

Rural Chesapeake Bay/Seaside of Virginia Working Waterfront Coalition

March 2013



Virginia Coastal Zone
MANAGEMENT PROGRAM



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The views expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA, or any of its subagencies.

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Executive Summary

For many Virginia rural coastal communities, there is a strong need to maximize the potential of the waterfront as a driver for economic vitality. However, market forces, changing demographics, and increasing tax burdens on waterfront properties are increasingly driving a transition of waterfront properties toward residential or recreational uses. In addition, regulatory changes affecting marine fisheries management are impacting water dependent industries and working waterfronts. If access to the waterfront is limited or severed, commercial and recreational fishermen, researchers, and other water-dependent businesses will have fewer options to successfully make a living from the tidal waters of the Commonwealth, including the Seaside on the Eastern shore. As a result, many rural Chesapeake Bay and Seaside communities are challenged to maintain their identity and are shifting away from water-dependent employment, causing economic and cultural changes that can limit economic diversification opportunities and fundamentally alter the nature of the communities themselves. These challenges are particularly acute in both rural Chesapeake Bay and Seaside Coastal Communities.

In this project there were three products: Product 1, the Accomack-Northampton Planning District Commission (ANPDC), the Northern Neck Planning District Commission (NNPDC), and the Middle Peninsula Planning District Commission (MPPDC) – the coalition partners - each established a coalition node through Memorandums of Understanding; Product 2, a report was generated in which each Coalition Partner identified and researched three (four for ANPDC) working waterfront businesses that were closed or in danger of closing, discussed the reasons they closed or were in danger of closing, and documented the issues associated with the closing of each business; and, Product 3, the Coalition Partners coordinated with Marine Advisory Services at the Virginia Institute of Marine Science for scientific, technical and local industry coordination and collaboration, and developed a Working Waterfront graphic illustrating the connection of various working waterfront projects at the national, state, regional and local level.

The results of the report (Product 2) show that working waterfront businesses close for a variety of reasons such as: loss of fishery; death of owner; retirement of owner; sale to developer; and loss of property due to sea level rise, storms, and flooding. The zoning for the properties varies from businesses that: are non-conforming uses and cannot open after being closed for 2 years; are zoned residential with a conditional use permit; and have limited or no restrictions. The common theme for legacy planning was that it was not done. Subsequently, most of the businesses identified indicated that selling their property and/or business is their retirement solution, with no guarantee that the property would continue as a working waterfront. This report will be posted on www.mppdc.com for viewing by interested parties.

The establishment of the coalition nodes, the coordination with Marine Advisory Services, and the findings of the report will be used to transition to phase 2 of the project, the Chesapeake Bay/VA Seaside Working Waterfront Summit (Grant # NA12NOS4190168, Task #55).

Product 1

Memorandum of Understandings from Northern Neck Planning District Commission and Accomack-Northampton Planning District Commission

The Accomack-Northampton Planning District Commission (ANPDC), the Northern Neck Planning District Commission (NNPDC), and the Middle Peninsula Planning District Commission (MPPDC) – the coalition partners - each established a coalition node through Memorandums of Understanding to define the roles and responsibilities of each PDC. Each PDC was tasked with determining appropriate stakeholder membership, process for public dialog, and frequency for meeting. The first two meetings were held at The Virginia Institute of Marine Science in coordination with Marine Advisory Services and included representatives from commercial watermen, marine trade group representatives, PDC staff, and Marine Advisory Services staff. The meetings furthered the dialog among the members about the definition of working waterfronts, the preservation of working waterfront jobs and infrastructure, the issues of state and local tax and regulatory relief, and the need for educating local elected officials on working waterfront issues. The meetings are on-going. This product is complete. The MOUs are included below.

**Memorandum of Understanding (MOU) between
Middle Peninsula Planning District Commission ("Lead PDC") and
Participating Planning District Commission(s) for the
Virginia Department of Environmental Quality's Virginia Coastal Zone Management
Program's Rural Chesapeake Bay/Seaside of Virginia Working Waterfront Coalition
Grant Number
NA11NOS4190122 Task 53**

This Memorandum of Understanding (MOU) outlines the terms of agreement between the Middle Peninsula Planning District Commission ("Lead PDC"), acting as management agent on behalf of the Northern Neck Planning District Commission and the Accomack-Northampton Planning District Commission for the purposes of meeting the deliverables in the Virginia Coastal Zone Management Program's Rural Chesapeake Bay/Seaside of Virginia Working Waterfront Coalition Grant Number NA11NOS4190122 Task 53.

The scope of work, schedule, product/deliverables and compensation for each Participating PDC under this MOU is as described in the agreement between the "Lead PDC" and the Virginia Coastal Zone Management Program's Rural Chesapeake Bay/Seaside of Virginia Working Waterfront Coalition Grant Number NA11NOS4190122 Task 53 Grant Agreement (the *Agreement*). The Agreement is incorporated herein by reference (copy included) and made a part of this MOU. Page 3 and 4 of 7 outlines the financial schedule. The period of performance is December 15, 2011 through March 31, 2013.

Contractual services total \$31,000 to be distributed based on the budget details described below. The financial schedule is on page 3 and 4 of 7.

Budget Detail

Reimbursement is dependent upon each PDC's 1) establishment of a working waterfront node, 2) convening of the series of local round table meetings as described in page 2 of the Agreement, and 3) development of the three reports from *Section V Deliverables/Products* on pages 4-6 of the Agreement.

Deliverables/Products

Product #1: Establish the Rural Chesapeake Bay/Seaside Working Waterfront Coalition. Page 4 of the Agreement.

Product #2: Recommendation for tools to provide for state and local tax, regulatory relief, and the preservation of working waterfront jobs and infrastructure.

Product #3: Coordination with Marine Advisory Services at VIMS for Scientific, Technical and Local Industry Coordination and Collaboration.

Payments to Participating PDCs will be made by the Lead PDC from funds provided by DEQ/VCZMP as set forth in the Contract between the Lead PDC and VCZMP. The Lead PDC shall be under no obligation to disburse funds unless and until DEQ/VCZMP makes such funds available to the Lead PDC. The Lead PDC assumes no responsibility or liability whatsoever to any third party with whom a Participating PDC contracts.

Upon execution of this MOU by a Participating PDC, a signed copy shall be returned to the Lead PDC.

Accepted by:

Participating PDC: Accomack-Norfolk Planning District Commission

By: Elaine K. Meil 1/24/12
Executive Director Date

Lead PDC: **Middle Peninsula Planning District Commission**

By: [Signature] 1/3/2012
Lewis Lawrence, Acting Executive Director Date

Copy of Contract included

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Upon execution of this MOU by a Participating PDC, a signed copy shall be returned to the Lead PDC.

Accepted by:

Participating PDC: NORTHERN NECK PDC
By: JERRY W. DANIEL 1/25/12
Executive Director Date

Lead PDC: **Middle Peninsula Planning District Commission**

By: Lewis Lawrence 1/3/2012
Lewis Lawrence, Acting Executive Director Date

Copy of Contract included

Product 2

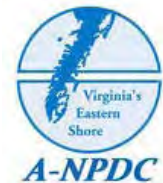
Final Report on Recommendations for State and Local Tax, Regulatory Relief, and the Preservation of Working Waterfront Jobs and Infrastructure

Each Coalition Partner identified and researched three (four for ANPDC) working waterfront businesses that were closed or in danger of closing, discussed the reasons they closed or were in danger of closing, and documented the issues associated with the closing of each business. The report, available as a resource for government and citizens alike, provides recommendations for preserving working waterfronts, examples of resources for businesses, and a guide to legacy and succession planning specific to Working Waterfronts. This product is complete. The report is below.

