



Wellfleet is a town of approximately 13,000 acres with seemingly abundant open space and recreational land. However, these land resources must be guarded carefully to prevent overuse and over development. Of the 13,000 acres, approximately 8,000 are within the Cape Cod National Seashore. The following inventory indicates those areas which fall within the National Seashore. In addition the Massachusetts Audubon Society's Wellfleet Bay Wildlife Sanctuary and the Wellfleet Conservation Trust have preserved additional acres as listed in the following sections. The Wellfleet Conservation Commission has a growing amount of land under its care due to the implementation of the Land Bank in 1998. See Map 13, *Conservation and Recreation Land*, showing all open space in the Town of Wellfleet.

There follows an inventory of lands of conservation and recreation interest. See Appendix I for the complete ADA Report on accessibility of properties owned by the town, conservation commission or recreation department, etc. Map 13, *Conservation and Recreation Land* and Appendices E and F, G and H provide specific parcel information for protected lands as well as unprotected open space in need of protection. Also included are quasi-protected lands such as the Chequessett Yacht and Country Club.

Protected open space is that land which has been set aside by federal, state, town or private organizations for conservation and/or limited recreation usage. Such designated open space may not be sold or in any way developed. Such restrictions are usually stated clearly in the title of ownership. Unprotected open space is that land which is undeveloped but does not have any restriction placed on it preventing future development.

The Town Assessor maintains detailed lists of all properties in town, including both privately owned land at the full assessed value and municipal or privately owned tax-exempt land and tax-reduced lands. Lands taxed at their full assessed value include primarily privately owned commercial and residential properties and generate income for the town through property tax collections. Tax exempt properties include all land owned by the town regardless of its land use status as well as land owned by private non-profit organizations such as the Wellfleet Conservation Trust, Massachusetts Audubon Society, and others. Because these lands are not being used for financial profit, do not generate substantial income, and are in the public's best interests, this land is not taxed. Lands that have a reduced tax assessment include lands with conservation restrictions and lands under M.G.L. Chapter 61 tax incentive programs. Owners of these parcels have agreed to forfeit some or all development rights for a specified period of time while agreeing to keep part or all of their property in conservation or recreation uses, thereby lowering their assessed value and associated property taxes.

The following discussion is divided into two sections, one concerning privately owned land and the other concerning public and nonprofit lands.

## **A. Private Parcels**

Privately owned parcels include all land that is not owned by a municipal, state or federal agency. This land may be used for commercial or residential purposes. Private lands that have

specific open space and/or recreation values are widely considered the most valuable properties in town – financially, ecologically and socially – and are therefore coveted for both development and preservation. On Cape Cod, where land is relatively scarce and the amount of available undeveloped land is dwindling, the competition for this land is intense and land values have skyrocketed. Conservation groups and individuals have felt for decades now that theirs is a race against time to protect as much of this land as possible before it is completely developed. Recognizing the need to prioritize their interests, various initiatives and lists have been developed over the years by these groups to help focus their efforts and money. Some of these land protection initiatives are facilitated by local and state governments, such as the state’s Wetlands Protection Act and Chapter 61 programs. Others are run by regional private non-profit groups such as the Priority Ponds and Cape Cod Wildlife Conservation projects, both conducted by The Compact of Cape Cod Conservation Trusts Inc. For these private projects, desirable land has been prioritized for potential acquisition. Most of these privately generated lists are kept behind closed doors, used only for preservation purposes, in an attempt to avoid their potential misuse by developers.

Though each of these groups holds a slightly different set of priorities, and therefore uses a different list(s), there is often overlap and sharing of these lists amongst groups. In the future, the Town of Wellfleet should work closely with land conservation groups to develop a master *Priority Parcel Acquisition List*, to help focus and integrate all land preservation efforts in town. A master list will help to integrate and streamline efforts between groups, make land protection opportunities more widely visible and fundraising and public relations efforts more cooperative.

Successful protection of high priority private parcels requires a commitment to implementation. Thus, the first task is to contact private landowners to seek permission to use part or all of their land for conservation and/or recreation purposes. For all properties included on the proposed master *Priority Parcel Acquisition List*, it is suggested that first contact be made by letter and followed up by phone. Appendix A contains a list of legal land protection tools that may be employed in this process. Wellfleet Town Counsel should draft all legal documents and preside over all transactions conducted with landowners.

## **1. Agricultural Properties**

### **a. Agricultural Land Tax Law Property (M.G.L. Chapter 61A)<sup>20</sup>**

The agricultural and horticultural land classification program under Massachusetts General Laws Chapter 61A is designed to encourage the preservation of the state’s valuable farmland and promote active agricultural and horticultural land use. It offers significant local tax benefits to property owners willing to make a long term commitment to farming. In exchange for these benefits, the city or town in which the land is located is given the right to recover some of the tax benefits afforded the owner when the land is removed from classification and an option to

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<sup>20</sup> Chapter 61, 61A and 61B information presented in this section is from the Massachusetts Department of Revenue Division of Local Services Property Tax Bureau’s “Taxpayer’s Guide to Classification and Taxation of Agricultural/Horticultural Land in Massachusetts”, Brochure dated October 1997.

purchase the property should the land be sold or used for any purpose other than to continue raising farm products.

