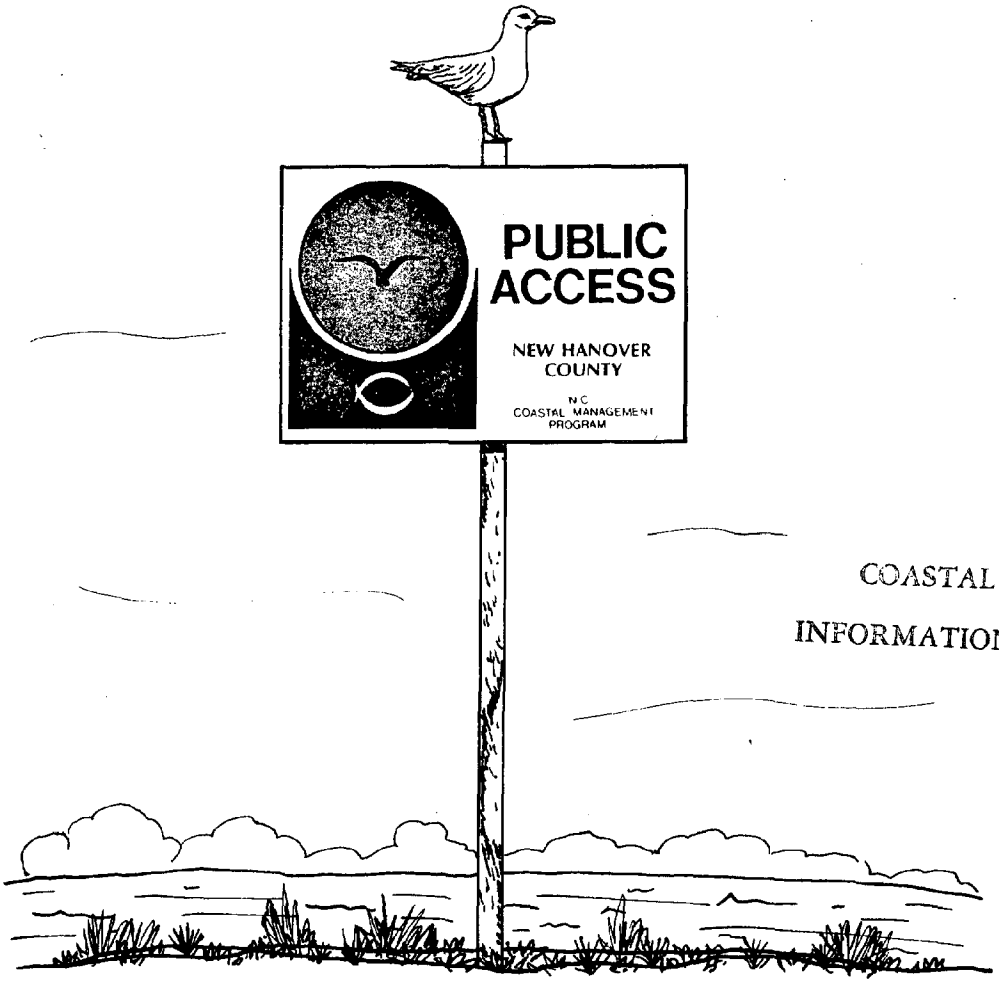
PUBLIC WATER ACCESS PLAN FOR NEW HANOVER COUNTY



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THE NEW HANOVER COUNTY
PLANNING DEPARTMENT

APRIL 1986

PUBLIC WATER ACCESS PLAN
FOR NEW HANOVER COUNTY

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PUBLIC WATER ACCESS PLAN
FOR NEW HANOVER COUNTY

OVERVIEW

Increasing pressure has been placed on the County's public water access facilities. Continued growth in the population, the rapid increase in tourism, and the increasing scarcity and cost of undeveloped waterfront property will continue to add to the pressure. Access, especially boat access, appears to be particularly needed to the County's sounds, creeks, and rivers.

This Public Water Access Plan discusses alternatives available to the County for acquiring and developing additional access sites. An inventory of present and potential access sites has also been included.

The following are this plan's principal recommendations:

1) Strengthen the public water access policies in the upcoming 1986 Update of the Land-Use Plan Policies for Growth and Development;

2) Develop an active public water access development program, to be funded by a proposed excise tax on real property transfers (sales) and by recreational impact fees;

3) Support a present effort to expand Snow's Cut Park into a regional estuarine access facility.

