



View of Jimmy's Pond from Nicky's Park



Jimmy's Pond is the only site in Southeastern Massachusetts where the bog twayblade orchid (Liparis loeselii) can be found.

Prepared for approval by the Massachusetts Division of Conservation Services under the Self Help Program

Report funded by Town of Provincetown Land Bank Fund



NICKY'S PARK MANAGEMENT PLAN

RAY and NICKY WELLS CONSERVATION AREA

TOWN OF PROVINCETOWN

2007

Prepared by

THE COMPACT OF CAPE COD CONSERVATION TRUSTS, INC.

BARNSTABLE, MASS.



**NICKY'S PARK
RAY AND NICKY WELLS TOWN CONSERVATION AREA
MANAGEMENT PLAN**

Latitude 42 03' 45"N
Longitude 70 11' 00"W

A. INTRODUCTION & AUTHORITY

This Management Plan is intended to provide guidelines for conservation and passive recreation uses at the Nicky's Park in Provincetown, Massachusetts. Formally known as the Ray and Nicky Wells Town Conservation Area, Nicky's Park consists of two adjoining town-owned parcels totaling four acres, about half upland and half wetland. The parcels are under the direct management authority of the Town of Provincetown Conservation Commission. Nicky's Park is situated in the heart of a setting of other conservation land, owned variously by the Town, State and Provincetown Conservation Trust, totaling over 11 acres around the Jimmy's Pond wetland system. This Management Plan is focused on the Nicky's Park component of this watershed area, and with its maps and appendices, is intended to comply with goals and objectives of the Provincetown Open Space and Recreation Plan and the "Land Use and Management Plan Guidelines" of the Massachusetts Division of Conservation Services. The Plan, however, can be useful in guiding management of the other adjoining conservation properties at Jimmy's Pond.

Under Massachusetts statute, lands held by the Conservation Commission under M.G.L. c. 40, s. 8C are to be used for conservation and passive recreation purposes. This Management Plan is intended to reserve Nicky's Park for quiet public enjoyment at a level of use appropriate to sustain the significant natural resources identified on the property as described in Section D of this Plan.

B. BACKGROUND

The Town of Provincetown acquired title to Nicky's Park in two phases: first, town acquisition of the 2.02-acre parcel at #82 Harry Kemp Way from Ray Wells in 2004 for \$125,000 (see Exhibit M.1). That land acquisition was the fourth parcel purchased by the Town under the Cape Cod Open Space Acquisition Program (*aka* Cape Cod Land Bank), approved by the voters at a general election in November 1998. The Land Bank provides a three percent surcharge on property taxes to acquire land for open space purposes through the year 2020. The second parcel was purchased by the Town from the Provincetown Theater Foundation Inc. in January 2007 (see Exhibit M.2) for

\$340,500. The vote to purchase the Theater property was contingent upon receiving partial reimbursement from the state Division of Conservation Services. The Provincetown Conservation Commission made a state grant application in July 2006 and in November 2006, the state awarded \$177,060 in reimbursement from its stewardship of the Self Help reimbursement program (see Exhibit M.2.a); the state grant will be forthcoming after approval of the Management Plan contained herein.

The Compact of Cape Cod Conservation Trusts, Inc., acting on behalf of the Town provided valuable support for the purchase. With Town Land Bank funding, The Compact prepared the successful state grant application and prepared this Management Plan in 2007. The Compact also drafted the two perpetual conservation restrictions to be held by the Provincetown Conservation Trust over the Town on Nicky's Park, to further guarantee that the land will be preserved for conservation and passive recreation uses.

Ray Martan Wells and Nicholas Wells acquired the vacant land north along Harry Kemp Way in 1965. In 1983 they donated a 2-acre parcel to the Provincetown Conservation Trust for conservation. Nicholas Wells died in 1985. In 1986 his widow Ray Wells donated a second 2-acre parcel to the Theater Company (known formally as the Provincetown Academy of Performing Arts and Museum, Inc.) for theater purposes. Over the years, the Theater Company advanced various ideas to use the property, perhaps to build a theater, perhaps to provide affordable residential units for actors and crew. But the only activity was the placement of a wooden storage shed on the frontage of the parcel, which was used by the troupe for set storage until it was demolished and removed by the Town in 2006. In 2004, the Theater Company sold the parcel to its allied Provincetown Theater Foundation for \$34,000, essentially the amount of unpaid property taxes owed by the Theater Company. When the new Theater was built and opened in 2006 on Bradford Street, the troupe abandoned plans for the Harry Kemp Way parcel and, in knowing the wishes of benefactor Ray Wells, who had donated the land to the Theater, the Theater Foundation opted to sell the lot to the Town for conservation.