RURAL CHESAPEAKE BAY

WORKING WATERFRONT COALITION REPORT

*Case Studies of Closed Working Waterfront Businesses
in Seaside Virginia*



May 2013

This report was made possible by funding from Virginia's Coastal Zone Management Program of the Department of Environmental Quality through a 2011 Coastal Zone Management Program Grant #NA11NOS4190122 Task 53 of the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resources Management, under the Coastal Zone Management Act of 1972, as amended.

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EXECUTIVE SUMMARY

For many Virginia rural coastal communities, there is a strong need to maximize the potential of the waterfront as a driver for economic vitality. However, market forces, changing demographics, and increasing tax burdens on waterfront properties are increasingly driving a transition of waterfront properties toward residential or recreational uses. In addition, regulatory changes affecting marine fisheries management are impacting water dependent industries and working waterfronts. If access to the waterfront is limited or severed, commercial and recreational fishermen, researchers, and other water-dependent businesses will have fewer options to successfully make a living from the tidal waters of the Commonwealth, including the Seaside on the Eastern shore. As a result, many rural Chesapeake Bay and Seaside communities are challenged to maintain their identity and are shifting away from water-dependent employment, causing economic and cultural changes that can limit economic diversification opportunities and fundamentally alter the nature of the communities themselves. These challenges are particularly acute in both rural Chesapeake Bay and Seaside Coastal Communities.

In this report, the Accomack-Northampton Planning District Commission (ANPDC), the Northern Neck Planning District Commission (NNPDC), and the Middle Peninsula Planning District Commission (MPPDC) each identified and researched three (four for ANPDC) working waterfront businesses that were closed or in danger of closing, discussed the reasons they closed or were in danger of closing, and documented the issues associated with the closing of each business (see Appendix A for examples of questions asked of businesses). Additionally the report discusses the land use planning tools associated with the impacted business (if applicable), identifies the business or legacy succession planning the businesses had in place, provides a section on legacy and succession planning available for working waterfront businesses, and a list of resources available for businesses.

The results show that working waterfront businesses close for a variety of reasons such as: loss of fishery; death of owner; retirement of owner; sale to developer; and loss of property due to sea level rise, storms, and flooding. The zoning for the properties varies from businesses that: are non-conforming uses and cannot open after being closed for 2 years; are zoned residential with a conditional use permit; and have limited or no restrictions. The common theme for legacy planning was that it was not done. Subsequently, most of the businesses identified indicated that selling their property and/or business is their retirement solution, with no guarantee that the property would continue as a working waterfront.

CHAPTER 1: INTRODUCTION & PROBLEM

The Coastal Zone of Virginia is known for its rich history of maritime commerce. Before roads were established, people and commerce used the water as highways. Everything was connected by the water: major trading ports were established in areas with deep water; the first colony, Jamestown, was founded on the water; the Revolutionary War's last battle was fought at Yorktown, on the water. Today the working waterfront continues to be a force in local economies. Barges transport goods to and from ports in places such as West Point, Onancock, and Tappahannock. Watermen crab, fish and oyster out of working waterfronts from places on the Northern Neck, the Middle Peninsula, and the Eastern Shore. Recreational boaters flock to marinas around the Chesapeake Bay on weekends. The importance of the working waterfront to the economy of the Chesapeake Bay has and continues to be vital.

In recent years, Working Waterfronts have been under pressure from residential development, a decline in the fisheries, and a host of other issues. A loss of Working Waterfronts in these areas constitutes a potential: loss of jobs for watermen (primarily fishers and aquaculture) and the agriculture industry (timber and grain barges); loss of the identity of the region; and loss of support industry (boat building, transport, seafood processing, etc.) jobs.

This project focuses on three regions of the Coastal Zone in Virginia: The Eastern Shore, the Northern Neck, and the Middle Peninsula. Taking a close look at these regions to identify where the Working Waterfronts are, what jobs are associated with these areas, and what forces are driving the loss of working waterfronts in these areas is a necessary first step in making good policy decisions for preserving Working Waterfronts. Each region, through the associated Planning District Commissions, chose 3 working waterfront businesses that had closed or were in danger of closing and researched the history of the businesses, the reasons they were closed or closing, and the legacy and succession planning accomplished by the owners.

Finally, with the intention of offering solutions and ideas for preserving working waterfronts, section 4.2 gives the reader broad guidance on the complex issue of legacy and succession planning and section 4.3 gives the reader an example of resources available for businesses.

CHAPTER 2: OVERVIEW OF CASE STUDIES

Accomack-Northampton Region

There are several factors that have negatively affected working waterfronts on the Eastern Shore. Redevelopment pressure exists in specific locations in the region where growth and extensive tourism are occurring including the Towns of Cape Charles and Chincoteague. Elsewhere on the Shore, the primary pressures on working waterfronts include governmental regulations, flooding-related hazards, and shifts in seafood market economics. Governmental regulations related to declining seafood harvest populations impact business operations. Lack of flood insurance coverage is another contributing factor to the decline of working waterfronts, as many are not rebuilt after a storm.

The following case studies were chosen to illustrate these factors in the Accomack-Northampton Region:

1. Thomas E. Reed Seafood – closed in recent years and was one of the last oyster shucking houses in operation on Chincoteague Island. The business is representative of a closed working waterfront with great redevelopment value owned by a waterman demographic that is reaching retirement age and interested in funding a retirement with sales from the property.
2. Tangier Island Crab Shanties – illustrates how flooding damage, rising sea levels, lack of insurance and regulations threaten the ability of working watermen to continue their way of life.
3. Eastern Shore Seafood Products – representative of a working waterfront not located on the waterfront that was dependent on the health of the sea clam population. This plant was closed due to a dip in sea clam populations resulting in low harvests combined with the expense of disposing of clam processing waste and reduced incomes limited by decreased permitted harvesting times.
4. King’s Creek Marina, Cape Charles – a historically-commercial harbor that was recently re-developed into a world-class recreational marina.

Middle Peninsula Region

Through research and outreach to local governments and citizens, the staff of the Middle Peninsula Planning District Commission (MPPDC) identified three businesses dependent upon working waterfront locations that closed for various reasons. There are several factors that have negatively affected working waterfronts on the Middle Peninsula of Virginia. Redevelopment pressure exists in the region where growth (primarily of private homes) is occurring. Other pressures on working waterfronts include governmental regulations – such as federally and state managed commercial fisheries and local zoning, shifts in seafood market economics, the aging of commercial watermen who own the working waterfront infrastructure, and the lack of recruitment of new watermen.

The following case studies were chosen to illustrate some of these factors in the Middle Peninsula Region:

1. Gloucester Seafood, Inc. - representative of a working waterfront business that closed due to economic hardship and the aging of commercial watermen.
2. Cook's Oyster Company, Inc. – representative of a working waterfront business that closed due to the aging of commercial watermen. The owner, Mr. Eldridge Cook, retired without a legacy and succession plan in place to continue operations. The property has not been sold to another owner and the current owner does not have any family members that wish to continue the seafood business and does not have any plans to sell the property.
3. International Seafood – representative of a working waterfront business that closed due to governmental regulations regulating the primary type of seafood product that this business harvested and processed-the Spiny Dogfish. International Seafood leased space on the property Cook's Oyster Company, Inc. owns to operate their seafood processing business.

