

The Perrin River Commercial Seafood Harbor Master Plan

*A Plan to Protect the Traditional Working Waterfront of the Perrin River in Gloucester County,
Virginia*



September 2012

TABLE OF CONTENTS

Abstract.....	Pg. 1
Chapter 1: Introduction and Problem.....	Pg. 2
Chapter 2: Study Site.....	Pg. 5
2.1: Background of Perrin River as a Commercial Seafood Hub.....	Pg. 5
2.2: Rationale for Perrin River Focus Area.....	Pg. 8
2.3: Community Participation During the Study.....	Pg. 8
2.4: Existing Waterfront Goals of the County and York River Use Conflict Committee Recommendations.....	Pg. 10
2.5: Land Use and Zoning on Perrin River.....	Pg. 11
2.6: Barriers to Working Waterfront Growth in Gloucester County.....	Pg. 15
Chapter 3: Suggested Community Based Strategies and Specific Public Policy Recommendations to Protect and Preserve Perrin River as a Commercial Seafood Hub.....	Pg. 19
3.1: Suggested Community Based Strategies to Protect the Commercial Seafood Industry on the Perrin River.....	Pg. 20
3.2: Specific Public Policy Recommendations for the Gloucester County Board of Supervisors.....	Pg. 21
Chapter 4: Preferred Project Recommendation: Commercial Seafood Overlay District.....	Pg. 23
4.1: General Overlay District Technical Information.....	Pg. 23
4.2: Example of an existing Commercial Fishing Village Overlay District in Beaufort County, South Carolina.....	Pg. 24
Maps:	
A: Commercial Waterfront Businesses.....	Pg. 4
B: Gloucester County, Virginia.....	Pg. 6
C: First Half-Mile of Perrin River.....	Pg. 7
D: Property Zoning Designations & Parcels with Existing Non-Residential Uses.....	Pg. 13
E: Property Parcels & Existing Parcels Used for Commercial Waterfront Business.....	Pg. 14

ABSTRACT

Gloucester County, Virginia has seen a decline in the number of commercial waterfront businesses in recent years. The county has recognized this as an issue that affects the economy and the fundamental nature and culture of the county. In 2008, the completion of the York River Use Conflict Study further identified the need for the Gloucester County Board of Supervisors (BOS) to manage various waterfront use issues. In response, in 2009 the Gloucester County BOS passed a resolution that directed staff to develop the tools necessary to manage these issues. As part of this process, the draft Gloucester County Comprehensive Plan under revision identifies the need to protect “Working Waterfronts”. In 2010, the closure of Cook’s Seafood, a major commercial waterfront business in Gloucester County, displaced over 15 commercial work boats. This event reinforced the need for both watermen and the county government to act to prevent losing the traditional watermen lifestyle in the County. This study, the Perrin River Seafood Harbor Master Plan, continues to build upon these previous efforts to protect the Working Waterfronts of the County. Specifically, it focuses on the Perrin River, a traditional commercial port in the Eastern portion of Gloucester County which is home to several existing Working Waterfront businesses, one private marina, and the much used public “Perrin River Landing”. The landing is also locally referred to as Sedgers Creek, Sedgers Wharf, Perrin Creek Landing, Perrin Wharf, Perrin Landing and King’s Landing. The study identifies existing zoning and existing waterfront uses, and develops recommendations for a Commercial Seafood Harbor Master Plan for the Perrin River.

1. Introduction and Problem

Within Gloucester County, and in most coastal communities nationwide, the commercial seafood industry has had to adapt and shift as coastal land use and waterfront property ownership is altered. Historically, as epicenters of economic development, coastal communities were the location of a strong fisheries industry and shipbuilding, as well as public access areas for recreational and commercial uses. However, as more and more people move toward the coast, the changing coastal dynamics and demographics ultimately threaten traditional and culturally significant working waterfront industries (i.e. commercial seafood). Jack Wiggins' Urban Harbor Institute's white paper titled "Preserving and Promoting a Working Harbor: The Experience of Gloucester, Massachusetts" articulates the true nature of the challenge faced by many coastal communities:

"Without economically viable waterfront business, property owners are unable, and lending institutions unwilling, to invest in capital improvements needed to maintain piers, wharves and other waterfront infrastructure".... "The viability of many businesses on the Gloucester waterfront has been and remains tied to the health of the commercial fisheries."

Coastal Gloucester, Virginia is no different. As waterfront properties become more desirable, the market value and the property tax burden of these properties increases. Consequently, key seafood processing businesses close as the higher taxes force watermen to vacate the waterfront. Traditional access points, both private and public, are developed, fenced off, posted "No Trespass", or purchased by new owners who are unwilling to continue old patterns of public access uses. Watermen face declining resources and impacts from pollution, along with complicated social and economic factors affecting their ability to harvest seafood. The loss of working waterfronts is a complicated community development issue.

As a result, watermen are forced to move from the coast or are restricted from using traditional access points, causing them to struggle to sustain their commercial seafood business. With limited space and limited sites available for mooring their boats and with limited safe infrastructure where they can conduct business, watermen seek innovative and new options for continuing business as normal. The Perrin River is an important commercial seafood hub for Gloucester County. The commercial waterfront businesses on the Perrin River, as illustrated by Map A, include (from the mouth of the river moving in):

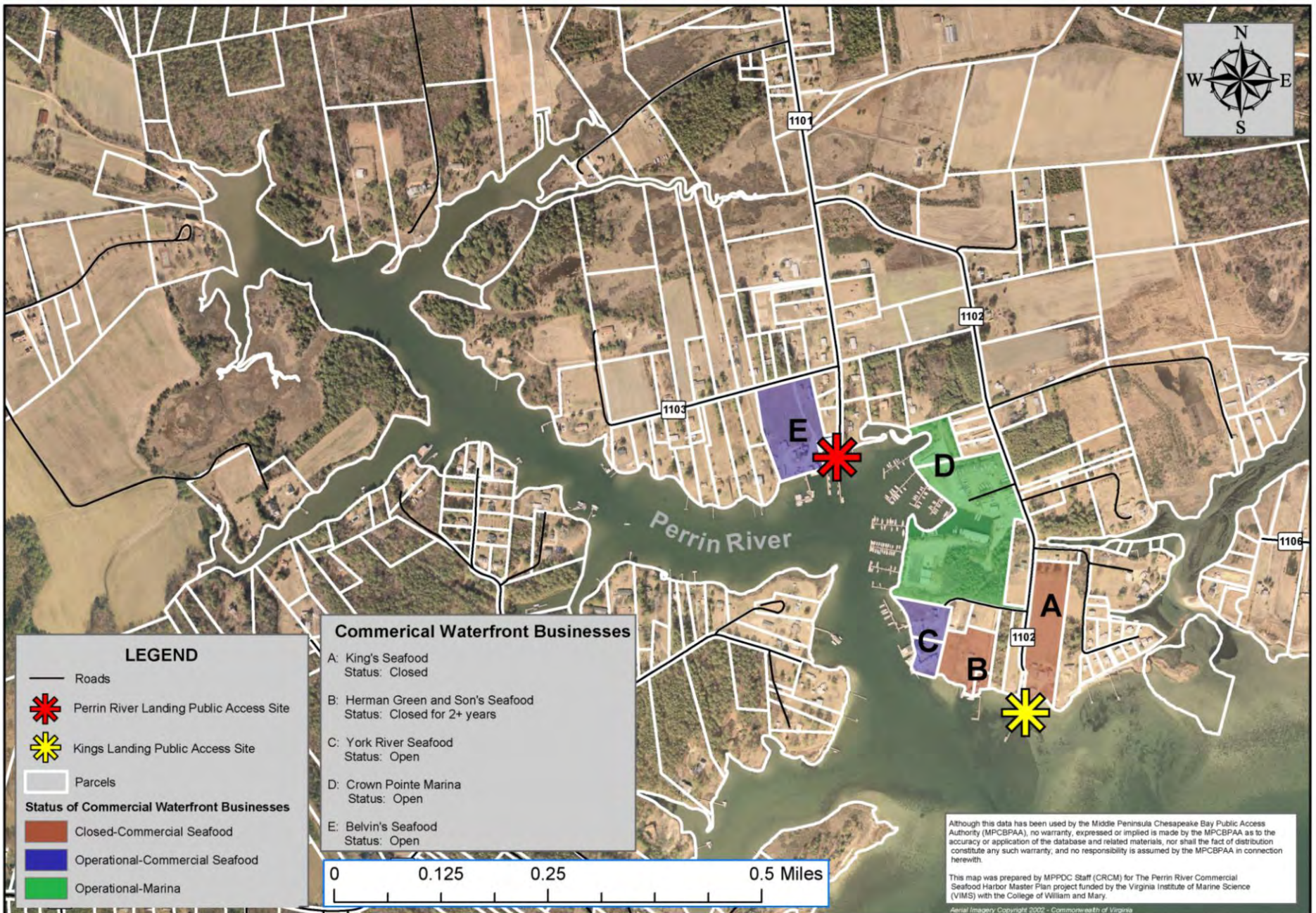
- King's Seafood (closed);
- Herman Green and Son's (closed for 2+ years);
- York River Seafood (open and currently in operation, future uncertain due to death of property owner in 2012);
- Crown Pointe Marina (open, private marina);
- Perrin River Landing (public access site); and
- Belvin's Seafood (open and currently in operation, future uncertain due to death of property owner in 2012).

