

Cape Cod National Seashore
Subcommittee on Dune Shack District Preservation and Use Plan
MEETING 7

Center for Coastal Studies Library
Tuesday, April 27
9am-1pm

Meeting Summary

Attendees:

Subcommittee Members Present: Sally Adams, long-time dune shack family; Janet Armstrong, long-time dune shack family; Regina Binder, Representative of Provincetown Community Compact; Brenda Boleyn, Representative of CCNS Advisory Commission; Bill Burke, Cultural Resources Program Manager, NPS; Carole Carlson, Representative of Peaked Hill Trust; Rob Costa, Art's Dune Tours; Rich Delaney, Chair of CCNS Advisory Commission; Hatty Fitts, Representative of OCARC; Bill Hammatt, Representative of CCNS Advisory Commission; Joyce Johnson, Representative of Truro; Richard Philbrick, Representative of CCNS Advisory Commission; Austin Smith, Representative of Friends of CCNS; Paul Tasha, Representative of Provincetown; John Thomas, Representative of Provincetown.

CCNS and NPS: George Price, Sandy Hamilton

CBI Facilitation Team: Patrick Field, Stacie Smith, Meredith Sciarrio

Members of the Public: Jane Rosett, Peter Clemons, Andrew Clemons, Marianne Benson, Will Hapgood, Kaimi Lum, Josephine Del Deo

Action Items from Meeting:

- CBI edit John Thomas's statement
- Ginny and Hatty to prepare statement to add to John's letter, arguing for integrity of Chanel shack using National Register criteria
- CBI to mail sections of report as finalized
- CBI to develop checklist/matrix of report sections to show progress
- CBI to distribute Josephine Del Deo's letters
- CBI to distribute binders and dividers solely for report at next meeting
- CBI to draft "decision tree" for transitional shacks
- CBI to update mechanisms chart
- NPS to check on flexibility on lease conditions vis-à-vis subletting
- NPS to locate specific language on leasing terms (maximum number of years)
- NPS to define the turn-around timeframe for leases
- NPS to find out the maximum number of names that can be on a lease
- CBI to develop draft PPT for May 24th AC meeting
- CBI/NPS to draft sections of report for SC to review before May 12 meeting

Introductions and Welcome

Participants introduced themselves, including names and affiliations. CBI outlined the agenda for the meeting. It was noted that once meeting summaries and draft agendas were approved by the subcommittee that they would be accessible to the public via the CCNS PEPC (Planning, Environment, and Public Comment) website (<http://parkplanning.nps.gov/CACO>).

Preliminaries

Participants were invited to review the draft March meeting summary and submit any additions or corrections to it by the end of the week.

NPS Bill Burke updated the subcommittee about the National Register nomination process, for which NPS was currently reviewing a draft outline prepared by the contractor. He noted that the contractor, the Public Archaeology Lab in Pawtucket, RI, had preliminarily determined that the Chanel shack was a non-contributing feature to the district, due to the reconstruction completed in the 1976. Bill added that the Ofsevit-Malkin shack was determined to be a contributing feature despite its reconstruction, because it was remodeled according to the previous floor plan. He clarified that there were a set of standards that needed to be met in order to be listed on the National Register, and that there were also exceptions to those standards. He added that typically a reconstructed property could not be on the Register, but there were exceptions. NPS has asked the contractor to review the situation with the Chanel shack, and conversations are ongoing. NPS added that this statement did not surprise them, because the Dune Shacks are unique and do not fit easily into the typical National Register criteria. Nonetheless, they were hopeful for a positive outcome.

A participant asked if they would consider making the Chanel shack a contributing feature in 2026, 50 years after the reconstruction. Bill replied that it was a possibility, but the District as a whole was an exception to the 50-year rule, since the period of significance ended in 1961.

Another participant asked why it mattered if this one shack was non-contributing. Bill responded that it meant that it was not a historic part of the District. George Price added that he did not foresee that it would be excluded from the District, and NPS planned on treating it like all the other shacks.

Another participant inquired why the shacks were not being viewed as historic due to their purpose and living history. Bill agreed that they should be, which was why they were asking the contractor to review the Chanel shack case. The participant added that the occupants had changed the roofline of the Chanel shack in rebuilding because the original flat roof was one of the causes of the original shack being buried by the sand partially. George mentioned that he understood that it would require vigilance on the part of CCNS to make sure that exceptions were made, such as including the Chanel shack as a contributing feature of the District.