Northern Neck Region

The staff of the Northern Neck Planning District Commission (NNPDC) contacted several working waterfront businesses and was able to interview one former business operator. NNPDC staff also examined a site where a water dependent business (a marina) was approved by the local government to be replaced by a cluster development community with resident and public boat slip rentals.

The following case studies were chosen as examples from the Northern Neck Region:

1. Keyser Brothers' Incorporated (locally known as Keyser's Crab House) on Honest Point Road near Lottsburg in Northumberland County supplied crabs to many restaurants up and down the East Coast during its heyday and provided a convenient offloading point for selling daily catches of crabs for Northumberland County watermen. A combination of factors led to the closing of the crab house. Fluctuations in the availability of crabs, the influx of imported crab meat, as well as restrictions on immigrant labor were cited as some of the reasons for closing the crab picking component of the seafood business. Current owner Calvin Keyser still operates a limited oyster shucking operation, in season, but only operates two days a week, with a couple of employees.

While the Keyser Brothers' Crab House is located on land that is zoned by Northumberland County as Waterfront Residential (R2), seafood processing is an allowable use within the R2 zoning district. Also allowed in R2 are other water dependent business uses, boat building, boat sales and rentals. Furthermore, commercial piers and docks are a conditional use allowed in Residential Waterfront zoning upon

approval by the Northumberland County Board of Supervisors. The county has been drafting revised zoning regulations, and while they are not final, one of the changes was to move seafood processing from an allowable use to a conditional use (upon approval) in the Waterfront Residential (R2) zoning district.

2. The Coan River Marina is located off the Coan River near Lottsburg. In June of 2007, the owner of the marina requested a conditional use permit to build a cluster development with 12 housing units. The land the marina is located is zoned Waterfront Residential, and cluster developments are not allowed by right. However, cluster developments are provided under a conditional use permit in areas zoned waterfront residential. The Board of Supervisors approved the conditional use permit for the cluster development in June of 2007 with 11 conditions applied. Two of the conditions applied are relevant to working waterfront preservation. One condition required the applicant to retain the eight existing watermen slips in the new development. Another condition was that four of the remaining slips were to be reserved for transient boat traffic. In the subsequent downturn of the economy, the development was never built and the Coan River Marina is still in operation, serving local boating interests.
3. In March 2005, Jennings Boatyard requested a special exception permit to expand the marina with additional deep water mooring slips for sailboats and associated piers. The Northumberland County Board of Supervisors tabled the request due to concern of neighboring properties riparian rights. After Mr. Jennings had a riparian rights survey completed, he reduced the scale of the marina expansion. Northumberland County denied the scaled down request for marina expansion since there were two other marinas nearby with mooring slips available. Mr. Jennings appealed the request, stating that the Virginia Marine Resources Commission (VMRC) has sole authority for permitting over state-owned bottomland, not the county. The local circuit court heard the case and ruled that VMRC and Northumberland County had concurrent authority over the creeks and rivers within the boundaries of the county of Northumberland. Mr. Jennings appealed the case to the Virginia Supreme Court (Jennings v. BOS Northumberland) who affirmed the decision of the lower circuit court as well as offered a court opinion of the decision. Jennings Boatyard is currently still in business serving the needs of boaters in and around Cockrells Creek.

CHAPTER 3: CASE STUDIES

Accomack-Northampton Region Businesses

Section 3.1: Thomas A. Reed Seafood

Section 3.1.1: Issues & Needs of Thomas E. Reed Seafood

Oyster growing and harvesting was the mainstay of Chincoteague's economy during the 19th and early 20th centuries. Oysters were "planted" in Chincoteague Bay beginning in the 1800's and Chincoteague oysters or "salts" brought top dollar in every market. A rail line was built to carry the oysters to northern markets, and by 1880 over 300,000 bushels (approximately 1.89 million pounds of meat) were shipped from the region.

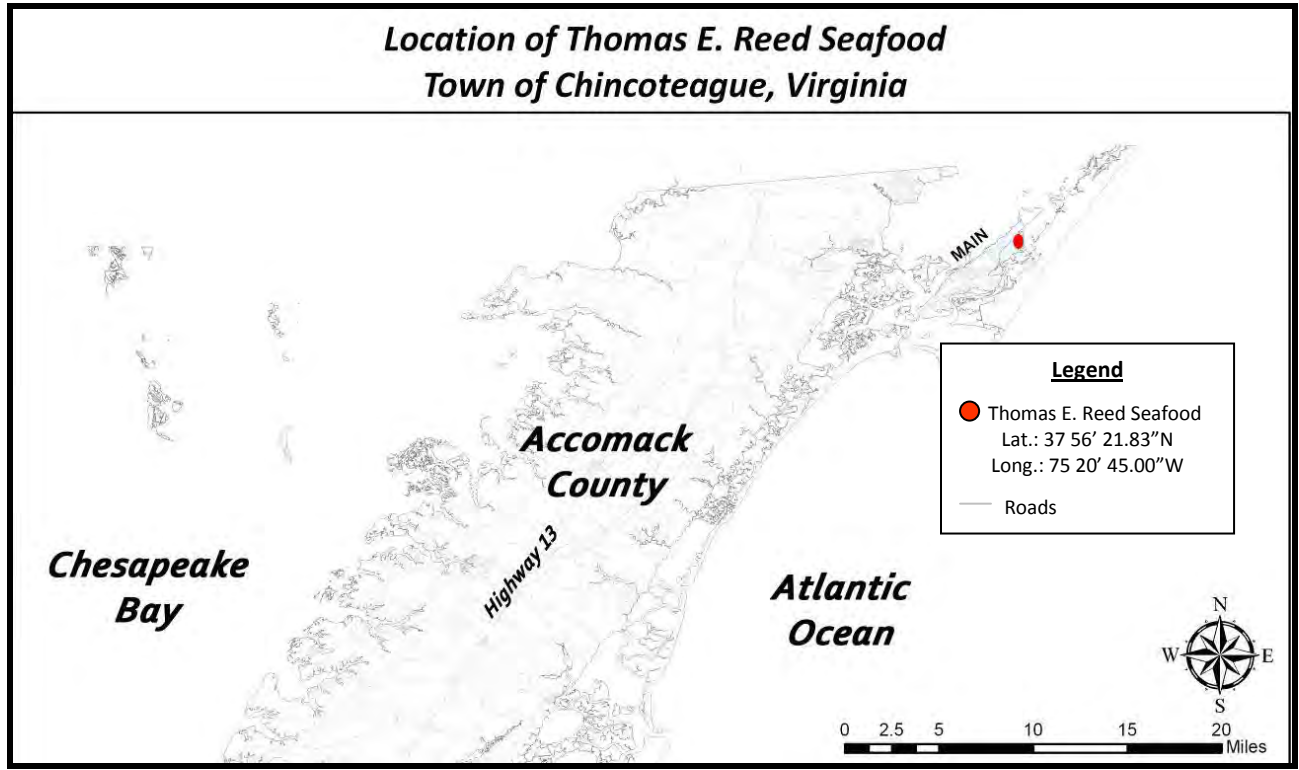
Oysters were shucked in houses all over Chincoteague Island. At one time, there were eight shucking houses working at full production. Since the 1930's, as oyster populations declined due to diseases, parasites, and habitat destruction and the retail and wholesale seafood industry evolved, the number of shucking houses dwindled away.

