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U.S. DEPARTMENT OF COMMERCE NOAA
COASTAL SERVICES CENTER
2234 SOUTH HOBSON AVENUE
CHARLESTON, SC 29405-2413

ACQUISITION OF SEABROOK DUNES: FINAL REPORT TO THE SEABROOK CONSERVATION COMMISSION

March 1984

DEPARTMENT OF COMM
SERVICES CENTER
HOBSON AVENUE
SC 29405-2413

This project was funded by the Department of Commerce, NOAA, Office of Ocean and Coastal Resource Management through the New Hampshire Office of State Planning.

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March 23, 1984

Mr. Stanley Hamel
Chairman
Seabrook Conservation Commission
c/o Town Hall
Seabrook, New Hampshire 03874

Dear Mr. Hamel:

The revised Final Report enclosed herewith summarizes and concludes our research and appraisal work relating to parcels located within the Seabrook Dunes Area proposed for public acquisition.

The detailed ownership records researched by Donal Wilson have been transmitted under separate cover for filing with the Town Administrator.

We have very much enjoyed working on this analysis, which we hope has enabled the Town to make an informed decision on the feasibility of acquiring the Seabrook Dunes.

Respectfully submitted,

Russell W. Thibeault

Russell W. Thibeault
Principal

RWT:jbn

EXECUTIVE SUMMARY

The purpose of this study was to investigate the feasibility of public acquisition of the Seabrook Dunes, an area comprising approximately 53 acres of undeveloped land west of NH Route 1-A at Seabrook Beach. The elements of the study included a search of current zoning and ownership boundaries, a determination of the fair market value of the Dunes area property, the investigation of available funding sources to provide financial assistance to the Town in the acquisition, the preparation of an informational brochure to acquaint the public with the importance of the Seabrook Dunes and the need for preservation, as well as meetings with specific property owners to discuss the need for the protection of the Dunes and to inform them of the proposal for acquisition. A number of these items have already been addressed in earlier interim reports to the Seabrook Conservation Commission. It is the purpose of this report to summarize the elements of the study, results of the valuation analysis, and to outline a recommended acquisition strategy which addresses the unique problems posed by the dynamic environment of the Dunes area and the somewhat clouded picture of surrounding ownership patterns.

It is the final recommendation of this report that the Town of Seabrook should opt for direct fee simple acquisition of properties involved, based upon an estimated purchase price of $750,000 plus the costs of associated legal fees. It is further recommended that in the case of a number of the properties abutting the main parcel owned by Seabrook Beach Homes, Inc., that specific boundary agreements be reached with adjoining property owners to preclude future disagreements with regard to the limits of the area acquired by the public.

