

NONFEDERAL LANDS WITHIN THE NATIONAL SEASHORE

CONTEXT: More than 30% of the land within the national seashore is under the jurisdiction of other public entities, and nearly 4% is privately owned (see the Landownership map). Approximately 25 parcels of non-NPS undeveloped land could be subdivided and developed, and the National Park Service has limited mechanisms to regulate their development and use. As a result, the protection of national seashore resources depends on local zoning bylaws and health codes, state regulations, the threat of condemnation, and the cooperation of property owners.

Many of the Outer Cape's greatest assets are shared among property owners □ groundwater, beaches, river systems, and the rural character of the region. It is impossible to address land use and protection for the national seashore without considering adjacent uses and threats to sensitive resources. While the Park Service has the ability to protect sensitive resources within the seashore boundaries, it has limited authority outside the boundaries. Privately held lands inside the boundaries are subject to acquisition if used inconsistently with park-approved local zoning standards. However, these bylaws are out of date. The Park Service must begin to work more closely with local communities, the Cape Cod Commission, and land conservation organizations like the Trust for Public Land and the Compact of Cape Cod Conservation Trusts to address these types of issues. The Natural Resources Conservation Service has offered technical assistance for land protection.

The Cape Cod Commission is charged with reviewing and regulating developments of regional impact, recommending the designation of districts of critical planning concern, and preparing and overseeing the implementation of a regional land use policy plan. The purpose of the regional plan is to outline a coherent set of planning policies and objectives to guide development on Cape Cod and to protect its resources. In its 1996 *Regional Policy Plan* the commission identifies several opportunities to coordinate planning among local communities, the commission, and the National Park Service.

In partnership with such organizations, the Park Service would be better able to meet land protection needs within national seashore boundaries and to assist in protection efforts outside the boundaries. The national seashore has also developed guidelines for the alteration of improved properties. These guidelines, as well as the secretarial standards, are out of date and need to be revised to reflect current conditions.

LAND USE PLANNING AND PROTECTION

□ **GOAL: Preserve the qualities of the human environment on the Outer Cape, and prevent resource degradation that often results from inappropriate land uses.**

STRATEGIES: *A cooperative stewardship educational emphasis* — To help protect the traditional character and natural systems on the Outer Cape, the National Park Service will cooperatively work with local communities and regional entities on the Cape to develop broadly based stewardship educational programming or to better use existing programs. The emphasis will be to reach the people who, through their activities, will most likely have an impact on Cape Cod's resources, for example, improved property owners, year-round and seasonal residents, and the business community. Examples of activities include adult education, outreach to schools, and the adopt-a-pond volunteer program.

Support for local comprehensive plans — National seashore staff will offer support, when requested, to local communities as they develop and implement local comprehensive plans. As part of this effort, the Park Service will encourage towns to develop a joint consultative process to discuss possible municipal uses and site plan development for town-owned lands inside seashore boundaries and adjacent property that may affect seashore resources. Towns will also be encouraged to work with the national seashore to establish performance standards for development within the national seashore and to plan uses that would be compatible and environmentally sensitive.

Conservation land trusts — The Park Service will engage in an effort with conservation land trusts, regional government, or agencies to set up an independent land banking fund. Funds will be used to acquire interests in lands both inside and outside seashore boundaries, especially sensitive or otherwise special resources, or those areas that provide public green space or opportunities for trails. Also, the Park Service will continue to work proactively with national organizations, such as the National Parks and Conservation Association, the Trust for Public Lands, or other interested groups.

Land acquisition and the need for legislation — The primary emphasis to protect sensitive resources and lands within the national seashore will be to encourage compatible development practices. Failing that, or when there are willing sellers, a full range of acquisition techniques (fee simple, land trusts/donations, less-than-fee acquisition, or transfer of development rights) will be used where necessary. The National Park Service will seek the authorization and appropriation of additional land acquisition funds to support ongoing land protection efforts within the national seashore because all of the land acquisition funding has been depleted at this time. These efforts are identified and prioritized in the seashore's *Land Protection Plan*, which is periodically updated.