Thomas E. Reed shucked oysters and raised clams for many years. However, the owner has decided to retire after decades of hard work. There are currently no plans to continue the business on a full time basis. This facility was one of the last shucking houses on Chincoteague. The facility offers direct access to Little Oyster Bay and Assateague Channel. The site consists of a shucking house where oysters and clams were processed.



Northeastern view of Thomas A. Reed facility (Photo from Accomack County) (above)

Map A: Location of Thomas E. Reed Seafood



Overhead view of facility from Google Earth (above)

This property is zoned “R-3 Mixed Use Residential” by the Town of Chincoteague. This zoning designation does not hinder the start up or expansion of an existing business, but allows for resale for another use. There are currently vacation rentals adjacent to this property and the property has excellent resale value on the current real estate market.

Section 3.1.3: Legacy & Succession Planning for Thomas E. Reed Seafood

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Section 3.2: Tangier Crab Shanties

Section 3.2.1: Issues & Needs of Tangier Crab Shanties

The economic lifeline of Tangier Island is the seafood industry. The island's watermen primarily access to the water is via the Town Harbor. The majority of watermen operate their businesses from crab houses or shanties that are constructed on pilings adjacent to the main channel into the harbor.

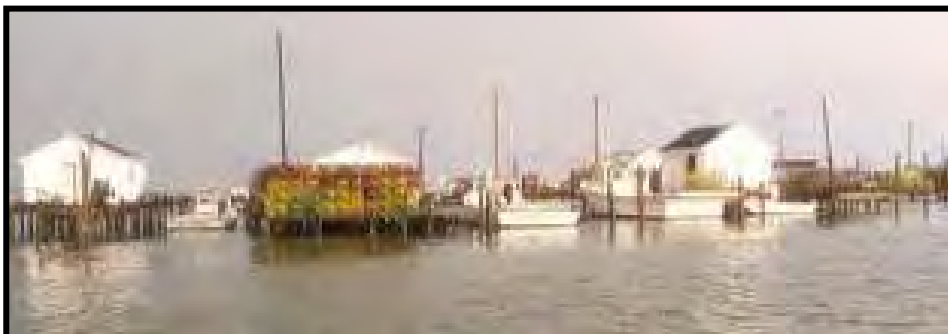
Tangier Island experiences recurrent flooding due to storms and rising sea levels. The storms and flooding have caused immense erosion on the north and northwest side of the island called the Uppards, and flooding on the south and east sides, where the harbor is located. Erosion is the island's greatest threat and is also aggravating the flooding that occurs on the island.

In 2000, 62% of the island's workers were employed in the seafood industry (Census 2000). The primary harvest is the Atlantic blue crab. In 2008, the loss of the winter dredging season for crabs resulted in severe financial losses for the island's workers. Tangier watermen also harvest oysters and clams.

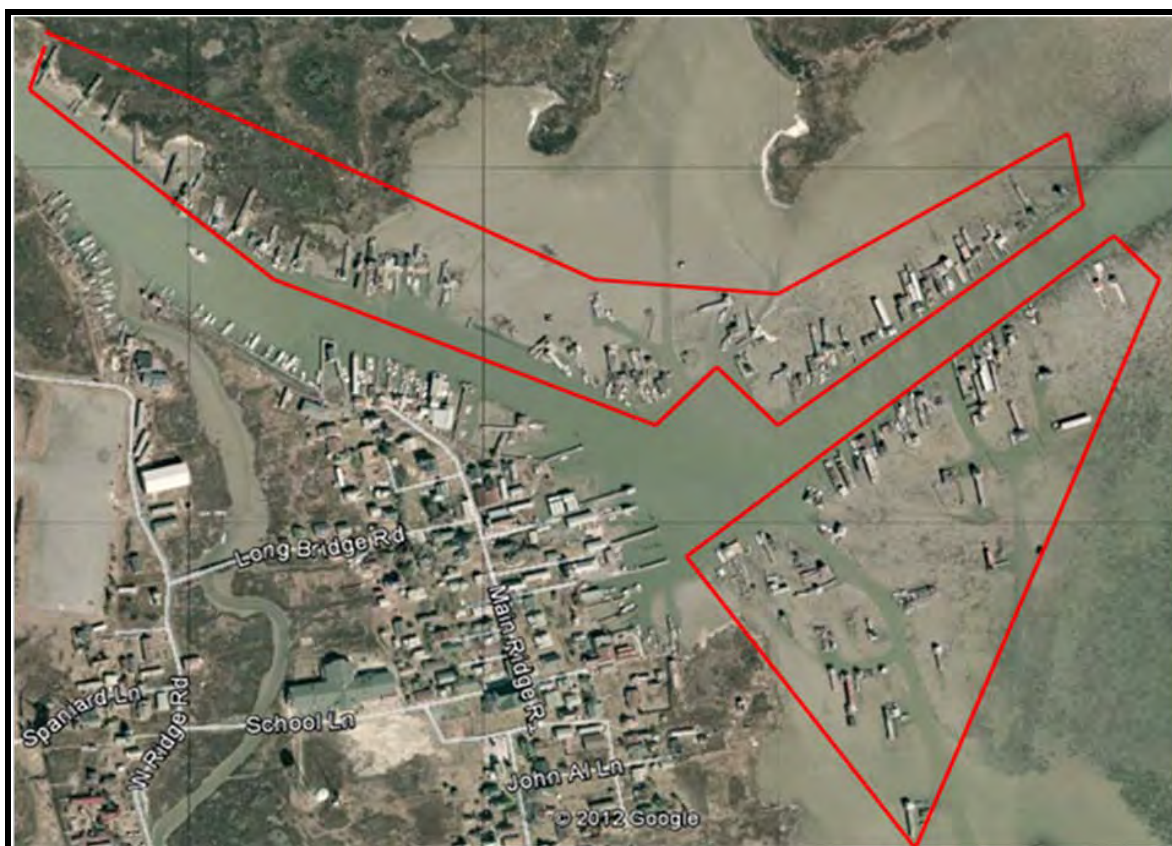
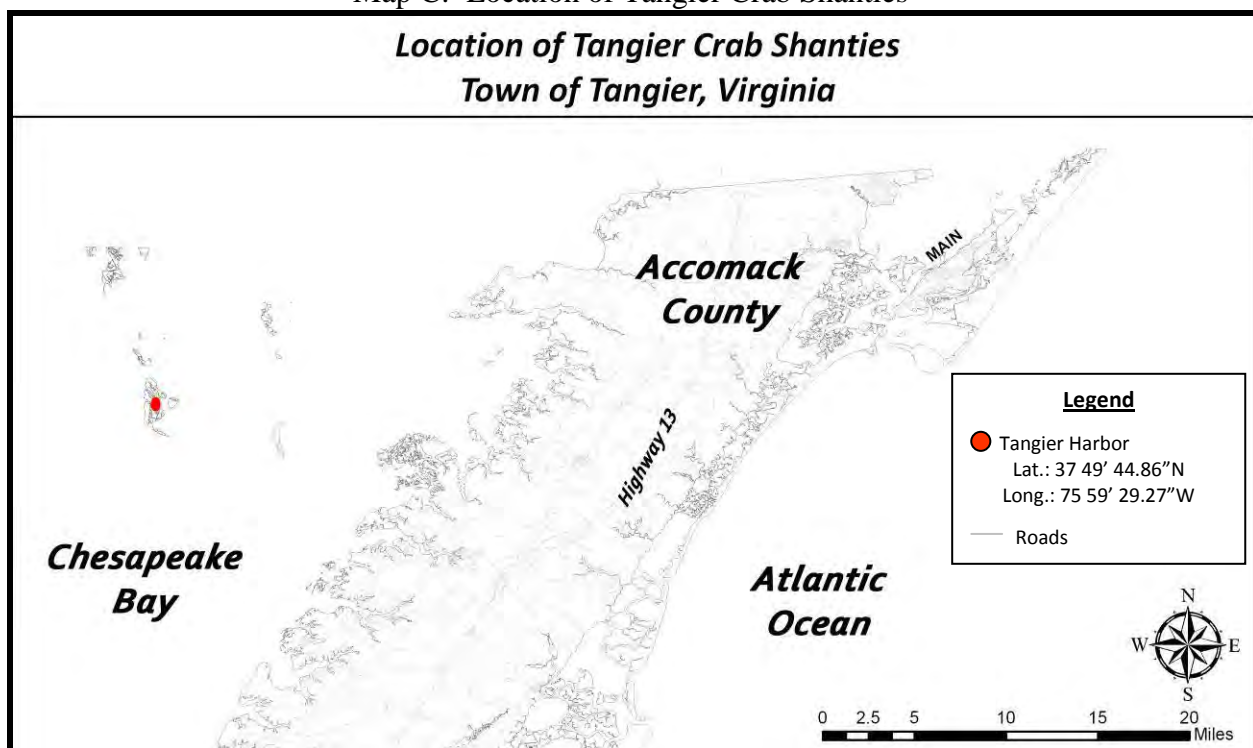
In September 2003, Hurricane Isabel almost wiped out the crabbing industry on Tangier Island. Some crab houses were completely washed away while others listed into the water. Approximately 34 crab houses, or 40%, were destroyed or significantly damaged of approximately 85 crab houses.