As such, there is particular urgency for a commercial seafood harbor master plan that assesses the needs of the commercial seafood industry, harbor management, and current and future infrastructure improvements. A well designed and focused strategy will ensure that current and future commercial watermen have access to infrastructure and business support services to enhance and protect the important economic and cultural practices of the seafood industry in the county.

Map A

Perrin River Commercial Seafood Harbor Master Plan

Commercial Waterfront Businesses



2. Study Site

2.1 Background of Perrin River as a Commercial Seafood Hub

The Commercial Seafood Industry has been a large part of Gloucester County, Virginia, especially the eastern area known as “Guinea” (Map B).

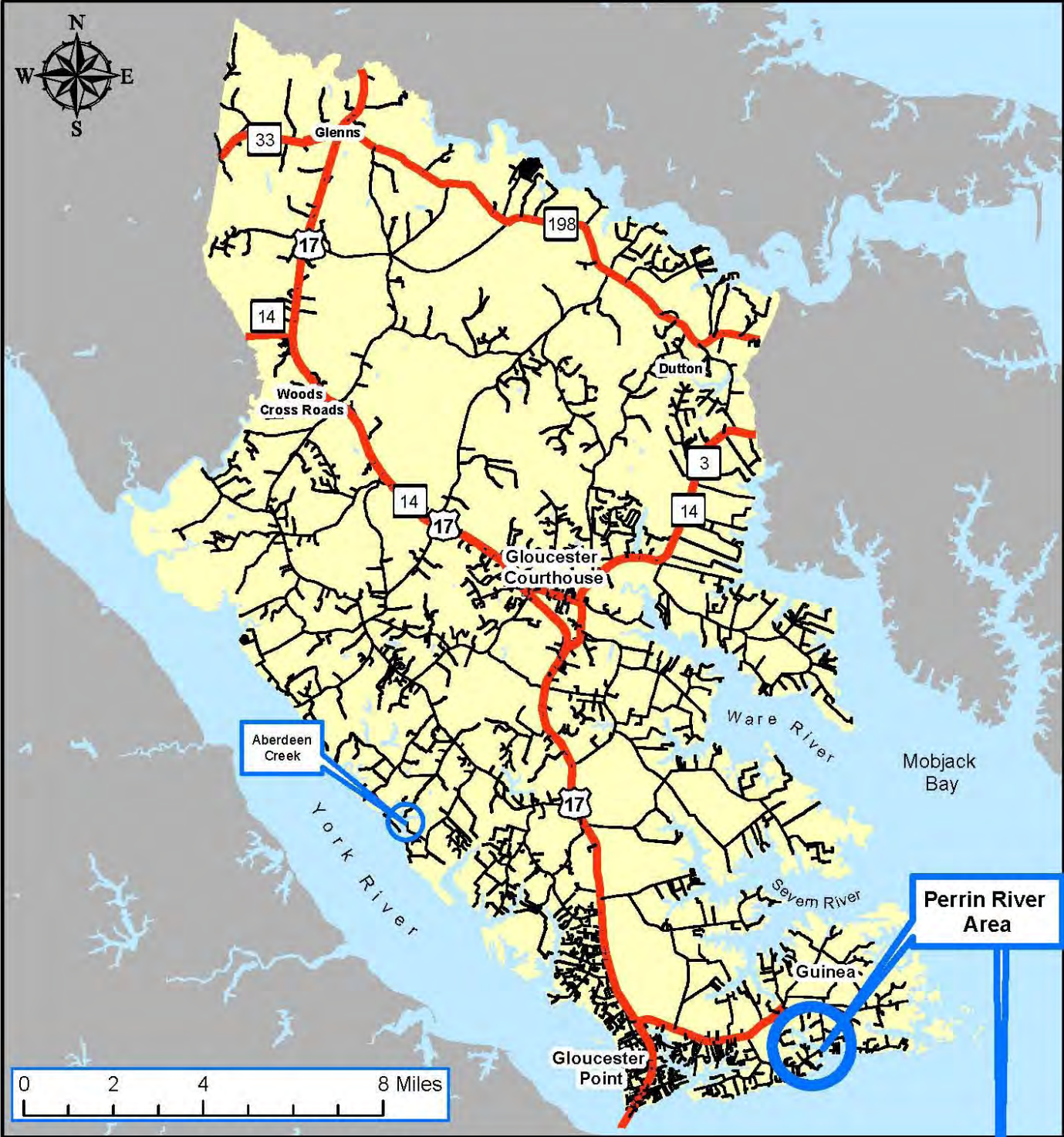
In this region lies the Perrin River, a 1.3-mile-long (2.1 km) tidal river located just off the York River. There is 7 to 10 feet of water in the channel, but it can shoal quickly to the sides. The main commercial harbor is in the first half mile of the River (Map C).

Records show continual commercial use of the Perrin River (specifically the Perrin River Landing at the end of State Road 1101) since sometime before 1918. The landing and wharf are currently owned by the Virginia Department of Transportation (VDOT) and used by commercial watermen for moorage, loading and unloading supplies, and for unloading their catch. At the time of this study, the Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA) is working with the County and VDOT to change the ownership of the landing to allow for better management in order to help preserve commercial fishing jobs in the county. VDOT is in the road business, not the water access business.

Historically, the property was leased in the early 20th century (verbally) to Mr. Brown who constructed a timber wharf, installed fuel tanks, and built a railway for hauling boats for painting and repair. VDOT’s first written records are dated 1936. Since that time, the property and anecdotally, other spots on the river, have been in continual use by watermen for launching and repairing boats, landing seafood, fueling boats, etc. At the present time, the Perrin River is home to several working waterfront seafood businesses (some open and some closed), the Perrin River Landing, many private property parcels, and one marina described previously and shown in more detail on Map C.

Map B

Perrin River Commercial Seafood Harbor Master Plan Gloucester County, Virginia

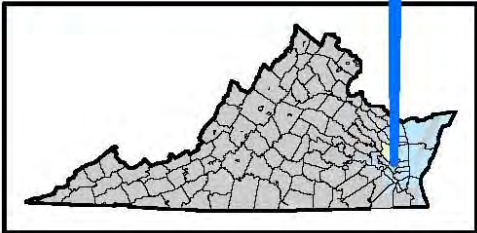


Although this data has been used by the Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA), no warranty, expressed or implied is made by the MPCBPAA as to the accuracy or application of the database and related materials, nor shall the fact of distribution constitute any such warranty, and no responsibility is assumed by the MPCBPAA in connection herewith.

This map was prepared by MPPDC Staff (CRCM) for The Perrin River Commercial Seafood Harbor Master Plan project funded by the Virginia Institute of Marine Science (VIMS) with the College of William and Mary.