A participant asked for an explanation of the term “period of significance”. Bill replied that any historic structure was always designated with a period of significance, which in the district was

defined by what it was most famous for, a.k.a. the “golden age”. Traditionally for this district, the end of the period of significance was considered to be 1961, because Harry Kemp died in 1960 and CCNS was established in 1961. The participant disagreed with assigning a set period of significance for the dune shacks district because it had a continual living history, especially with an end date before the development of the non-profit organizations.

George reiterated that the National Register had a set framework, and it would be up to NPS/CCNS to make sure that they considered more than just the physical structures when determining historical qualifications.

A participant commented on the emotional level of having the Chanel shack not included as a contributing feature for the National Register. He drafted and distributed a statement for the subcommittee to review to speak out against excluding the Chanel shack. He asked the subcommittee to consider the statement and encouraged them to comment on it. He thought it was important that the subcommittee agreed upon this statement to support the Chanel shack, and that the statement should be sent to the Public Archeology Lab, the CCNS Advisory Commission, CCNS, Regional office heads, and Senator John Kerry. Pat added that the list might also include the state SHIPO. George urged the subcommittee to remember that NPS was in the very preliminary stages of this process, and although the contractor had made comments, nothing had been determined. Bill noted that the contractor would be submitting a report and then NPS would finalize and submit the report, and that there would also be an opportunity for public comment after NPS submitted the report.

CBI asked if anyone had questions about the member’s suggested subcommittee statement. One participant questioned if it was the most effective way of dealing with the situation, since the nomination process was in such a preliminary stage. Another participant suggested rephrasing the statement so the focus was on the inclusion of the Chanel shack on the Register and not on its possible exclusion. CBI recorded edits on the document in redline strikeout, and committed to revising the statement for distribution for the next meeting.

A participant suggested that there may be other issues that the group might have with the contractor’s determinations, and wondered about a process for more input opportunities before NPS finalized the report.

Another participant suggested providing an alternative that showed how the Chanel shack met the requirements of the National Register. The participant added that if the subcommittee provided information for why the shack should be included, then the consultant would probably be more comfortable with including the shack. Ginny Binder and Hatty Fitts volunteered to review the criteria for the National Register requirements and draft a statement supporting the addition of the Chanel shack on the Register. It was noted that this was a living history issue and not a historic architecture issue, and they were hopeful to find language that reflected this in the National Register.

CBI suggested that when the contractor completed his report, the subcommittee should request to have a public comment period before it was finalized with NPS.

Rich Delaney asked that his name not be included on the statement, as he needed to a level of neutrality as Chair of the Advisory Commission. He recommended that the other members of the Advisory Commission on the subcommittee should feel free to fully participate. An Advisory Commission member further explained that the situation was different for the Advisory Commission members than for the Chair of the Advisory Commission, who would not vote on subcommittee decisions.

Review Revised Report Outline

CBI walked through the revised report outline, which indicated who would be drafting the text for each section. Since the sixth section, concerning the appropriate uses per shack, was still uncertain, CBI asked the subcommittee if they would want the section in the report.

A participant inquired whether specific uses suggested for specific shacks by the subcommittee would be permanent designations. George suggested writing a range of uses that described what the future should look like. Many participants stated that they should at least include a list of the current uses in 2010 as a guideline.

Another participant stated concerns about how much time there would be for them to review each section of the report as it was drafted. CBI explained that they would email and mail out draft sections between meeting dates, so that the subcommittee would be ready to discuss and make decisions about them during meetings. CBI also stated that they would develop a status matrix to track the report's progress.

Stewardship and Occupancy

CBI presented a revised and expanded presentation on the stewardship and occupancy of the dune shacks, which incorporated subcommittee members' survey results on criteria for various leases and agreements.

Medium-Term Use

For medium-term use, CBI compiled subcommittee suggestions from the last meeting into two options: a) keep approximately 20% of the shacks for continuous medium-term use (3-10 years) or b) allow medium-term use primarily as a transition mechanism between long-term stewards and only secondarily to long-term use.