4) Establish a sinking fund for the acquisition and expansion of estuarine and ocean access sites.

I. INTRODUCTION

New Hanover County has several hundred miles of ocean and estuarine shoreline, which has traditionally provided recreational and visual access to the water for County residents. Water access additionally has served as a major underpinning for the economically important tourism industry in the County. Several studies have indicated the importance of water in recreational activities. According to three national surveys performed by the Neilsen Company in the 1970's, the water dependent activities of swimming, fishing, and boating ranked first, fourth, and fifth, respectively, in terms of most frequent participation. In addition to these water-dependent activities, a number of water-related activities, such as picnicking and sightseeing, are enhanced by water access.

In recent years, however, decreasing accessibility to the County's waters has been expressed as a major problem. Factors leading to the increasing lack of public water access include:

(a) increased residential and resort development along the county's waterfront, as indicated by Figure 1, has physically crowded and limited public access points;

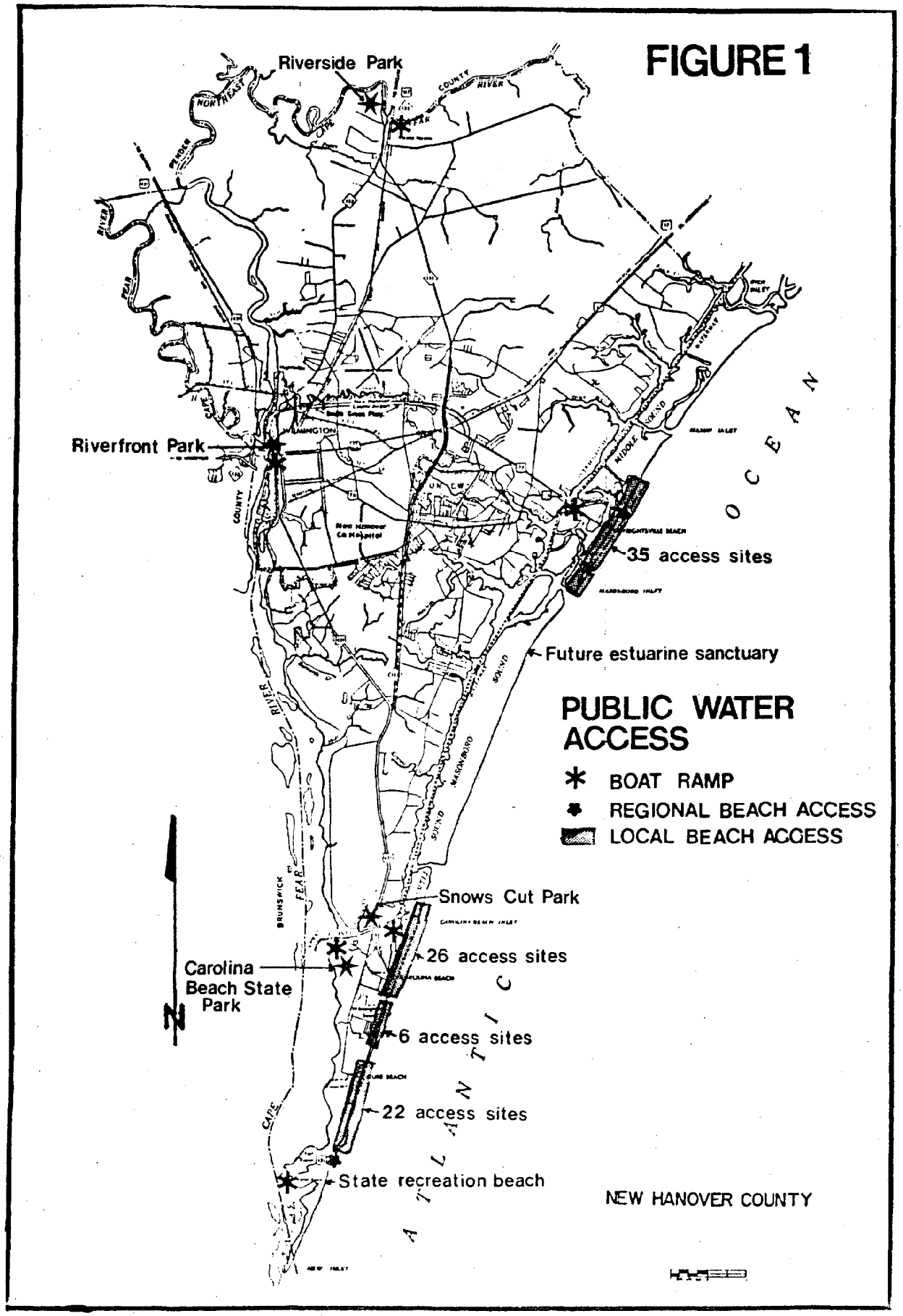
FIGURE 1
Riverside Park
Riverfront Park
35 access sites
Future estuarine sanctuary
PUBLIC WATER ACCESS
BOAT RAMP
REGIONAL BEACH ACCESS
LOCAL BEACH ACCESS
Snows Cut Park
26 access sites
Carolina Beach State Park
6 access sites
22 access sites
State recreation beach
NEW HANOVER COUNTY
OCEAN
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(b) the common practice of positioning public streets parallel to the water and of extending private street right-of-ways to the water has eliminated traditional public access sites;