LEGEND

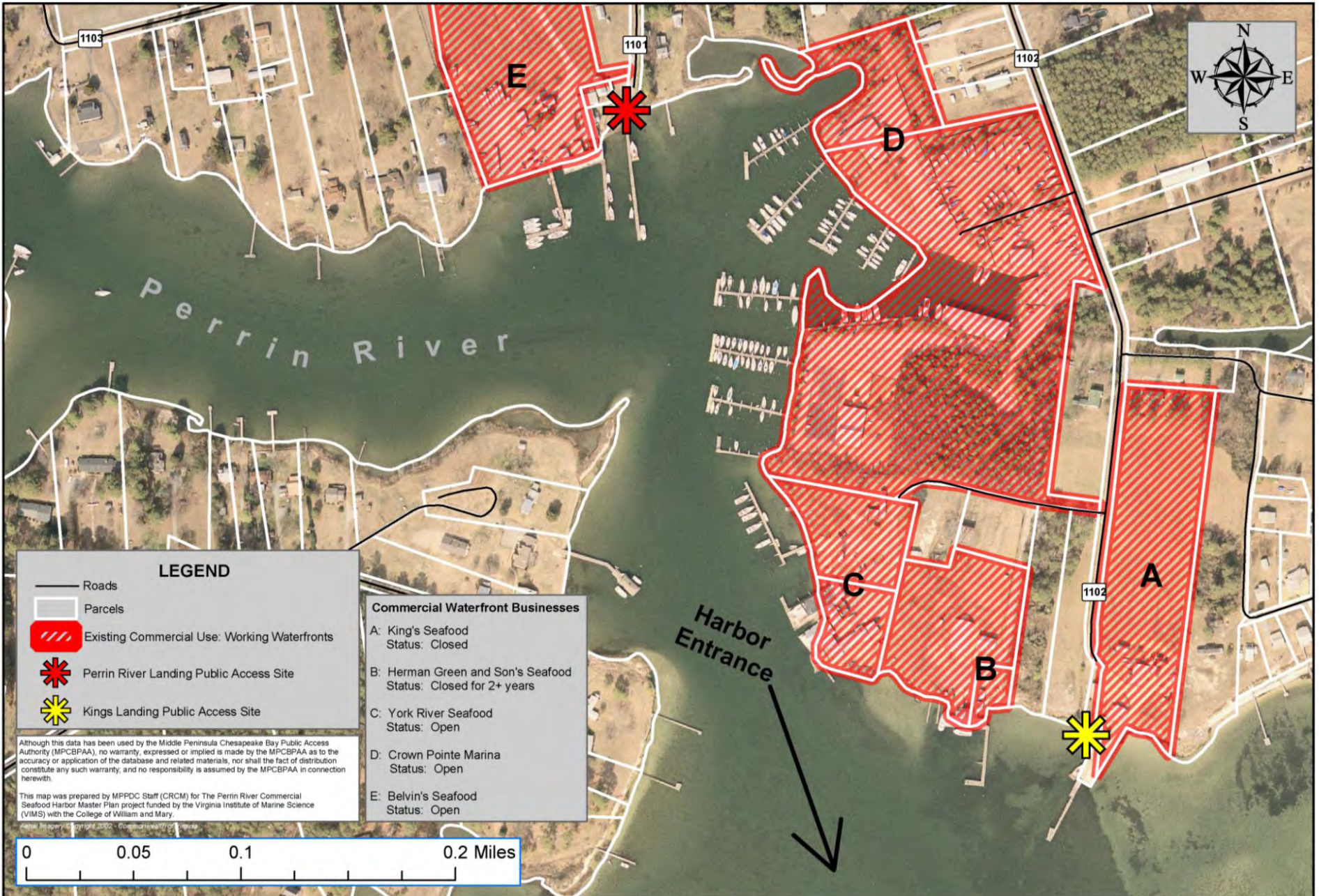
- Gloucester County
- Working Waterfront Areas
- Major Roads



Map C

Perrin River Commercial Seafood Harbor Master Plan

First Half-Mile of Perrin River



2.2 Rationale for Perrin River Focus Area

Historically, the Guinea area has served as the seafood hub of the county. Watermen could easily dock and unload their products. However, today conducting traditional business activities has become complicated. With only one other major seafood hub left in Gloucester County (Aberdeen Creek), the Perrin River is one of the last opportunities for the Gloucester County watermen to sustain their commercial seafood business. Perrin River was chosen as the study area because several local watermen expressed immediate need to local elected officials to preserve the Perrin River for future commercial seafood operations. The closing of Cook's Seafood caused significant problems for local watermen. Cook's Seafood, located on Sarah's Creek in Gloucester County, served as a key hub for commercial seafood operations. Cook's Seafood transported and processed seafood throughout the region, and many watermen relied on its infrastructure to conduct their seafood business at Cook's. After seventy years, in March of 2010, Cook's Seafood ceased operation. Over fifteen watermen moored their boats at Cook's and many more relied on the services offered by Cook's Seafood. These watermen were forced to moor elsewhere and seek new business relationships. Many of these watermen relocated to the Perrin River.

2.3 Community Participation During the Study

2.3.1 Interviews

To help identify the existing harbor conditions and potential harbor improvements, multiple meetings were held with watermen, businessmen on Perrin River, Elected Officials, Economic Development staff, Gloucester County Planning Staff, and numerous site visits were made at various times of the day and week.

2.3.2 Focus group interviews

Two focus group interviews were held which provided an opportunity for group interaction.

- The first meeting was held on January 25, 2012 with watermen Billy Bonnaville; Edward Hogge; Ronny Green. The first two are commercial crabbers and Mr. Green is a gill netter. All indicated a concern for the lack of traditional working waterfront mooring sites, especially in light of the loss of Cook's Seafood, the traditional commercial waterfront mooring facility on Sarah's Creek in Gloucester that closed in March, 2010. They also indicated a need for more public seafood offloading sites as opposed to private sites. Watermen are independent businessmen in a competitive and tough industry. Generally when a waterman docks at a private seafood facility, he is expected to buy bait and fuel and to sell his catch to the owner of the facility. The watermen prefer to have more independence in making these determinations. The watermen also stated that the Perrin River was a good place for Commercial

Watermen to base as the location is near fishing grounds and the harbor has good water.

- The second meeting was held on May 8, 2012 in Achilles, VA. This meeting was requested by local watermen who were concerned about the potential loss of York River Seafood and Belvin's Seafood due to the untimely deaths of the owners of these businesses. Three watermen (Billy Bonniville, Tommy Leggett, Kenny Man Kellum), two Middle Peninsula Planning District Commission and the Middle Peninsula Chesapeake Bay Public Access Authority Staff (Lewis L. Lawrence and Harrison P. Bresee), a representative from the Sea Grant Advisory Program at The Virginia Institute of Marine Science or VIMS (Tom Murray), the Director of the Economic Development Authority of Gloucester County (Doug Meredith), and members of the Gloucester County Board of Supervisors were in attendance. The meeting reiterated the need to preserve the Perrin River as a Commercial Seafood Port.

2.3.3 Meeting with local business owners

One local business owner consented to be interviewed and quoted.

- The meeting with the owner of Crown Pointe Marina, Joe Heyman, was on May 7, 2012. Mr. Heyman indicated that the Perrin River is a good place for watermen because of existing facilities, depth of water and safe moorage. His marina is primarily used by recreational vessels, but he has no problem renting his slips to commercial watermen. However, he is required by his insurance company to guarantee that boats at his marina are insured. Generally, the majority of watermen do not carry boat insurance for a variety of reasons (most notably - availability and cost), which limits the number of watermen who can dock at the marina. Mr. Heyman indicated that he would be willing to work with watermen, the insurance company, and others to try to find a way to provide dockage for watermen.

2.3.4 Informal consultations with public officials

To obtain additional, public data necessary for this study, the author conducted informal consultations with public officials.

Multiple meetings with Gloucester County Planning and Economic Development Staff were held at the start of the project. The staff provided guidance on local ordinances and economic development data.

The Comprehensive Plan Steering Committee and the Planning Commission share the watermen's concerns for the loss of working waterfronts. As part of the County's planning process for updating its Comprehensive Plan, staff provided the results and the recommendations from the York River Conflict Study to the Comprehensive Plan

Steering Committee and Planning Commission and they have supported inclusion of these recommendations in the Comprehensive Plan update. In addition, staff has tried to insure that a recent code amendment related to aquaculture and agribusiness was consistent with the recommendations in the Conflict Study. However, planning staff also recognize the need to develop better land use ordinances to adequately and more overtly provide for the protection of existing working waterfronts and potentially increase their availability for future expansion in Gloucester.

