

## Lucky D'Ascanio

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**From:** Nathan Poore  
**Sent:** Wednesday, July 13, 2016 11:49 AM  
**To:** Lucky D'Ascanio  
**Subject:** FW: Falmouth Connector Committee Title Issues

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**From:** David M. Kallin [<mailto:DKallin@dwmlaw.com>]  
**Sent:** Wednesday, July 13, 2016 11:48 AM  
**To:** Nathan Poore  
**Subject:** Falmouth Connector Committee Title Issues

Nathan,

As we'll discuss in more detail this afternoon, two of the title hurdles for the proposed connector trail will be as follows:

1. The Twin Ponds Subdivision Open Space parcel, north of the railroad corridor has the following restrictions:
  - a. It was conveyed to the Falmouth Land Trust by David A. Chase by a deed (CCRD Bk 20908/ 253) containing the following restrictions:
    - i. "That the land hereby conveyed shall remain in its natural state and shall not be developed or altered in any way. This Prohibition against any form of development shall include but not be limited to its use for parking, access to abutting properties, recreational uses other than existing walking trails."
  - b. The subdivision plan (CCRD Plan Bk 199 Pg. 10) states
    - i. "The Common Area shown on the subdivision plan [is] subject to special clearing limitation. ... In all common areas, there shall be no cutting or clearing of vegetation except to remove dead or diseased trees..."
  - c. The prohibition on use of the common areas against "access to abutting properties, [and] recreational uses other than existing walking trails" would need to be released by David Chase, and because it appears that it was intended to benefit each of the parcels in the subdivision, it could also require the release of a lot owner's association, if one exists (or in the absence of a lot owner's association, potentially that of each of the lot owners in the subdivision); the subdivision approval would also need to be reviewed to determine whether it required an amendment to the subdivision approval approved by the Planning Board.
2. The property of Alicia and Jeffrey Mill covered by the McGlaughlin Conservation Easement held by the Falmouth Conservation Trust (Bk 9219 pg 63) that is immediately south of the railroad parcel contains the following restrictions:
  - a. "No structures of any kind, temporary or permanent, shall be constructed or located on the Conservation Land"
  - b. Although the Falmouth Conservation Trust does have the right "to construct and maintain foot trails"
  - c. The footbridges that are contemplated to cross the railroad as well as another stream would likely be considered "structures" prohibited by the conservation easement. It may be possible to amend the conservation easement to clarify that such footbridges are allowed, but that would require the agreement of the landowner (the Mills), the easement Holder (the Trust), and probably the consent of the attorney general (the AG) to the amendment. The AG has been relatively rigid in its willingness to grant easement amendments, so this could prove to be a hurdle).

I'll plan to see you this afternoon at 4 PM in the small conference room.