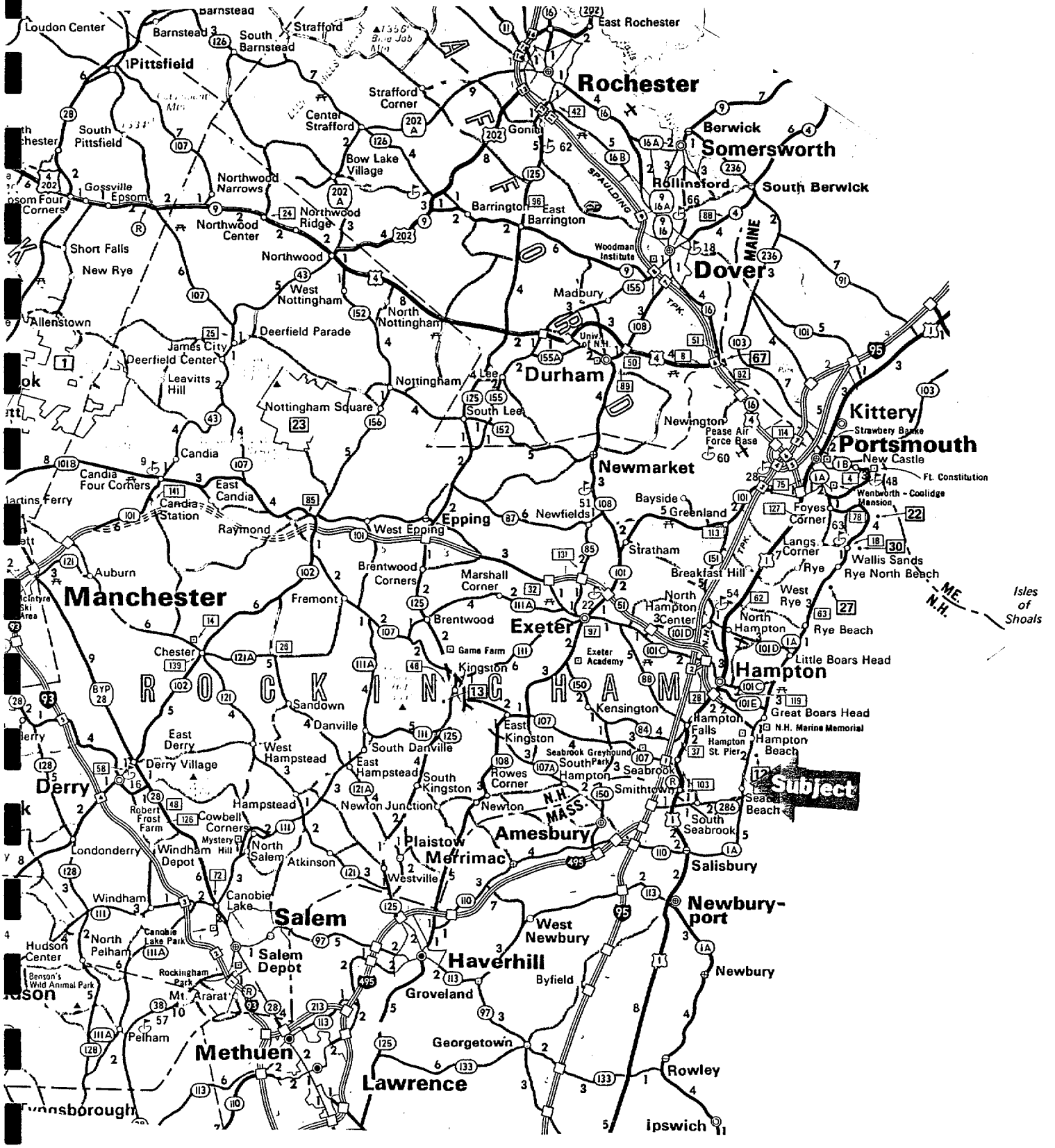


FIGURE 1: LOCATION OF SEABROOK

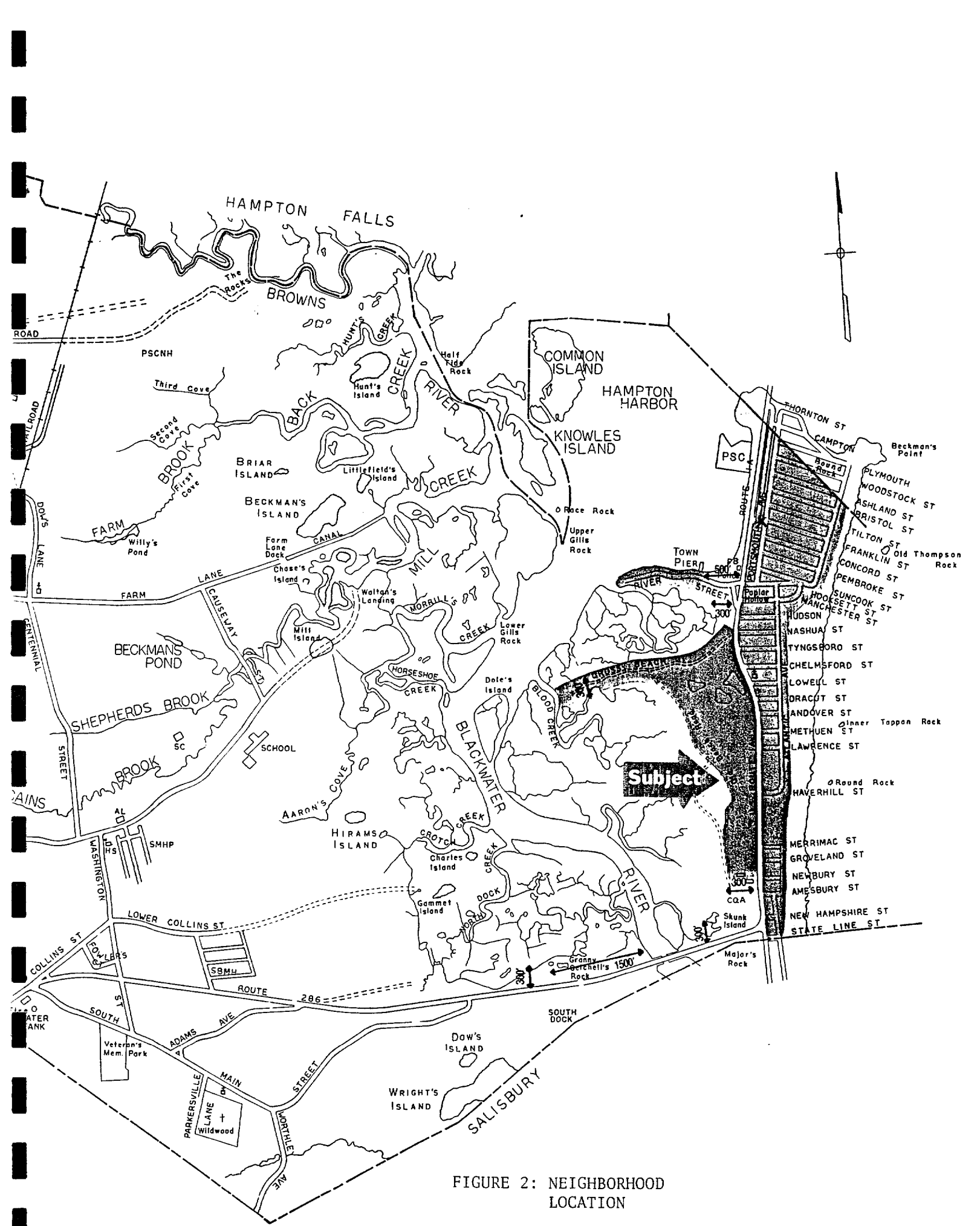
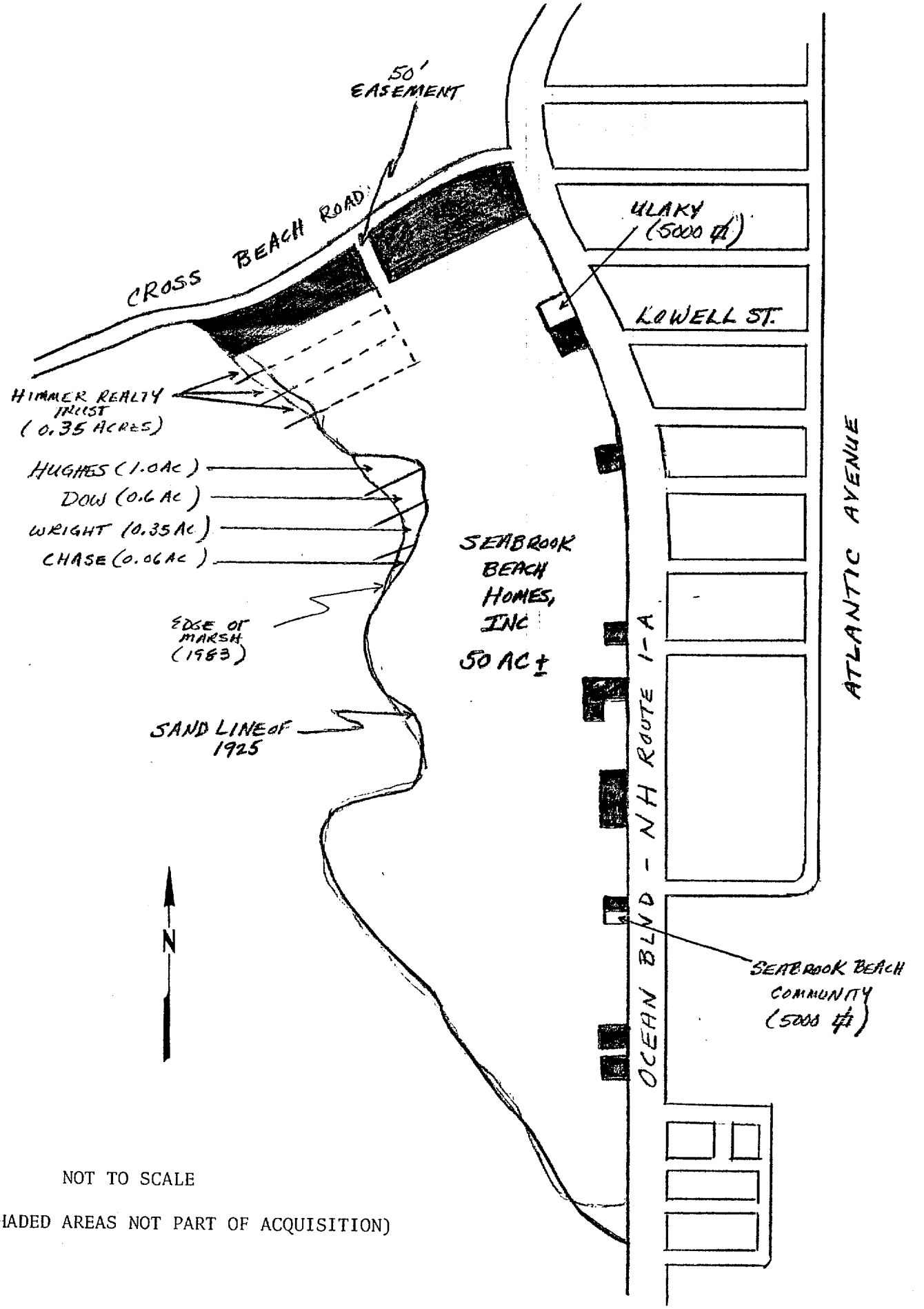


FIGURE 2: NEIGHBORHOOD LOCATION

Figure 3. Sketch of Subject Properties



NOT TO SCALE

(SHADED AREAS NOT PART OF ACQUISITION)

ACQUISITION STRATEGY AND FINAL REPORT
SEABROOK DUNES

The Seabrook Dunes Area to be acquired represents a total of approximately 53 acres held by eight owners.

The basic acquisition strategy has been evolving during the course of this analysis. A significant portion of the strategy has already been accomplished. Some of the major points which have already been addressed in the acquisition strategy are:

A plan of the area to be acquired has been developed by John Durgin Associated and entitled "Plan of the Dunes in Seabrook Beach, New Hampshire;" it also shows current zoning. The plan is dated December 1983 and copies of this plan have been previously submitted to the Commission.

Property ownership records have been researched by Donald Wilson. (See Appendix A.)

The properties have been appraised. A report ("Seabrook Dunes Valuation Analysis, January 1984") has been submitted under separate cover detailing appraisal considerations and conclusions. (Value conclusion in Appendix B.)

A brochure describing the Dunes, their significance, and the rationale for acquiring the area has been developed. (See Appendix C.)

The availability of federal and state resources for financial assistance in acquiring the Seabrook Dunes has been researched. A brief oral report was made to the Seabrook Conservation Commission, and a written report (under separate cover) has been forwarded to the Town. (See Appendix D.)

Finally, property owners have been advised of the proposal for acquisition and public discussion with them has been held.

Assuming a favorable vote at Town Meeting, the acquisition process will begin. Assuming an unfavorable vote at Town Meeting, the entire acquisition process will grind to a halt, since there is no other source of funds or other public sponsor capable of undertaking such a large acquisition.

Steps to Be Taken Assuming Favorable Vote

Each of the property owners involved has been contacted by telephone or mail. Whenever possible, meetings were held with the owners in person. regarding additional work that would probably have to be accomplished prior to actually closing a transaction. Also, where appropriate, we have indicated the likelihood that the current owners would be willing to sell their property.

Dondero/Seabrook Beach Homes, Inc.

We have toured this property with Mr. Dondero and spoken to him on several occasions. He indicated that he is willing to sell and has a preference to sell the entire parcel.

The extent to which the Conservation Commission wants to get involved in acquiring the land immediately south of Cross Beach Road within this

parcel has been the subject of considerable debate. The Commission has concluded that because of possible adverse claims, and the confusion those claims would generate at Town Meeting, it would be best to avoid acquiring the northerly 250 feet (plus or minus) of the Dondero parcel. It would, however, be advisable to acquire a 50 foot easement across these lands to Cross Beach Road.