2.4 Existing Waterfront Goals of the County and York River Use Conflict Committee Recommendations

Gloucester County has a history with an active commercial seafood industry; however supporting public policy has just recently become more integrated into studies and plans.

In 2008, the York River Use Conflict Committee (YRUCC) provided the Gloucester County Board of Supervisors with recommendations on maritime water use for Gloucester County. In 2009, the Gloucester County Board of Supervisors adopted these recommendations by resolution.

The YRUCC was established to explore public policy questions facing many rural coastal local governments: “to what extent will future development of coastal communities rely on the opportunities presented by a coastal environment and what public policies will govern such opportunities?” The seven adopted recommendations of the YRUCC are designed to: serve as a reference for the development of future public policy in Gloucester County, VA; shape future legislative and policy positions to be advocated by the Middle Peninsula Planning District Commission (MPPDC); and inform others, particularly state officials, of the County’s preferred position on coastal community development issues.

The seven adopted recommendations are:

Recommendation 1 –develop a “Coastal Living Policy”. Much of use conflict is due to lack of knowledge about living in a coastal community. The intention of this policy is to educate residents, especially new residents, about coastal living in Gloucester from an economic, cultural, social, environmental, and regulatory perspective.

Recommendation 2 – map and identify the County’s Land, Air and Water Jurisdictional boundaries in the County’s Comprehensive Plan and supporting maps. Identifying the County’s jurisdiction and authority to manage uses within its territorial boundary will frame the basis for managing conflict by establishing spatial areas for management consideration.

Recommendation 3 – take no action at this time to manage or regulate the aquaculture industry within its jurisdiction. The Virginia Marine Resources Commission (VMRC) recently promulgated regulations regarding aquaculture and time is needed to determine whether the regulations resolve use conflicts regarding this relatively new industry.

Recommendation 4 – develop a policy for the protection of working waterfront infrastructure. Public waterfront access points, together with recreational and commercial fishing industries and related support facilities, should be sustained at various points throughout Gloucester County.

Recommendation 5 – develop a Waterfront Outdoor Lighting Ordinance. Light pollution, caused by overly bright and poorly designed lighting, is causing nighttime light trespass problems for waterfront users. Many Virginia localities have enacted lighting ordinances to solve this growing and serious problem.

Recommendation 6 – adopt an ordinance restricting floating homes. It is simply a matter of time before these vessels arrive in the County and the County should be proactive in protecting its residents and waters.

Recommendation 7 – develop a master plan for public access infrastructure to ensure equal water access for all user groups to the waterways within Gloucester County.

Building on the adopted recommendations of the YRUCC, the 2013 Gloucester County draft Comprehensive Plan update recognizes that water plays an important part in Gloucester’s culture, history, and economy. The plan speaks to the increase in residential development along the County’s shorelines which can contribute negative impacts on water-based industries, including seafood and boat operations. Managing land use conflicts between waterfront industries and residential development is a major goal of the County’s comprehensive plan. To this end, certain sections of the plan designate areas along the shore as working waterfront and marina areas, where future residential development can be avoided to help reduce conflict with water-based uses. These areas are intended to support uses such as commercial seafood operations, boatyards, marinas, and accessory uses. Working waterfronts are the primary use of these areas, with residential development as a secondary use, similar to the stance taken in the agricultural districts with residential uses. Mixed use development which may incorporate residential and commercial uses in conjunction with active working waterfronts, such as marinas, may be appropriate in these areas as well. Such mixed use developments could be achieved through the use of a Planned Unit Development District under the current ordinances but the Comprehensive Plan Update recommends the creation of a new district to better protect and encourage the continuation of these uses.

2.5 Land Use and Zoning on Perrin River

Gloucester County’s economy, history and culture originates from the water and the industries supported by that critical resource. Over the years, the waterfront industries have declined and the demand for residential uses along the coastlines has increased. This has resulted in traditional working waterfront properties being replaced by residential and other uses. When properties do not allow working waterfront uses by right in areas attractive to those uses, it may be difficult for waterfront industries or water dependent facilities to find a place to operate. In the Gloucester County Zoning Ordinance marinas, boatyards and seafood

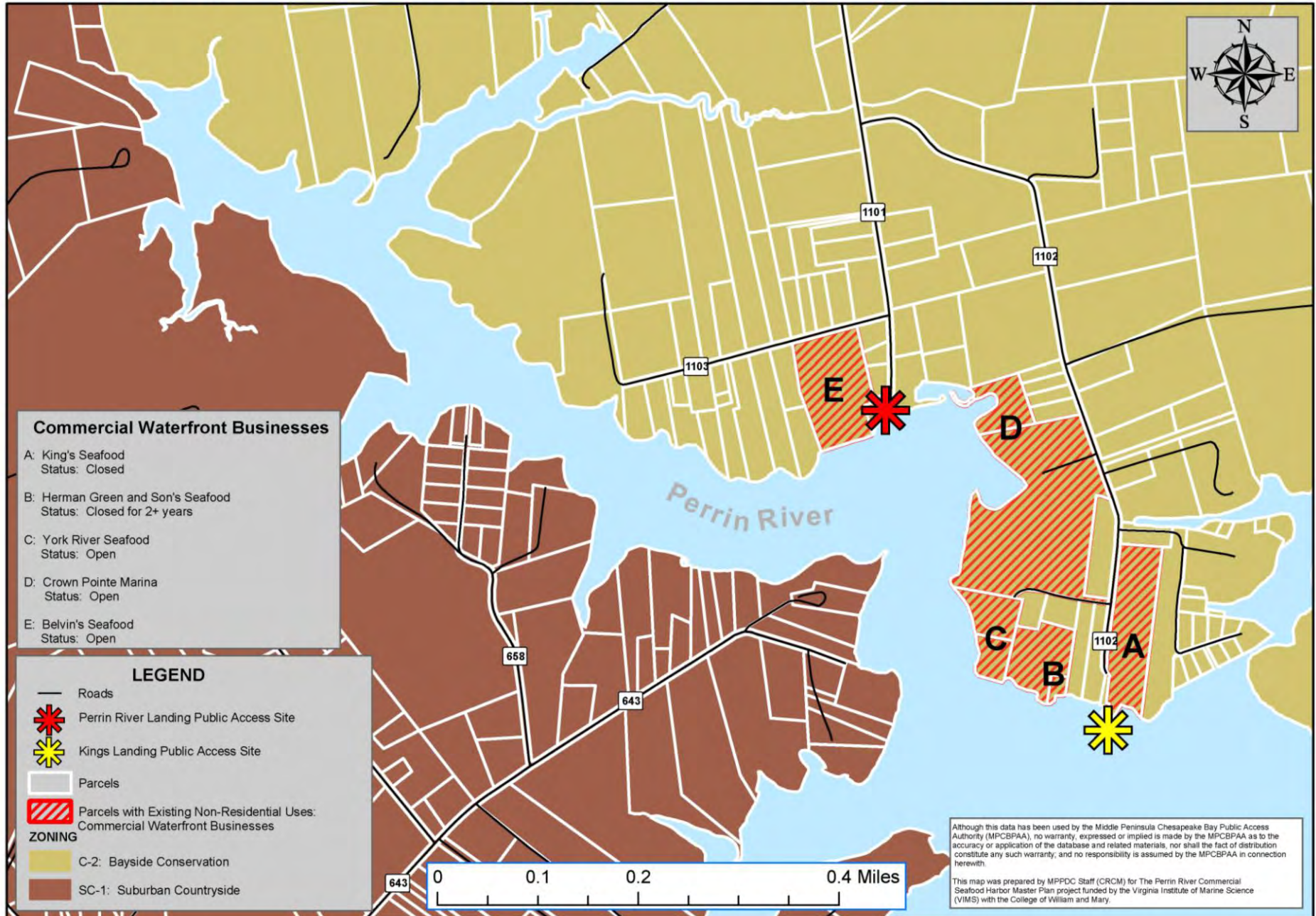
processing plants require a special exception from the Board of Zoning Appeals (BZA) in all the districts in which they are permitted. In addition, the minimum lot sizes and setback requirements unrealistically limit these uses and the expansion of existing uses. If the goal of the County is to encourage an active commercial seafood hub on the Perrin River or elsewhere, the current land use tools adopted by the county do not provide ease of entry, expansion, or certainty for business decisions.