Some of the crabbing businesses have rebuilt after storms such as Isabel, but others have not had the resources to rebuild due to catch limitations and seasonal restrictions, low retail prices, and other factors such as fuel cost that affect the viability of the business. Because they are situated over water, crab houses are not eligible for flood insurance. Additionally, some crab house foundations have been lost due to scour or undercutting, necessitating state permits to build back, which adds to the cost and complexity of rebuilding the business. Due to storms, many crab pots and floats have also been lost. At \$20-25 per pot and \$100 per float, loss of hundreds of pots and 20-30 floats is another substantial expense that is not covered by insurance. This combination of events and losses resulted in only 65 watermen still in business in 2009, which constitutes less than half of the 140 on Tangier in 2003 (*Tangier Island and the Way of the Watermen*, Smithsonian, April 1, 2009).

Northern view of crab shanties (from TangierIsland-VA.com) (below)



Map C: Location of Tangier Crab Shanties

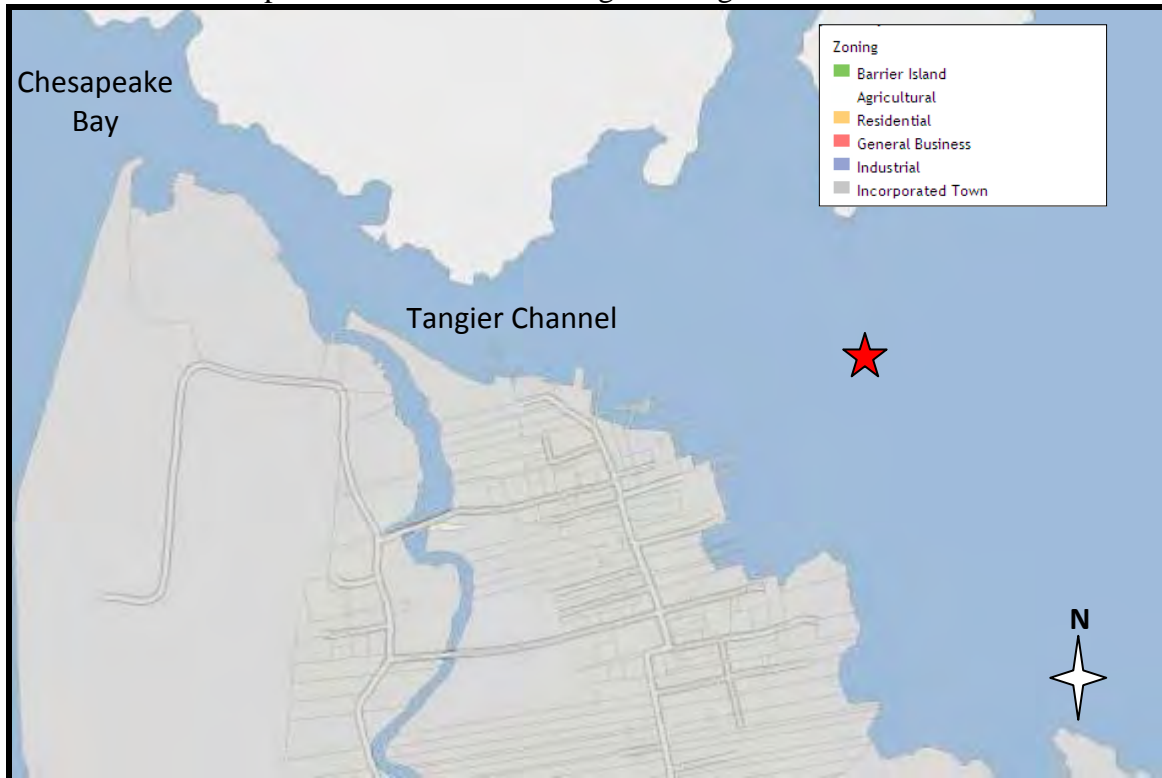


Overhead view of facilities from Google Earth (above)

Section 3.2.2: Land Use and Zoning for Tangier Crab Shanties

The crab shanties are situated constructed on state-owned bottom land and require a permit from the state. These structures are not subject to town zoning.

Map D: Land Use and Zoning for Tangier Crab Shanties



Map showing Accomack County Zoning (from Accomack County)

Section 3.2.3: Legacy & Succession Planning for Tangier Crab Shanties

The median age for residents of Tangier Island is 42.7 years, signifying a population older than the national average, indicating that many of the younger people have left the island to find work elsewhere. Real estate values on Tangier Island are lower than those on the adjacent mainland, so loss of working waterfront facilities due to redevelopment does not appear to be the greatest threat. The greatest threat to continuity of the businesses appears to be weather-related damage, the inability to build back infrastructure, and swings in the crab population and the concomitant industry regulations.

There currently is no known legacy planning for parcels on Tangier. Further investigation is needed to determine local interest and potential for legacy planning.