Eligible property must consist of at least 5 contiguous acres of land under the same ownership and be "actively devoted" to agricultural or horticultural land use under Chapter 61A. Land is used for agricultural or horticultural purposes if it is used primarily and directly to raise or grow the following for sale in the regular course of business:

- Animals, including, but not limited to dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, or products derived from the animals.
- Fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products.
- Forest products under a forest management plan approved by the State Forester (see Chapter 61 discussion).

Land is also used for agricultural and horticultural purposes if it is used primarily and directly in a manner related to the production of the animals or crops and that use is necessary and incidental to the actual production or preparation of the animals or crops for market.

For the land to be considered "actively devoted" to a farm use, it must have been farmed for the two fiscal years prior to the year of classification and must have produced a certain amount of sales. The minimum gross sales requirement is \$500 for the first 5 acres of productive land. That amount is increased by \$5 for each additional acre of productive land being classified, unless the additional acreage is woodland or wetland. In that case, the amount is increased by only \$.50 for each additional acre.

The minimum gross sales requirement for land being used to cultivate or raise a farm product that takes more than one season to produce its first harvest is satisfied if the land is being used in a manner intended to produce those sales within the product development period set by the Farmland Valuation Advisory Commission<sup>21</sup> for the particular crop or animal.

Buildings and other structures located on the parcel, as well as any land on which a residence is located or regularly used for residential purposes, do not qualify for classification and continue to be assessed a regular local property tax.

There are no currently in Chapter 61A status in Wellfleet.

b. Other Agricultural Lands

There are no other privately held agricultural lands of mention in Wellfleet.

## 2. Forested Land

a. Forestland Tax Law Property (M.G.L. Chapter 61)

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<sup>21</sup> The Farmland Valuation Advisory Commission is a state board made up of a representative from the Department of Food and Agriculture, Department of Revenue, University of Massachusetts College of Food and Natural Resources, Executive Office of Communities and Development and a local Board of Assessors.

The forest land classification program under Massachusetts General Laws Chapter 61 is designed to encourage the preservation and enhancement of the state's forests. It offers significant local tax benefits to property owners willing to make a long term commitment to forestry. In exchange for these benefits, the city or town in which the land is located is given the right to recover some of the tax benefits afforded the owner when the land is removed from classification and an option to purchase the property should the land be sold or used for non-forestry uses.

Eligible parcels must consist of at least 10 contiguous acres of land under the same ownership and be managed under a 10-year management plan approved and certified by the State Forester in order to qualify for and retain classification as forest land under Chapter 61. Buildings and other structures located on the parcel, as well as the land on which they are located and any accessory land, do not qualify for classification and continue to be assessed a regular local property tax.

Massachusetts General Laws Chapter 61 allows landowners to reduce the property tax burden on their woodlands if they are willing to keep the forested land undeveloped and in wood production. Land certified under Chapter 61 is taxed at 5 percent of fair market value or at \$10 per acre, whichever is greater. In addition, a products tax of 8 percent is charged on the stumpage value of any wood cut from the property.

To qualify for Chapter 61, landowners must have 10 or more contiguous acres of private woodland managed for wood production under an approved long-term forest management plan. The plan must be approved by the DEM service forester and then filed with the local board of assessors. To continue in the program, the plan must be renewed every 10 years. As part of the agreement, the town receives an option to purchase the property if the owner decides to sell to someone other than a relative.

Generally speaking, if the land is not kept in wood production for at least 10 years, the costs incurred will be greater than paying the normal tax bills as they come due. If landowners choose to remove their land from Chapter 61 prior to the 10 year anniversary, they must repay all the taxes which were avoided and a 14 percent interest penalty.

There are no Chapter 61 properties currently existing in Wellfleet.

### **3. Recreation Land**

#### **a. Recreation Land Tax Law Property (M.G.L. Chapter 61B)<sup>22</sup>**

The recreational land classification program under Massachusetts General Laws Chapter 61B is designed to encourage the preservation of the Commonwealth's valuable open space and promote recreational land uses. It offers significant local tax benefits to property owners willing to make a long term commitment to preserving land in an undeveloped condition or for use for

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<sup>22</sup> The majority of this section is copied verbatim from the TAXPAYER'S GUIDE TO CLASSIFICATION AND TAXATION IN MASSACHUSETTS CHAPTER 61B RECREATIONAL LAND Massachusetts Department of Revenue Division of Local Services Property Tax Bureau found at <http://www.dls.state.ma.us/Ptb/pdfs/Ch61B.pdf>

outdoor activities. In exchange for these benefits, the city or town in which the land is located is given the right to recover some of the tax benefits afforded the owner and an option to purchase the property should the land be sold or used for any purpose other than to maintain it as open space or for recreational use.

Property must consist of at least five contiguous acres of land under the same ownership in order to qualify for and retain classification as recreational land under Chapter 61B. The land must fall into one of the following two categories to qualify:

1. It must be maintained in a substantially natural, wild or open condition or must be maintained in a landscaped condition permitting the preservation of wildlife and natural resources. It does not have to be open to the public, but can be held as private, undeveloped, open space land.
2. It must be used for certain recreational purposes and must be open to the public or members of a non-profit organization. Recreational purposes include land used primarily for any of the following outdoor activities, so long as they do not materially interfere with the environmental benefits of the land: hiking, camping, nature study and observation, boating, golfing, non-commercial youth soccer, horseback riding, hunting, fishing, skiing, swimming, picnicking, private non-commercial flying, hang gliding, archery, and target shooting. Buildings and other structures located on the land, as well as the land on which a residence is located or regularly used for residential purposes, do not qualify for classification and will continue to be assessed a regular local property tax.