Existing zoning designations for the property parcels that line the Perrin River are a barrier to sustaining working waterfront businesses. The Perrin River study area is currently zoned Bayside Conservation District (C-2), and Suburban Countryside District (SC-1). Both of these districts are defined as residential districts and require that most working waterfront uses go through the special exception process to establish a new use or to expand an existing one. This zoning permits a limited amount of low density residential development and low density residential subdivisions with an emphasis on clustering to protect natural resources. See Map D for an illustration of the property parcels, property zoning designations and the parcels with existing non-residential uses. See Map E for a closer look at the river with the property parcels and existing uses that are inconsistent with the residential zoning classification: the commercial waterfront businesses. It should be noted that the zoning districts in the Perrin area have no relations to the right of a watermen to moor a commercial workboat at a private pier. Moorage of a commercial vessel is a permitted use. The county does not currently regulate commercial vessels intended to harvest natural catch seafood moored beyond mean low water.

Map D

Perrin River Commercial Seafood Harbor Master Plan

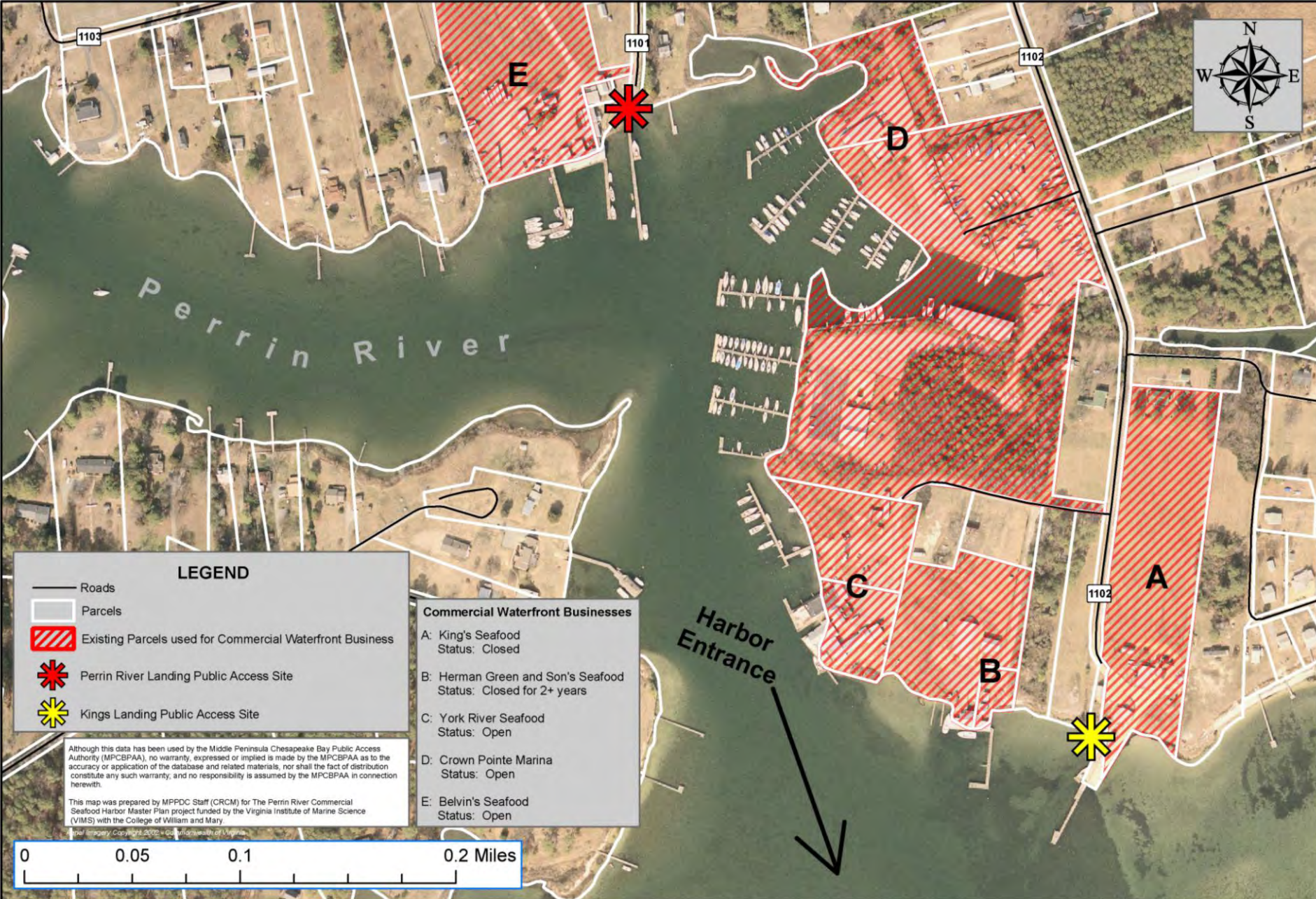
Property Zoning Designations & Parcels with Existing Non-Residential Uses



Map E

Perrin River Commercial Seafood Harbor Master Plan

Property Parcels & Existing Parcels Used for Commercial Waterfront Business



2.6 Barriers to Working Waterfront Growth in Gloucester County

To legally operate a new marina, boatyard or seafood processing plant in a C-2 or SC-1 zoned property, a special exception must be granted by the Gloucester County Board of Zoning Appeals (BZA).

The powers and duties extended to the Board of Zoning Appeals originate in state code, enabled by the Virginia General Assembly. Understanding the powers and duties of the BZA are complicated and often require legal interpretation. For the purpose of this report, we have attempted to generally characterize state code and how the BZA can operate. The BZA exists as a quasi judicial body established by Virginia Code §15.2-2308. The BZA is empowered to hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. In the case of Gloucester, the BZA has consistently permitted special exception requests upon application.

Because many of the existing waterfront industry activities occurring along the Perrin River were in existence prior to the adoption of the county zoning ordinance, they are defined as legal non-conforming uses. The County's ordinances allow non-conforming uses to continue and expand on compliance with Article 10 of the Zoning Ordinance. Section 10-4, from the zoning ordinance, below provides the conditions upon which an existing non-conforming use may expand. Unfortunately, the setbacks imposed by subsection (3) below make expansion of some of the existing facilities by adding additional structures difficult, if not impossible.

Also, if the use is discontinued for more than two (2) years, it is no longer considered a legal non-conforming use and must go through the special exception process to be re-established. This is a concern for those facilities whose owners have passed away where there may no longer be anyone willing or able to continue the businesses within the two year time frame.

Section 10.4 of the Gloucester Zoning Ordinance:

Where, at the time of adoption of this ordinance, lawful structures and uses of land, structures, or land and structures in combination exist which would not be permitted by the regulations imposed by this ordinance, the structures and uses may be continued; provided, however:

(1) Any expansion, alteration, or reconstruction of such structures or uses shall, through landscaping, architectural design, nuisance control, or other appropriate means, bring the structures or uses closer to conformity with surrounding uses so as to be more harmonious and appropriate in appearance with the existing or intended character of the general vicinity;

(2) Any expansion, alteration or reconstruction of such structures or uses will not result in destruction, loss, or damage of a natural, scenic, or historic feature of major importance;

(3) No nonresidential nonconforming structure or use shall be moved or expanded so that any portion of the structure or use is closer than one hundred (100) feet to any residential lot line, nor closer than one hundred (100) feet from any structure used for human occupancy in any nonresidential district. Where such structures or uses, or any portions thereof, are closer than the distance prescribed at the time of adoption of this ordinance, no expansion or movement may take place in the direction of a residential lot line or structure used for human occupancy, closer than one hundred (100) feet. Minimum distance requirements may be reduced to fifty (50) percent of the requirement if acceptable landscape screening, consisting of a strip of land twenty (20) feet in width planted with an evergreen hedge or dense planting of evergreen shrubs in healthy condition, is provided;

(4) Hours of operation or use of commercial and industrial nonconforming structures or uses shall not be extended beyond existing hours of operation or beyond 10:00 p.m.; whichever is longer, when such structure or use is located within a residential district;

(5) No lighting installed after the effective date of adoption of this ordinance shall create a nuisance to adjacent properties;

(6) Should such nonconforming structures or uses be physically moved from the district in which they were located at the time of adoption or amendment of this ordinance into any other district, they shall conform thereafter to the regulations for the district in which they are located after they are moved.