Ray and Nicky Wells were long-time residents of Provincetown, actively involved in the arts community. Ray was a talented artist herself and Nicky, a local realtor, and Ray supported the theater scene. They both were generous souls, caring for peace, the poor, the arts and the land. (See Exhibit P.) Ray is still a summer visitor to the town. The 2004 Town Meeting vote was amended from the floor to have the citizenry declare by consent that the town conservation land along Harry Kemp Way should be known as the Ray and Nicky Wells Conservation Area, the only town conservation land dedicated specifically to individuals.

C. SITE DESCRIPTION

Nicky's Park Conservation Area consists of about four acres, of which about 1.5 acre is freshwater wetland; the remainder is upland derived of dune deposits. Nicky's Park, like the rest of Provincetown, is composed of sands eroded off the Truro cliffs and reshaped by wind and waves over the past 5,000 years. The dunes closest to the Harbor, including the ridges on the Nicky's Park property, are older than the dunes closer to the Atlantic. The dune rises in dramatic steep ridge along the eastern perimeter of Nicky's Park creating a 30-foot high ridgeline. (See Exhibit F.)

The parcel is located between Harry Kemp Way (town way) on the southeast and State Route 6 on the northwest. Residential development forms the other sides of the area. Harry Kemp Way coincides with the 80-foot wide layout for the defunct Old Colony Railroad, property acquired by the Town of Provincetown in 1967. The PCT owns wetland adjoining the western and northern ends of Nicky's Park. The 300-foot wide layout for US Route 6, property owned by the Commonwealth of Massachusetts and, since 2003, managed by the State Division of Fisheries and Wildlife after the State discontinued the highway (on paper). Route 6's northern boundary is directly contiguous with the Cape Cod National Seashore, property owned by the US Department of the Interior. The Town purchase of the Nicky's Park parcels, therefore, anchors the southern side of this contiguous assemblage of protected open space parcels.

Only 12 percent of Provincetown (including the National Seashore) is forested and Nicky's Park represented a large unprotected forest area in town. This wooded area straddling Route 6 is known informally as the Provincetown Greenway and represents important habitat (see Exhibit O.) While no specific habitat assessment has been conducted as yet, the forest composition is very similar to other upland in the Greenway. While immature pitch pine predominates, other canopy species include black and white oak, beech, sassafras, gray birch, tupelo, pussy willow and red maple, with an understory of highbush blueberry, swamp azalea, sheep laurel, shadbush, bayberry, inkberry and huckleberry. There are no exposed boulders nor would they be expected on a dune deposit. Bearberry, greenbriar, poison ivy, wintergreen and sensitive fern are found along the ground.

The wooded upland Nicky's Park is surrounded on three sides by a contiguous wetland anchored by Jimmy's Pond, a small (1-acre), shallow (3-feet maximum depth) pond, which can perhaps be characterized more appropriately as a shallow-marsh area within the extensive wetland. (See Exhibit E.) According to 1893 and 1944 US Geological Survey maps, this wetland was originally twice as large, but the railroad bed

construction in the 1860s filled in part of the southern edge and the state highway construction in the 1950s filled in the central part of the wetland, severing it in two.

In its 2003 Cape Cod Pond and Lake Atlas, the Cape Cod Commission assigned Jimmy's Pond its own number (PR-15), but had no other information about it specifically. In its analysis of the much larger Clapps Pond in Provincetown, however, the Commission stated, "Clapps Pond is similar to many of Provincetown's ponds, shallow, very acidic, and containing moderate to high concentrations of nutrients. These ponds are much younger than most of the rest of the Cape's ponds, forming after the growth of the Provincelands during the last 3,500 years and might be more properly classified as swamps or bogs. The low pH is likely due to the influence of peat moss, which lowers pH as it decays."

Jimmy's Pond is also similar to all the other ponds in Provincetown in that it is an isolated body of water, dependent solely on the fluctuation in the aquifer's water table for its own surface level, often exposing a wide shore during the summer when the water table is low. This exposed shoreline comprises the unique "Coastal Plain Pond Shore" habitat. Identified in the Town's 2000 Local Comprehensive Plan as a critical habitat area in need of special protection, it is the Town's most important habitat for the water-willow stem borer moth (*Papaipema sulphurata*), the few-fruited sedge (*Carex oligiosperma*), and may be the only site in SE Massachusetts and the largest in Massachusetts for the bog twayblade orchid (*Liparis loeselii*). (See cover photo.)