(c) The dramatic increase in the value of waterfront property may make future County purchases of access sites prohibitive;

(d) New Hanover County's population history has been one of growth; between the 1930 and 1980 censuses the County's population increased by 140 percent from approximately 43,000 to 103,471. By 1990 the projected population is expected to have increased by nearly 17 percent to 120,899. The growing population trend has caused and will continue to cause a concomitant increase in water access demand by the County's residents.

(e) The construction of "walls" of condominium units or other structures between public roads and the water has reduced public visual and physical access.

(f) The long-term increase in leisure time has created a greater demand for public water access.

II. THE COUNTY'S ROLE IN PUBLIC WATER ACCESS

The County presently plays an active role in providing public water access in terms of the policies and implementation actions it has adopted and the capital investments that it has made. This section of the Water Access Plan examines the County's present involvement in these areas, discusses some alternatives, and makes several recommendations.

A. Land Use Plan Policies for Growth and Development

New Hanover County presently has four policies encouraging the development of recreation facilities and the preservation of open space in the 1981 Land-Use Plan Policies for Growth and Development. One policy, 1-36(3), is specifically concerned with public water access:

> "Public access to the area's natural recreation amenities such as ocean and river and sounds shall be insured."

The existing policy concerned with public water access could be strengthened in the 1986 Land-use Plan Update by including language for more active provision of public water access, as follows:

> "Existing public access to the County's ocean and estuarine waters shall be preserved, and new access points shall be acquired and developed as the County's population and tourism economy grows."

B. Implementation Actions

The County's 1981 Policies for Growth and Development lists several implementation actions that should be taken to implement the existing policies. These suggested actions include encouragement of developers to provide open space and utilization of flood hazard areas for open space. No specific actions are suggested, however, regarding the provision of public water access.

(1) Potential Implementation Actions

There are three methods of land acquisition available to local governments in North Carolina for protecting existing access and acquiring new access.

a) Purchase of Fee Simple Interest

Acquisition of fee simple interest is the most direct means of acquiring access but it may also be the most expensive depending on property location and the amount of land sought. Local governments are granted the authority to acquire real properties in General Statutes 153A-158 and 160-11. Authority to purchase property for parks and recreation purposes is framed in General Statutes 15A-444 and 160A-353.

b) Acquisition of An Easement

An easement is the right to use another's land in some specifically designated manner and may be either by purchase, donation, or prescription. Easements are useful in acquiring accessways from a public road across private property to the water. Purchase of easements may be expensive or unavoidable, but landowners may be persuaded to sell if they are allowed a reduction in property taxes because of diminution in value. The second type of easement, the prescriptive easement, involves the continued public use of private property to gain access to another property either privately or publicly owned. A prescriptive easement can be acquired only when it can be shown that the use has been made by the public at large for a specified length of time (e.g. 20 years) and, to be legally recognized, must be established by litigation, followed by recordation of encumbrance upon title.

c) Land Use Controls

Zoning ordinances and subdivision regulations fall under the police power available to lcoal governments to acquire a water access for the general public.

The authority for establishing public access requirements in zoning ordinances exists under the zoning enabling legislation for North Carolina Counties, N.C. General Statues 153A-340. This section states:

"The regulations may also provide that the board of adjustment or the board of commissioners may issue special use permits or conditional use permits in the classes of uses or situations and in accordance with the principles, conditions, safeguards and procedures specified and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility right-of-way be dedicated to the public and that recreational space be provided." (Emphasis added.)