Additionally, a minor boundary change will have been requested to add an 11-acre undeveloped parcel of state land to the boundary in the Province Lands to complete the equal-value land exchange for the town's transfer station.

Areas critical to the national seashore's value — The National Park Service will collaborate with local communities and the Cape Cod Commission (or other similar regional agencies) to continue to inventory and monitor areas that are critical to the national seashore's value and to identify the appropriate level of protection for each area. This information will be mapped using a geographic information system to make it readily available and so that it can be used in making decisions. Together with design standards for architecture and site plans, this information will be kept on file at the commission and made available to each Outer Cape town. The National Park Service will offer technical assistance, when requested, to municipalities and private landowners on a number of critical topics that support land and resource protection, as discussed throughout this plan. Examples include environmentally sound septic technologies,

native plant landscaping and grounds maintenance, historic preservation, sensitive development, and other land and resource conservation techniques. Referrals to other agencies, such as to town staff, boards of health, conservation commissions, the Cape Cod Commission (or other similar regional regulatory agencies), and the Natural Resources Conservation Service, will be made as needed.

Designation of a district of critical planning concern (DCPC) — The Park Service will work with the Cape Cod Commission, the Cape Cod National Seashore Advisory Commission, and Outer Cape communities to determine whether to seek designation of all or a portion of Cape Cod National Seashore as a district of critical planning concern to broaden land protection opportunities (see glossary). Agreement with each community will be reached through a collaborative decision-making process to formulate any DCPC proposal in one or more of the towns.

NPS ex officio membership on the Cape Cod Commission — Cape Cod National Seashore will seek *ex officio* membership on the Cape Cod Commission to help address multijurisdictional land use issues more effectively. Such membership can provide opportunities for continuing dialogue on regional planning issues.

Future development projections and capacity analyses — The towns of Provincetown, Truro, Wellfleet, and Eastham have developed a pilot Outer Cape capacity model that gives towns the basis to assess the impacts of a range of future development projections on water, natural resources, transportation, and municipal finances. Also, a Monomoy capacity study, which includes Orleans and Chatham, has been completed. The Park Service will support the further development of analyses to look at issues beyond the scope of the initial studies, such as the cumulative impacts of growth on the rest of the Outer Cape in terms of site-specific natural resource problem areas, water, and alternative modes of transportation. The findings will be applied in decision making for the national seashore as appropriate.

PRIVATE RESIDENTIAL PROPERTIES

CONTEXT: Approximately 600 privately owned residential properties are included within the national seashore boundaries. These private properties are a result of an exemption from government acquisition for certain properties that predated the authorization of the seashore. Some properties may be found not to have improved status if it is proved they were built after September 1, 1959. Improved properties are subject to local zoning bylaws in accordance with the park's enabling legislation (see appendix A) and subsequent Cape Cod National Seashore zoning standards (see appendix B). NPS use guidelines were developed in the 1980s to address deficiencies, but they are also inadequate. Existing NPS zoning standards and bylaws need to be amended to ensure consistency among them and to add state-of-the-art planning and zoning techniques.

Many improved properties possess significant historic and attractive qualities that contribute to the valued character of the Outer Cape. For instance, more than 70 privately owned buildings have been documented by the Historic American Buildings Survey. Many more have been documented by local historical commissions, which have completed surveys of the historic properties in seashore communities.

As the year-round and the summer resident populations grow and change, pressures become greater to develop upon and expand improved properties. Some improved properties have been altered and expanded with little sensitivity to their historical character or sense of place. Modern additions to or replacements of modest Cape Cod cottages alter the traditional character of development within the national seashore. The development or redevelopment of private improved properties could result in the loss or alteration of historic buildings, an increase in the intensity of use, impacts on water resources, and a loss of the Cape's rural character.