Under Chapter 61B, the owner still pays an annual property tax to the city or town in which the classified land is located. However, the tax is based on the commercial tax rate for the fiscal year applied to the value of the land for recreational purposes, rather than its fair market value as would be the case if the land were not classified. The value of the land for recreational purposes is determined annually by the assessors and cannot exceed 25 percent of the fair market value of the land. The property tax is due in the same number of installments and at the same time as other local property tax payments in the city or town. Interest is charged on any overdue taxes at the same rate applicable to overdue local property taxes.

The city or town has an option to purchase any classified land whenever the owner plans to sell or convert it to a residential, commercial or industrial use. The owner must notify by certified mail the mayor and city council or the selectmen, assessors, planning board and conservation commission of the city or town of any intention to sell or convert the land to those uses. If the owner plans to sell the land, the city or town has the right to match a bona fide offer to purchase it. If the owner plans to convert it, the city or town has the right to purchase it at its fair market value, which is determined by an impartial appraisal. The city or town may also assign its option to a non-profit, conservation organization. The owner cannot sell or convert the land until at least 120 days after the mailing of the required notices or until the owner has been notified in writing that the option will not be exercised, whichever is earlier. This option is not available to the city or town and the notice requirement does not apply if the recreational use is simply discontinued, or if the owner plans to build a residence for his or her use, or the use of his or her

parent, grandparent, child, grandchild, brother or sister, the surviving spouse of any of those relatives, or an employee working full time in the recreational use of the land.

The 108-acre Chequesset Yacht and Country Club covers approximately 108 acres, with a nine hole golf course, small sailing basin, 5 tennis courts, boat house and club house. It is the only Chapter 61B property in Wellfleet and should be maintained as a public resource in perpetuity even if it does not always remain a privately owned golf course. As mentioned in Section 4C, the town has recently appropriate money to purchase 25 acres of the Club as part of its Herring River Restoration Project. Continued efforts are necessary to ensure perpetual protection of the entire acreage through the use of fee purchase, conservation restriction or other means (see Appendix A, *Non Regulatory Land Protection Tools*.) As mentioned earlier, for properties in Chapter 61B status, the town has 120 day right-of-first refusal periods on any pending sale. There is relatively little insurance against the possibility of full scale development of this land.

b. Other Private Recreational Facilities

Oliver's Tennis Courts (eight public tennis courts) represent another private recreational facility in Wellfleet which are currently open but unprotected.

c. Seasonal accommodations

Wellfleet has a relatively moderate selection of motels and inns along with several bed and breakfast establishments. Some of these are seasonal while others remain open for all or most of the year. There are also several cottage colonies, condominiums and rentals which are operated seasonally.

d. Camping facilities

- Paine's Campground on 14.7 acres with 150 sites and 44 hook ups
- Maurice's Campground on 21.1 acres with 240 sites and 140 hookups

These operations play an important role in Wellfleet's open space, recreation, and economy. It is essential that such amenities be protected through use of Chapter 61B or conservation restrictions or other means, or additional ones planned for in the event that any of them are lost to development.

#### **4. Areas Significant for Water Resource Protection**

The entire Cape is significant for water resource protection due to the presence of a single underground sole source aquifer and the abundance of surface water resources, as well as their importance to the region's economy. Surface water resources include salt and freshwater bodies and wetland habitats of all kinds.

Wetland resources are protected through the regulatory oversight of the town Conservation Commission in accordance with the Massachusetts Wetland Protection Act (M.G.L. Chapter 131), and the town local wetlands bylaw. The town also establishes rules and regulations for the public use of municipal recreational and drinking water resources. In addition, there are regional and town-wide initiatives aimed at protecting specific resource types including the land-based initiatives discussed below.

a. Cape Cod Priority Ponds Project – A Land Conservation Guide for Cape Cod's Freshwater Ponds<sup>23</sup>

The Cape Cod Priority Ponds Project was conducted by the Compact of Cape Cod Conservation Trusts, Inc. to assist public and private land conservation programs on Cape Cod. The focus of the guide is the identification of the remaining undeveloped land parcels adjoining fresh water ponds<sup>24</sup>. The primary goal of the project is to assist in the protection of the most important remaining undeveloped pond shore areas on Cape Cod for water quality, conservation and passive recreation purposes.

The specific objectives of the project include:

- To identify, map and rank all the remaining pond shore parcels on Cape Cod (both undeveloped and under-developed).
- To develop protection strategies for the top priority properties, particularly those surrounding Great Ponds and Coastal Plain Ponds.
- To conduct targeted outreach for landowners controlling priority parcels to provide information on land values and identify protection options.
- To provide a digital database containing maps and a parcel-specific database to support ongoing land protection and water quality monitoring activities.
- To promote further cooperation among the Commonwealth's environmental agencies, Town environmental protection committees, and local non-profit land trusts in protecting the public interest in freshwater ponds.