The authority for establishing public access requirements in subdivision ordinances exists under the subdivision control enabling legislation for North Carolina County, N.C. General statues 153A-331. This section states:

"A subdivision control ordinance may provide for the orderly growth and development of the county, for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of right-of-way or easements for street and utility purposes. (Emphasis added.)

2. Suggested Implementation Actions

The following implementation actions could be included in the 1986 Land-use Plan to implement the previously suggested policy:

(1) The County shall establish an active program for locally funding acquiring, and establishing new access points that will provide adequate access for all areas of the County.

(2) Subdivision regulations shall be developed that will require subdividers to ensure the provision of adequate recreational opportunities for the new subdivision residents.

(3) The County will pursue Federal and State funds, examine available public lands, and seek other opportunities in providing public water access.

(4) Existing public access, whether established by public acquisition, previous dedication of roads or rights-of-way, or by legally recognized customary use, shall be maintained and protected from encroachment by private development.

(5) The design of public access points shall include acceptable accommodations for the handicapped, minimize environmental impacts, and consider the reduction of hardships to surrounding property-owners.

(6) The County shall establish a public awareness and information program concerning the tax advantages of private donations or "bargain" sales of property or easements suitable for access.

(7) The County shall establish a public information program notifying residents and tourists of existing estuarine and ocean water access sites.

In regard to actions #1 and #2, the County Planning Department is nearing completion of a study proposing several actions that would help in the acquisition and development of public water access. The study proposes that the County Subdivision Regulations be amended to require developers to either pay an impact fee or to dedicate land to the County in lieu of the fee for the provision of adequate recreational facilities. In addition, the study proposes that the County seek State legislation, similar to that adopted for other counties, that will specifically allow New Hanover County to adopt an excise tax on real property transfers (sales). The tax revenues could be used for public water access, in addition to other capital facilities.

In regard to action #3, the County is seeking further funds available under the N.C. Coastal Area Management Act (CAMA). In addition, the County is seeking to utilize land owned by the U.S. Corps of Engineers and available to the County without charge, in the County's present effort to expand Snow's Cut Park for regional estuarine access.

In regard to action #4, a number of potential access sites exist where roads have been platted down to the waterfront. These platted roads should be protected from private encroachment and road closing petitions. Where appropriate, the County Commissioners should accept the dedication of these roads for public access.

In addition, the County has faced continuing problems in preventing the encroachment of existing public access sites by private uses, such as parking for condominium developments or for dumpster locations.

Action #5 simply lists considerations for the design of future access points. Action #6 would encourage private land donations of potential access sites by making land owners aware of the considerable tax advantages of land donations.

Action #7 would encourage residents and tourists to use public water access sites by disseminating information about the location of public water access sites. In addition, this action whould reduce the number of instances the public trespasses over private land to reach the water.

C. Present Public Access Sites in New Hanover County

The County has a number of presently developed public water access sites, as indicated in Figure 1. Wrightsville Beach has approximately 37 ocean access sites, including two regional sites. There are approximately 55 ocean access points in Pleasure Island, including six local access points owned and maintained by the County. The County also cooperates with the State in operating the Fort Fisher regional access site in Pleasure Isle but will become less directly invoved with the State in the coming year.

The County is considerably lacking in estuarine access points, particularly boat ramps, in comparison to oceanfront access. The greatest deficiency for estuarine and boat access is along the Inland Waterway and adjoining creeks. Presently, the County maintains estuarine and boat access facilities at the Riverside Park in Castle Hayne, and estuarine access facilities at Snow's Cut Park. In addition, the City of Wilmington has created an urban estuarine access point and a boat ramp at the Riverfront Park in Wilmington. The State owns and maintains five boat ramps in the County, one of which is in the Carolina Beach State Park. In addition, the State provides ocean access at the Fort Fisher State Park. A list of all public and commercial boat access facilities is given in Table 1.

D. Potential Access Sites in New Hanover County

Potential public water access sites in New Hanover County can be classified based on the ownership status of the property. This Plan categorizes the sites based on whether or not the property is privately owned, publicly owned, or dedicated to the public but not yet accepted.

1) Privately owned sites

The vast majority of potential water access sites in the County are clearly under private ownership.

Acquisition of these sites by the County would require, as discussed earlier, purchase of fee simple interest or an easement; donation by the property owner; or forced dedication to the County by means of zoning or subdivision regulations.