A participant stated concern about possible maintenance issues for 3-year medium-term leases. She also added that if there was an overarching steward then there could be a large variation in terms of leases, but it was important to have an ongoing program that encouraged commitment to the dune environment and culture.

Another participant added that she felt the need to speak for those not at the table, outsiders and newcomers to the District, who might seek and benefit from medium-term leases, and there should be a fairness to allow them to have the opportunity to experience the shacks as well.

A participant suggested that option B would be easier to manage and allow for more flexibility. Another participant added that medium term leases should be referred to as a tool for transition and not as a goal. CBI suggested adding a statement to option B with 10-20% medium-term occupancy but still evenly split between families and nonprofits for long-term stewardship.

Many participants agreed with adding language to option B and moving forward with that framework for future use of the shacks. Another participant added that option B would be supporting the long-term leases and also encourage shorter-term use and programs.

CBI clarified that term “recurrent caretakers” referred to those who come to the shacks and help maintain them year after year, and the term “programmatic/public use” referred to when the shack was used for people to stay for a short-term visit. This distinction was made to acknowledge long-term dune dwellers without shacks of their own. It was also clarified that the range of uses were available for any of the stewardship options. One example of this was the current situation with Zara’s shack, which was a long-term family shack. A participant explained that there has been an agreement signed between Zara and PHT, which stated that they shared costs and usage, and PHT was responsible for maintaining the shack.

A participant asked if medium-term use with long-term stewardship of a shack would be feasible with NPS. Bill agreed that it would be fine for a long-term lessee to sublet for medium-term use (for individuals or non-profits), but it would need to be for a minimum of 90 days. He added that ongoing subletting could be a problem.

A participant stated that he would not want to see in leasing requirements or criteria that a long-term family had to be occupying a shack for a certain number of days per year, as this went against the historic character of the people and the shacks, that the kinds of people who have used these shacks over time are not the kind of people who wanted an authority to be monitoring their occupancy. Several participants agreed that there should not be definitive number of days that a long-term leaseholder must be in a shack as long as the shack is being well maintained. Other participants commented that it would not be continuing the living history if no one was living there, and that this did not fulfill the historic character of the district. One participant suggested that people with long-term leases should encourage friends and family to use their shack and noted that there should be a way to do this without issuing 90-day minimum subleases. One participant agreed, but felt that there should also be a way to sublease where the occupants contribute to the costs of the lease. NPS stated that they would look into the language and any flexibility on subleasing.

Long-term Individual/Family Leasing Criteria

CBI presented a compiled list of suggested criteria for long-term individual/family leases based on the subcommittee’s survey responses. Participants were asked to review and comment on this list.

A participant asked if it was possible to use long-term history as criteria. George responded that previous association would be a major factor, but it did not guarantee being approved for a shack or designating certain people to certain shacks.

George noted that he clarified with the regional NPS office in Philadelphia, and that it would not necessary to provide leases to the highest bidder for the dune shacks. He added that the subcommittee should be as clear as possible with the criteria, because it would be their main area of influence over the leasing process.

A participant asked for an explanation of lessees paying fair market value rent for a shack. George replied that an appraiser would determine the amount, and it would hopefully be someone who was familiar with the shacks. Bill added that the Jones and Fleurant shacks had already been appraised at \$1000-1200 per year in rent. George noted that expected maintenance costs would be considered in determining rent.

Many participants were concerned about a suggested criterion for long-term individual lessees that they allow the public to experience the shacks at certain times. They stated that demanding physical public access to the shacks of individual users went against the history and the cultural values of the district. One participant suggested editing the criterion but not removing it completely and reminded the group that they needed to convince the Advisory Commission and the public to support this report. Another participant suggested clarifying “public experience” by referring to the range of ways for providing public access, not just physical access, which had been previously discussed in the public access section of the report.

Since the public experience criterion had been submitted by someone in the online survey, CBI asked the group if anyone felt like there needed to be physical public access to shacks with long-term individual leases. A participant suggested that the report should not state that the public must have access to all shacks, but instead to rely on the designated shacks that would be in the public domain. Another participant suggested that there could be some incentives, such as a financial break on rent, given to long-term individual lessees if they are willing to allow members of the public to stay there. A third participant agreed and added that public access should be listed as an option and not a requirement for long-term individual leases.