The Cape Cod Priority Ponds Project is the first comprehensive evaluation of pond shore property ever done for Cape Cod. The regional study is inclusive of all ponds, regardless of size, location or public recognition and included well over 1,000 ponds and more than 3,000 land parcels. From this extensive database, 200 properties have been culled out based upon an assessment of their conservation values. The top 200 Priority Parcels are intended to serve as a guide for decision-making by the local land trusts and town Land Bank Committees. Ideally this

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<sup>23</sup> The majority of this section is copied verbatim from the report authored by The Compact of Cape Cod Conservation Trusts, Inc. with minor changes to accommodate the purposes of this report.

<sup>24</sup> Though the protection of undeveloped property is the primary interest of most land conservation efforts, this study also includes so-called under-developed parcels. Under-developed parcels are large lots that may contain existing structures, but also include sufficient additional land area (beyond the minimum lot size required by zoning) to warrant consideration for conservation purposes.



information will allow these groups to determine which properties they should protect before the land comes on the market or a development proposal is initiated.

One important step in maintaining pond ecology and water quality is to conserve as much of the surrounding uplands as possible. However, it is not possible (or necessary) to protect all the remaining open land around the Cape's ponds. It is simply too costly and in those instances where the shoreline is already extensively developed, conservation may not achieve the desired effect. The delineation of surface watersheds and ground water recharge areas can help focus protection efforts to achieve maximum water quality benefit. Where available, pond (ground water) recharge areas were considered in setting priorities for protection in this project.

Nearly 3,000 parcels, with a total area in excess of 12,000 acres, were evaluated and ranked. All of these properties were mapped and the general parcel information stored in The Compact's project files. From this list, the top 200 highest scoring parcels were selected for further analysis and information gathering. As would be expected, the top 200 parcels are not evenly distributed among the Cape's 15 towns. Some towns may contain several of the "top 200 priority parcels", while others may only contain one or two. The intent is to stimulate a collective, local effort that will help ensure protection of a regional resource and to provide an opportunity to target local funds to properties that may have greater than local value. It is also expected that this approach will help stretch limited acquisition funds by highlighting those properties that may be most likely to attract additional sources of funding.

The Cape Cod Commission is currently compiling substantial additional information for many of the Cape's fresh water ponds. While not used specifically to rank parcels in this study, it is expected to be of value to the land trust community, particularly when selecting among priority parcels that may be competing for available funding. The Commission's Ponds Atlas contains information on water quality, depth, bathymetry (where available), recreational uses, types of public access, herring runs, fish stocking and water quality monitoring activities.

### **Summary of Significant Regional Finds and Results**

- 1,032 ponds have been inventoried Cape-wide. Hydrologic information provided by the Cape Cod Commission.
- 170 of these are Great Ponds (10 acres or more in size).
- 191 ponds are considered Coastal Plain Ponds that provide important habitat for several state-listed rare (Special Concern, Threatened or Endangered) plant and animal species.
- 60 percent (615) of the ponds inventoried have further development potential along their shorelines.
- Roughly 40 percent (415) ponds have shorelines that are either completely developed or completely protected.
- 2,672 undeveloped or under-developed pond shore properties have been identified for analysis and ranking purposes.
- Falmouth has the highest number of parcels inventoried at 465 (16 percent of the total) followed by Harwich with 377 (13 percent), and Mashpee and Barnstable with 344 and 343, respectively (12 percent).

- The top 200 parcels contain approximately 2,800 acres around 69 ponds in 13 towns.
- Sandwich has the most acreage associated with the top 200 parcels with 875 acres, followed by Brewster (482), Barnstable (347), Mashpee (321), Harwich (283), Falmouth (226), Yarmouth, (181). The remaining 133 acres is split nearly evenly by the towns of Chatham, Orleans, Dennis, Truro, Eastham and Provincetown.
- The towns with the highest number of top 200 parcels around ponds are Mashpee (50), Brewster (48), Sandwich (27), Harwich (26), Barnstable (19), and Falmouth (18).

Though the priority ponds maps and parcel lists are not available for public viewing, they should be used to help focus land acquisition efforts, particularly those related to pond protection. Future land acquisition efforts in the Town of Wellfleet should incorporate Priority Ponds Project findings into the decision making process and, at a minimum, the high-priority parcels identified in Wellfleet, should be added to the proposed master Priority Parcel Acquisition list for the town. For more specific information regarding Wellfleet's priority pond parcels, contact The Compact of Cape Cod Conservation Trusts Inc. at 508-362-2565.

## **5. Priority Areas for Protection of Rare Species and Exemplary Natural Communities**

### **a. Massachusetts Natural Heritage and Endangered Species Program**

The Massachusetts Natural Heritage and Endangered Species Program (MNHESP) regularly updates and publishes its lists and maps of endangered, threatened and special concern species in each town (see Table 18, above). MNHESP also actively inventories and tracks the distribution and status of uncommon and exemplary natural communities across the state. The location of these habitats and species impacts potential development projects and is often a criteria used when prioritizing parcels for conservation land acquisition<sup>25</sup>. MNHESP information relevant to the prioritization of privately owned parcels is discussed below. For further information regarding wildlife habitats and species, see also Section 4E and Maps 10A, B, C and D.