A intermingling of blueberry shrub swamp, red maple swamp and freshwater marsh surrounds Jimmy's Pond. Water willow shrub is found along the pond edge and can host the rare stem borer moth. Stormwater runoff from Route 6 and Harry Kemp Way are major influences on the quantity and quality of the water in the pond. Other parts of the marsh also have open water areas. (See Exhibit E.)

No faunal inventory has been conducted, but the typical Cape Cod assemblage of upland mammals (rabbit, squirrel, fox, coyote, raccoon, skunk, etc.) can be expected to inhabit the area. Nicky's Park lies within the Estimated Habitats for Rare Wildlife and Vernal Pools (WH6) and within a Priority Site of Rare Species Habitats and Exemplary Natural Communities (S.USMAHP117), according to maps of the Massachusetts Natural Heritage and Endangered Species Program. According to *Birding Cape Cod*, by the Cape Cod Bird Club and the Massachusetts Audubon Society (1994),

"On a day-to-day basis, no other town on Cape Cod offers the birding potential of Provincetown, and the visiting birder would do well to allow at least a day for exploring... In the spring, migrating songbirds and hawks are funneled northward along the Outer Cape and, reluctant to cross the water, become concentrated in Provincetown, often in large numbers."

The wooded dunes inland from Bradford Street are the southern margin of the Provincelands dune system of the National Seashore. Provincetown has more incidences of rare species, primarily associated with the dune system, than almost any other town in Massachusetts. The Eastern box turtle, a Species of Special Concern, has been found (professionally) in Foss Woods and Shank Painter Pond forest, very similar in composition to Nicky's Park. Broom crowberry, a Species of Special Concern in Massachusetts, has been found on the opposite side of Harry Kemp Way, but not specifically on Nicky's Park upland to date.

D. ENVIRONMENTAL SIGNIFICANCE

The Town of Provincetown Open Space and Recreation Plan, completed under the auspices of the *ad hoc* Open Space and Recreation Planning Committee in 1995, (updated 2006) identified several conservation goals, which are furthered by the protection of Nicky's Park:

- Protect and enhance Provincetown's fragile environmental resources and unique habitats:
 - * Protect and preserve the value of identified lands for wildlife habitat, rare plants and animals, uncommon woodlands (such as beech forest or cedar swamp), and historic resources.
 - * Evaluate town-owned open space to dedicate portions to conservation use and develop management plans which ensure maximum natural resource protection, while enhancing recreational access for purposes such as hiking, fishing, and small-craft boating.
- Meet residents' and visitors' needs by providing a balanced, year-round recreational program with adequate facilities, while protecting sensitive natural resources and keeping maintenance costs within a limited budget.

Nicky's Park's importance is based on the following characteristics: wildlife habitat, open space linkage, forest significance, wetlands, scenic beauty and enhancement of existing open space properties. Management and use of the Nicky's Park Conservation Area should be designed to be compatible with the protection of these values.

1) Wildlife Habitat

The diversity of habitat types on the property promotes use by many different animal species. The mix of hardwoods and softwoods, upland and wetland areas, and steep slopes and flat areas provides varying niche habitat characteristics for many species.

This area is habitat for six State-listed rare species, one Endangered, two Threatened, and three Species of Special Concern.¹

2) Forest significance

Nicky's Park is in the center of an almost unbroken woodland area that straddles Route 6 and continues into the National Seashore...[W]oodland is at a premium in Provincetown with so much of the land area being unforested sand dune. The biodiversity of Provincetown depends very much on areas such as Nicky's Park. Furthermore, Nicky's Park continues a wooded dispersal corridor for migratory wildlife that stretches across town to the Clapps Pond and Shank Painter Pond wetland/woodland system. The protection of Nicky's Park and the larger wooded area (to the east and west) are essential to the many wildlife species that utilize this area as a refuge from the "heat" and openness of the dunes and the built up environment along Commercial Street.

3) Wetlands Protection

Nicky's Park includes, along its western northern and eastern edges, small ponds, fresh marsh, shrub swamp and deciduous wooded swamp. This extensive wetland, formed in a blowout depression in the old dunes, has saturated soil, owing to its intersection of the water table. The wetland provides important habitat diversity, a water source for wildlife, and absorbs stormwater runoff. Rare plants have been documented along the pond shores. The steep ridge is well vegetated and is not experiencing erosion. No vernal pools, habitat for breeding amphibians, have been documented in this wetland, but one certified vernal pool exists in the isolated wetland just to the west of this site, north of Harry Kemp Way.