A participant commented that public physical access should not be required in the leasing criteria, because he thought that it went against the Wolfe report and the traditions of the District. He gave examples of other local NPS historic structures without public access requirements. He noted that there are already shacks in the District which provide public physical access sufficient to meet the Park’s requirement.

George agreed that many NPS leases do not require physical public access, and he thought it was important to continue to define public access clearly. George gave the example of Thompson Island which, to meet public access requirements, agreed to have some open houses, special events, education opportunities, and active programs serving disadvantaged youth in Boston. He suggested that the subcommittee create a menu of public access opportunities which could be programmatic, educational, physical, contributing to District, etc, and that leaseholders be

required to contribute in one of the many ways available. Several participants agreed with this idea.

One participant stated that the meaning of public access needed to be clear for now and the future, because long-term individual lessees should have the option to offer something other than physical access to the shack, which was still actively contributing to public mission of the District.

A participant clarified that the Advisory Commission members on the subcommittee were encouraged by the process, and he was trying to anticipate what may cause people to have a negative reaction. He did not mean to imply that the Advisory Commission would want physical access in every shack.

One participant suggested that they should include in the report the statement in the Act creating the Seashore about preserving a way of life, so that the Advisory Commission would be aware of how long-term family occupancy fit with the purpose of the CCNS. Another participant thought that a leaseholder should have to sign a statement agreeing to with the CCNS mission, including information about the dune shack District and historical significance. She also suggested the idea of developing a revolving fund to help families or non-profits who could not afford to maintain their shacks or larger repairs.

A few participants suggested removing the word “financial” from the second point and then they could have one general criterion stating, “capacity to perform the required maintenance and pay fair market value rent”.

Participants also suggested eliminating the point stating, “knowledge of any associations to the specific shack, the District and its physical environment, and the history practices and beliefs that are rooted in the dune shack district”, because it overlapped with other suggested criteria.

One participant noted that previous dune dwellers such as Harry Kemp and Boris Margo would not have been issued leases if they had to agree to all of the criteria listed here. He reminded the group that they are shaping what the District will look like moving into the future.

CBI stated that they would draft text based on the subcommittee’s criteria suggestions and distribute it for them to review before the next meeting and to help move the process forward.

Long-term Non-profit Leasing Criteria

CBI then presented a compilation of suggested criteria for long-term organizational leases, based on the subcommittee’s survey responses. Participants were again asked to review and comment on this list.

One participant commented that they may not be able to remove the word “financial” from either type of long-term lease, but maybe they could rewrite the criterion so that it did not benefit only those with more money.

It was noted that many of the criteria were very similar to those mentioned for long-term individual leases.

One participant explained that the “explanation of suitability” was due to proximity to other shacks depending on the non-profit’s programs as well as the amenities/size of the shack intended for non-profit use.

A participant voiced concern on weighing the criteria in favor of long-term connections to the shacks, because it was possible that a long-term non-profit may not be as functional or fruitful for the District in the future. Another participant agreed and added that weighing the criteria to favor the long-term non-profits could make it difficult for new non-profits to come into the District.

Public Comment

A member of the public stated that she was happy to see how well the subcommittee had been working together. She then recited a letter that she wrote to Steve Olausen at the Public Archaeology Lab in Pawtucket, RI in response to his preliminary statement that the Chanel shack was not a contributing feature to the historic District.

CBI stated that they would distribute copies of the letter to the subcommittee.

Scheduling

CBI reviewed future scheduling of subcommittee sessions, including a presentation of draft findings to the Advisory Commission and the general public. It was stated that there were subcommittee meetings on May 12, June 2, and June 24, all 9am-1pm. The next Advisory Commission meeting would be on May 24 from 1-3pm, where there would be time for the subcommittee to present a preliminary slideshow of their current framework. On the same day, there would be a public meeting from 4:30-6pm to present the same slideshow to the public and take comments.

A participant asked for more information about the public meeting. CBI explained that the subcommittee would present the direction that they are going in with their report so that the public would be aware, and would have an opportunity to ask questions and share concerns.