### **b. Cape Cod Wildlife Habitat Conservation Project**

The Cape Cod Wildlife Conservation Project was undertaken to help bring wildlife conservation planning to the forefront in public and private land acquisition and open space management efforts in the region. The results of this analysis are primarily intended to guide the Cape's private land trusts on land acquisition decisions pertaining to habitat protection. This information, however, may also be of general interest and benefit to other conservation-minded organizations involved in wildlife education, protection and habitat management, such as town land bank committees. The most important result of the Cape Cod Wildlife Habitat Conservation Project is the identification of the region's most important wildlife habitat and the prioritization of parcels for protection. This information should be used by the Town of Wellfleet to help guide Town's land protection efforts. This project is discussed in depth in

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<sup>25</sup> This is, in fact, one of the criteria used in the Cape Cod Wildlife Conservation Project and the Priority Ponds Project, both produced by the Compact of Cape Cod Conservation Trusts, Inc.

Section 4E and illustrated in Map 11, *Cape Cod Wildlife Conservation Project Significant Habitats Map*..

## **6. Private Vacant Unprotected Land**

The Town of Wellfleet is rapidly approaching buildout, and demand for the few remaining buildable parcels in town is high. The Town's Open Space/Land Bank Committee has compiled a list of vacant land in town and has prioritized these parcels for protection. This list includes all vacant lots of significant size; many smaller open lots within subdivisions will not be included. Appendix G, *Areas of Concern for Land Conservation*, lists the criteria used in determining a parcel's acquisition priority. Most of the highest priority parcels are abutting existing conservation areas and are listed in Appendix H, *OSC List of High Priority Salt Marsh Parcels*. As presently constituted, this list contains 524 vacant acres which could be protected for conservation/recreation. The Wellfleet Conservation Trust also has a list of high priority parcels. It is recommended that these groups compile these to create a *Master Priority Parcel Acquisition List* and work cooperatively, as they have in the past, to protect the parcels listed

## **7. Conservation Restrictions and other Less than Fee Interests**

It is not commonly known that land purchased or designated and used for conservation purposes is not always protected from development in perpetuity. The best way to ensure a parcel's perpetual protection is to place language in the deed to that effect. Such language is known as a "conservation restriction", and is one of the major land protection tools being used today. This conservation restriction may be owned by a non-profit land trust or another non-profit organization including the town itself; it does not necessarily have to be held by the owner of the land. In many cases, a land trust may hold a conservation restriction on land that is owned by a private landowner or even on land that is owned by the town or state. Conservation restrictions may vary in duration; to ensure *perpetual* protection, a permanent conservation restriction is necessary.

Contrary to popular knowledge, town land used for conservation and recreation is not always protected and can be developed by the town at any time, provided the appropriate legal steps are followed. According to state law, land acquired for the purposes of natural resource protection cannot be converted to any other use without the following actions:

- 1.) the matter must be taken up at town meeting or city council and pass by a 2/3 vote;
- 2.) the town must file an Environmental Notification Form (ENF) with EOEA's MEPA Unit; and,
- 3.) the matter must pass by a 2/3 vote of the Massachusetts Legislature.

Finally, if the land was acquired with assistance from one of the EOEA's Division of Conservation Service's funding programs, the converted land must be replaced with land of

equal monetary value and recreational or conservation utility (EOEA DCS Open Space Planner's Workbook).

These steps are meant to ensure that land acquired for conservation and recreation remains protected, however if these steps are adhered to, it is possible to change a parcel's designation and that possibility scares many open space planners. It is conceivable that future politics and municipal land use needs may change a town's approach to conservation and recreation parcels, and develop them for other purposes. Also, many parcels do not have clear deed language, or even if they do, their land use status not always known by land planners. Therefore, for the purposes of open space planning, these parcels must be perceived and treated as unprotected land until a thorough deed examination is conducted. The Horsley Witten Group has recently completed a study of all publicly owned land in Wellfleet to establish their legal ownership and land use (conservation and recreation) status. Lands that are not legally protected in perpetuity should have a permanent conservation restriction assigned to their deed and recorded in the Barnstable County Registry of Deeds.

According to The Compact of Cape Cod Conservation Trusts, there are 10 properties totaling 24.6 acres under conservation restrictions in Wellfleet, shown in Appendix F, *Land Holdings of the Wellfleet Conservation Trust*.

Conservation restrictions are the easiest and most reliable means of ensuring the perpetual protection of land. The town should continue to work in conjunction with land trusts (i.e. the Wellfleet, The Compact of Cape Cod Conservation Trusts, Inc. and Orenda Wildlife Preservation Trusts) to acquire conservation restrictions on all unprotected municipal lands even if they are currently designated as conservation and recreation land and on any privately owned land that exhibits conservation values including wetland resource areas.

## **8. Major Institutional Holdings**

There are no other major private institutional land holdings in the town of Wellfleet.

## **9. Other Resources**

### **a. Railroad and Utility Rights of Way**

As previously noted, sections of the abandoned Cape Cod Railroad right of way have been converted to recreational use as a biking and/or walking trail in other towns. Similarly, the electric power line corridors running through town and some public and private road right of way are used for various open space and recreational purposes including walking, hunting, and nature observation. These major corridors are an extremely valuable conservation and recreational resource. Without them, the town would lose one of its most important but overlooked "borrowed" amenities. To ensure the continued availability of these areas for public use, the town should seek to acquire conservation restrictions or rights of way on private land along these corridors that afford continued public use. As tracts of land become available for purchase, the town should consider buying them.

## B. Public and Nonprofit Parcels

Wellfleet has approximately 44 miles of shoreline. This shoreline is used by residents and visitors for swimming, surfing, fishing, surfing, and walking and serves as a natural playground for children and adults.