(7) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(8) If any nonconforming structure or use is voluntarily discontinued for a period exceeding two (2) years after the enactment of this ordinance, any subsequent use shall conform to the requirements of this ordinance; Any nonconforming structure destroyed by fire or other natural hazard shall be allowed to be reconstructed as a nonconforming structure within (2) years.

It is likely that most of the properties being used for working waterfront activities today on the Perrin River are existing non-conformities even if they did not go through the BZA process of obtaining a special exception for a marina, boatyard or seafood processing plant use or if the

structures on the property do not meet County Code requirements. That is the case for properties that were operating a working waterfront business before the existing zoning ordinance was adopted.

A non-conforming use is defined as: the otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of the zoning ordinance for the district in which it is located, either at the effective date of the ordinance or as a result of subsequent amendments to the ordinance.

Alternatively, certain types of business that require direct water access may be granted a special use permit on a case by case basis but that requires spending additional time and resources to go through the special use or special exception permitting process. The special exception permitting process is done on a case by case basis, so there is no guarantee that a working waterfront use will be approved, though the county does strive to accommodate them whenever possible. Frequently, where competing and incompatible uses conflict traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods, such as special exceptions, are needed to permit land uses and at the same time to recognize the effects of change.

It is important to keep in mind that the ordinances currently in place were enacted when Gloucester County was the fastest growing locality in the Commonwealth. As such, there was a lot of attention to residential growth and separating what were perceived as incompatible uses (such as farming, forestry and industrial uses) from residential growth. In addition, the county was focusing on attracting higher quality development as a bedroom community, and saw its waterfront as a commodity to attract higher priced homes and increased revenue. The unintended consequences of some of the ordinances adopted during this period have made it difficult for some traditional uses to continue, expand or become established within the residential zoning districts created.

Since most of the County's navigable waterfront is zoned residential, this is particularly true for water dependent commercial activities such as marinas, boatyards and seafood processing plants. The York River Use Conflict Study really brought this issue to the forefront for the County and since that time, the County has made a commitment to correcting discrepancies between the regulations related to commercial water dependent uses and the community's desire to retain and expand them. By adopting the York River Use Conflict Study, the County also endorsed a "no net loss" policy for working waterfronts. However, without additional action to implement such a policy with adequate zoning and incentives for commercial water dependent uses, forces beyond the County's control will further deplete the remaining viable working waterfronts.

The Herman Green and Son's seafood processing business is an example of a business on the Perrin River that was operating as an existing non-conformity but has now been closed for more than two years and has lost its legal non-conforming status. The King's Seafood business on the Perrin River has been closed for less than two years and is in jeopardy of its structures

being considered non-conforming and having to meet more stringent requirements for legally reestablishing or expanding the same or a similar use on the site.



(Herman Green & Son's, Photo 2012)



(King's Seafood, Photo 2012)

Watermen's Perspective: *Watermen operating out of the Perrin River consider the way Gloucester County has not planned for the seafood industry a difficult hurdle to overcome because the current land use regulations do not favor the working waterfront industries. However, this perception does not align with the previous body of working waterfront policy work conducted by the County and the Planning Department to protect the Working Waterfront.*

Gloucester Planning staff have developed new policies to help plan for working waterfronts. A draft coastal living policy has been developed which the Board of Supervisors can enact. Additionally, some new regulations may be needed to help an existing waterfront business expand, such as a marina on a parcel not previously used as part of the marina.

The concept of creating a working waterfront zoning district designation to protect existing commercial working waterfront uses is discussed in the comprehensive plan update. In an area like the Perrin River where several existing and previously used working waterfronts are clustered in one area, an overlay district may be a more appropriate tool. Designating an overlay district allowing commercial waterfront dependent uses by right would remove some of the hurdles to expanding or establishing a new water dependent facility along the Perrin River waterfront and would subsequently attract more of those uses to an area where the locality and its communities desire to have them.

Such a district would protect areas that are currently and have been historically used for working waterfront activities, to clearly demonstrate that the County is dedicated to preserving and promoting working waterfront uses into the future and to minimize and reduce friction between the seafood industry and residential development by reducing the potential for land use conflicts between the two types of uses. A Commercial Seafood Overlay district recommendation is discussed at greater length towards the end of this report.

3. Suggested Community Bases Strategies and Specific Public Policy Recommendations to Protect and Preserve Perrin River as a Commercial Seafood Hub

Gloucester County, as much of America's traditional coastal working waterfront communities, is experiencing the loss and redevelopment of working waterfronts and the subsequent loss of



their associated businesses employment. King's Seafood is a local example of a closed business. This loss forces watermen and traditional seafood businesses to move from the coast. As a consequence, they struggle to sustain their commercial seafood business, resulting in an economic and cultural loss to Gloucester County. A limited supply of waterfront land, increasing demand by different user groups, increase in the cost of waterfront land ownership (real estate costs and taxes), a decline in

the resources due to loss of habitat, pollution and labor issues are apparent causes of this change.

The challenges facing local government include recognizing and balancing:

- the needs and expectations of county residents;
- the loss of a coastal maritime identity;
- the loss of working waterfront infrastructure; and
- the loss of a commercial seafood industry with its economic benefits for the county and its citizens.

Infrastructure includes commercial marinas, boatyards, wet and dry boat storage, fish houses, commercial fishing vessel dockage, commercial fishing vessel loading and offloading sites, and marine related industries such as boat dealers, boat repair and maintenance, commercial fishing, and tourism. The current trend is towards non-water dependent uses (i.e. residential development) and exclusive use (i.e. private marinas).

The following suggested community based strategies and public policy recommendations build upon the central theme of protecting and preserving the working waterfront infrastructure specifically within the Perrin River. This theme was consistently expressed during the public engagement process of this project.

The suggested community based strategies are concepts that merit strong consideration and study. These strategies are potential paths to achieve a solution to the working waterfront dilemma. The specific public policy recommendations represent actions that build on considerable research, public input, and successful strategies already in force in other regions. The recommendations have a high probability of providing a successful and cost effective solution to the working waterfront dilemma with the least amount of money, time and effort.

3.1 Suggested Community Based Strategies to Protect the Commercial Seafood Industry on the Perrin River

3.1.1 Partnerships

A variety of partnerships, including codified and informal cooperation, may be utilized to further the goals of coastal communities in regards to their working waterfronts. Following the successful York River Use Conflict Committee model, the County Board of Supervisors should consider establishing a standing committee representing various stakeholders to convene when necessary to address emerging working waterfront issues. Partners should include watermen and business owners, land owners, VMRC, VIMS and the MPCBPAA. Resources and priorities for staff should accompany the establishment of a committee.

3.1.2 Planning and Visioning

The Gloucester County Board of Supervisors should continue their support for long range planning and visioning that addresses the working waterfront needs of the community. The draft update of the Gloucester County Comprehensive Plan has language supporting the need for addressing working waterfronts. Community members should remain engaged in discussion about preservation of working waterfronts to build public support.

3.1.3 Private Land Trusts and Acquisitions

Private land trusts can encourage the use of easements and covenants to protect working waterfronts. Rights of access and preservation of culturally important assets can be protected separate from the land itself through the use of easements and covenants. An easement allows its holder the right to use another person's land for the purpose specified in the deed granting the easement. The landowner retains full ownership of the land and can use it in any way that does not interfere with the rights granted in the easement. Not exactly an easement (though the terms are often confused), a covenant is a written legal promise contained in a contract or deed. A landowner promises to the limits on land use defined in the covenant. The covenant can be enforced by another party, such as the state. Covenants can be used to specifically address ways that landowners legally promise to address water access on their land. The Working Waterfront Covenant is an example of how covenant language helps protect access for commercial fishing in perpetuity. Restrictive covenants and working waterfront easements can also be used to protect waterfront use and access.