CBI added that they would produce drafts of sections of the report for the subcommittee to review and comment on before the May 12 meeting. One participant asked that the subcommittee be provided with new binders for the draft chapters of the report, and CBI agreed to distribute these at the next meeting.

Transitions

CBI presented a draft process for dealing with predictable and unpredictable transitions.

In the presentation, they suggested that for predictable transitions, three years prior to the end of an existing agreement/lease/stipulation/reservation of use, CCNS/NPS would either initiate a RFP process for long-term (or medium-term) residential stewardship and use, or they would initiate development of a non-competitive lease for long-term stewardship for a non-profit organization undertaking a programmatic purpose consistent with the mission of the CCNS and NPS. They also noted that a) RFPs for long-term residential use needed to include a set of criteria to distinguish qualities for long-term stewardship and to preserve the cultural traditions and vitality of the District, b) continuity of long-term stewardship was favored when possible, and c) CCNS should seek to maintain the recommended approximate balance of residential and programmatic uses as outlined in the framework.

The proposal suggested that for unpredictable transitions, CCNS/NPS would immediately work to ensure the integrity and character of the structure and issue a public notice about their plan during the transition to preserve the shack. Following this, CCNS/NPS would determine the future stewardship/occupancy of the shack given the District plan, seek the advice and consultation of the Advisory Commission and/or future subcommittee prior to the determination, and provide a 30-day public comment period on CCNS/NPS's determination prior to a final decision. Finally, CCNS/NPS would follow the same procedures as with a predictable transition by either initiating a RFP process for residential use or initiating development of a non-competitive lease for a long-term non-profit organization.

George commented that for unpredictable transitions, he would not to issue public notice, or implement a public comment period. He also stated that he was unable to include anything about the wishes of any long-term dune dweller about a shack's future use, even if it was non-binding. CBI responded that their goal had been to suggest a process with as much transparency as possible. George stated that he could not bind future superintendents in that way. However, he was quite comfortable to the suggestion of consulting with the Advisory Commission or a subcommittee. He clarified that the subcommittee could only exist as a sub-group of the Advisory Commission, which needed to be re-chartered by Congress periodically in order to continue to function. The NPS could not create a multi-stakeholder group on its own.

A participant asked if multiple people could all sign a long-term lease so that if one person passed away, then the others could continue it. NPS thought that it was possible, but they would look into it to determine how many names could be on a lease.

George clarified that upon the death of the holder of a life estate, that shack entered into CCNS jurisdiction, and would be managed according to the Management Plan developed by this group. He reminded the subcommittee that their criteria would guide the decisions about who would receive the leases. He added that they would be looking at the objectivity of the criteria, and that a percentage distinction between long-term individual or non-profit use would make it clearer to determine what should happen with a shack at the end of a lease.

A participant asked for clarification about the criteria and the decisions about allocation among individuals and non-profits. George responded that the first decision would be whether the shack would go to a long-term individual or a long-term non-profit, and then the second decision would be to decide which individual or non-profit should receive it. The first decision would be made by CCNS based on the Management Plan, and the second would be based either on a competitive leasing RFP process, for individual shacks, or non-competitive selection by CCNS, for non-profit shacks. A participant asked if it would be necessary to list criteria shack-by-shack to determine which shack would be preferable for which use. George commented that this committee likely did not have time to complete such a process.

A participant commented that the subcommittee had already defined which shacks were being used for individual or non-profit use right now, and asked whether these could serve as guidelines for the future. George agreed, though did not want to lock future use in based on current use.

Another participant asked about co-arrangements, such as with PHT and Zara where PHT would maintain and use the shack when Zara was not there. George said that NPS only recognized the leaseholder, which was Zara. She had arranged for an agreement with PHT independently, and this was fine with NPS.

George revisited the topic of medium-term leases (he had been out of the room during the earlier conversation). He suggested again that the subcommittee consider the option of 40% long-term individual, 40% long-term non-profit, and 20% medium-term leases, since many people who had contributed greatly to the District had been what would now be considered as medium-term users. He questioned whether the medium-term users would be able to get into the shacks with the even split between long-term individual and long-term non-profit users. A participant commented that those individuals stayed for those shorter periods of time by choice and not by law. Another participant restated support for the even split between long-term users with subleases/agreements for medium-term use.