Table 2 lists some private access points and properties that may have potential for acquisition by the County as public access. County acquisition of these properties, however, may require significant capital for land purchase.

2) Publicly owned sites

Significant segments of the shoreline, particularly in Pleasure Isle and along Snow's Cut, are presently owned by Federal and State Agencies. A major advantage of utilizing these properties for access is the elimination of the cost of purchasing the land.

In certain areas, the controlling agency is very willing to lease the property to the County for development of access, in order to receive County assistance in maintenance and security of the property. This situation exists on the Snow's Cut property, which is controlled by the U.S. Corps of Engineers and which is adjacent to the County's existing Snow's Cut Park. The County Planning and Parks Departments have prepared a grant application to the State for extending Snow's Cut Park into this area as part of a regional estuarine access facility.

TABLE 1

BOAT ACCESS SITES

1. Presently Existing Major Publicly Maintained Boat Ramps

	Water System	Location	Sponsoring Agency
a.	Northeast Cape Fear River	Old Bridge Site Road in Castle Hayne	New Hanover County Riverside Park
b.	Northeast Cape Fear River	133/117 Bridge in Castle Hayne	NC Wildlife Commission
c.	Intracoastal Waterway	Snow's Cut	NC Wildlife Commission
d.	Cape Fear River	Snow's Cut	NC State Park
e.	Cape Fear River	Fort Fisher	NC Wildlife Commission
f.	Wrightsville Sound	Wrightsville Beach	NC Wildlife Commission
g.	Cape Fear River	Nun St., Wilmington	City of Wilmington
h.	Cape Fear River	Castle St., Wilmington	City of Wilmington

2. Boat Ramps Customarily Used by the Public

These ramps are not maintained by any local or state government.

	Water System	Location
a.	Branch of the NE Cape Fear Rd.	Holly Shelter Rd.
b.	Smith Creek	Kerr Avenue

3. Commercial Boat Ramps

	Water System	Location	Commercial Interest
a.	Pages Creek	Mt. Pleasant Drive	Mason's Marina
b.	Myrtle Grove Sound	Off of Loder Ave.	Williams Landing

4.. Commercial Access Facilities (Wet & Dry Slips)

	Water System	Location	Commercial Interest
a.	Bradley Creek	off Oleander Dr.	Bradley Creek Marina
b.	Wrightsville Sound	Airlie Road	Carolina Yacht Sales
c.	Wrightsville Sound	Airlie Road	Wrightsville Gulf Terminal
d.	Wrightsville Sound	Airlie Road	Gulfstream Marina Inc.
e.	Masonboro Sound	Trails End	Masonboro Boat Yard
f.	Myrtle Grove Sound	One mile North of Snow's Cut	Inlet Watch Yacht Club
g.	Wrightsville Sound	Causeway Drive Wrightsville Beach	Seapath Marina
h.	Wrightsville Sound	1 Marine Street Wrightsville Beach	Wrightsville Yacht Club
i.	Wrightsville Sound	Short Street Wrightsville Beach	Atlantic Marine Sales & Surface
j.	Intracoatal Waterway	St. Joseph Street Carolina Beach	Skippy Winner Snow's Cut Marina
k.	Intracoastal Waterway	Spencer Farlow Drive	Yacht Haven Marina

TABLE 2

PRIVATELY OWNED ACCESS SITES WITH POTENTIAL FOR COUNTY ACQUISITION

		LOCATION BACKGROUND	WIDTH OF RIGHT-OF-WAY AT SHORELINE	SURROUNDING LAND-USES	COMMENTS
1)	Middle Sound/ Unnamed	Map Book 5, Page 23	3 rights-of-way 60 to 100 feet	Residential	--Vacant narrow lots between residences off Bald Eagle Lane
2)	Pages Creek/ Oak Avenue	Map Book 2, Page 120	30'	Residential, Commercial	--Undeveloped
3)	Bradley Creek/ Riptide Drive	Map Book 20, Page 14	84'	Residential	--Subdivision common area, with CP&L easement --undeveloped
4)	Greenville Sound/ Towles Road	Tax Map 63	--	Vacant	--Private road terminating 500' from water --Considerable vacant area
5)	Masonboro Sound/ Holiday Hills Dr.	Map Book 7 Page 84	25'	Vacant, Residential	--Private road leading to private boat ramp with surrounding vacant area
6)	Masonboro Sound/ Channel Haven Drive North	Map Book 7, Pages 53 & 60	30'	Vacant	--Access blocked by gate
7)	Masonboro Sound/ Channel Haven Drive South	Map Book 7, Pages 53 & 60	--	Vacant, Residential	--Narrow private drive terminating 800' from water
8)	Myrtle Grove Sound/Egret Point Road	Map Book 13, Page 39	--	Vacant	--Road ends 800' from water --ample vacant land
9)	Cape Fear River/ North of County Incinerator	Tax Map 47	--	Vacant	--Large parcel containing highest point in County and historic site --Suitable for boat launch and other facilities