4) Scenic Value

Nicky's Park provides a natural wooded greenbelt along 450 feet of the public road called Harry Kemp Way, a major local thoroughfare. A large residential neighborhood can be expected to use this informal trail and enjoy the solace of the woods and glimpse the pond.

5) Expansion of Existing Public Open Space

Nicky's Park's four acres adjoins the 4.5-acre state-owned highway shoulder, and abuts PCT land, and connects to, across the highway, the Cape Cod National Seashore. This assemblage of adjoining properties increases the significance of each by enlarging the habitat and recreational potential of the area.

¹ (Specific list and location of rare species found in the vicinity is on file with the Conservation Commission; specific species are not published for a general audience, owing to state concerns of harvesting, etc.)

E. HISTORICAL and EXISTING USES

Nicky's Park itself is presently lightly used owing to poor access (the only way in is via the pull-off from Harry Kemp Way), lack of facilities (especially long distance trails), vegetation (dense undergrowth), and topography (steep ridges.) Some visitors walk through the woods in an informal fashion.

In the early part of the 1900s, a cartpath ran northwest from Howland Street to the railroad, ending directly opposite what is now Nicky's Park. That cartpath has since been subsumed by the development of Oak Drive. Interestingly, there is a faint but discernable cartpath still existing running northwest through Nicky's Park (see Exhibit G) which may have been a continuation of that aforementioned cartpath. It seems likely that villagers would have wanted access to the large Jimmy's Pond wetland, perhaps for berrypicking in the broad blueberry swamp, perhaps for ice-cutting. While there is no information about whether or not this swamp might have been cultivated as a cranberry bog, there are two small borrow pits, or manmade excavations (labeled Points E and I on the trail plan in Exhibit G) in the banks of the ridge. They have the shape of sand-mining areas used to generate winter coatings of the bog, though they seem small. Perhaps the sand was used for other purposes or perhaps there are many other small borrow pits surrounding the wetland that supported any cranberry cultivation. Both of these borrow pits are well-vegetated, indicating long-ago abandonment.

Atop the 30-foot high ridgeline there are three small manmade depressions (labeled Point K on the trail plan in Exhibit G). Did children playing at fort-making make them? Were they used by hunters shooting over the wetland before the trees grew up to block their line of site? Were they made to support informal camping? Did "pot-hunters" make them looking for relics of the Nauset tribe? It is unclear but interesting to ruminate over.

F. LEGAL PROTECTIONS AGAINST CONVERSION OR DISPOSAL OF PARCEL

Nicky's Park was acquired for conservation, open space and passive recreational uses only. It is protected from conversion to other uses by a combination of conservation restriction, statutory provisions (G.L. c. 40, s. 8C and the Land Bank Act) and the Constitution of the Commonwealth (Article 97). The Town cannot simply decide to put Nicky's Park to other uses, such as housing, schools or cemeteries, or dispose of or sell the property. Some of the obstacles to conversion or development are noted below:

The Nicky's Park parcel is owned by the Town of Provincetown, but managed by the Conservation Commission under M.G.L. c. 40, s. 8C, the Conservation Commission Act. (See *vote of Provincetown Town Meetings, April 2004 & April 2006. See Exhibit M1 & M.2*) Conversion to uses other than conservation and passive recreation would require:

- a) a majority vote of the Conservation Commission that Nicky's Park was no longer needed for conservation; and,
- b) a two-thirds vote of Provincetown Town Meeting; and,
- c) review under the Massachusetts Environmental Policy Act and approval by the Secretary of Environmental Affairs; and,
- d) a two-thirds roll call vote of the Massachusetts General Court (state legislature) and signature by the Governor;² and,
- e) restitution under the Self Help Project Agreement. (See Exhibit M.2.a).

Finally, and as a separate matter, the two conservation restrictions held by the Provincetown Conservation Trust on the two separate 2-acre parcels comprising 4-acre Nicky's Park proper (see Exhibit N) would have to be terminated, using steps outlined in paragraphs a) through d) above, plus a recorded vote of the majority of the then-sitting trustees of the Provincetown Conservation Trust, agreeing to a release of the restriction.

G. THREATS TO SITE FEATURES

The natural and cultural features that provide the environmental significance of the Nicky's Park Conservation Area are described in Section C. Management of the area is intended to protect and, where appropriate, enhance those characteristics. The Management Recommendations proposed in Section H are based on an overall goal of providing limited passive recreation that will not disturb significant features and avoid or minimize the threats listed below:

1) Wildlife Habitat

Threats to plants and wildlife include vehicle use, trampling, human overuse, collecting, and disease/infestation. Trail proliferation is not recommended; use of existing foot trails as much as possible should be explored.