Mr. Dondero indicated that he would like to sell the entire parcel. We have suggested to both the Commission and to Mr. Dondero that Mr. Don dero donate this last portion of land through a Quit Claim Deed at the time the Seabrook purchases the balance of his parcel. Our initial conversations with Mr. Dondero indicate that he would prefer to be paid separately for this parcel at a future date. Consequently, if the Town is interested in having him donate this property, some negotiations and persuasion would have to be accomplished at the time the Town purchases the balance of his holdings.

Throughout this process, the Conservation Commission and the appraiser have been assuming that Mr. Dondero has the authority to speak for the entire Seabrook Beach Homes, Inc. corporation. Considering that Paul Durgin and his office have worked with Mr. Dondero in the past, this assumption is probably valid. Nonetheless, when it comes time to negotiate, this should be verified more definitively by Town counsel.

There has also been considerable debate and confusion as to the westerly boundary of this parcel. Paul Durgin and Donald Wilson both feel that the boundary is the sand line as it existed in 1925. Town Counsel, Gary Holmes has reviewed this issue and concurs with this view. (See Appendix E.)

There are, however, known claims on portions of the Dondero tract lying east of the 1925 sand line. For example, there is a recorded affidavit and a plan recorded as D-8750 (Plan Reference No 7) in which the Himmer Realty Trust parcel claims an area of just under four acres on the basis of an affidavit which is included as Appendix F in this analysis. Vernon Small has indicated other property owners shown as owning property

west of the 1925 sand line may also have similar claims.

Gary Holmes has indicated that court action is the only way to confirm a claim of adverse possession. In other words, the burden of proof is on those individuals holding property west of the 1925 sand line to demonstrate that they, in fact, own property on the sand dunes beyond that shown in the Durgin plan of December 1983 and its predecessors.

Seabrook Beach Community, Inc.

Although this parcel is shown as not being owned by the Town and although we have appraised it, it is conceivable that the property is, in fact, owned by the Town of Seabrook. There is no indication in Town records that property taxes are being paid on this parcel. Gary Holmes should be contacted regarding the proper legal procedures to follow in confirming that the Town, in fact, retains this property. Gary will probably want to discuss this issue with Donald Wilson and/or Paul Durgin prior to reaching a conclusion. Since there was no property tax assessment records of this parcel in the town files, there was no individual who could serve as a contact point with regard to acquiring the parcel, and it was therefore assumed to be owned by the Town.

Ulaky Parcel

This parcel consists of a 10,000 square foot parcel located on U.S. Route 1-A.

We contacted Christine Ulaky by telephone and she indicated that she is about ready to begin to secure a building permit for this parcel. She understood that it would be necessary to contact the Wetlands Board as well as the local Building Inspector.

It is probably fair to say that Ms. Ulaky is willing to convey the parcel to the Town, as long as she can be assured that she is receiving the full fair market value for the parcel. The legal references to this parcel are quite clear and there appears to be no confusion as to ownership. This

parcel is shown on the "Plan of the Dunes in Seabrook Beach" by Paul Durgin as Lot #52 (K).

Dune Land West of the 1925 Sand Line

Work completed by Paul Durgin indicates that the actual sand line has shifted westerly from its 1925 location. This means that the Dondero Parcel no longer reaches all the way to the marsh. Instead, individuals that once owned exclusively marsh land west of the 1925 sand line now own a combination of marsh land and sand dunes. Because the Conservation Commission wants to acquire all the way to the marshes, it is necessary to acquire relatively small portions of the abutting properties west of the sand line.

As noted above, there is continuing debate as to the ownership of the property at the junction of the dunes and the marshes. Owners of marsh land have claims to portions of the property now covered by sand.

The nature of the takings in these cases will be partial takings. However, in the case of the property owned by Nellie Wright, her son has expressed a desire to have the entire parcel acquired.

The Conservation Commission should decide on a policy to avoid this problem in the future. If the Commission acquires up to the current sand line, what will happen if that sand line shifts further to the west in the future? Presumably if the acquisition is referenced to the current sand line, a situation would develop in which the Commission would no longer have title all the way to the marsh land. A careful definition of the parcels acquired will be necessary to definitively establish the current sand line and a careful deed description will be necessary to definitively delineate the relationship between the current area of acquisition and future ownership in the event (which appears likely) that the sand line continues to shift. The most expedient approach may be to seek specific boundary agreements with each abutting marsh land owner stipulating their concurrence as to the current boundary definition.

Results of Meetings with Property Owners

Fairly early in the course of this study, the Seabrook Beach Homes, Inc. parcel, which is the major property involved in the acquisition, was toured with Mr. Dondero, representing the owners. At this time, he had indicated an interest in selling the entire property. A subsequent meeting was held for all involved property owners on Thursday, January 26, 1984 at the Town of Seabrook offices. The following property owners were contacted by telephone, where possible, and by certified mail if they could not be reached by telephone, relative to the acquisition proposal:

John Dondero representing Seabrook Beach Homes, Inc.
Christine Ulaky
Himmer Realty Trust
Theresa C. Hughes
Ralph L. and Nellie M. Wright
Vernon Small (thought to be the present owner of land shown as now or formerly of Jacob F. & Charles E. Dow.)

All of these property owners were informed of the proposal for acquisition by the Town of Seabrook, the estimated value of the parcels concerned, and discussion was entertained regarding the intent of public acquisition of the Seabrook Dunes and its rationale. Of those listed above, Dondero, Ulaky, Small and Hughes were represented at the January 26 meeting. In all cases of contacts with property owners concerned, there has been no negative reaction with regard to the general proposal for acquisition of the Seabrook Dunes.

In attendance at the January 26th meeting was Bruce Brown, a long-time Seabrook resident who offered the following information for the consideration of the consultant and the Committee with regard to current ownership in the Dunes area. Mr. Brown was reviewing a copy of the plan of the Dunes at Seabrook Beach and offered the following information regarding his opinion as to the current ownership of a number of the parcels shown on the map. A number of these parcels are not proposed for acquisition, however,

they may be subject to future boundary agreements being sought by the Town if the overall Dunes acquisition project goes forward. Mr. Brown offered the following information which he believes to be true:

> That the parcel shown as owned by Wallace Sanborn is now owned by Adna Sanborn.
>
> The residence of Carrie G. Robinson is Newburyport, Massachusetts.
>
> The parcel shown to be owned by Ruth Ann Dow (who is also known as Ruth Ann Short) is now owned by the Town of Seabrook.
>
> The parcel shown as owned by Elizabeth Knapp Chase is now owned by Malcolm and Jerry Chase.
>
> The parcel shown as owned by Jacob and Charles Dow may now be owned by Bill Dow.
>
> The parcel shown as owned by Charles D. Foote, Joshua Eaton and Julia A. Bragg could be referenced in the deed records at Volume 1466, Page 84 as heir Ralph D. Eaton (heirs of Emory Eaton) and Vernon Small.
>
> The parcel shown as owned by now or formerly the heirs of Walter Colson is owned by Annie Humphrey of Salisbury.
>
> The parcel shown as now or formerly of Jeremiah M. Haley was owned by Anna Adams and perhaps by Bessie Hamel.

These observations should be taken into account pending further legal research which will be required in the course of the Seabrook Dunes acqui-

sition.

In summary, the results of meetings with the property owners have been very positive to date. The major problems which may be encountered would appear to be those of defining the boundary in the vicinity of the sand line, the solution of adverse claims if the entire Dondero parcel is to be acquired, and the negotiation of a final price with each of the landowners. The landowners thus far have not expressed a negative reaction to the values of properties identified.

Summary

The appraisal of the Seabrook Dunes area and the preparation of an acquisition strategy represent a significant exercise in the resolution of uncertainties. In the course of the study, we have have attempted to maintain a rational view of the probability of continuing development of these parcels in the context of the current local and state regulatory framework. It has been necessary to make careful assumptions based upon the extent of local and state permissiveness with regard to the most probable highest and best use of these lands.

The possibility of the acquisition of the Seabrook Dunes represents a significant opportunity for the Town to make a lasting contribution to its citizens and to the State of New Hampshire in preserving the last remaining natural dune formation in the State. It is very likely that without local action to preserve the Dunes, the area will continue to be exposed to damage by unrestricted access and will continue to face the increased likelihood of further real estate development. The Town now faces the challenge of proposing this acquisition project in competition with a number of other capital-intensive budget items. This may be a significant test of the importance of preservation as a priority to the local community.