The subdivision of private properties within national seashore boundaries presents a potential threat to resources. New construction on subdivided land would be subject to condemnation. Historic and other sensitive resources on privately owned property are also of concern.

- GOAL: Help protect the traditional character of the Outer Cape, including natural and cultural resources, and prevent resource degradation that often results from development.**

STRATEGIES: *Fostering the preservation of historic properties* — Local towns will be encouraged to consider establishing local historic districts and/or architectural design review

processes (under Massachusetts General Laws, chapter 40C) to foster the preservation of historic properties and cultural landscapes within the national seashore (see pages **Error! Bookmark not defined.** and **Error! Bookmark not defined.**).

The Cape Cod Commission's design guidelines — The National Park Service will endorse and encourage local towns to use the 1994 *Designing the Future to Honor the Past: Design Guidelines for Cape Cod*, which were prepared by the Cape Cod Commission.

Sensitive redevelopment and innovative technologies to reduce pollutants — Two types of programs can be encouraged in cooperation with the local communities to help protect the national seashore's sensitive resources and historic character and to reduce nonpoint source pollutants.

- (1) Community-based banks will be encouraged to develop low-interest loan programs to support improved property redevelopment that will be sensitive to protecting resources and the Cape's historical character. Also, local towns will be encouraged to provide tax abatements, credits, or other tax incentives for sensitive redevelopment of improved properties. Towns will be further encouraged to seek additional protection for properties under the Cape Cod Commission Act by pursuing national register listings for sites and structures within the national seashore.
- (2) Local towns and other entities (such as community-based banks) will be encouraged to develop a grant or loan program for innovative technologies. Such a program can provide matching grants and low-interest loans to private property owners within the national seashore who want to upgrade their septic systems and otherwise retrofit their homes with features to reduce nonpoint source pollutants (such as composting toilets).

These two programs may be advantageous to property owners within the national seashore and may also be applied broadly throughout the towns if they so decide.

Innovative technology demonstration projects at national seashore facilities — Demonstration projects will showcase small- and large-scale innovative practices and applications for sustainable technology. For example, projects showing emerging techniques for energy generation, water conservation, solid and septic waste treatment, and new, environmentally sound building materials will illustrate how sustainable design practices can be used in private property redevelopment. (Also see page **Error! Bookmark not defined.** about resource information, page **Error! Bookmark not defined.** about sustainable practices for national seashore operations, and page **Error! Bookmark not defined.** about septic systems.)

Changes of use for historic properties — The Park Service will continue to take a flexible position on changes of historic properties from exclusive residential use to other appropriate uses (for example, bed-and-breakfast establishments or home occupations for historic properties that may otherwise lose their historic integrity). Changes in use will be encouraged where doing so will preserve the architectural integrity and rural character of the historic properties and their settings and will not result in adverse impacts, such as expanded parking, greater intensity of use or development, or increased congestion. Supporting such changes will have to be discussed or negotiated case by case with the affected communities, in accordance with respective town zoning bylaws.

Identifying residential properties without improved property status — National seashore managers will continue to attempt to determine those properties that may not have been built by September 1, 1959. These properties will not be eligible for a certificate of suspension of condemnation, and they will continue to be identified for acquisition in a revised *Land Protection Plan* for the national seashore.

Protecting subdividable lands — The Park Service will seek to acquire subdividable lands in the national seashore or to work with local land trusts to buy easements or development rights. Acquisition may be by purchase or by donation.

Property exchanges — The National Park Service will continue to decline to exchange private land for public land in order to allow private structures threatened by coastal erosion to be

relocated. Nor will the Park Service approve exchanging threatened private parcels for previously undeveloped private land within the seashore.