In other areas, however, restrictions may be placed by the controlling agency on the use of its property. The undeveloped area along the Cape Fear River south of Snow's Cut, for instance, is tightly controlled by the U.S. Department of Defense as part of the Sunny Point Buffer Zone. The Department of Defense will not allow more than twenty-five persons to congregate in one place at a time within the Buffer Zone. This restriction severely restricts development of the area for public water access.

3) Potential Road Dedication Offers which the County May Accept

Since counties may own, maintain and manage land for recreational purposes, counties may accept dedication offers of roads running along the waterfront in order to provide public water access sites. Before accepting a dedication offer, a title search or "chain of ownership" survey should be conducted to ensure that the offer to dedicate has been made and has not been withdrawn.

Table 3 provides a list of roads, by water system, in unincorporated New Hanover County that are potential road dedication offers which the County may accept in order to provide public water access sites.

The preliminary status evalution for each site in Table 3 will have to be confirmed by the County Attorney before any acquisition action can be taken. The preliminary status evaluation is merely an indicator of whether there is a strong or weak possibility that an offer of dedication of the road has taken place and that the County may accept that offer. A site with a preliminary site evaluation of "PUBLIC" has a strong possibility for acceptance; a site with a preliminary evaluation of "UNCERTAIN" has a weak possibility for acceptance.

The surrounding land-uses generally refer to the two sides of the road. It is important to note that nearly all of the potential sites have fairly narrow right-of-way access points and would require acquisition of surrounding land for parking and improvements, if the access was to be intended to serve more than the immediate neighborhood.

TABLE 3

POTENTIAL ROAD DEDICATION OFFERS WHICH THE COUNTY MAY ACCEPT FOR PUBLIC WATER ACCESS

	SITE	LOCATION BACKGROUND	WIDTH OF RIGHT OF WAY AT SHORELINE	PRELIMINARY STATUS EVALUATION	SURROUNDING LAND-USES	COMMENTS
1)	Futch Creek/ Unnamed Road Road	Map Book 6 Page 458	25'	Public	Vacant, Mobile Home	--Mile long dirt road --Unmaintained access --Suitable only for small boats or canoes
2)	Middle Sound/ Final Landing Road	Map Book 2 Page 113	30'	Uncertain	Vacant, Residential	--May be private road
3)	Middle Sound/ Buena Vista Dr.	Map Book Page 120	30'	Uncertain	--	--No site visit made because of apparent private roads
4)	Pages Creek/ Pine Avenue	Map Book 4 Page 28	20'	Public	Vacant, Residential	--Unmaintained roads, narrow access
5)	Pages Creek/ Dunbar Road	Tax Map 45	60'	Uncertain	Vacant, Residential	--1000' section of road leading to creek is only 15' wide
6)	Pages Creek/ Denise Drive	Tax Map 45-10	30'	Uncertain	Residential	--May make excellent neighborhood facility
7)	Wrightsville Sound/Allens Lane	Tax Map 57	10'	Uncertain	Commercial Marina	--May be encroachment of marina on right-of-way
8)	Bradley Creek/ Old Military Road	Map Book 6 Page 8	30'	Public	Vacant, Marina residential	--Provides direct and useable access to Bradley Creek --Requires improvements
9)	Bradley Creek/ Circular Drive	Map Book 3, Pg.12 Map Book 162 Page 299	60'	Public	Vacant	--Access limited by old U.S. Highway 76 bridge, utility pole