It has been the intent of this report to maintain an open dialogue among the consultant, the Seabrook Conservation Commission, the Town Administrator and the property owners who may be involved in the acquisition

process. Given this information, in combination with the rationale suggested in the brochure to be distributed to Seabrook citizens, the Town should be prepared to make an informed decision on the question of acquiring the Seabrook Dunes.

APPENDIX A

OWNERSHIP RESEARCH

Note: Copy of deeds and chain of title research on file with the Seabrook Town Administrator.

DONALD A. WILSON
LAND BOUNDARY CONSULTANT
R.F.D., LAMPREY ROAD
EAST KINGSTON, N. H. 03827
603-772-5009

REGISTERED LAND SURVEYOR
REGISTERED PROFESSIONAL FORESTER

RESEARCH
RETRACEMENT
DOCUMENTATION

December 22, 1983

Mr. Russell W. Thibeault

Applied Economic Research
Post Office Box 1250
Laconia, NH 03246

Dear Russ:

Enclosed please find a summary of the work I performed with regards to the Seabrook Conservation Commission's proposed purchase of "The Dunes" at Seabrook Beach. With that, you will find my conclusions relative to title problems and issues that need to be addressed at some future time if purchase is undertaken.

Also included herein are copies of deeds you requested regarding certain parcels of land within or abutting the "Dunes" area; and pertinent deeds in the chain of title to the main tract owned by Seabrook Beach Homes, Inc.

I have enjoyed being associated with you on this project and hope we have the opportunity to work together again some time. If I can be of further assistance on this project, or any other, please don't hesitate to contact me.

Sincerely yours,

Donald A. Wilson

WORK ACCOMPLISHED

1. Review of materials in files of John W. Durgin Associates and Land and Boundary Consultants, Inc. Since both firms had undertaken considerable surveying, research and title work, respectively, in the area, extensive examination was made of deeds, plans and other documents contained in several existing files.

2. Land records research at the Rockingham County Registries of Deeds and Probate.

    a. chain of title of subject, or main parcel, owned by Seabrook Beach Homes, Inc. This title was traced to 1901 and examination made of existing information regarding the extension of the title back to 1867.

    b. chains of title, and determination of, abutting marsh tracts - 19 land parcels. This was done for two reasons: 1) to determine if any of the descriptions included any part of the dune area, and 2) to have knowledge of the location, boundaries and ownership of all the abutting parcels in case ground inspection and/or survey indicated that part of the dune area existed on top of any of these parcels.

    c. determination and present ownership of all lots sold out of the dune area, or the chain of title to the subject parcel since the first development plans were designed - 11 parcels.

    d. examination of parcels defining boundaries imposed by the Seabrook Conservation Commission - 2 parcels, i.e., "BP Station" owned by Seabrook Beach Petroleum Products, Inc. (southerly extent of area of interest) and Dockham/Chase Estates (northerly extent of area of interest).

3. Meetings with Seabrook Conservation Commission (4 meetings) and coordination with other members of the team (several meetings and discussions).

4. Two meetings with town counsel Gary W. Holmes to discuss legal implications concerning possible title problems with certain sections of the subject parcel, or area of interest.

CONCLUSIONS and UNRESOLVED ISSUES

1. The chain of title seems to be straightforward and contains several lots excepted, all of which are depicted on the research sketch and the plan prepared by Durgin Associates. Examination of indexes was made to determine if other sales had been made from the chain of title, particularly concerning those apparent encroachments and "squatters." None were found of record in addition to those shown on the aforementioned plans.

2. The descriptions to the marsh tracts are general and somewhat vague. Not all of the title chains have been compiled to date because of the extensive nature of the research involved. Several of the owners lived in Massachusetts and therefore Massachusetts probates will have to be examined in order to determine present owners of several of these parcels. A few will involve extensive record examination and dealing with unrecorded documents, which will involve more time than routine examinations.

3. While it does not appear that any other parcels have been sold from the subject chain of title other than those depicted, the great number of transfers made by several of the owners in the chain of title make it impossible to be 100 percent positive without further checking of the work and reviewing it at least one more time. While we can be relatively sure that we have uncovered all of the pertinent information, we cannot be entirely sure.

   Tax records have not been examined at the Town of Seabrook, which, if done, would provide somewhat of a check on the thoroughness of the examination. In addition, present ownership of two parcels, labelled D and E on the Durgin plan, are not positive. One was taken by the Town of Seabrook for non-payment of taxes and it is not known if the town has since disposed of it; and the other was sold back into the chain of title to Seabrook Beach Community, Inc. at the time it owned the area of interest, and the specific parcel is excepted out of the subsequent transfers as it was in the previous transfers. Consequently, the present status of ownership of these two tracts is not positive.

4. The abutting parcels to the north and south both have problems associated with them. The southerly parcel claimed by Seabrook Beach Petroleum Products, Inc. shown on two plans of record seems to include land not covered by the deed. The title to this parcel, or claim, is not of concern, but its resulting boundary is. A suggestion is to utilize the boundary as shown on the recorded

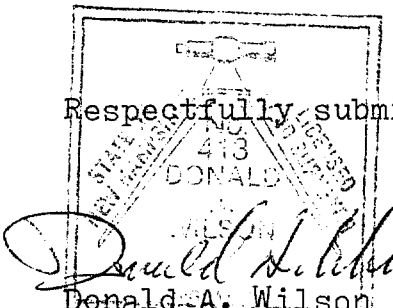
plans for convenience only in determining the southerly extent of the area of interest.

The northerly abutting parcel was surveyed and a plan recorded depicting a proposed line of agreement somewhat inside of the dune limit, or southerly of the dividing line between sand and marsh. No formal records were found consummating such an agreement, so it appears that the dune line is still the correct boundary even though another line may be understood by others to be the boundary. For convenience, this proposed line could be accepted and finalized by the present owners of the tracts involved.

5. Several encroachments were uncovered in the process of study. An affidavit filed by Abbie Dow forms the basis of a claim by Himmer Realty Trust shown on a survey plan by Town Planning and Engineering Associates, Inc. No other basis of title was found to land easterly of the 1925 sand line, in fact, a previous owner in the chain of title to one of the three lots comprising the Himmer ownership quit-claimed, by deed, all interest to any land easterly of the sand line.

In addition, it was pointed out by the Commission, and subsequently confirmed in the inspection and survey by Durgin Associates, that several structures are present on the subject area. No basis of any title was found in the records with regards to these areas.

Respectfully submitted,



Donald A. Wilson
Land Boundary Consultant

APPENDIX B

VALUE CONCLUSIONS

SUMMARY VALUE CONCLUSIONS

		Value Range	
		Low	High
Dondero/Seabrook Beach Homes, Inc.	50± Acres	$600,000	$650,000
Seabrook Beach Community, Inc.	5,000 s.f.	$ 27,000	$ 33,000
Ulaky	10,000 s.f.	$ 30,000	$ 34,000
Made Land:			
N/F Himmer, Hughes, Dow Wright, Chase	2.36 Acres	$ 30,000	$ 33,000
	52.70 Acres	$687,000	$750,000

OPINION OF VALUE, "MADE LAND" WEST OF 1925 DUNES

Owner on Plan [1]	Approximate Area	Value per Acre Low	Value per Acre High	Total Value Low	Total Value High
Himmer	.35 Acres	$10,500	$13,000	$ 8,700 [2]	$ 9,500 [2]
Hughes	1.00 Acres	$10,500	$13,000	$10,500	$10,500
Dow	0.60 Acres	$10,500	$13,000	$ 6,300	$ 7,800
Wright	0.35 Acres	$10,500	$13,000	$ 3,700	$ 4,500
Chase	0.06 Acres	$10,500	$13,000	$ 600	$ 800
Total	2.36 Acres			$29,800	$33,100
			Rounded to:	$30,000	$33,000

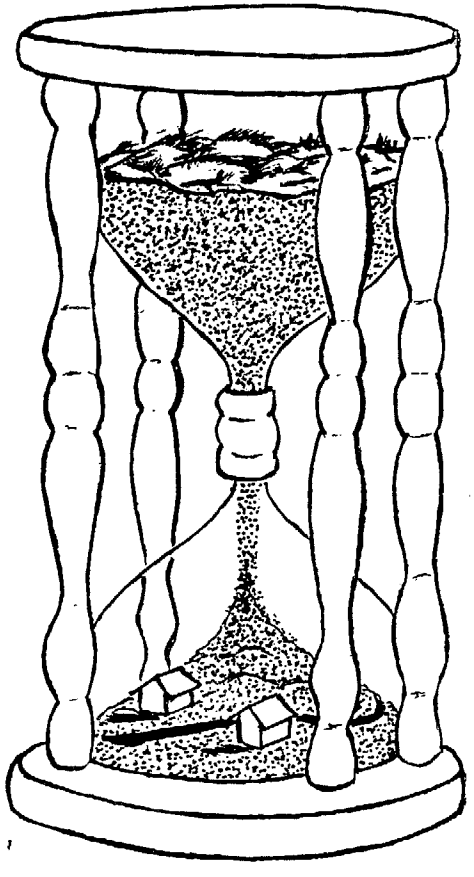
1/See "Plan of The Dunes in Seabrook Beach" prepared by John Durgin, Inc. dated December 1983.