Section 3.3: Eastern Shore Seafood Products

Section 3.3.1: Issues & Needs of Eastern Shore Seafood Products

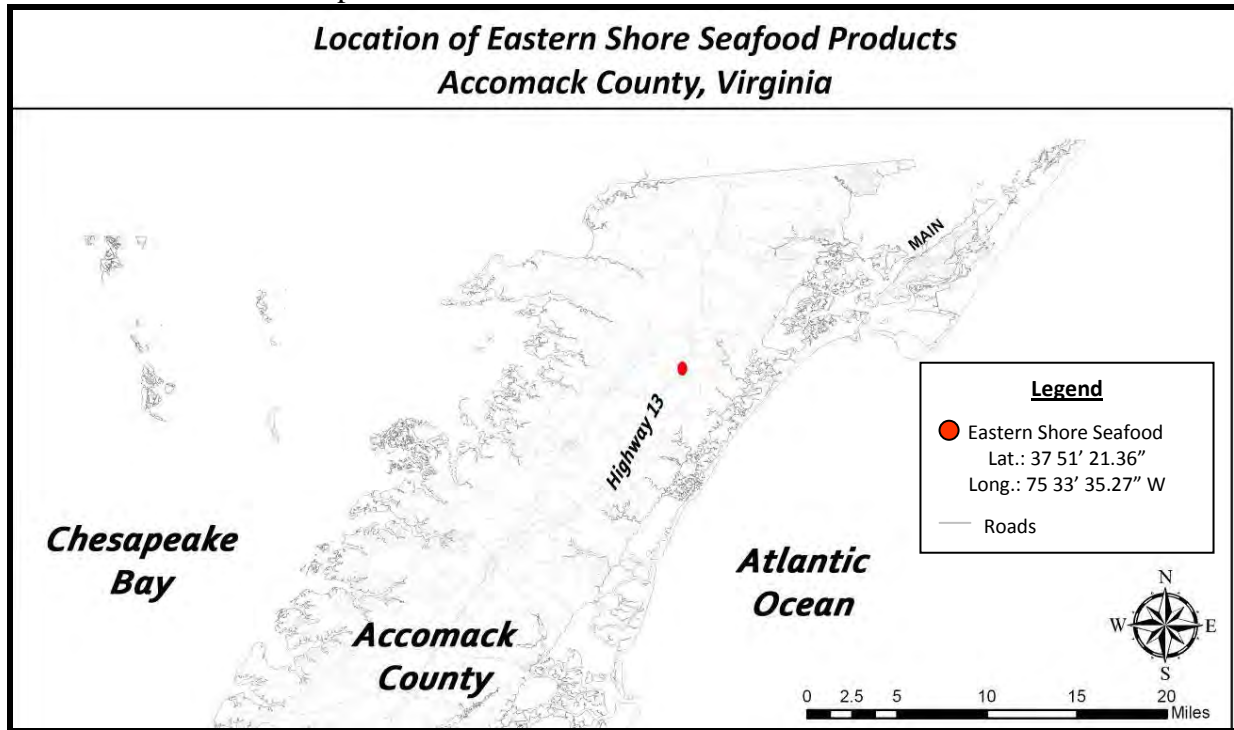
Eastern Shore Seafood Products in Mappsville, Accomack County, was a vertically-integrated company operating both vessels and a processing plant that opened in 1970. In 2005, a deal was struck in which ownership of the plant and vessels were given over to an entity including Truex, Meyers, Truex Group, and the Sea Watch management team. In May 2008, the Mappsville plant ceased operations altogether, and moved the processing work to other Sea Watch plants in Easton, Maryland and Milford, Delaware.

The reasons for the closure of the plant included the decline in surfclam and ocean quahog biomass in the late 1990s, the response by the federal government to limit the catch, and the high cost of harvesting due to the rising costs of fuel and insurance. Trips harvesting clams increased in length as catch rates declined. In addition, Eastern Shore Seafood Products exceeded its 95,000,000 gallon permitted offshore (10 miles) waste discharge, resulting in a consent order from the Virginia Department of Environmental Quality in 2005. Costs for harvesting clams and disposing of the processing waste necessitated consolidation of the company's resources.



Above: Southeastern view of facility (from Accomack County)

Map E: Location of Eastern Shore Seafood Products

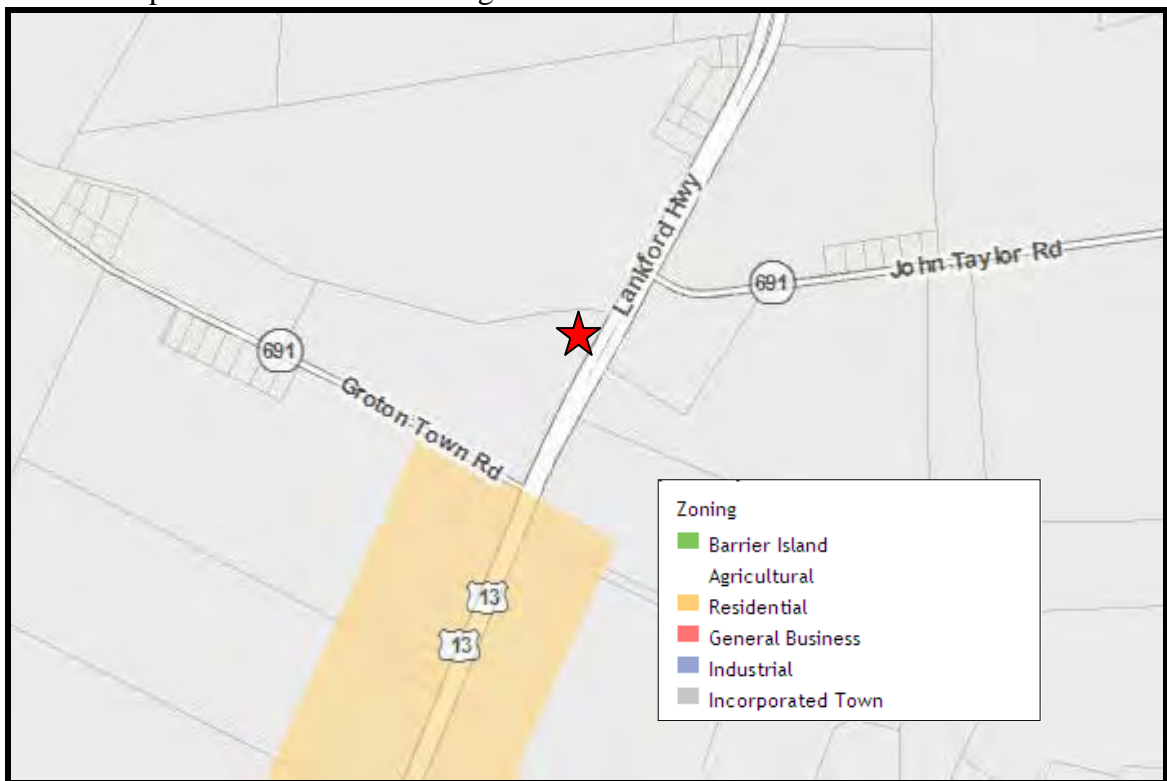


Overhead view of facility from Google Earth (above)

Section 3.3.2: Land Use and Zoning for Eastern Shore Seafood

Land use planning was not an issue for the closure of this plant. The issues were cost of harvesting clams and disposal of the waste from processing them. The plant is located on 6 acres that is zoned Agricultural. However, there are residentially-zoned parcels in the vicinity and could be limiting to any growth at the facility should the business reopen.