CBI stated that they would draft a “decision tree” reflecting the transition process discussed at the meeting as well as draft text on transitions.

Mechanisms

CBI presented a chart of potential mechanisms for future shack use and occupancy. This chart listed non-profit agreement, non-profit lease, medium-term lease, and long-term individual lease as mechanisms. It then indicated the terms, necessary selection authority, whether it was competitive, and cost for these mechanisms. It was noted that the RFB (request for bid) could be removed as an option under medium-term and long-term individual leases.

A participant asked why there was no cost for a non-profit agreement. NPS clarified that typically the non-profits did not have to bear cost under a non-profit agreement.

Another participant commented that the long-term lease should be a local decision and not have to be approved by the regional office. He suggested that the subcommittee include a statement in the final report that they were not comfortable with the process and did not believe that it was in the best interests for the District to have long-term leases decided at the regional level. He noted that he realized that this might not be possible at this time, and that this was not to prevent the plan from going forward, but just to state that the subcommittee was not pleased with the non-local decision and it was not ideal for the District.

George stated that the regional office would make the leasing decisions, but the local Superintendent would manage the success of the District itself. He went on to suggest that a continuing subcommittee of the Advisory Commission could help to evaluate the plan and see that the District goals were being met. He again stressed the importance of the subcommittee defining their wanted criteria and goals. NPS Sandy Hamilton commented that such a statement from the subcommittee could be added to their report, and then the Advisory Commission could request that NPS evaluate its existing mechanisms. She added that it would likely be stated in the impact analysis part of the document that it was non-ideal for the leasing decisions to be made in Philadelphia.

A participant asked again about the possibility of having an overarching trust to issue leasing decisions. It was stated that the NPS regional office would be the only authority to issue leases. The CCNS and Advisory Commission would be able to influence the criteria that was considered, but they would not be able to decide or issue leases.

Another participant asked if there was any mechanism that could allow for a long-term lease to remain a local decision. CBI indicated in the chart that a non-profit could have a 5-year agreement with a 5-year renewal, and it would be a local decision. For a long-term non-profit lease, the local NPS could make recommendations and then the regional or national office would decide. George noted that leasing policies had changed in NPS in recent years, because more leases were being issued.

George added that anything produced by the subcommittee would be public so everyone would know the criteria before applying for a lease. Additionally the vision and criteria were the most tangible opportunity for the subcommittee to make an impact moving forward.

Physical Structures

Participants were asked to review the workgroup's document on physical structures. It was stated that this would be discussed early in the meeting on May 12.

Public Comment

One member of the public asked what prevented the families from developing their own non-profits with a public access component so that they could have non-competitive locally decided leases. A participant stated that it would likely be impossible to attain 501(c)3 status when many

shacks would primarily have a personal use. CBI referred back to the questions that subcommittee members had asked during the web survey and stated that they would try to reach a VLA attorney to get their questions answered.

Another member of the public asked the group to remember where the individual shacks had come from when considering transitional decisions. He did not like that the former residents would not have any say in the future use of shacks. CBI stated that there could be specific criteria to the shack over time, which could help in continuity. George also added that since there was not a legal deed, then NPS could not honor the wishes of previous owners.

An additional member of the public asked for clarification on whether the individual long-term lessees and non-profit long-term lessees would have to meet the same requirements. CBI clarified that the suggested criteria were slightly different between the two, such as the non-profits were suggested to provide programmatic and public access components that the individual lessees would not. George also added that there would be a criterion that the non-profit mission be compatible with CCNS goals, and PHT and PCC both do that currently.

A participant asked about transitions and what the time period would be for NPS to decide who would be able to lease the shacks with stipulations or leases ending very soon. George said that recently the turn-around time for leases has been around 3 years. Another participant asked if the current lessees would have to vacate the shack and then move back in if their lease was approved. One participant suggested that while CCNS was deciding what to do on a long-term basis that there could be a year-to-year agreement for those with existing life tenancies. Another participant suggested that there could be a yearlong permit at the end of the long-term leases, so that lessees would have more time while NPS determined what would happen with the shack. George agreed that it sounded practical, and he would review the turn-around time for issuing leases.

Adjourned at 1pm.