2/Includes $5,000 for erecting foundations.

APPENDIX C

PUBLIC INFORMATION BROCHURE

TIME IS RUNNING OUT...

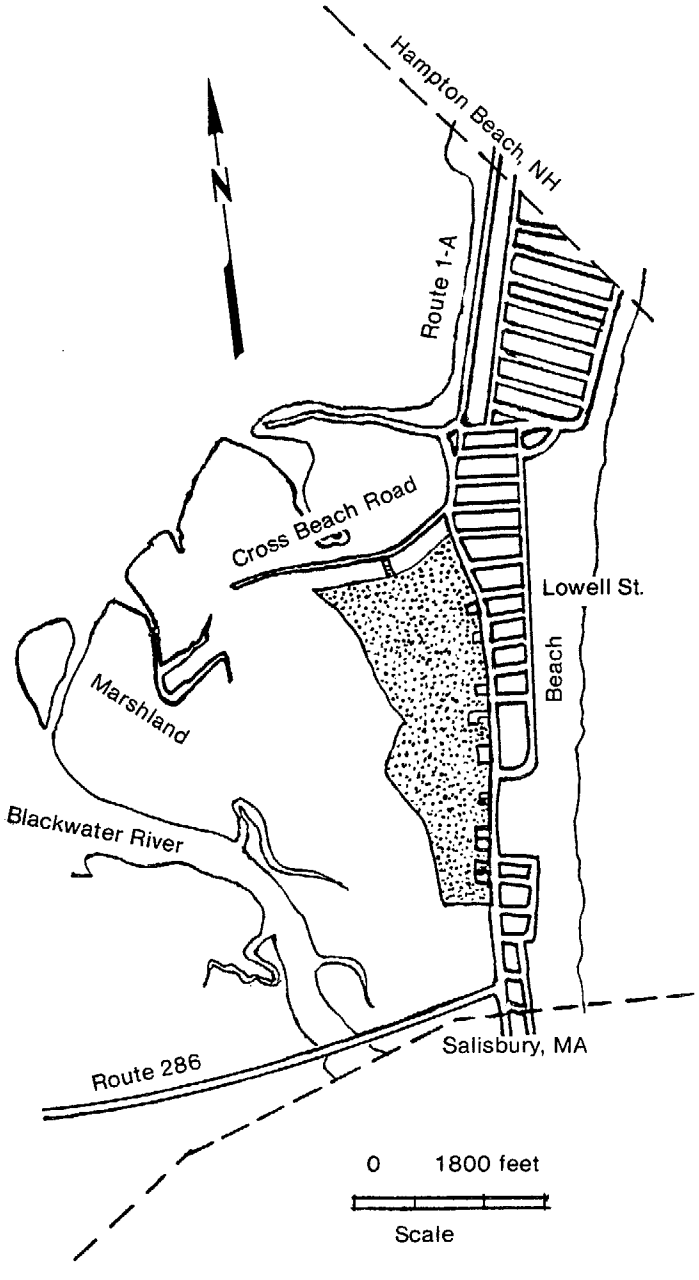


...FOR THE SEABROOK DUNES

Seabrook Conservation Commission
Town of Seabrook New Hampshire
Office of Selectmen
P.O. Box 456
Seabrook, New Hampshire 03874

Bulk Rate
U.S. Postage
PAID
Town of Seabrook
New Hampshire
Permit No. 3

A SPECIAL MESSAGE FROM YOUR CONSERVATION COMMISSION: VOTE YES TO ACQUIRE THE SEABROOK DUNES.



Approximate location of Property

Seabrook Beach

What Are The "Dunes?"

The Dunes comprise an area of about 53 acres of undeveloped land west of Route 1A at Seabrook Beach. For years, the citizens of Seabrook have enjoyed this unique natural resource: it has been a place to explore, to play, to pick beach plums and bittersweet. Yet as with many scenic areas, we don't appreciate their real value until they are gone. With the rapid growth of our town and its easy access to travelers, there are high pressures for more land development. Without direct actions to protect this area we may face the loss of the only natural dune formation in the State of New Hampshire.

Why Are The Dunes So Important?

The Seabrook dune system provides a natural protective buffer from the destructive force of severe storms; it represents a unique scenic and recreational resource for the town and for the State of New Hampshire; it is the habitat for a number of rare and endangered plant species; and it serves as an important bird nesting area and a feeding ground for some migratory birds. This resource will be lost if development continues and the area remains open to uncontrolled vehicular access.

How Are The Dunes Threatened?

The limited supply of coastal property and its great popularity leads to a constant tension between the need for open space and the desire for housing development. Continued construction, removal of sand and the uprooting of plants by vehicles all are contributing toward destruction of this important resource. When vegetation is destroyed, or dunes excavated, the sand becomes vulnerable to erosion; consequently significant portions may be washed or blown away.

But Aren't The Dunes Protected By Legislation?

Not entirely. The current local zoning ordinance for this area places most of the dunes within a residential zone; a very small portion of the area is within a Conservation Zone which prohibits development. Under new legislation, the State Wetlands Board was given jurisdiction to review construction, dredge or fill activities proposed on any dune in the Town of Seabrook. This process **regulates,** but does not necessarily **prevent** development. In fact, most Wetlands Board permits issued within Seabrook on dune and tidal land have been issued only after the violation had been reported and construction had begun. Despite the legislation, development of the dunes continues, and the area remains vulnerable to irreparable harm from uncontrolled vehicular access. Only public ownership can properly moderate public access.

Are There Economic Reasons To Protect The Dunes?

Yes. Acquisition makes economic sense for both businesses and residents of Seabrook. Continued development and uncontrolled use would lead to loss of the scenic beauty and to the disturbance of the natural process of land formation to which the beach area owes it existence and economic livelihood. The secondary and back dune areas protect the productive bay, estuary, and harbor areas from the full force of sea and storm. Public acquisition and the possible creation of a natural area preserve in an otherwise developed area will increase surrounding property values by decreasing the supply of developable land. In addition, a properly managed natural area can provide a valuable educational and recreational asset.

VOTE YES FOR ACQUISITION

What Are The Property Tax Impacts?

The Town has the means to buy the property outright this year at a fair price without tying up additional costs of future debt. Based on the 1983 assessed valuation, we anticipate that a one-time charge of about $.40 on the tax rate, would raise the $750,000 needed to finance the purchase. For the owner of a $50,000 home, that's a cost of $20, one time, to buy and preserve the dunes properties.

What Will We Do With The Dunes After Acquisition?

The primary purpose of the acquisition is to prevent the Dunes from being developed and to insure future public access. The Conservation Commission envisions the Dunes as a passive recreation and education area without intensive recreational development.

What's The Next Step?

The Town of Seabrook has already taken action to preserve the beach front area through public ownership. The next step toward preservation of this valuable coastal resource is to VOTE YES to acquire the Dunes at Town Meeting on Thursday, March 15 at 7:00 p.m. at the Fire Station. Let's not tell our children and grandchildren about where the Dunes used to be; let's walk there with them.