Map F: Land Use and Zoning for Eastern Shore Seafood Products



Above: Accomack County Zoning Map showing the location of Eastern Shore Seafood Products (red star) (from Accomack County)

Section 3.3.3: Legacy & Succession Planning for Eastern Shore Seafood

Sea Watch and its affiliates put this facility up for sale around 2008. Other food processing businesses have expressed interest in it, but none have yet committed to the area. One interested party would have continued its plans to locate to this site if natural gas was available, which it currently is not. The cost of propane made the business plan infeasible.

With modification, the facility can be used for food processing other than clams, however, lack of natural gas and wastewater treatment facilities results in higher operating costs that negatively impact a business's bottom line.

Section 3.4: Bay Creek Marina, King's Creek Harbor, Cape Charles, Northampton County

Section 3.4.1: Issues & Needs of Bay Creek Marina/King's Creek Harbor

King's Creek Marina on the north side of Cape Charles became part of a high-end, resort (Bay Creek) when a developer bought it and put in all new facilities with floating docks. It was recently sold to another entity and is again called King's Creek Marina.

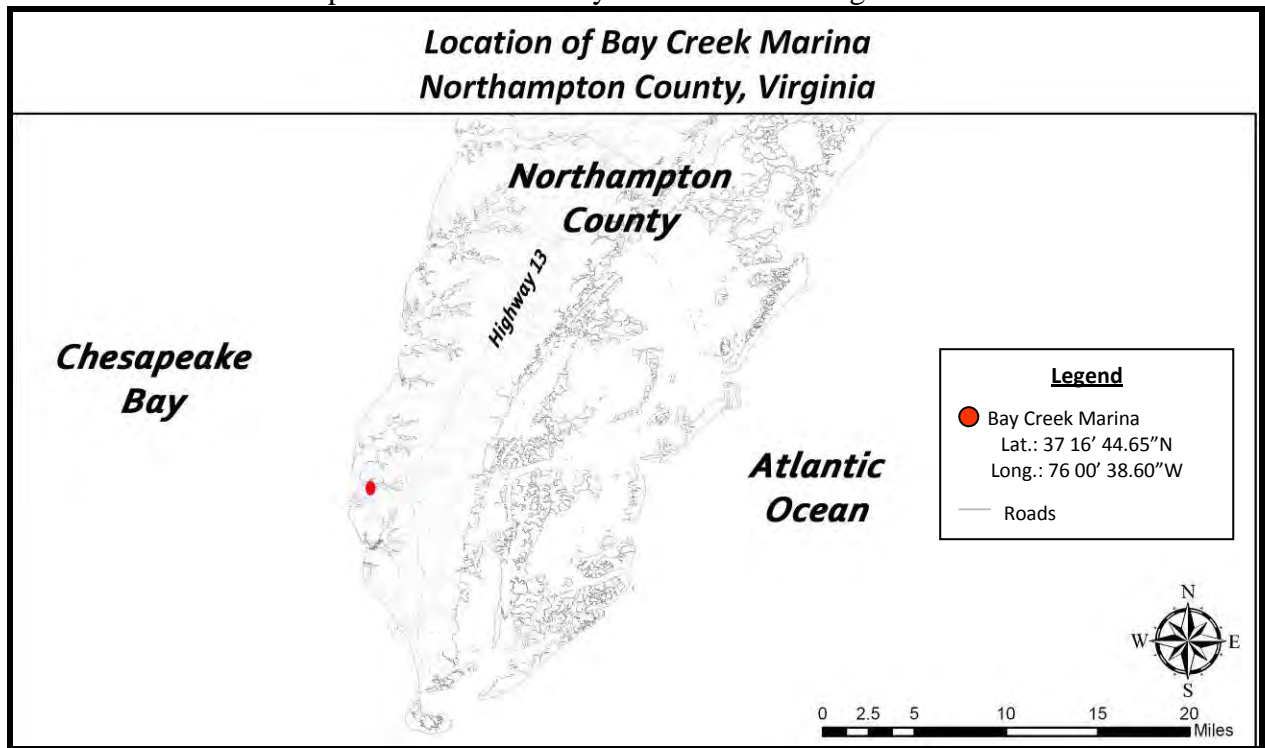
Originally, it was the King's Creek Harbor, and it was used mostly by commercial watermen, as the fees there were lower than in the Town Harbor on the south side of Cape Charles. It also had a marine rail line that enabled the watermen to haul their boats for painting and other work.

When the developer bought King's Creek Harbor, there was concern that the watermen would not be welcome after redevelopment. Commercial uses were allowed, but the fees were viewed as prohibitive, and the floating docks were not conducive to gear loading or off loading, making the Town Harbor with its lower fees and fixed wharf more competitive. Almost all commercial watermen moved over to the Town Harbor from King's Creek after 2000. In 2013, it was estimated that 2% of all slips at King's Creek Harbor were occupied by commercial users. The marine rail was never replaced at either harbor.



Eastern aerial view of King's Creek Marina (from MarinaLife.com) (above)

Map G: Location of Bay Creek Marina/King's Creek Harbor



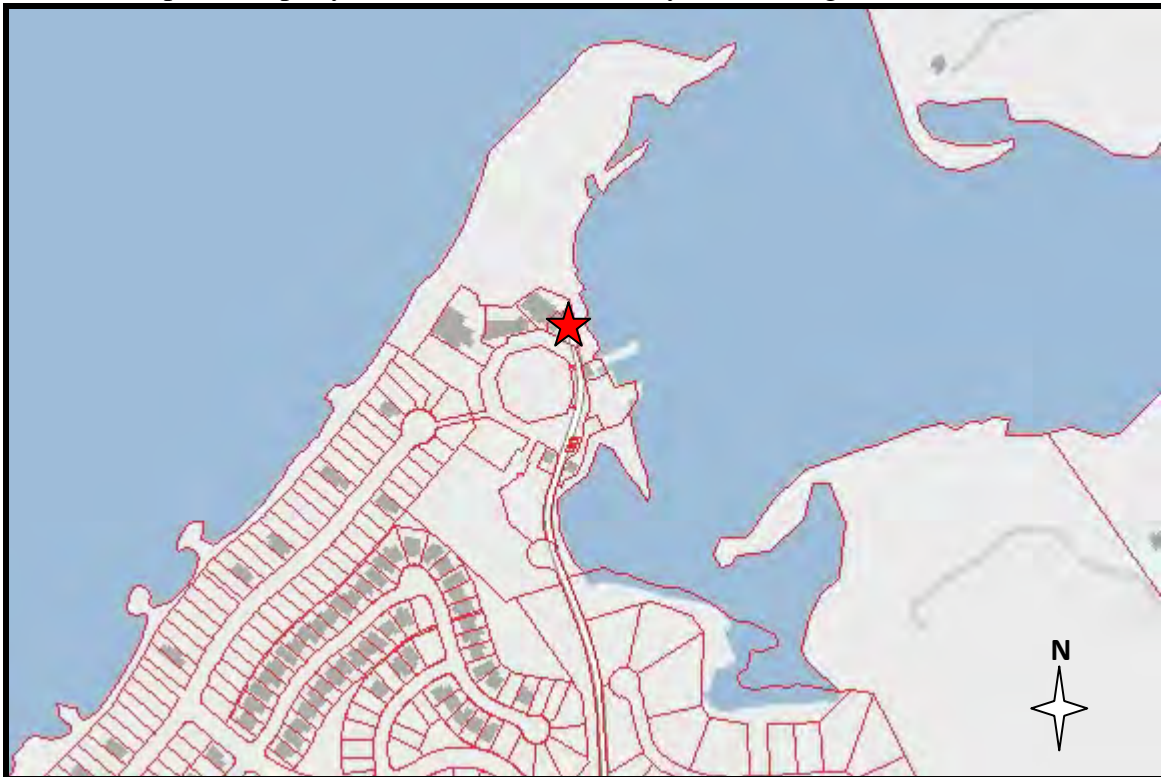
Overhead view of facility from Google Earth (above)

