137+00 center line of Rec Path is less than 20' from edge of wetland. Tree line is indicated as approximately 5' off edge of wetland. At the time of this writing the New Hampshire Department of Environmental Services has not approved the Wetlands permits for this project. As mentioned earlier about the easements – this is the post construction “healed” tree line. Where will the cutting limits be in relationship to this wetland before construction?
7. At 138+50 edge of wetland/tree line is less than 20' from center line of Rec Path. Same question as at #6 above.

Sheet C1.03

1. Station 139+00 to 163+00
2. At station 146+00 “Construct 60' long boardwalk over wetland area. Boardwalk design to be by others.” “design by others” – what will the likely end result of this crossing be – how will it be accomplished so as to not harm the wetland during construction and afterward? We believe wetland crossing permits are required but have not been obtained. Why has this design not been completed at this time?
3. Still on T.O. Conway property, PID 215-106
4. At station 147+50, similar note: “Construct 40' long boardwalk over wetland area. Boardwalk design to be by others.” Same questions as at #2 above.
5. At station 151+00, similar note: “Construct 65' long boardwalk over wetland area. Boardwalk design to be by others.” Same questions as at #2 above.
6. At PC 152+00 path moves onto State of NH land PID 214-27.1
7. At station 152+00, similar note: “Construct 135' long boardwalk over wetland area. Boardwalk design to be by others.” Same questions as at #2 above.
8. At station 156+00 the path moves onto T.O. Conway land, PID 214-31.2 This is the Whitaker Deed Restricted parcel which is a critical component within the overall planning of the Rec Path. When the portion of the Rec Path that has become Phase II was originally presented to Conway’s voters the path did not travel through a deed restricted area of Whitaker Woods. Having relocated the designed path into this restricted area opened up serious legal questions. The Whitaker Deed states **“the land conveyed herein shall be maintained forever in a wild and natural state. All cutting of timber and brush shall be consistent with good forestry practices and must be approved by the Conway Conservation Commission or the Town of Conway Selectmen”**. The Trails Association and the Selectmen have spoken of a review or reviews (plural) by legal counsel, answering the questions about **A** – can the Rec Path even be constructed in this area of Whitaker Woods and **B** – if the Path can be constructed here, does a paved surface violate the “wild and natural state” component of the deed restriction? The legal response to these questions should not remain secret or protected by any so-called “attorney-client privilege”. The “client” is the people of Conway, not only the Selectmen and certainly not only the Mt. Washington Valley Trails Association. If a legal opinion has been obtained it should be publicly available where the landowners, Conway taxpayers, can see these opinions document and determine for themselves what they mean.

From the Web:

- In jurisdictions with "forever wild" protections, such as New York's Adirondack Park, courts have historically ruled that the natural character must be maintained and cannot be "destroyed" by road building or other non-natural undertakings. Administrative agencies generally do not have

the discretion to "balance" recreational access with these strict mandates if the development is "out of harmony" with the wild state.

- When a deed specifies a "wild and natural state," courts typically favor the preservation of the land's ecological integrity over expanded public recreational utility. While a town may have the authority to maintain existing public easements, they cannot use that authority to fundamentally change the nature of the land if it contradicts the original deed restrictions.

Sheet C1.04

1. From Station 160+00 to 183+00
2. Path moves across T.O. Conway property PID 214-31.2 This is the Whitaker Deed Restricted parcel. See note #8 at Sheet C1.03 above.
3. At station 171+00 the path moves onto State of NH land, PID 214-27.1
4. At station 175+00 the path becomes generally parallel with 99' wide NH Electric Co-Op Easement.
5. At station 179+00 the edge of pavement is less than 8' from edge of wetland. Proximity to wetland notes from earlier pertain here too.
6. At station 181+50 the path crosses Kearsarge Road
 - At this location, the Path is on State of NH property and within the NH Electric Co-Op Easement. This will require approval of NH Electric Co-Op and a modification of the existing easement. Has an approval to locate the path within the NH Electric Co-Op easement been obtained? Chris Meier as the President of the Mount Washington Valley Trails Association says it has however, the problem that seems to exist is that NH Electric Co-Op is not the property owner and while they can allow a Rec Path to exist inside the easement area that has been allowed to their company for their use, they cannot speak for the underlying property owner who may not care about a utility easement atop their property but doesn't want to allow a recreation path or related uses atop their property. Any such easement, should they be granted, will be from the underlying property owner to the Town of Conway as the owner of the Rec Path. Utility companies are quite particular about what takes place within their easement areas.
 - The pedestrian crossing at Kearsarge Road, between Station 181+00 and 182+00 is a strong concern. Kearsarge Road has become the northern extension of the North/South Road – an unanticipated bypass to and from Intervale and other points north around the traffic jam at Memorial Hospital and within North Conway Village. The increase in traffic counts on Kearsarge Road over the past few years is reportedly significant. Vehicular traffic counts on Kearsarge Road and predicted pedestrian counts on the Rec Path should be determined and analyzed to fully understand the likely number of vehicle/Rec Path user interactions that will occur at this location. A simple crosswalk marked on the pavement may not be a safe option for this crossing.