### 1. Public Facilities

#### a. State

According to Town of Wellfleet fiscal year 2004 figures contained in Appendix E, *Wellfleet Tax Exempt Land*, there is a total eight parcels totaling 81.94 acres owned and managed by the Commonwealth of Massachusetts in Wellfleet. The state holds three conservation or recreation areas in Wellfleet, two within the Fox Island Conservation Area; one on the east side of Indian Neck and the other at Field Point, the other is part of the Cape Cod Rail Trail near LeCount Hollow Road

#### b. Town

### Recreation

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#### Recreation Commission

According to Town of Wellfleet fiscal year 2004 figures contained in Appendix E, *Wellfleet Tax Exempt Land*, there is a total of approximately 96 acres owned and managed by the Town of Wellfleet Recreation Commission. Most of the more prominent sites are listed and described by category, below.

<i><b>Ocean Beaches</b></i>	<u>Acres</u>	<u>Management</u>	<u>Facility</u>
Newcombs Hollow	1.8	Town	Comfort Station, Life Guards
Cahoons Hollow	3.9	Town	Comfort Station, Life Guards
White Crest	41.4	Town	Comfort Station, Life Guards, Surfing
Maguire's Landing/LeCount	45.0	Town	Comfort Station, Life Guards
Marconi Beach	-	NPS	<i>see note below</i>

*Note:* Marconi Beach is part of the National Seashore. Facilities include a designated surfing area, bath house with showers, handicapped scenic overlook, interpretive shelter and environmental study area.

#### ***Bay Beaches***

Indian Neck	4.2	Town	Portable Toilet
Mayo Beach	4.4	Town	Comfort Station, handicap access
Pleasant Point	4.2	Town	Launching Area
Duck Harbor	10.7	Town	Portable Toilet
The Gut	8.8	Town/NPS	Great Island Trail head

Powers Landing	0.4	Town	Beach Access
Burton Baker	1.4	Town	Launching Area

### ***Fresh Water (Kettle) Ponds***

There are thirteen fresh water kettle ponds in Wellfleet. All of the ponds are located within the National Seashore boundaries; five have public access managed by the Town of Wellfleet . These kettle ponds are a unique and fragile resource with ecological, aesthetic and recreational value. In the past few years, the National Park Service has conducted and coordinated research programs on the kettle ponds to investigate the status of pond water quality (see Section 4C).

### ***Ponds***

<b>Pond</b>	<b>Size (Acres)</b>	<b>Access</b>	<b>Ownership</b>	<b>Comments</b>
Gull	106	5.3A	NPS, Town, Private	Swimming, fishing, ice fishing bed owned by state non-motor boating, stocked trout, alewives spawning, boat rental
Great	44	2.8A	NPS, Town, Private,	Clear swimming hole, poor fishing bed owned by state
Long	37	1.3A	NPS, Town, Private,	Swimming, minor fishing, bed owned by state very acid
Higgins	28	500'	NPS, Town, Private,	Swimming, fishing, ice fishing, alewives spawning
Herring	20	----	NPS, Town, Private,	Alewives spawning bed owned by state
Duck	13	7500'	NPS, Town, Private,	Clear swimming hole bed owned by state
Dyer	11.8	----	NPS, Private,	bed state
Williams	9.0	3.0A	NPS, Private	Shallow murky pond, minor bass fishing
Kinnacum	6.4	none	Private	
Turtle	3.9	None	NPS, Private	

Southeast	2.7	None	NPS, Private
Northeast	2.4	None	NPS, Private
Spectacle	2.0	Town	NPS

Public access to both marine and fresh water ways-to-water, in the Town of Wellfleet has been a way of life associated with Cape Cod for several centuries. Ways to water can be defined as legally defined public rights of access to shoreline water resources including fresh and salt water beaches, town and state landings, fresh water walkways, boat launches, streams, ponds, etc. Ways to water are owned and managed either by the town or the state. Recently the Horsley Witten Group conducted a study of all town-owned ways to water in order to identify their ownership and public accessibility status. That report should be referenced as the town strives to establish permanent protection of these recreational resources wherever it is needed. These are shown on Map 13, *Conservation and Recreation Land*.

### ***Town Recreational Sites***

Bakers Field - located on Kendrick Avenue. Here the town provides a playing field, 4 tennis courts, children's playground, basketball courts, a skate board park, and rest rooms. This area can also be used for town fairs and the like.

Headstart playground ( across from Elementary School) - a playground for young Wellfleet Elementary School has a large playing field used by various ball teams throughout the year. It also has a playground.

Elementary School Gymnasium - the Wellfleet recreation program has unlimited use of the school during available hours.

Hamblin Park/Cannon Hill - This is a four acre area accessible via Uncle Tim's Bridge (a wooden foot bridge)

Schools also provide an important quasi-public recreation resource. To ensure that the most important town owned land is protected in perpetuity for public conservation and recreation use, the town should prioritize all town owned parcels for their conservation and recreation value, regardless of category, and pursue their permanent protection through the establishment of conservation restrictions.