² In 1972 the General Court added a provision to the state Constitution, Amendment Article 97, which specifically forbids the sale or conversion of all lands owned by the state or towns for conservation purposes, unless there has been a two-thirds roll call vote of the state legislature. This provision would apply to all of the conservation property owned by the Town.

Hunting is explicitly prohibited at the site owing to the small size of the parcel and proximity to dwellings and roadways. Hardly any of the Management Area is greater than 500 feet from a dwelling or 150 feet from a roadway, setback distances prescribed by the state Division of Fisheries and Wildlife, which regulates hunting. Plenty of in-season hunting opportunities are available in the nearby National Seashore.

2) Forest significance

Threats to the woodland include cutting, disease, and filling. There is no evidence now of brown-tip moth or other infestation affecting the pitch pines as they do elsewhere, particularly in North Truro nearby. No unauthorized cutting has taken place to date.

3) Wetlands protection

Threats to wetlands include dumping, filling, erosion, changes in water quantity and quality. Vernal pool documentation should be a high priority in Jimmy's Pond's wetlands. Road runoff into the wetland from Harry Kemp Road and Route 6 needs mitigation, via leaching catch basins rather than direct chutes and discharge pipes.

4) Scenic Values

Threats to the visual quality of Nicky's Park are the erection of permanent structures, erosion, cutting and litter. No structures are to be built except perhaps simple resting benches along the trails. Litter along the road frontage, particularly over the guardrail on Harry Kemp Way, should be cleaned regularly and large items (sofa, etc.) removed where occasional dumping has occurred in the past (Point X on trail plan in Exhibit G.)

5) Adjacent Protected Open Space

The Town owns a parcel for general municipal purposes in the western edge of the swamp (#62 Harry Kemp Way), which is not protected open space. The State and Provincetown Conservation Trust should work in collaboration with the Town to provide consistent management approaches to their respective shares of the wetland here.

H. MANAGEMENT ISSUES & RECOMENDATIONS

1) Parking Area

There is very little discretion in locating the placement of a parking area for Nicky's Park. It must be located at the present entrance driveway (which led to the now-removed storage shed) owing to the street guardrail and the steep ridgeline bracketing the entrance drive. (See Exhibit F and Photos #2, 3 & 4 in Exhibit H.) It would be difficult at best to widen the driveway beyond its existing one-vehicle width, so it is probably best to have cars park single file in the 40-foot long entrance. There is no safe road shoulder parking on Harry Kemp Way, owing to the same guardrail and ridgeline issue. While this parking arrangement is not ideal, it is more likely that frequent visitors to Nicky's Park will reside within walking distance and not need a vehicle anyway. Furthermore, if, in rare instances, two or three vehicles were all stacked up at the parking area, blocking each other's egress from the site, it is likely that the visitors would have passed each other on the short trails and figured it out amongst themselves.

Another consideration is that vehicles backing out of the parking area onto Harry Kemp Way will have poor sight lines and vehicles tend to move swiftly along the Way, creating the potential for broadside accidents. It is important to ensure that no sign is located so as to further hamper the view of exiting vehicle drivers. (See Point A on trail plan in Exhibit G.)

2) Trail Plan (See Exhibit G and Exhibit P.)

The two acres of upland at Nicky's Park already have unauthorized segments of foot trails that can be linked and enhance to create a simple, effective loop trail for visitors to enjoy in a quiet manner. (See details in Exhibit G.) The most prominent existing trail traverses the 30-foot high ridgeline (Points M-L-K-H). While there is not much to see from this high point, owing to view-blocking trees, it is interesting to sense the dramatic drop-off along the "knife's edge" to either side and realize that this is simply a wind-sculpted dune like those in the Provincelands, but one that evolved into a more sheltered, forested condition. If use levels determine that the steep cross-contour trail to the top (Point M on trail plan) is too steep or begins to erode, then that segment can be abandoned and a more gentle switch-back trail installed to the west (Point N).

A sideloop trail (Points I & J) off the ridgeline trail can be constructed to add a different experience walking along the edge of the shrub swamp, but there is not much to see here and it is inappropriate to enter the marsh here. It is recommended not to build this side loop unless or until there is evidence of public demand for it.

