



## TOWN OF FALMOUTH

### Memorandum from the Office of Town Council

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**To:** Michael Renshaw, Town Manager  
**From:** Maura E. O'Keefe, Town Council *MEK*  
Peter Johnson-Staub, Assistant Town Manager  
**Subject:** Housing Proposal for 0 West Falmouth Highway  
**Date:** March 12, 2026

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This memo responds to your request for a recommendation with respect to the proposed conveyance of the subject property for the purpose of constructing affordable housing as contemplated in the Request for Proposals issued November 5, 2025. Based on new information described below, we do not believe it is in the Town's best interest to move forward with the conveyance of this property at this time.

When this property was first vetted for potential sale and housing development in 2024, we relied on the plain language of the deed to evaluate the status of the property. The deed does not state that the land was taken for water protection purposes, or any other purpose which would imply Article 97 protection.

At the Town Meeting of November 2025, we learned that the Town Meeting vote of 1931 references water resource protection. Even with this new information, the Town can credibly take the position, based on the totality of the circumstances, that these parcels are not subject to Article 97 protection. However, under recent case law, there is room for interpretation which raises a question as to whether the Town, at present, can convey the parcel with clear title for the purpose of affordable housing development. Should the Town wish to proceed with the disposition of this property for housing development, it is recommended that the Town take steps to remove Article 97 protection from this parcel. That process requires a 2/3 majority vote of Town Meeting, a 2/3 vote of the Massachusetts General Court, and the identification and dedication of replacement land, free from Article 97 protection, with equal or greater natural resource, acreage and monetary value.

As you know, the petition article seeking to prevent housing development on these parcels by placing the parcel under the care and custody of the Conservation Commission (article 18 of the November 2025 Town Meeting) fell just short of the two thirds majority required for approval.

In light of this new information, it is our recommendation that the Town Manager and Select Board not proceed with an award of the land under the RFP.