Sheet C1.05

1. From Station 181+00 to 204+00
2. Path moves onto New Hampshire Electric Co-Op land PID 214-94. Shown as within "proposed easement" area. This appears to be where the need for new easements begins. The Co-Op, as the landowner in for this particular property, will need to grant an easement for the path over this parcel. Has this easement been obtained?
3. At station 183+50 "Construct 30' long bridge over existing stream. Bridge to be designed by others." The construction of this bridge will likely need wetland permitting along with addressing the "design by others." Why is this not being designed and permitted as part of the project overall? Who will do this design/when will the design be completed? Will the likely required Wetland Permit be obtained?

4. At station 186+25 Path moves onto property of Geoffrey Zorzy PID 214-87.1 and within the “proposed easement” area. Note this is within the NH Electric Co-Op easement area on Zorzy property.
 - Zorzy will need to provide an easement along with a modification of the NH Electric Co-Op easement. An easement atop an easement atop privately owned property. Has the property owner been made aware the construction clearing area will be greater than the 30’ width indicated on the plans?
 - At station 186+00 the path begins to abut the Jeanne R. Fernandez Rev. Trust property, PID 214/95. In conversations that I have had with a Fernandez Trust representative they do not want the Rec Path on their property, nor do they want the limits of clearing to extend onto their property nor do they have any intent to issue a temporary construction easement that will allow construction activities to move onto their property. In and of itself, situations similar to this where abutters to the Rec Path easement area don’t want construction activity to expand onto their property could derail the construction process entirely. This will affect at least a few other associated properties in this area.
5. At station 187+65 Path moves onto the property of Lindsay & Sampson B. Leone PID 214-87.2 and within the “proposed easement” area. Note this is within the NH Electric Co-Op easement on the Leone property. Edge of clearing is on or extended onto PID 214-95 (Fernandez Trust) property – see 2nd bullet point at #4 above. An easement of some type will be needed to extend clearing onto Fernandez property and easement that Fernandez has says will not be granted. Additionally, Leone will need to provide an easement along with a modification of the NH Electric Co-Op easement. An easement atop an easement atop privately owned property.
6. At station 189+50 path moves onto property of Whitaker Lane Common Land/Michael & Kristen Leonard, PID 214-87.3 and within the “proposed easement” area. Note this is within the NH Electric Co-Op easement on the Leone property. Edge of clearing is on or extended onto PID 214-95 (Fernandez Trust) property. An easement of some type will be needed to extend clearing onto Fernandez property – See notes at #4 and #5 above. Additionally, Leonard will need to provide an easement along with a modification of the NH Electric Co-Op easement. An easement atop an easement atop privately owned property.
7. At station 191+50 “Construct 80’ long bridge over Kearsarge Brook. Bridge to be designed by others.” This area is indicated on Conway’s GIS mapping as very close to being in the Floodplain Conservation Overlay District and the Wetland and Watershed Protection Overlay District. The design of this bridge will need to take the flooding issue into consideration. Additionally, it will likely need wetland permitting. Who will permit and design this bridge? When will this be done and why is it not being done as a component of the overall project design?
8. At the aforementioned bridge, the path moves onto the property of Kyle & Jennifer Jacques, PID 214-87.5, crossing a small wetland at station 193+50. This property is within the “proposed easement” area and within the NH Electric Co-Op easement.
 - Jacques will need to provide an easement along with a modification of the NH Electric Co-Op easement. An easement atop an easement atop privately owned property.
 - How will the crossing of the small wetland be permitted and accomplished? When will this be designed?
9. At PC 194+48.39 the path moves onto the property of Mt. Cranmore Condos, Brookside Common Land PID 214-86. The path runs parallel to PID 214-86 boundary and Old Bartlett Road R.O.W. Easement extends onto PID 214-86. The path crosses over two condominium driveways from/to Old Bartlett Road.
 - Brookside Common Land will need to provide an easement.

- The Rec Path crosses both driveways of Brookside Condominiums. Have the condominium unit owners been made aware of the predicted number of pedestrian crossings per day?
- There are many magnificent trees along Old Bartlett Road that will have to be taken down for this project. Have the property owners been made aware of the necessary tree removal? The removal of these trees will forever affect the appearance of the frontage of the Old Bartlett Road properties.
- Will the removal of existing trees take any of the affected properties out of compliance with Town of Conway landscaping regulations?