## Conservation

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### *Conservation Commission and Land Bank*

According to Town of Wellfleet fiscal year 2004 figures contained in Appendix E, *Wellfleet Tax Exempt Land*, there is a total of 22 parcels totaling 13.49 acres under the care, custody and control the Town of Wellfleet Conservation Commission plus another 56.02 acres bought with Land Bank revenues and managed by the Conservation Commission. Most of these are listed below and in Appendix E.

- 3,000 square feet off Cross Street, Old Wharf Point
- Old Wharf Point - 29 lots encompassing approximately 132000 sq. ft
- Mill Hill Island - 6 lots - approximately 39,600 sq. feet
- Paine Hollow Road 3 lots approximately 0.28 acres
- Highland Avenue, Paine Hollow, Lot 358 & 359, total .41 acre
- Off Briar Lane, Lot 118 - 2.70 acres
- Off Morea Park Road, Brown's Neck Road - Lot 155 - 2.70 acres
- Off Lt. Island Road, at Bayberry Rd. - 10.8 acres
- Geiger I & II – 15 lots – 14.6 acres (see further discussion on page 19)
- Oliver – 3 lots – 3 acres
- Frank – 7 lots – 8 acres
- Chavchavadze – 5 lots – 7.910 acres
- Ziering – 8 lots - 7.26 acres
- Ernst – 3 lots – 3.43. acres (see further discussion on page 19)
- Koessel – 2 lots – 1.56 acres
- Rinzler – 6 lots – 6.00 acres
- Sand Pit – 3 lots – 3.4 acres
- Approved at Town Meeting April 2005 – Chequessett Yacht and Country Club - 25 acres,

The Open Space/Land Bank Committee (now the Open Space Committee since July 1, 2005) has done an admirable job of governing land acquisition in the Town of Wellfleet for the last five years. For the foreseeable future, the Community Preservation Act will provide the funding for land acquisition in town, which will be managed by a CPA Committee (Committee appointments underway). As discussed in Section 3 funds can be used to address three core community concerns:

- Acquisition and preservation of open space
- Creation and support of affordable housing
- Acquisition and preservation of historic buildings and landscapes



A minimum of 10 percent of the annual revenues of the fund must be used for each of the three core community concerns. The remaining 70 percent can be allocated for any combination of the allowed uses, or for land for recreational use. This gives each community the opportunity to determine its priorities, plan for its future, and have the funds to make those plans happen ([www.communitypreservation.org](http://www.communitypreservation.org)).

The new CPA Committee will have the responsibility of identifying, prioritizing and pursuing land acquisition opportunities for the purposes of open space and recreation, historic preservation and affordable housing. Because these three interests may sometimes compete with each other, it is imperative that each group has a representative or liaison to the CPA Committee that will represent these interests. Some of the tasks this Committee should consider include development of the proposed master *Priority Parcel Acquisition List* and protection of the private parcels listed. It should also prioritize all town owned parcels for their conservation and recreation value, regardless of category, and pursue their permanent protection through the establishment of conservation restrictions. Finally, it should establish a strategy for the ongoing management of these properties to ensure healthy ecosystem functioning, sanitation and public safety.

### **Other Municipal Properties**

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In addition to parcels that are clearly dedicated for conservation and recreation uses, there is a large amount of tax exempt land (public and private) that is designated for other uses including those listed below. These undesignated parcels present a challenging opportunity for creative conservation and recreation planning in town. The town should absorb and being to implement the recommendation of the recently completed town-owned lands inventory conducted by the Horsley Witten Group.

- General Municipal Use – 70 acres
- Community Organizations - 15 acres
- Church Properties - 8.58 acres
- Tax Title Properties – 365 acres
- School Properties – 13 parcels totaling 280 acres;
- Housing Authority – 17 acres
- Cemeteries – updated acreage unavailable at time of writing
- Public Landings – updated acreage unavailable at time of writing
- Ways to Water – updated acreage unavailable at time of writing

## **c.. Cape Cod National Seashore Recreational Sites**

Of the 44,600 total acres in the Cape Cod National Seashore about 8,000 are in the Town of Wellfleet. Several major visitor areas are within the town. These are:

- Great Island is connected by land to the mainland. The Great Island Walking Trail goes to the end of Great Beach Hill, site of the former 18<sup>th</sup> century Human Society Hut for shipwrecked seamen.
- Atlantic White Cedar Swamp is located next to the Marconi Historical Site and consists of a 1.2 mile nature trail.
- Marconi Beach area - bathhouse, lifeguard and handicapped scenic overlook
- Marconi Historical Site - Site of the sending of the first transoceanic radio message from the United States
- Atwood-Higgins House - on Bound Brook Island

## **2. Private Non-Profit Conservation Lands**

### **a. Massachusetts Audubon Society - Wellfleet Bay Wildlife Sanctuary (WBWS)**

According to Town of Wellfleet fiscal year 2004 figures contained in Appendix E, *Wellfleet Tax Exempt Land*, there is approximately 838 acres owned and managed by the Massachusetts Audubon Society at the Wellfleet Bay Wildlife Sanctuary. This land comprises a broad expanse of salt marsh, pine woods, brooks, and ponds including five miles of trails, a children's day camp, educational workshops and classes as well as lectures - all dealing with aspects of nature, conservation and wildlife.