□ **GOAL: Develop a more effective building permit review process for improved properties within the national seashore.**

Revised Cape Cod National Seashore zoning standards and town zoning bylaws for redeveloping private improved properties — The National Park Service will work cooperatively with each of the affected Outer Cape communities in revising the current Cape Cod National Seashore zoning standards and the towns' zoning bylaws to include state-of-the-art planning and zoning techniques and to ensure consistency among them. The revisions will focus on design and environmental circumstances. This will be a mutual, consensus-oriented process whereby national seashore and community values will be acknowledged and respected. This process will primarily pertain to Wellfleet, Truro, and Eastham, where over 96% of the improved properties are located. Minimum zoning standards will be defined to amend the existing national seashore zoning standards, as provided by law and regulation. The bylaws for the town's Seashore Districts should include updated performance standards for permitted and prohibited uses, lot coverage, design, scale, water quality, and health regulations (such as septic discharge nutrient levels). Standards and bylaws will continue to address the demolition, moving, and reconstruction of buildings. The focus of national seashore input into the revised town zoning and subsequent reviews of variances or exceptions will be on retaining the character of the existing development and the intensity of use of the property.

Cape Cod Commission planners or other technical specialists may be asked to share their zoning expertise. Design guidelines prepared by the Cape Cod Commission should be considered in the development of new zoning standards and bylaws. Revised NPS guidelines that mirror the new proposed zoning standards and bylaws developed with the towns and landowners will be voluntarily applied by property owners until towns adopted similar bylaw provisions and new NPS zoning standards are in effect.

Construction permitting — The National Park Service will work with local towns to develop a more direct system of construction permitting for improved properties so that ideally development oversight by national seashore managers can focus only on cases where a waiver, such as a variance, is requested. It is hoped that the towns and the Park Service will agree on the content of amended Seashore District zoning bylaws and any interim revised NPS guidelines and how they will be administered. Pending the adoption of amended local bylaws, the Park Service will continue to review construction proposals. The revised bylaws and permitting system will give Outer Cape towns more responsibility for deciding how improved properties within the seashore can be modified. A mechanism for notifying seashore managers of development projects will be needed so building projects can be monitored and up-to-date files can continue to be kept on the improved properties.

PRIVATE COMMERCIAL PROPERTIES

CONTEXT: Ten privately owned commercial businesses, including several gas stations, cottage colonies, campgrounds, and a motel and restaurant existed before the national seashore was authorized, and they continue to operate within Cape Cod National Seashore. No new businesses are allowed. As provided in the authorizing legislation, these commercial properties are able to continue as long as they operate in accordance with the terms and conditions listed in the certificate of exemption from acquisition.

There is no guarantee that private commercial properties will continue to be operated consistently with the needs of seashore users or overall seashore purposes. Factors that are considered in renewing permits, which must be done every five years, have not been formalized. New or additional commercial uses of these pre-existing commercial properties are inconsistent with current certificates permitting them to operate within the national seashore. The development of criteria for the alteration of an existing commercial use would be advantageous.

- GOAL: Ensure that commercial parcels are managed in accordance with the national seashore purpose and that any negative impacts on seashore resources, community character, or visitor experience are minimized.**

STRATEGIES: *Renewing permits for private commercial uses* — In collaboration with the Cape Cod National Seashore Advisory Commission, the National Park Service will develop consistent standards for renewing permits for private commercial uses every five years. The following standards will be applied:

- There has been no change in use since the previous certificate renewal.
- The commercial activity contributes to the public's use and enjoyment of the national seashore.
- The commercial activity does not adversely affect resource protection or visitor activities in the national seashore.

For commercial activities that do not meet these standards, further performance conditions will be specified when the permits were reissued. These conditions will be based on deficiencies in meeting the standards. If acceptable compliance with the standards cannot be achieved, the permits (or certificates for exemption) may be withdrawn.

MUNICIPAL AND STATE LANDS

CONTEXT: Lands and waters within Cape Cod National Seashore are owned by the state and local towns, as well as private individuals and the National Park Service. The resulting patchwork of landownership has resulted in sensitive resources being owned and managed by different entities.