SEABROOK CONSERVATION COMMISSION

Stanley A. Hamel, Chairman
Jacqueline A. Fushpanski
Gertrude B. Humphrey
Timothy F. Willis
Annabelle Boyd

APPENDIX D

FUNDING SOURCES

SEABROOK DUNES:
SOURCES OF FUNDS FOR LAND ACQUISITION

SEABROOK: SOURCES OF FUNDS FOR LAND ACQUISITION

The following groups and agencies were contacted regarding the availability of funding for open space acquisition:

Office of State Planning
Department of Resources & Economic Development
    Division of Parks & Recreation
      (Office of Recreation Services)
    Division of Forests & Lands
Fish and Game Department
Society for the Protection of NH Forests
Audubon Society
NH Municipal Association

Land and Water Conservation Fund

Based upon our contacts with the various agencies and groups listed above, we believe that the most appropriate source of federal or state funds for land acquisition at the Seabrook Dunes area would be the Land and Water Conservation Fund administered through the Office of Recreation Services, Division of Parks and Recreation, Department of Resources and Economic Development. Land acquired under the program can be used for either passive or active recreation. The fund provides a 50 percent match toward the overall cost of acquisition or improvements. The local match may be arranged in a number of ways including landowner contributions. To help spread the funds around the state, a limit of $50,000 in federal funds is applied toward any one sponsor community. Additional funds might be available in future years for a recreational development project.

The Division of Parks and Recreation appears to be very interested in supporting the local acquisition and management of the Dunes area. Past proposals involving the Dunes acquisition were rated very highly and, in fact, were at the top of the list for potential funding. The State scoring system for Land and Water Conservation Fund proposals contain some 25 different scoring categories which are best described as a system which generally tends to favor projects which will: (1) serve areas of larger and more rapidly growing population in those communities which have relative economic need; projects which are consistent with local and regional plan ning and which have strong community support; and (3) those which protect critical, natural and cultural resources especially those offering exceptional merit or unique opportunities for acquisition and development. The attached project evaluation sheet summarizes the current project selection criteria used in the State of New Hampshire for selection of LWCF proposals. Given the importance of the Dunes area and what seems to be an accepted statewide significance based upon contacts with the above agencies and groups, a proposal for LWCF funding of an acquisition project for the Dunes, were it to be pursued by the Town of Seabrook, would be very favorably received.

The Director of the Office of Recreation Services in the Division of Parks and Recreation is Mr. Joseph Quinn. He is available at 271-3627 or through the NH Department of Resources and Economic Development, P.O. Box 856, Concord, NH 03301. It is important that the Town make early contact with the Department should it anticipate using LWCF funds for acquisition of the Dunes. Acquisitions undertaken with this fund are subject to the Federal Uniform Relocation Assistance and Land Acquisition Policies Act of 1970. As such, very meticulous appraisal practices specific to recreational acquisition projects are based upon these regulations and subsequent interpretations are required prior to any acquisition. The next eligibility period for receipt of applications will be sometime in the Spring of 1984. The Town might consider placing a warrant article before Town Meeting to appropriate the 50 percent of total costs required under the program in order to be prepared for the application process.

The Chief Executive Officer of the municipality should notify the Commissioner of DRED that it will be requesting assistance. The submission of a narrative description, a cost breakdown, location map of the project site, a site plan, an environmental assessment statement, and dated property boundary maps of the area must be submitted to trigger several responses from the Department of Resources and Economic Development. They will first determine and acknowledge the eligibility of the project from the Commissioner's Office; the Department will initiate an A-95 Review; and historical and archaeological review will then also be requested by the State Historic Preservation Office. The Town would then contact the Recreation Services Offices for an on-site inspection of the project area, and would subsequently meet with the Town to outline the specifics of the forms, certifications, and statements of assurance which must be submitted to the Department. The lead time for all of the above activities is approximately four months' time from the initial notification given to DRED to the estimated time of project approval itself.

Pittman Robertson Fund

This fund is administered by the State Fish & Game Department and funds a program which provides for State acquisition of lands which are to be open to such activities as hunting, fishing and trapping. The State undertakes a "biological reconnaissance" and develops a management plan for lands which are acquired. The primary emphasis of the program is on the protection of wildlife habitats. Approximately $200,000 per year are made available under the program; most inquiries towards land acquisition projects are initiated with a letter of interest to the Department.

No additional funds will be available until October of 1984. There have been a number of coastal land donations in the vicinity of Seabrook which are to be acquired under the program. Lands acquired under the program must be open for public use and no development is permitted on lands acquired. No funds are immediately available under the program and the Seabrook Dunes acquisition would probably be only marginally acceptable, if at all, under the terms of the Fund.

Society for the Protection of NH Forests

While the Society has no funding program for the acquisition of open space, it can function as a development rights bank or as a recipient of tax deductible donations of open space development rights, etc.

Legislative Appropriation

Although this source is an unlikely one, there might be sufficient State interest in the unique aspects of the Dunes area that it could be seen as a viable State-supported project to insure the preservation of the Dunes with or without State management of the property. The State's action in amending the wetlands law to bring the Dunes area within the jurisdiction of the Wetlands Board in the case of construction, dredge and fill operations is evidence of a perceived Statewide significance. In addition, nearly every State agency that we spoke with and private groups that we contacted expressed an interest in the preservation of the Dunes area. However, the State budget remains tight and Seabrook is perceived as a property-tax rich community which could support local acquisition.

Natural Areas Committee

A consortium of interests comprising the Office of State Planning, DRED, Fish and Game, Audubon Society, Association of Conservation Commissions and other groups has discussed the Seabrook Dunes as among the natural areas of priority concern to the State, which is further evidence of the public interest in the Dunes acquisition and preservation. However, no specific sources of funding are available from this affiliation of conservation groups.

Private Donations and Contributions

A number of non-profit and for profit corporations which might be contacted for financial assistance in the Dunes acquisition. Frequently, private corporations can be persuaded of the merits of contributions to public projects with respect to improved public relations. In the case of the Seabrook Dunes as an environmental conservation project, sponsors might be sought who are interested in improving their public image, as it relates to environmental protection. In addition, the possible support of such non-profit groups and foundations such as the NH Charitable Fund, the Society for the Protection of NH Forests, the Audubon Society and others might offer some form of limited financial assistance. The major advantage however of even a small level of financial or organizational support from environmental and conservation groups could be important to establish the significance of land acquisition of the Dunes area. Even verbal endorsements supporting acquisition by the Conservation Commission would make a more solid case for the need for acquisition and proper management of this resource area.

Summary

Based upon these contacts, it appears that the Land & Water Conservation Fund is the only immediately viable source of financial assistance. Unfortunately, the maximum State grant under the program would fund less than 10 percent of the total estimated value of the properties to be acquired. The Land and Water Conservation Fund does provide, unlike other sources, funding for natural area preserves which are open to the public but which limit active recreational uses in order to protect the site's natural features.

There is sufficient State interest to indicate that the Dunes acquisition project would score very highly in competition with other LWCF proposals. In addition, it appears that several State agencies would also be interested in assisting with the development of a management plan for the Dunes area.

DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT

Land and Water Conservation Fund

Grant Round III (Ending May 27, 1983)

Grant Round Application Conditions and Procedures:

1. Basis for project selection and funding approval:

   a) All completed applications received by May 27, 1983 will be reviewed by state staff, using revised criteria sheet dated April 8, 1983.

   b) Applications will be ranked in order of total points awarded, from the highest to the lowest.

   c) To assure adequate geographic distribution, the highest ranked application from each of the existing seven planning regions, including regions 5a, 5b, 5c separately, for a total of nine projects, will be the first selected for funding. Any such project selected must meet certain minimum criteria of merit as established by the staff.

   d) Subsequent projects will be selected solely on the basis of total points, in descending order, to the limit of federal funds.

   e) All projects will be site inspected by state staff, and meetings with sponsor representatives as appropriate will take place at that time, before projects are ranked.

   f) The cost figures used in land acquisition projects may be based upon estimates or opinions of value, rather than a full appraisal. The estimated figure will be the one used in the project application.

   g) Project ranking by state staff will be accomplished as soon as possible after May 27, 1983. Recommendations will then be forwarded to the Open Project Selection Panel, and then to the Commissioner for final funding authorization.

   h) Successful candidate project sponsors will then be notified, and final processing to the federal agency will be undertaken.

2. All project applications are restricted to new acquisition or development work that will not start until the Grant Round III project selection process has been completed and the federal agency has granted funding approval. This applies both to new projects and amendments to existing projects.

3. An upper limit of $50,000 in federal Land and Water Conservation Funds will apply to any and all projects from the same sponsor (community).

4. A sponsor may submit more than one project application, but must indicate which has a higher priority. In no case will federal funds in excess of $50,000 be awarded to any project sponsor.

