

9/16 Letter to the Editor of the Falmouth Enterprise

The Record Must Be Corrected Before Town Meeting

In November 2024, Town Meeting authorized the Select Board to dispose of or convey the two parcels at 0 W Falmouth Hwy for affordable housing and authorized an RFP. That vote authorized a process. It did not convey the land, award it to a developer or change its use.

Town Counsel confirmed this on March 23: “Any time municipal land is conveyed, it’s a two-part process. It requires not only a Town Meeting vote, but a vote of the Select Board to effectuate the conveyance. It’s not complete without both votes....The Select Board is free to refrain from conveying the property if it so wishes.”

The RFP stated that the Town could “reject all proposals...if it is in the best interest of the Town.” Based on Town Counsel’s advice that development would require an Article 97 release, Town management recommended against the Falmouth Housing Trust’s proposal, and the Select Board concurred.

The process ended without a conveyance. Nothing changed the land’s ownership, use, or conservation status. Because the 2024 authorization was never carried out, Town Meeting does not need another article reversing that vote before considering Article 18. Yet Monday’s discussion presented that authorization as an obstacle to placing the parcels with the Conservation Commission. That is not accurate.

During public comment, a housing advocate cited *Carroll v. Select Board of Norwell*, which appeared to influence the recommendation for indefinite postponement. But *Carroll* SUPPORTS conservation of 0 W Falmouth Hwy. The Supreme Judicial Court held that when a town holds land for one public purpose, it cannot simply redirect it to another use. In Falmouth, the land was acquired and held for “forestation and water protection.” The 2024 vote authorized a possible conveyance, but none occurred. Applied correctly, this case supports protecting these parcels as conservation land.

It was also suggested that passing Article 18 would trigger an Article 97 release. That is not accurate. Article 18 would add another layer of protection to already-conserved land, following the same process used for the other 19 Long Pond parcels. It simply extends that work.

Imagine the confusion...Three legal positions are circulating. Town Counsel acknowledges the original purchase intent but believes “there is room for interpretation” regarding Article 97. The Falmouth Housing Trust’s attorney represents the organization seeking to develop the land and is not independent. The only independent professional review, obtained at residents expense, is from McGregor Law Group, a prominent environmental law firm. Its conclusion is unequivocal: “The Property is already protected at present as conservation land, as forest land, under Article 97. The transfer of care and control of the Property to the Conservation Commission will not change this status. It is an appropriate delegation of such control.”

The facts are clear: the 2024 TM vote did not transfer the land or change its use, and Article 18 would simply place its care where it rightfully belongs—with the Conservation Commission.

This is not opposition to affordable housing or NIMBYism. That characterization has been hurtful and divisive, unfairly pitting West Falmouth residents against neighbors with whom we share one community and many of the same concerns. It is about the fundamental principle that conservation land should not be developed, regardless of the proposed use, and that Falmouth must follow the law and established legal precedent.

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