The trail should wend through the delightful little pitch pine grove (Point F) and terminate at the edge of Jimmy's Pond where a gap in the vegetated shoreline already exists. Hand-trimming the shrubs bracketing this access point will widen the view of the pond for the visitor. Skating on the pond in the winter can be accommodated by this access but other entry into the pond should not be encouraged, owing to the fragile habitat of the pondshore. A bench installed at the widened gap would make an attractive contemplative destination spot.

Most walkers prefer not to trudge over the same ground on a return to the trailhead and so one side loop (Points F-E-D-C) on the southwest side of the ridgeline should be created soon. This side trail intersects the ridge trail at the pitch pine grove and descends into a borrow pit (Point E) beneath the landmark black oak tree known as a wolf oak, owing to its spreading form and domination of any other competitors. A side trail (D1) also can accommodate less-abled walkers (those who tire easily, for instance) as noted in the section below.

The trail plan suggests several places for resting or viewing benches. These should be very simple in composition and size, perhaps two feet high, three feet long, made of stumps or halved-logs supported on cedar or locust posts.

3) Handicapped Access

The Americans with Disabilities Act of 1991 states that public facilities, including town lands, should meet federal guidelines for accessibility by handicapped persons. A 1994 evaluation by the Provincetown Disability Committee found that Provincetown's unique, steep dune topography renders many public lands unsuitable for full accessibility,³ a feature shared by Nicky's Park. In general, the *experiences* that an able person could enjoy at Nicky's Park should be made available to the disabled.

In the proposed trail plan (Exhibit G), it should be possible to design one leg of the new trail (Points B-C-D-D1-F-G) to better accommodate less-abled persons, given the relatively gentle grades of this trail leading from the parking area to the pond edge. No surfacing or hardening of the trail is recommended. The ridgeline trail (Points B-M-L-K-H) is too steep at its southern end to accommodate handicapped access.

4) Property Integration

Nicky's Park has an environmental integrity of its own, but there are opportunities to augment its value by increasing the size of the conservation area. The Town owns, in addition to Nicky's Park proper, #62 Harry Kemp Way, a 0.63-acre vacant parcel, acquired as a throw-in from the New York New Haven Railroad in 1967 when the railroad bed was abandoned. This parcel consists solely of wetland and the steep western bank to the wetland near Jimmy's Pond. The Town Board of Selectmen manages this general municipal property owned by the Town. An article should be brought before Town Meeting to get a vote to dedicate this parcel to the Town Conservation Commission as conservation land, so that it can be managed in concert with Nicky's Park and conservation area use rules applied consistently for the area. This transfer of custody should also be considered a high priority owing to the parcel's proximity to adjacent condo development. (See proposed article in Exhibit Q.)

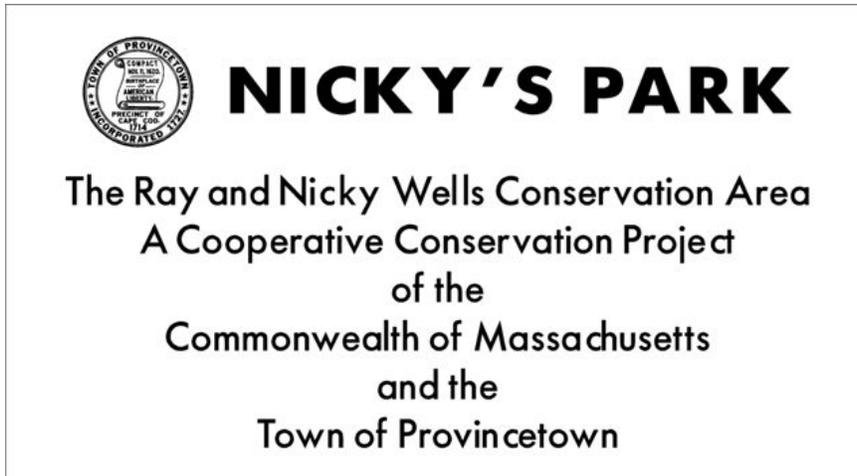
5) Capital Costs and Funding

The only improvements associated with this management plan are simple (trail benches, trailhead sign, short split rail fences). They can be performed using existing manpower and equipment from the Provincetown Public Works Department. Work from this department is contingent upon operating budgets, available staff, season and

³ Open Space and Recreation Plan, Town of Provincetown MA, 1995, p. 75.

scheduling. Alternatively, a few work days requisitioned from Americorps volunteers in Wellfleet, as supervised by the Conservation Agent, could also provide a free method of implementation.

Costs for signs, fencing and benches can be paid for with Land Bank revenues allocated for maintenance of Land Bank properties (up to 3% of the Land Bank Fund can be used for management.)