5. It is critical that the project application contain as much information as possible in response to the criteria sheet questions. Describe and explain your answers to each question. For example, if you have a conservation commission, list the name of the chairman; for criterion #20 give a brief but complete explanation of citizen involvement by group and activity.

6. For information about the availability of community plans, regional plans, recreation/open space plans or other comprehensive planning material contact your regional planning commission.

7. In certain instances standards will be applied (criterion #7). Please tell us how much of what would propose already exists in the community. (number of ballfields, tennis courts, acres of natural open space, etc.). We are enclosing a facility inventory sheet. Please update it for those facilities for which you are making this LWCF project application.

8. Sponsor will provide information for criteria 8 through 17 and 19 through 23 only. Information is on hand at the State for criteria 1-7 and 18. Criteria 24 and 25 will be based on all information available to the staff.

4/19/83

STATE OF NEW HAMPSHIRE
Department of Resources and Economic Development
and the Office of State Planning
Land and Water Conservation Fund

PROJECT EVALUATION

Project Sponsor:_____ Project Title:_____

Date Evaluated:_____ Evaluated By:_____

Points Given	Points Possible		Project Selection Criteria	Notes
_____	(1-5)	1.	Community population in which project is located.	
_____	(0-3)	2.	Community population increase, by number of persons.	
_____	(0-3)	3.	Community population rate of increase.	
_____	(1-5)	4.	Community median family income.	
_____	(1-5)	5.	Community equalized per capita property valuation.	
_____	(1-5)	6.	Prior use of LWCF by applicant per capita.	
_____	(0-5)	7.	Project consistent with needs identified in the state's outdoor recreation plan.	
_____	(0-5)	8.	Project satisfies demand shown by local/regional planning; has documented community support; consistent with local priorities.	
_____	(0-5)	9.	Project helps protect critical natural or cultural resource.	
_____	(0-3)	10.	Project provides for new, rehabilitated, or expanded water access.	
_____	(0-3)	11.	Project increases accessibility to facilities by providing for handicapped.	
_____	(0-5)	12.	Improves or expands existing facility, including land acquisition and support facilities.	
_____	(0-5)	13.	Project has potential for high recreational use.	
_____	(0-3)	14.	Project site has year-round use.	
_____	(0-3)	15.	Project site will have joint school/community use and management.	
_____	(y/n3)	16.	Only non-federal (except revenue sharing) money used as local match.	
_____	(1-3)	17.	Existing recreation facilities well maintained.	
_____	(0-5)	18.	Recreation and conservation operation and maintenance budget as a % of total community budget.	
_____	(y/n3)	19.	Community participates in public or private recreation programs for the aged, handicapped population, or other special populations.	
_____	(0-4)	20.	Broad citizen involvement including volunteers in community recreation and conservation activities.	
_____	(0-3)	21.	Community has a paid full-time, part-time or summer recreation program staff.	
_____	(Y/N 1/2)	22.	Community has a conservation commission.	
_____	(Y/N 1/2)	23.	Community has a recreation/park commission.	
_____	(1-3)	24.	Presentation of proposal.	
_____	(0-9)	25.	Exceptional merit/opportunity of proposal.	

_____ (6-100) TOTAL

Note: A y/n means the question can be answered with either a "yes" or "no". Yes gets the assigned points. No gets zero. All other questions are assigned points within the ranges given.

NHOPSP 4/19/83

PROJECT CRITERIA PRIMER

Land and Water Conservation Fund

Grant Round III

The purpose of this information is to inform the project sponsor of the basis for each numerical criterion and how it will be applied.

#1 - Community population in which project is located. To be answered by the state staff. Basis will be the 1981 Population Estimates of the Office of State Planning.

# Points	Community Population Range
1	Below 2,900
2	2,900 to 5,799
3	5,800 to 13,999
4	14,000 to 29,999
5	over 30,000

#2 - Community population increase, by number of persons.

To be answered by state staff. Basis will be the Office of State Planning Population Estimates for the period 1970-1981 inclusive.

# Points	Population increase by number of persons
0	Zero or minus population growth
1	1 to 999
2	1,000 to 2,799
3	2,800 or more

#3 - Community population rate of increase.

To be answered by state staff. Rate, in percent, of population growth. Basis will be Office of State Planning Population Estimates for the period 1970-1981.

# Points	Percent population increase
0	Zero or minus rate of growth
1	0.1 to 31.5
2	31.6 to 58.5
3	58.6 and above

#4 - Community median family income.

To be determined by state staff. Basis will be census data from the Office of State Planning (1979 Figures).

# Points	Family income range
1	$21,349 and over
2	$18,959 to $21,348
3	$17,189 to $18,958
4	$15,643 to $17,188
5	$15,642 or less

#5 - Community equalized per capita property valuation.

To be determined by state staff. Source of data is the N.H. Department of Revenue Administration.

# Points	Equalized property valuation range
1	over $40,470
2	$29,905 to $40,470
3	$24,203 to $29,904
4	$19,660 to $24,202
5	Less than $19,660

4/19/83

#6 - Prior use of the Land and Water Conservation Fund by the applicant per capita - from program records of the Recreation Services Office.

1 thru 5 - five points for first time use by project sponsor.

#7 - Project consistent with needs identified in the state outdoor recreation plan.

To be determined by state staff. Determined by standards, priorities, other needs measures as related to the plan. The higher the consistency with the plan, the higher the number of points. Factors already considered in some other question (such as population) won't be considered again.

#8 - Project satisfies demand shown by local/regional planning; has documented community support; consistent with local priorities. It is suggested you contact your regional planning commission.

To be determined by state staff. Sponsor should provide evidence of project in local or regional comprehensive or recreation plans, Town meeting/city council actions, formal community-wide or neighborhood planning and support. Level of planning documentation and community support that can be shown will determine point level.

#9 - Project helps protect critical natural or cultural resource.

Critical nature of resource as determined by following criteria and measures: (cultural resources are those man-made resources that may have historic/archeological values).

0 - does not apply
1 - no outstanding natural or critical resources
Points 2 - 5 determined by staff considerating factors such as: identifiable feature such as wetland, height of land; identified in local histories or planning documents; of state significance, as identified in New England Natural Areas Project inventory or equivalent; eligible for inclusion in National Natural or National Historic registers.

#10 - Project provides for new, rehabilitated, or expanded water access.

Points determined upon the following:

0 - does not apply
1 - project provides availability to water (no access development)
2 - rehab/expand existing water access facilities
3 - project provides new facilities for direct access and use of water

#11 - Project increase accessibility to facilities by providing for handicapped. Note: All projects must be in compliance with federal and state regulations.

Points 0-3 to be determined by the staff based on the project proposal and on site inspection.

#12 - Project improves or expands existing facility, including land acquisition and support facilities.

Points will be awarded on the following basis as determined by state staff analysis of application:

0 - a brand new site (not facility)
1 - support facilities only
2 - 5 degree of "net gain" in land or facilities, as determined by staff from project application.

#13 - Project has potential for high recreational use.

Points will be awarded by state staff based on application. Zero points if no change in use will result. Points 1 to 5 determined by staff consideration net gain, expansion of usability, whether or not it is a central core for community, neighborhood facility, high seasonal use area, a special facility and similar factors.

#14 - Project site has year-round use.

Points will be awarded the project on the basis of:

0 - project is not available year round
1 - available, not managed for year round
2 - available and designated/identified, not managed
3 - managed for year round use

#15 - Project site will have joint school/community use and management.

Points will be awarded on the following basis:

0 - does not apply
1 - sites has common use by both community and school
2 - site use supported by shared resources (e.g. people, maintenance and upkeep)
3 - recreation use of site covered by formal written joint agreement and/or budgeted funding by school and community

#16 - Only non-federal (except Revenue Sharing) money used as local match.

A yes or no question, zero or three points.

#17 - Existing recreation facilities well maintained.

As determined by project review staff after visit to community to inspect project and other sites. Points based generally on 1 - below average, 2 - average, 3 - above average.

This will involve total facilities in community, not just project site.

#18 - Recreation and conservation operation and maintenance budget as a percent of total community budget.

Source is data from the Office of State Planning recreation funding survey. 0 - 5 points.

#19 - Community participates in public or private recreation programs for the aged, handicapped population, or other special populations.

A yes - 3 points or No zero points question.

#20 - Broad citizen involvement including volunteers in community recreation and conservation activities. Points range 0 - 4.