Sheet C1.06

1. From Station 204+00 to 214+78 (terminus of this phase – interconnection with Phase I terminus)
2. At PC 207+63.89 the path turns to cross Old Bartlett Road. This is another location where there will be opportunities for vehicle/pedestrian interactions. Is a simple crosswalk striped on the road surface adequate for Rec Path user safety?
3. At PC 208+21.56 the path turns to run parallel to Old Bartlett Road towards Skimobile Road.
 - At this point, the Path is back into/onto the NH Electric Co-Op easement. A modification of the existing easement will be necessary.
 - There is a plan note “EXISTING TREES ALONG OLD BARTLETT ROAD TO BE PROTECTED DURING CONSTRUCTION.” This is inadequate and misleading. The trees that will need to be removed should be clearly marked so interested parties can see what the effect will be. Additionally, mature trees whose root systems will be damaged will die a few years after construction of the path is complete. A certified arborist, not a forester, should be brought onto the project team to devise a plan to appropriately save and/or protect as many of the Old Bartlett Road trees as possible. It is likely that a plan cannot be developed to save these trees into the future.
4. At Station 211+00 the path crosses Skimobile Road. This is another location where there will be opportunities for vehicle/pedestrian interactions. Is a simple crosswalk striped on the road surface adequate for Rec Path user safety?
5. At Station (approx.) 211+69.09 the path enters onto a 66’ wide “Cranmore/Franchi cross-easement. The existing easement will need to be modified/added to in order to permit the Rec Path to be atop/within this easement area. There are two different owner entities that have specific rights to the easement as it presently exists. Both parties will have to accept modifications to the existing easement. Have these parties agreed to such modifications?

Highlights & Additional Notes/Thoughts

- The total number of parking spaces provided is twenty, which seems inadequate.
- Road crossings – Four. Intervale Crossroad, Kearsarge Road, Old Bartlett Road and Skimobile Road. Adequate safety measures do not appear to have been considered.
- Railroad crossings – one. Reportedly the crossing design remains as not having been reviewed and/or approved by the State of New Hampshire or Conway Scenic Railroad.
- Wetland impacts – the plans show 360’ of boardwalk/wetland crossings that have not been designed and/or permitted or if they have been, they have not been approved by NHDES.
- We believe that an Alteration of Terrain Permit (AOT) will be required for this project due to the size of the disturbed area. See NH Env-Wq 1503.03 (d).
- Bridges – two. Neither bridge has been designed and/ nor permitted.
- Driveway crossings – three. Two at Brookside Condominiums and one at Mount Cranmore Parking.
- Private properties affected/passed over – seven. Easements do not appear to be in place for the path to be on any of these parcels.

- The width indicated for the Rec Path is the final or constructed width. The “during construction” width, or disturbed width, will likely be significantly greater.
- A subcommittee of the Conway Planning Board provided two documents to Conway’s Board of Selectmen regarding the Rec Path Project. One document is dated August 19, 2024, the second dated October 25, 2024. In these two documents important points were made and important questions were asked. All points should be addressed appropriately, and all questions should be answered.
- The WARRANTY DEED that grants a portion of Whitaker Woods over which the Rec Path would be constructed should be reviewed by an independent party – specifically the listed covenants numbers one (1) and two (2) on the last page. This property was given to the Town of Conway with a deed covenant that says, “*used for public recreational purposes and shall be maintained forever in a wild and natural state.*” Those words are not difficult to understand but may be being misconstrued by some who are involved in the development of the Rec Path over the subject Whitaker parcel. Additionally, this covenant or deed restriction does not affect all of Whitaker Woods, just the area covered by one specific deed – the area that is presently being considered for this path.

A Rec Path Scenario to Be Considered

Path usage – A Saturday in July. 6:00 A.M. until 8:00 P.M. 14 hours. If twenty cars are parked at the Intervale Crossroad lot with an average of 1.5 occupants/car – 30 occupants. This does not account for Path users that step on from other locations, for example from Hotel Indigo Hotel, Mount Cranmore or coming from other locations via bicycle, walking, etcetera. Some path users will be “through hikers” that park at and begin at Hemlock Lane. These folks may travel all the way to Intervale and then back to their car. Let’s say overall 50 participants x 14 hours = 700 participants throughout the day. Regardless of where/how the participants enter the Path, if they cross Kearsarge Road, the railroad or any associated driveway in both directions, that’s 1400 pedestrian crossings on one trail-use day.

Associated Documents for Consideration – Included as Attachments

- WARRANTY DEED – Whitaker to Town of Conway dated July 15, 1971, Carroll County Registry of Deeds Liber 490 pages 32 & 33.
- Conway Planning Board Recreation Path Phase II Sub-Committee letter to Conway Board of Selectmen August 19, 2024
- Conway Planning Board Recreation Path Phase II Sub-Committee final report to Conway Board of Selectmen October 25, 2024
- NH Code of Administrative Rules Env-Wq 1503.03 (c) & (d)
- NH Code of Administrative Rules Part Env-Wt 517.01
- NH Code of Administrative Rules Part Env-Wt 517.02
- NH Code of Administrative Rules Part Env-Wt 517.03
- NH Code of Administrative Rules Part Env-Wt 517.04
- NH Code of Administrative Rules Part Env-Wt 517.05
- NH Code of Administrative Rules Part Env-Wt 517.06
- NH Code of Administrative Rules Part Env-Wt 517.07