Trailhead sign
installed in May
2007

6) Property Regulations and Uses

All usual Conservation Commission rules and regulations pertaining to town conservation land shall apply to use of Nicky's Park. In particular, see below:

i) *Allowed Uses:*

On Nicky's Park proper: walking, birdwatching, cross-country skiing, leashed dog walking, nature study, non-commercial berrypicking, photography, sketching, and painting.

ii) *Prohibited Uses*

On Nicky's Park proper: hunting*, discharge or possession of firearms, bicycles, digging, motorized vehicles (including all-terrain vehicles), all fires, alcoholic beverages, all other uses not specifically allowed in section (i) above and (iii) below.

**(hunting is prohibited due to proximity to habitable dwellings and roadways)*

iii) *Special Permits*

The following activities are allowed on Nicky's Park proper, subject to approval from the Conservation Commission:

- botanical or animal inventory
- archaeological survey
- geological or ground water investigations
- educational tours

- groups of ten or more people.

All approved researchers must submit written findings of their studies, on a regular basis, to the Conservation Commission.

7) Habitat Improvements

Active manipulation of existing on-site habitats is not recommended at this time. Dead trees or "snags" should not be removed unless they are diseased, block the trails, or are likely to spread infestations to healthy trees. Dead wood is a primary source of food and shelter for many birds, such as woodpeckers.

I. PLAN IMPLEMENTATION

1) Property Management

The Town Manager will serve as the contact person for all inquiries and management coordination. Plan design and management is vested in the Conservation Commission on behalf of the Town, in consultation with the Open Space Committee, Public Works Department and others, as needed. Actual implementation of many of these recommendations should be undertaken by staff of the Provincetown Public Works Department or the Conservation Agent as supervisor of Americorps-Cape Cod. The Provincetown Police Department will respond to criminal complaints. In the event of conflicting interpretations regarding implementation, the Town Manager should be consulted.

The Provincetown Conservation Trust will conduct an annual inspection of the Nicky's Park to determine Town compliance with the terms of the perpetual conservation restrictions granted to PCT by the Town in 2004 and 2007.

2) Property Security

Neighborhood volunteer stewards should be recruited to report misuse or suggestions for improved use of the Nicky's Park Conservation Area. As the persons most directly affected (both positively and, potentially, negatively) by the establishment and development of a town park in the area, abutters should be encouraged to get involved with the care of the Area. Volunteers for litter patrol could be those neighbors who take their daily "constitutional" along the trail. Others could keep a daily tally of number of users, so the town can determine levels of use over the course of the season or year. These volunteers should be made official stewards reporting regularly to the Conservation Commission, so their investment in the project is recognized.

All breaches of the rules of the Conservation Area should be reported to the police and logged, so that conservation officials can determine the extent of documented abuse, rather than depend upon anecdotal information.

3) Fire Plan

The goal of a fire plan is to ensure safe and adequate access for emergency vehicles to suppress fires at Nicky's Park, with particular aim to protecting surrounding homes. There is water hydrant service on Harry Kemp Way. The Fire Chief should designate staging areas and proposed firefighting access and methods and water availability. Given the topographical constraints of Nicky's Park (steep ridges, wetlands), the only access onto the property will be through the existing entrance drive parking area.

In consultation with abutters, ConCom should evaluate the amount of tree deadfall near its property's eastern perimeter to determine the neighbors' desired balance between continued assurance of wooded privacy versus fire hazard.

4) Update and Review

The Provincetown Conservation Commission should review this management plan each year. In advance of an annual public meeting on this plan, the Commission should confer with other town departments to determine their concerns. The Commission should update the plan as necessary. The Commission should report to the Selectmen any problems in compliance with the management plan. New or modified components to the management plan can be adopted by the Commission at any time after a publicly-advertised public meeting.

8 May 2007

TO: Conservation Commission, Provincetown
FROM: Mark H. Robinson, Executive Director
RE: Final Nicky's Park Management Plan

I am under contract to the Town to prepare grant compliance documents, including the attached management plan for Nicky's Park on Harry Kemp Way. As promised to Michelle Jarusiewicz and Brian Carlson, here is the final version of this plan; it includes refinements suggested by ConsCom chair Dennis Minsky. This plan, commissioned by the Town and funded by the Open Space Committee through the Land Bank Fund, has been approved by the ConsCom and the Provincetown Conservation Trust. This plan is required for the Town to receive its \$177,060 state Self Help grant in June.

I have made one substantive change from the draft plan, based on a site visit yesterday with Brian Carlson. We have added one additional new spur to the trail plan (Segment D1) to allow more gentle access for handicapped access.