Acquisition in the context of the working waterfront is a tool by which lands or property, or specific rights to those lands or properties, are obtained. Acquisition of lands or properties may afford more options for growth and development of the working waterfront. Specific uses may be retained while new uses are accommodated.

Traditional acquisition tools can be applied in new ways to sustain working waterfronts. Acquisition may be achieved through multiple means including fee simple purchase, transfer/purchase of development rights, land exchanges, and conservation easements. These tools may be applied to take advantage of short-lived windows of opportunity to obtain waterfront property and secure it for desired uses. In a fee simple purchase transaction, lands or property are purchased outright; the fee simple title is acquired.

3.1.4 Incentives

Financial incentives may benefit working waterfronts by encouraging development that sustains or enhances their working character. One example is the specialized application of property taxes as a tool. The County, watermen and other working waterfront businesses owners could advocate for the General Assembly enabling authority to establish local property tax values which are fixed on the current use of waterfront land and not on the potential value of the land if developed for residential, retail or other “highest and best” uses (similar to “land use” for agriculture, forestry and open space). These types of incentives are often directed at working waterfront, commercial fishing, or other water-dependent uses as defined by state or local policy. In some cases, the tax exemption tool is also viewed as a type of government subsidy. Tax “abatement, exemption, and exclusion” as well as “income assessment,” where “taxes are based on the income of the redevelopment project and not on the value of the property itself,” are additional tax incentives that could be incorporated into the working waterfront toolbox.

3.2 Specific Public Policy Recommendations for the Gloucester County Board of Supervisors

Based on the strategies suggested, research conducted, and existing approved local policy documents, it is the recommendation of this report that the Gloucester County Board of Supervisors consider two specific policy recommendations.

- Develop a Commercial Seafood Overlay District for the Perrin River:

A Commercial Seafood Overlay District is a specific tool that a local government can use to preserve and protect the working waterfront, preserve the cultural identity of the region, and preserve and create jobs (See Chapter 4 for more detail). The district boundary could include only land based parcels which require waterfront for seafood operations or land based parcels and water areas within the limited harbor area of the Perrin River. Both the land area and the water area support seafood operations and would be consistent with a Harbor Master Plan approach. The goal is to protect the harbor and working waterfront uses which routinely happen in and along the Perrin River while avoiding the complications of spot zoning (spot zoning is the application of zoning to a specific parcel of land within a larger zoned area when the rezoning is usually at odds with a county’s current zoning restrictions).

- Continue to implement the adopted recommendations from the York River Use Conflict Committee:

The YRUCC recommendations provide a series of tools to manage water use conflict along the waterfront. The Gloucester County Board of Supervisors should consider enacting the various policy recommendations developed by staff to bring closure to the YRUCC work. These would include the proposed working waterfront comprehensive plan language and a coastal living policy for the county. For the recommendations left unaddressed, the Board should consider providing staff with additional resources and prioritization directives to carry out the recommendations. This strategy would send a clear public policy message that Gloucester County desires an active and well managed waterfront (See section 2.4 for recommendations).

4. Preferred Recommendation: Commercial Seafood Overlay District

4.1 General Overlay District Technical Information

Designating an overlay district allowing waterfront dependent commercial uses by right would remove some of the regulatory barriers to maritime business growth as well as reduce legal hurdles to establishing a new water dependent facility in Gloucester County. Establishing an overlay district should attract more of those uses to an area so designated by the locality.

Overlay zoning is a regulatory tool that creates a special zoning district, placed over an existing base zone(s), which identifies special provisions in addition to those in the underlying base zone. Some technical work will be needed to address potential problems between the two districts. The overlay district can share common boundaries with the base zone or cut across base zone boundaries. Regulations or incentives are attached to the overlay district to protect a specific resource or guide development within a special area. Any governmental unit with the power to create zoning districts can create an overlay district.

There are three basic steps to creating an overlay district, which are basically the same as any code amendment:

- Define the purpose of the district;
- Identify the areas that make up the district; and
- Develop specific rules that apply to the identified district.

The procedures for adopting an overlay district are the same as for adopting a zoning or rezoning provision with public hearing required at both the Planning Commission and Board levels. The overlay provisions as well as changes to the zoning map must be approved by the local governing body for adoption.

As with all code amendments, it is important that the Planning Commission and Board of the local governing body involve those impacted by the proposed changes and the general public to clarify issues, provide input on new or modified requirements and to develop the appropriate mapping district boundaries. An educational program targeting developers and affected property owners will help increase awareness and compliance with the new requirements once enacted and implemented.

The following section has an example of an existing Commercial Fishing Village Overlay District. The local ordinances are referenced and can be used as a starting point for writing county specific ordinances.

4.2 Example of an existing Commercial Fishing Village Overlay District in Beaufort County, South Carolina

Beaufort County, South Carolina

Sec. 1. - Background.

Seafood, fish, shrimp, crabs and oysters have been a staple of the lowcountry diet since the days of the Native American inhabitants. Since the colonial times, street peddlers and small merchants have sold fish and shellfish for local consumption. Ice houses, commercial docks and packinghouses which developed along the waterfront, resulted in the development of the seafood business as a primary economic force in the county. From around 1870 to the late 1920s, canning was a major part of the seafood business. Freezing became popular in the late 1940s and is still used for a majority of today's seafood catch, especially when shipped elsewhere. Today the industry is in decline; nevertheless, the demand for fresh seafood from Beaufort County's waters is still high. The seafood industry remains a vital part of the county's economy; in 1997 seafood and seafood-related jobs exceeded 1,800 in number. This figure includes both direct and indirect job creation, i.e., jobs in harvesting, preparation, and distribution of both wholesale and retail seafood.

The preservation of the seafood industry and the fabric of its traditions within Beaufort County holds different meaning to different people. For fishermen, the preservation of the industry means the preservation of a livelihood. For Beaufortonians not actively engaged in the seafood industry, it is a reminder of the area heritage as well as a visual relief to other forms of development. The sight of the shrimp boats as they ply the waters of St. Helena Sound and the rivers and creeks of the county seeking their catch, or a visit to one of the docks where seafood can be bought represents what residents treasure most about Beaufort. Visitors and residents know how pervasive the fishing traditions and atmosphere are, and what importance the commercial seafood industry has had in developing the character of Beaufort County.

(Ord. No. 2000-15, 3-27-2000)

Sec. 2. - Purpose.

The cultural contributions of the seafood industry to Beaufort County are so significant and appealing that the county strives to maintain the seafood industry aura, although the industry is in decline. This may be achieved, in part, through the development of the Commercial Fishing Village Overlay District. The CFV overlay districts are areas that are currently and historically used for commercial fishing. Detailed policies and zones are set out for the CFV district. The goals of the CFV district are:

- (1) To provide for the maintenance and enhancement of the commercial seafood industry and related traditional uses such as retail, storage, repair and maintenance that support the commercial seafood industry.*

(2) To preserve and/or recognize existing and potential commercial fishing areas and related activities and developments.

(3) To minimize and reduce conflicts between the seafood industry and residential development by reducing the potential for land use conflicts between the two types of uses.

(Ord. No. 2000-15, 3-27-2000)

Sec. 3. - Applicability.

The CFV district requirements apply to all uses within the CFV boundaries. The Beaufort County Zoning and Development Standards Ordinance (ZDSO) shall apply to all development (as defined in section 106-6), within the CFV district, unless expressly exempted or otherwise provided for in this section. For the purpose of this appendix, the commercial fishing industry is defined to include aquaculture.

(Ord. No. 2000-15, 3-27-2000)

Sec. 4. - District boundary.

The delineation of areas, which fall under the CFV district designation, is outlined on the official zoning map of Beaufort County. The official zoning map shall be amended to show a CFV suffix on any parcel where the CFV district has been applied. The CFV district may overlay several zoning districts that shall be referred to as base zoning, as well as additional overlay districts. Additionally, commercial fishing uses are permitted, under a special use review, within one mile of the boundaries of the Sam's Point Fishing Village subject to the standards of this section.

(Ord. No. 2000-15, 3-27-2000)

Sec. 5. - Development standards.