SITE	LOCATION BACKGROUND	WIDTH OF RIGHT OF WAY AT SHORELINE	PRELIMINARY STATUS EVALUATION	SURROUNDING LAND-USES	COMMENTS
10) Bradley Creek/ Myrtle Avenue	Tax Map 56-19	10'	Uncertain	Resdiential	--narrow, constrained by residences --access limited by U.S. Highway 76 bridge
11) Bradley Creek/ Dupree Drive	Tax Map 56-19	--	Public	Residential	--narrow, constrained by --access limited by U.S. Highway 76 bridge
12) Whiskey Creek/ Granada Avenue	Tax Map 72-04	60'	Public	Residential	--inadequate boat launch; access limited by Masonboro Loop Road bridge --Visual access only
13) Bradley Creek Purviance Avenue	Map Book 173 Page 11	30'	Public	Residential, Commercial Marina	--unimproved, partially blocked by boatyard --Could be used for boat ramp with purchase of additional land
14) Masonboro Sound/ Benton Avenue	Map Book 72-00	30'	Public	--	--Located off Seabreeze Boulevard --exact location uncertain; may be encroached --improvements needed
15) Masonboro Sound/ Soundview Drive	Map Book 7 Page 42	29'	Uncertain	Residential	--existing boat ramp --may be private encroachment on public right-of-way
16) Masonboro Sound/ Trails End Road	Map Book 173, Page 11	60'	Uncertain	Restaurant residential	--Public Use of good boat ramp on what may be private road
17) Myrtle Grove Sound/Old Myrtle Grove Road	Tax Maps 76, 77	60'	Uncertain	Residential, Vacant	--Unimproved road --Potential for boat launch

SITE	LOCATION BACKGROUND	WIDTH OF RIGHT OF WAY AT SHORELINE	PRELIMINARY STATUS EVALUATION	SURROUNDING LAND-USES	COMMENTS
18) Myrtle Grove Sound/Johnson Landing Road	Tax Map 76	60'	Uncertain	Residential	--Presently barricaded --Potential for boat launch
19) Myrtle Grove Sound/Loder Ave.	Book 3, Page 10	10'	Public	Residential, Vacant	--Narrow access
20) Myrtle Grove Sound/Shannon Dr.	Map Book 18, Page 110	30'	Uncertain	--	--Unmaintained, but has boat ramp potential
21) Myrtle Grove Sound/Windy Hills Dr.	Tax Map 79-18	30'	Uncertain	Vacant	--Presently barricated
22) Myrtle Grove Sound/Royal Oak Dr.	Map Book 9,	60'	Public	Residential	--Street ends in boat ramp; may be private encroachment on public right of way
23) Myrtle Grove Sound/Patalanda Drive	Map Book 3 Page 24	20'	Uncertain	Vacant	--May be private encroachment of a pier and boat ramp on public right of way
24) Myrtle Grove Sound/Sunrise Lane	Tax Map 82-07	10'	Uncertain	Residential	--narrow, unimproved road
25) Myrtle Grove Sound/Seaview Road	Map Book 5 Page 80	60'	Public	Residential	--Paved road, limited parking --Marsh areas
26) Myrtle Grove Sound/Silver Ave.	Map Book 4 Page 72	60'	Uncertain	Residential, Vacant	--paved road, limited parking
27) Myrtle Grove Sound/Burnett Rd.	Map Book 4 Page 72	60'	Public	Residential Vacant	--Improved, well maintained road --Room for expansion for parking; facilities including boat ramp

SITE	LOCATION BACKGROUND	WIDTH OF RIGHT OF WAY AT SHORELINE	PRELIMINARY STATUS EVALUATION	SURROUNDING LAND-USES	COMMENTS
28) Myrtle Grove Sound/Park Ave.	Map Book 5 Page 73 Map Book 563 Page 91	60'	Public	Residential Vacant	--Unimproved road in Seabreeze area --Potential boat ramp
29) Snow's Cut Service Road	Tax Map 88	80'	Public	Vacant, County Park	--Large area of land available --Land owned by Corps of Engineers, may be leased by County for extension of Park
30) N.E. Cape Fear R./Old Bridge Site	Tax Map 5	30'	Public	Vacant, County Park	--May provide expansion potential for Riverside Park
31) N.E. Cape Fear R./Orange Street	Tax Map 11	30'	Public	Vacant, State boat ramp	--May allow for development of park facilities next to existing State boat ramp
32) N.E. Cape Fear R./ Holly Shelter Rd.	Tax Map 6, 11	60'	Public	Vacant	--Suitable for small boat launch facilities into undeveloped river tributary
33) Saunders Mill Creek/Marathon Ave.	Tax Map 10	60'	Uncertain	--	--Gate across road prevented field check
34) Smith Creek/ Kerr Avenue	Tax Map 42	30'	Uncertain	Vacant	--Existing small boat ramp

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