Please keep this final plan in the permanent records of the ConsCom and available for ready reference by staff and commissioners.

Thank you for your consideration.

NICKY'S PARK MANAGEMENT PLAN

EXECUTIVE SUMMARY

PURPOSE:

This Management Plan is intended to provide guidelines for conservation and passive recreation uses at Nicky's Park (Ray and Nicky Wells Conservation Area) in Provincetown, Massachusetts. This Conservation Area consists of two acres of woodland and two acres of wetland. It abuts seven acres of adjoining land that is owned for conservation purposes. This woodland and wetland are considered Priority Habitat for rare plants and animal species and are now under the direct management authority of the Town of Provincetown Conservation Commission. The Conservation Commission's goal is to provide limited passive recreation that will not disturb significant natural features and avoid or minimize threats to the conservation values of the site. This management plan is intended to satisfy the requirements of the state Self Help Program.

BACKGROUND:

The Town of Provincetown acquired title to Nicky's Park in two phases: first, town acquisition of the 2.02-acre parcel at #82 Harry Kemp Way from Ray Wells in 2004 for \$125,000. That land acquisition was the fourth parcel purchased by the Town under the Cape Cod Open Space Acquisition Program (*aka* Cape Cod Land Bank), approved by the voters at a general election in November 1998. The Town purchased from the Provincetown Theater Foundation Inc. the second parcel, 1.96 acres at #74 Harry Kemp Way, in January 2007 for \$340,500. In November 2006, the state awarded \$177,060 in reimbursement from the Self Help grant program for the latter acquisition. The Provincetown Conservation Trust holds two perpetual conservation restrictions over the Town's two parcels on Nicky's Park, to further guarantee that the land will be preserved for conservation and passive recreation uses. This Park honors Ray Martan Wells and her late husband Nicholas Wells who previously owned and cared deeply for this property and for the Town.

RECOMMENDATIONS:

- Utilize the existing short entrance drive as a 2-3 car parking area and trailhead.
- Enhance trails by creating a lower trail (suitable for less-abled access) and using the existing ridgeline trail, providing a loop trail experience and controlled access to the edge of Jimmy's Pond.
- Clean up bulky item trash on the site and arrange for proper disposal.
- Install two sections of split-rail wooden fencing to delineate parking and trail direction.
- Place simple sitting benches at selected locations, using natural materials if possible.
- Enhance values of site by protecting adjacent properties, especially #62 Harry Kemp Way owned by the Town.
- Recruit volunteer stewards.
- Review and update plan on an annual basis.

At the request of the Town of Provincetown, this plan was prepared by The Compact of Cape Cod Conservation Trusts, a regional non-profit service center for land trusts, with an office in Barnstable MA. The report was funded through the Land Bank Fund of the Town of Provincetown.

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APPENDIX

NICKY'S PARK RAY AND NICKY WELLS TOWN CONSERVATION AREA MANAGEMENT PLAN

LIST OF EXHIBITS

- A. Regional Locus Map
- B. USGS Topographic Locus Map
- C. Town Road Locus Map
- D. Town Assessors' Locus Map
- E. Composite Site Plan of Wetlands
- F. Site Plan Sketch and Site Topo Map
- G. Proposed Trail Plan
- G. 1. Blank Sketch Plan
- H. Site Photos, 2006
- I. 1. Rare Species Habitat
2. Natural Heritage Rare Species Letter
- J. Historic Resources Letter
- K. 1. Jimmy's Pond Context & Locus
2. Jimmy's Pond Conservation Area
3. Jimmy's Pond Topographic Locus
- L. 1. 2005 Survey Plan of Record for #82 Harry Kemp Way
2. 2006 Survey Plan of Record for #74 Harry Kemp Way
3. 1985 Sketch Plan of Record for #66 Harry Kemp Way
- M. 1. 2004 Title References for #82 Harry Kemp Way
2. 2007 Title References for #74 Harry Kemp Way
a. State Self Help Agreement for #74 Harry Kemp Way
3. 2003 Care and Control Agreement for MassWildlife (Rt. 6 ROW)
- N. 1. 2004 Conservation Restriction for #82 Harry Kemp Way
2. 2007 Conservation Restriction for #74 Harry Kemp Way
- O. 2006 Town Open Space Plan Update excerpts
- P. Notes from Ray Martan Wells on Nicky's Park
- Q. Draft Town Meeting article to dedicate #62 Harry Kemp Way to conservation
- R. 2007 Title Insurance Policy #74 Harry Kemp Way