Approximately 2,600 acres of land within the national seashore are owned by local towns. Municipal lands within the seashore boundaries are of several types: undeveloped parcels of varying sizes, roads, parking areas, beaches, and other facilities. Population growth in the Outer Cape communities exceeds the state average, creating demand for more municipal services. New sites for services are not readily available outside the national seashore, or they could be too expensive to develop. Consequently, the towns are under considerable pressure to use undeveloped town-owned land inside national seashore boundaries. The National Park Service has limited mechanisms for influencing and managing the use and development of municipal lands.

Within the national seashore the state owns submerged lands of the “great ponds” (natural bodies of freshwater larger than 10 acres) and offshore lands extending up to 0.25 mile from the mean low water line, except for Truro and a portion of Provincetown. NPS concerns relate to protecting the natural resource values of great ponds, some of which are under the jurisdiction of both the state and the Park Service or are split by the seashore boundary. These ponds could be affected by private development and public access. While the Park Service is also concerned about the integrity of intertidal lands, submerged natural and cultural resources, aquaculture, and other proposed uses of state-owned lands, it does not have extensive authority to regulate uses in these areas.

- GOAL: Encourage the protection of resources that are owned, managed, or regulated by multiple jurisdictions.**

STRATEGIES: *Municipal lands within the national seashore* — In collaboration with local towns, the National Park Service will encourage a mutual process for guiding the development of municipal properties within the national seashore. The process will be multidisciplinary and consistent with the resource protection and open space goals in local comprehensive plans, the Cape Cod Commission’s *Regional Policy Plan*, and the national seashore’s approved general management plan. The maintenance of open space will be emphasized. Any development of town-owned land within the national seashore should not threaten to degrade sensitive resources, and the use of environmentally sensitive technologies will be encouraged. Development should be consistent with preserving the local character of each town, the intended uses of the town’s Seashore District, and the established use of the seashore.

Land exchanges with municipalities — In cases where municipal facilities are encroaching on NPS lands (for example, restrooms or parking lots at beach facilities), the Park Service will seek a land exchange with the town for property of equivalent value.

Exchange of municipal lands with sensitive resources — In some cases the National Park Service will negotiate with local towns to exchange municipal lands with sensitive resources for less critical NPS lands. Any such land exchanges will have to be mutually beneficial. Where possible, efforts to expedite the land exchange process will be made.

Management of town beach facilities — Town-owned beaches within the national seashore will continue to be managed and operated by the towns, including Nauset Beach in Orleans, several ocean and bay beaches in Wellfleet, and four ocean beaches in Truro. The National Park Service will continue to work cooperatively with towns on sharing information and approaches to address common beach management issues to strive for consistency across jurisdictional boundaries. Technical support on important and complex natural resource management issues will be provided, as requested. In cases where town beach facilities are eroding, the Park Service will work with the affected towns upon request to determine what course of action to take (also see the discussion in the “Activities, Facilities, and Services” section, page **Error! Bookmark not defined.**).

Activities at kettle ponds — The National Park Service will encourage the consistent management of human activities at kettle ponds under municipal, state, or federal jurisdiction in order to protect the ponds from degradation due to development, overuse, or inappropriate use (also see the discussion under “Water Resources,” page **Error! Bookmark not defined.**). Decisions should also be made about the kinds and levels of use that may be accommodated at the ponds. In these efforts the Park Service will propose the following actions:

- Coordinate with the state and towns to develop joint pond management plans for undeveloped lands, ponds, and beaches.
- Explore the transfer of day-to-day operational responsibilities for some ponds so that a single manager can be defined for each pond to achieve efficiencies in national seashore and town operations; however, maintain a collaborative, overall management approach.

Resources or activities under state jurisdiction — For state-owned submerged lands where there are sensitive resources (such as Nauset Marsh and shipwreck sites), the Park Service will pursue the cooperative management of these submerged lands, or other means of permanent protection of these resources (also see the discussion under “Archaeological Resources,” page **Error! Bookmark not defined.**). For activities under state jurisdiction, the Park Service will seek to collaborate in setting consistent management practices.