To be determined by staff from information provided in the project application; private as well as public activities.

#21 - Community has a paid full-time, part-time or summer recreation program staff.

Points will be based upon the information provided relative to paid program staffing.

There will be a spread of 0 to 3 points.

4/19/83

#22 - Community has a conservation commission, per RSA 36-A.

Provide proof of the current activity of the commission, such as minutes of meetings. Two points will be awarded for an active, legally established commission. One point only if currently inactive. Zero points if not established.

#23 - Community has a recreation/park commission, per RSA 35-B:1 through 35-B:7.

Provide proof of the current activity of the commission, such as minutes of meetings. Two points will be awarded for an active legally established commission. One point if currently inactive. Zero points if not established.

#24 - Presentation of proposal. 1 - 3 points

As determined by project review staff. Two major elements are the completeness of the application documentation and the adequacy of the information provided.

#25 - Exceptional merit/opportunity of project.

To be determined by project review staff from information provided in application and factors such as one-of-a-kind, rare opportunity, exceptional merit. Basis will be those factors within the total state-wide program and within the community sponsoring the project.

There will be a spread of 0 to 9 points.

APPENDIX E

TOWN COUNSEL OPINION LETTER

HOLMES & ELLS

Attorneys At Law
Gary W. Holmes
Stephen G. Ells

47 Winnacunnet Road
Hampton, New Hampshire 03842
603/926-6162

December 16, 1983

Stanley Hamel, Chairman
Seabrook Conservation Commission
87 Walton Road
Seabrook, NH 03874

Re: Proposed Purchase of Land - Westerly Side of Route 1A

Dear Mr. Hamel:

After my recent telephone conversation with you, I met with Paul Durgin and Don Wilson with regard to their work on behalf of the Seabrook Conservation Commission in the title examination and survey of land which the Commission is considering buying from Mr. Dondero. Three issues were discussed as follows:

1. Whether the "sand line" as existed in 1925 controls the description of the westerly line of this property or whether the sand line as currently existing is controlling.

2. Whether Himmer Realty Trust has any claim upon a portion of this land, pursuant to Affidavit of Abbie Dow dated August 30, 1974, and Plan of Land dated 1976 and recorded in 1979.

3. Whether Marilyn Erikson, by the location of several trailers near the cross beach area, has gained any interest in a portion of this land.

I have met with Mr. Wilson twice and Mr. Durgin once and have reviewed their progress to date. I also have conducted research at the Rockingham Registry of Deeds and at the Supreme Court Law Library. It is my understanding that Mr. Durgin is in the process of completing the final survey which will show specifically any encroachments in the cross beach area by Marilyn Erikson and will also show any movement of the sand line from that which existed in 1925.

With regard to the first issue, the problem arises because the deeds tend to describe the westerly boundary of this entire area as being bounded by the edge of the sandy beach along the marshes. It appears, of course, that the sand has moved since the early days in which the description was drawn. This appears to be the case of first impression in that I find no

specific law or cases which deal with this situation. It is my opinion, however, that the early deeds clarify the existence of the sand line by referring to a Plan of Seabrook Beach, drawn in May of 1925 and recorded at the Rockingham County Registry of Deeds. Therefore, the sand line that existed in 1925 and shown on the plan, is probably the westerly boundary of the land now owned by Mr. Dondero. I draw this conclusion from the results of my legal research concerning the law on description of boundaries and the rules of construction used by courts in interpreting deed descriptions. A deed which contains a reference to a plan is most highly regarded and probably controls over less definite and more ambiguous descriptions. It is my understanding from speaking to Mr. Durgin that the 1925 sand line can be reproduced, and that he will do so on the plan that he will present to you.

In the event that the sand line has moved significantly to the west and is not included in the property owned by Mr. Dondero, the Commission must decide whether it wishes to purchase the land on which the sand is located in order to preserve the dunes. This obviously, will require additional title survey and appraisal work.

The second issue involves an area of about 3.8 acres on the northerly portion of the Dondero land and extending in an easterly direction from the marsh area. Himmer Realty Trust owns three adjoining parcels located in the marsh and having as their easterly boundary, the "Seabrook Beach." The problem is created by the filing of a plan by Himmer Realty Trust showing an extension of this marsh area into what appears to be land owned by Mr. Dondero, apparently under a claim of adverse possession. There is no deed to justify this claim, nor has any court action been initiated to quiet the title to such claim. The only document which I can find which suggests a right to claim said property, is an Affidavit signed by Abbie Dow. In this Affidavit, she indicates that the Dow family had owned houses in an area of high, flat land, over which a dirt road ran. The evidence that I can find suggests that if there is any claim to adverse possession, it is to only a small strip of land abutting the marsh and on which there may now exist the charred remains of two houses. Without exploring these matters in greater depth, which I do not believe is justified at this point, it is not possible to fully evaluate the claim. In any case, such a claim of adverse possession can only be confirmed by court action.

It is my advice with regard to this issue, to have this land included in the Dondero property for purposes of an appraisal. I also suggest that our appraiser draw up a separate appraisal for the disputed area in case it is necessary in a future court action. The town must pay for the land that it purchases or takes by condemnation and whether the money is paid to Mr. Dondero or to Himmer Realty Trust, can hopefully be left to an agreement between those two, or by resolution by a court.

With regard to the third issue on the location of trailers by Mrs. Erikson, I do not have all of the facts since I cannot determine where

exactly the trailers are placed or what claim she has made to the land. I would prefer to defer this issue until I have reviewed the location of the trailers and determined from the Commission whether it wishes to purchase this land or rather to delete it from consideration.

One other issue may arise as a result of a final survey in the location of a billboard near the sideline of Route 1A. I would be happy to address this issue if it arises as a result of the final survey plan. I hope that this letter provides answers to the Commission and to your experts; however, if you have any other questions or wish to have anything clarified in this opinion, please do not hesitate to contact me. I am sending a copy of this letter to Mr. Durgin and to Mr. Wilson.

Very truly yours,

Gary W. Holmes

GWH/cm

cc: Mr. Paul Durgin
Mr. Donald Wilson

APPENDIX F

AFFIDAVIT:
RE: HIMMER REALTY TRUST

2227-0683

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

AFFIDAVIT

'74 SEP 10 A11:38
ROCKINGHAM COUNTY
REGISTRY OF DEEDS

NOW COMES, Abbie Dow, of Seabrook, County of Rockingham, and State of New Hampshire and swears:

1. That she is of sound and perfect mind and memory.

2. That she is the daughter of George L. Dow, who died June 17, 1948 and Leonora Dow, who died February 9, 1942 and the niece of Albert Dow, the granddaughter of Jacob F. Dow, also deceased, all late of Seabrook, New Hampshire, all of whom once owned land in that portion of Seabrook, New Hampshire, located westerly of Route 1-A, so-called, and known as "Cross Beach".

3. That Abbie Dow and William Dow are the only children of George L. Dow and Leonora Dow and that there are no other heirs of George L. Dow or of Leonora Dow.

4. That she is familiar with three adjacent tracts of land in that area known as "Cross Beach", formerly owned by her grandfather, Jacob F. Dow or her father George L. Dow and now believed to be owned by Interchange Realty Corp.

5. That these three parcels include a two acre tract once owned by her father, George L. Dow, which was conveyed to Boyd, then to Himmer, then to Interchange Realty Corp.; a three and one-half acre tract once owned by her grandfather, Jacob F. Dow, and which he conveyed to her uncle, Albert Dow, which he conveyed to Gauron, then Gauron conveyed to Brown, Brown to Himmer, and Himmer to Interchange Realty Corp.; and a three and one-half acre tract once owned by her grandfather, Jacob F. Dow and sold to her mother now deceased, herself, and her brother, William Dow as "the heirs of George L. Dow", and by them to Interchange Realty Corp.

6. That between the line of sand dunes in the area and the edge of the marsh there has been, for as long as she can remember, an area of high flat land over which a dirt road ran and on which houses were erected. The houses were situated between the road and the edge of the marsh.

7. That there were houses situated in this area belonging to members of her family or their successors in interest for more than forty years, until their recent destruction.

8. That the easterly line of the above described lots has, for as long as she can remember, been determined to be by herself and members of her family to the east of the line of the dirt road.

August 20 -, 1974

Abbie Dow

Personally appeared Abbie Dow, and swore that the foregoing statements were true to the best of her knowledge and belief.

Before me,

Justice of the Peace/~~Notary Public~~