### **b. Wellfleet Conservation Trust**

The Wellfleet Conservation Trust was established in 1984 to aid and promote the preservation of natural resources and rural character of the town of Wellfleet. This is done through the conservation, preservation and maintenance of beaches, meadows, woodlands, marshes, wetlands and wildlife habitats. The Trust acquires land by gift or purchase, acts as steward for its protection, and encourages the study and implementation of sound environmental practices. The WCT also works with the Open Space/Land Bank Committee and contributes funds toward purchases made with Land Bank monies thus increasing the ability to purchase acreage.

In its first 20 years, WCT has protected 96 parcels of land totaling approximately 268 acres (The Compact of Cape Cod Conservation Trusts Inc.)<sup>26</sup> (see Appendix F, Land Holdings of the Wellfleet Conservation Trust). Wellfleet Conservation Trust properties are located to a large extent near the Wellfleet Harbor, where protection of the land helps to protect its water quality. Some of this land is contiguous with other protected open space such as at Indian Neck where the WCT and Commonwealth of Massachusetts jointly protect over 100 acres.

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<sup>26</sup> Appendix E, Wellfleet Tax Exempt Land, shows only 230 acres, probably indicating that town records are not as up to date.

### **3. Open Space Planning Efforts**

#### **a. Regional Open Space Greenbelt**

In 1991 the Cape Cod Commission proposed a regional open space greenbelt system throughout Barnstable County, whose purpose is to “link existing protected open space and sensitive resources including wildlife habitat, wetlands, and zones of contribution to public wells to establish a regional network of connected open space.”<sup>15</sup> Towns were asked to refine this greenbelt as it falls within their borders, as they develop local comprehensive plans. In Wellfleet, the greenbelt extends throughout the Cape Cod National Seashore, which is currently protected, and extends beyond into the important marshlands in and around Wellfleet Harbor including Blackfish Creek, several stream systems, and the Chequessett Neck Yacht and Country Club.

The greenbelt is a regional and local look at how open space and recreation lands might link together, keeping in mind current development patterns. Although Wellfleet can never have too much open space for its environmental health, priority should be focused on the most important ecological areas, namely the saltwater marshlands and river corridors.

#### **b. Cape Cod Pathways**

Wellfleet’s Board of Selectmen has endorsed the concept of Cape Cod Pathways, a countywide effort to create a growing network of walking trails linking open space in all 15 Cape Cod towns from Falmouth to Provincetown. In November 1993, the Barnstable County Commissioners conceived the Cape Cod Pathways project as a way to:

- enable residents and visitors to enjoy and learn about the natural, recreational, historical and cultural values of Cape Cod;
- enhance access for walkers and hikers to the Cape’s woodlands, ponds, beaches and historical villages;
- foster the preservation of open space in order to protect scenic views, wildlife habitat and sensitive natural areas; and,
- serve as a regional amenity, attracting visitors to Cape Cod during all seasons of the year.

Numerous individuals and organizations across Cape Cod have been involved in this effort through the years including the presently dormant organization called Partners for Cape Cod Pathways (Association for the Preservation of Cape Cod, Cape Cod Commission, The Compact of Cape Cod Conservation Trusts, Inc. and The Conservation Fund), as well as trail advocates and local town committees.

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<sup>15</sup> Cape Cod Commission, Regional Policy Plan Atlas, 1991.

The Cape Cod Pathways trail network directly enhances Wellfleet's conservation and recreation resources, providing an additional reason for the ongoing acquisition and protection of conservation land, thereby assisting in regional open space conservation efforts.

In 1998, The Compact of Cape Cod Conservation Trusts Inc. completed a *Trail Plan and Environmental Assessment - Cape Cod Pathways National Seashore Trails Project: Salt Pond Visitor Center to Marconi Station (Headquarters) Area*. The Trail Plan detailed a large portion of the proposed Cape Cod Pathways trails route through the Park and indicated how it would link up to adjacent areas and trails. These walking trails are located within the federally owned Seashore but serve the entire public. They can be accessed at several points within town. They also intersect with the Cape Cod Rail Trail bicycle corridor.

### **c. Bike Trails**

The Cape Cod Rail Trail runs from Wellfleet to Dennis and is the most popular bike trail on Cape. The Rail Trail runs mostly over the abandoned rail bed of the Old Colony Rail Road. In 1976 the State of Massachusetts purchased the right-of-way for \$1 and started plans for recreational use of the corridor. Beginning in 1978 the first sections of trail were improved for pedestrian, bicycle and equestrian use. In 1994 the Rail Trail was extended from Locust Road in Eastham to LeCount Hollow Road in South Wellfleet. And in 1997, the Town of Harwich built a 3.5 mile spur off the Rail Trail to the Chatham town line. In 2002 the first of two 'bicycle' bridges were built that eliminated most of the areas where one must ride with traffic. In all the Rail Trail and its connections provide more than 30 miles of off-road riding. Nickerson State Park is the official trail head and overseer of the trail<sup>27</sup>. Wellfleet has some of the best trails on the Cape, particularly in and around the Cape Cod National Seashore.

Further discussion is needed as to how we might extend the Bike Trail through Wellfleet without impacting on the fresh water ponds which have been seriously threatened by overusage. The Open Space Committee has recommended to the Selectmen that if and when they decide to grapple with this question that they appoint a separate Bike Trail Committee to explore all dimensions of the problem. Open Space would ask to have a representative on that Committee.

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<sup>27</sup> Much information in this summary has been taken verbatim from the Cape Cod Rail Trail Web site, <http://www.ccrailtrail.com/>