(a) Permitted uses. The CFV Overlay District is intended primarily for the processing, manufacturing, storage, wholesale, retail, and distribution of commercial fishing products. Where the CFV district is applied, the permitted uses shall include those permitted uses specifically referenced in the base zoning, in addition to the following uses:

(1) Marine or fishing related retail and service establishments limited to 3,100 square feet.

(2) Restaurants, less than 3,100 square feet.

- (3) *Educational facilities, marine research centers and research laboratories for marine products, resources and physical or biological characteristics of the marine environment.*
- (4) *Commercial docks as defined by the Office of Ocean and Coastal Resource Management (OCRM) and section 106-1912, water dependant uses, the Beaufort County ZDSO.*
- (5) *Fish house. A commercial establishment that buys and sells, at wholesale and/or retail, seafood products, bait, ice, and other products and services required by the seafood industry, limited to 3,100 square feet.*
- (6) *Marine transport services, including public landings and boat launches commercial vessel berthing, excursion services and boat rentals.*
- (7) *Boat chartering.*
- (8) *Temporary uses specifically involving trap construction, maintenance, and repair.*
- (9) *Seafood processing.*

(b) Limited use. Uses designated as "limited," are permitted uses, however, require additional standards from the by-right provisions. Where required by the Beaufort County Zoning and Development Standards Ordinance or when deemed necessary by the zoning and development administrator, a community impact statement or portions thereof may be required as part of the application.

- (1) *Marine railways, storage and repairs, including engine and fishing gear repair, if such uses are intended to serve the needs of the commercial fishing industry and other marine related services.*
- (2) *Professional, business or general offices, which are commercial fishing related.*
- (3) *Fish house. A commercial establishment that buys and sells, at wholesale and/or retail, seafood products, bait, ice, fuel, and other products and services required by the seafood industry, greater than 3,100 square feet.*
- (4) *Other uses related to or supportive of the commercial seafood industry.*
- (5) *Marine or fishing related retail and service establishments, greater than 3,100 square feet.*
- (6) *Fuel storage and dispersion (primary and accessory).*

(c) Special use. Uses designated as "special uses," require more stringent standards, and must be considered and approved by the zoning board of appeals (ZBOA). Where required by the Beaufort County Zoning and Development Standards Ordinance or when deemed necessary by the zoning board of appeals (ZBOA), a community impact statement or portions thereof may be required as part of the application. The following uses and structures shall be permitted in the CFV district if a special use permit, pursuant to section 106-551, Beaufort County ZDOS, has been obtained.

(1) Ice houses and plants.

(2) Marine construction and salvage facilities.

(3) Manufacture and storage of fishing equipment.

(4) Restaurants greater than 3,100 square feet.

(5) Uses primarily oriented toward meeting recreational fishing and boating needs.

(6) Enclosed dry boat storage, not exceeding 60 feet in height above flood zone.

(d) Use limitations.

(1) Where the CFV district is applied, uses prohibited in the base zoning or in additional overlay districts, not specifically permitted in the CFV, are prohibited.

(2) The rental and sales of personal watercrafts (PWC) are prohibited.

(3) Longline fishing vessels are prohibited from docking, or engaging in the transfer or delivery of seafood products and stock within the CFV. A "longline" is a line that is deployed horizontally and to which gangions and hooks or pots are attached. Longlines can be stationary, anchored, or buoyed lines that may be hauled manually, electrically, or hydraulically. (U.S.C. § 600.10)

(e) Minor additions or alterations. Minor additions or alterations (additions or alterations that will result in a building size greater than 3,100 square feet but less than 5,000 square feet) to existing structures which do not result in a cumulative increase in the gross floor area of more than 15 percent or 500 square feet, whichever is less, within any five-year period may be approved by the zoning and development administrator provided the addition or alteration does not conflict with the existing development standards. Additions resulting in a building size greater than 5,000 square feet shall be reviewed as a special use subject to a community impact statement.

(f) Signs. Signs shall be allowed in connection with any permitted use, subject to the provisions of article XV of the Beaufort County ZDSO.

(g) Parking. Adequate off-street parking shall be provided in accordance with the standards of article XIII of the Beaufort County ZDSO.

(h) Access. Nonresidential uses shall have direct access to an arterial road or be located on the waterfront. Uses located on the waterfront shall provide adequate access.

(i) Bufferyards. Nonresidential uses are exempt from the bufferyard standards of article VI of the Beaufort County ZDSO, except where a nonresidential use abuts a residential use. Under such circumstance, a 50-foot landscaped buffer along property lines abutting residential uses shall be maintained.

(Ord. No. 2000-15, 3-27-2000)

Sec. 6. - River buffer.

(a) A waiver from the river buffer setback requirements of section 106-1845(3) of ZDSO or the setback requirements of the base zoning may be sought for water dependant commercial fishing structures, by a property owner, by filing an application on forms prepared for this purpose by the county zoning and development department. Where the granting of a waiver from the river buffer setbacks would be negated by the base zoning setback standards the base zoning setbacks may also be waived. A "water dependant use" means a facility which cannot be used for its intended purpose, or its intended purpose would be severely restrained, unless it is located or carried out in close proximity to water. Such uses include boat repair, business or general offices which are commercial fishing related, icehouses and seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities. Such applications for a waiver shall be reviewed as set forth below.

(b) The following information may be required by the DRT where it deems applicable in the granting of a waiver:

(1) The applicant may be required to provide and receive approval for the following:

a. Stormwater management plan.

b. Solid waste disposal plan.

c. Wastewater management plan.

(2) The DRT may require additional information to ensure that a waiver to the river buffer standards does not cause adverse environmental impact.

(c) In addition to other information and documentation that may be required by the DRT, each applicant for a waiver shall submit documentation that:

(1) Addresses the need and purpose of the proposed project;

- (2) Describes existing site conditions, including the status of the existing buffer and setback areas and any other water bodies and wetlands on the subject property;*
- (3) Provides a proposed mitigation plan that utilizes structural and nonstructural best management practices to offset the effects of the proposed encroachment into buffer areas during site preparation, construction, and post-construction phases;*
- (4) Demonstrates how buffer area encroachments will be minimized to the greatest extent practicable.*

(d) There are two types of waivers that may be granted depending upon the amount of buffer relief sought:

- (1) Major waiver (structures that would occupy more than 10 percent of the river buffer area). A major waiver from the buffer area requirements of this article may be approved by the DRT through consultation with the OCRM. Any major waiver allowing encroachment into the buffer shall be conditioned upon implementation of best management practices. The DRT may also impose such other conditions as necessary to mitigate the effects of the grant of a waiver. No waivers may be granted to reduce a river buffer area by more than 15 percent.*
- (2) Minor waiver (structures that would occupy less than or equal to 10 percent of the river buffer area). Minor waivers, not to exceed more than 10 percent of the buffer area requirements imposed by section 106-1845(3), may be granted by the zoning and development administrator (ZDA). Any minor waiver shall be conditioned upon implementation of best management practices. The ZDA may also impose such other conditions as necessary to mitigate the effects of the grant of a minor waiver.*

(e) In all instances in which a waiver has been granted, any land-disturbing activities or regulated activities shall adhere to the following:

- (1) The integrity of all remaining vegetative buffers shall be protected.*
- (2) Service and utility lines, parking lots and drives shall be setback as far as possible from the critical line.*
- (3) Development should be encouraged on the least porous soils.*

(f) Existing structures that exceed the river buffer standards or the base zoning setbacks shall be evaluated as conforming structures for the purposes of rebuilding and expansion. Expansions within the river buffer setback shall require a river buffer waiver.

(Ord. No. 2000-15, 3-27-2000)

Sec. 7. - CFV boundary change.

An application for a CFV boundary change shall proceed in general as for an application for rezoning (ZDSO section 106-492). In addition to the information usually required for such applications, the application shall include a written description of the intended plan of development, clearly indicating how approval of the boundary change and the proposed development will benefit the occupants of the fishing village and further the purposes of the area.

Perrin River Landing During the 2012 Chesapeake Bay Blue Crab Season
September 2012



Middle Peninsula Chesapeake Bay Public Access Authority
Saluda Professional Center
125 Bowden Street
Saluda, VA 23149-0286
Phone: (804) 758-2311
Fax: (804) 758-3221