Section 3.4.2: Land Use and Zoning for King's Creek Harbor

This parcel is zoned as “Planned Unit Development (PUD) – Special Commercial”, which was exactly what the developer needed for the housing development, shops, restaurant, and marina. Although the commercial watermen moved from King's Creek, it benefited the Town Harbor when almost all of them shifted there. Partly because of this shift, Cape Charles has been able to make many improvements to its harbor in the past 10 years, including new bulkheads, docks, a bath house, and two launch ramps. Redevelopment of King's Creek Harbor proved to be a boon for the town.

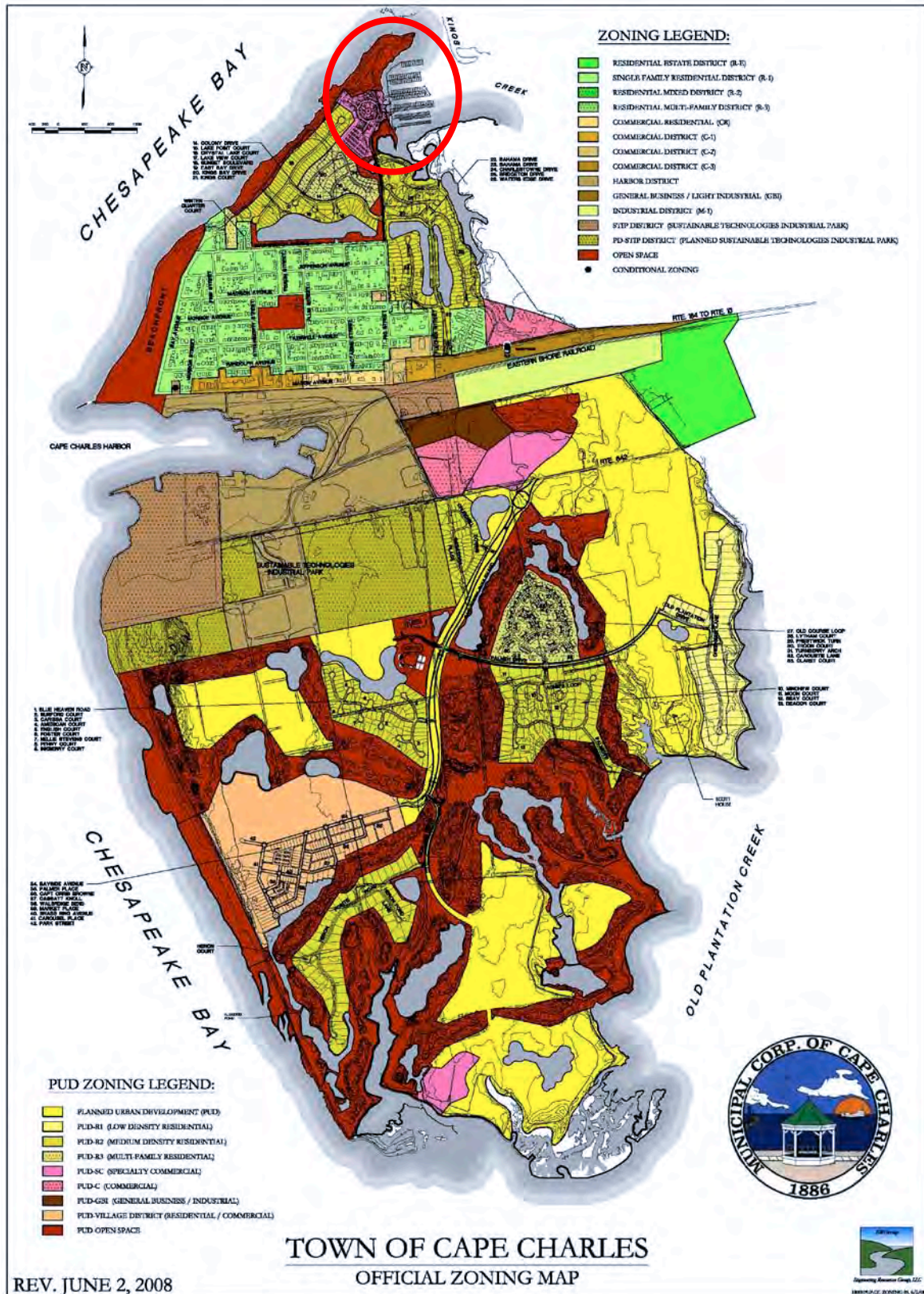
The Cape Charles Town Harbor serves commercial watermen as its first priority, with transient and seasonal boaters as second priority. The seasonality of crabbing since 2008 has hurt the Town Harbor business. During the winter months, there are few commercial watermen in the harbor. Tangier Island crabbers will be in Cape Charles as soon as the season opens and will follow the crabs north as the season progresses.

Map H: Property Parcels in the area of Bay Creek/King's Creek Marina



Northampton County Zoning showing location of King's Creek Harbor (red star) (from Northampton County)

Map I: Town of Cape Charles Zoning Map (Red Circle-Bay Creek/King's Creek Marina)



Section 3.4.3: Legacy & Succession Planning for King's Creek Harbor

Because King's Creek Harbor was privately owned, selling it for redevelopment was a logical step for the owner, especially because the facility was partially in a state of decline with narrow and rotting docks, primitive restroom facilities, and the severely shoaled channel was a challenge to keep open.

It is now a world-class recreational marina and is a revenue-generating asset for the Town of Cape Charles. The Town also benefited by the redevelopment when the commercial watermen shifted to the town harbor. The town harbor will be an asset for commercial watermen in perpetuity, as it is publicly owned and operated, and is an official Harbor of Refuge.

Middle Peninsula Region Businesses

Section 3.5: Gloucester Seafood, Inc.

Section 3.5.1: Issues & Needs of Gloucester Seafood, Inc.

Gloucester Seafood, Inc. was a seafood processing plant located on Aberdeen Creek, just off the York River in Gloucester County, VA. The business was owned by Mr. George Sterling, a lifelong resident of Gloucester County and a former counter supervisor. The plant, which was mainly involved in processing the Virginia Blue Crab, became embroiled in debt in 2004, closed its doors in 2005 when Mr. Sterling passed away from cancer, and was sold at auction to Meadow Financial, a Washington, D.C. area lender, in late 2007.



Above: Aerial view of Gloucester Seafood, Inc. location. (Google Earth)

Map J: Location of Gloucester Seafood, Inc.



Section 3.5.2: Land Use and Zoning for Gloucester Seafood, Inc.

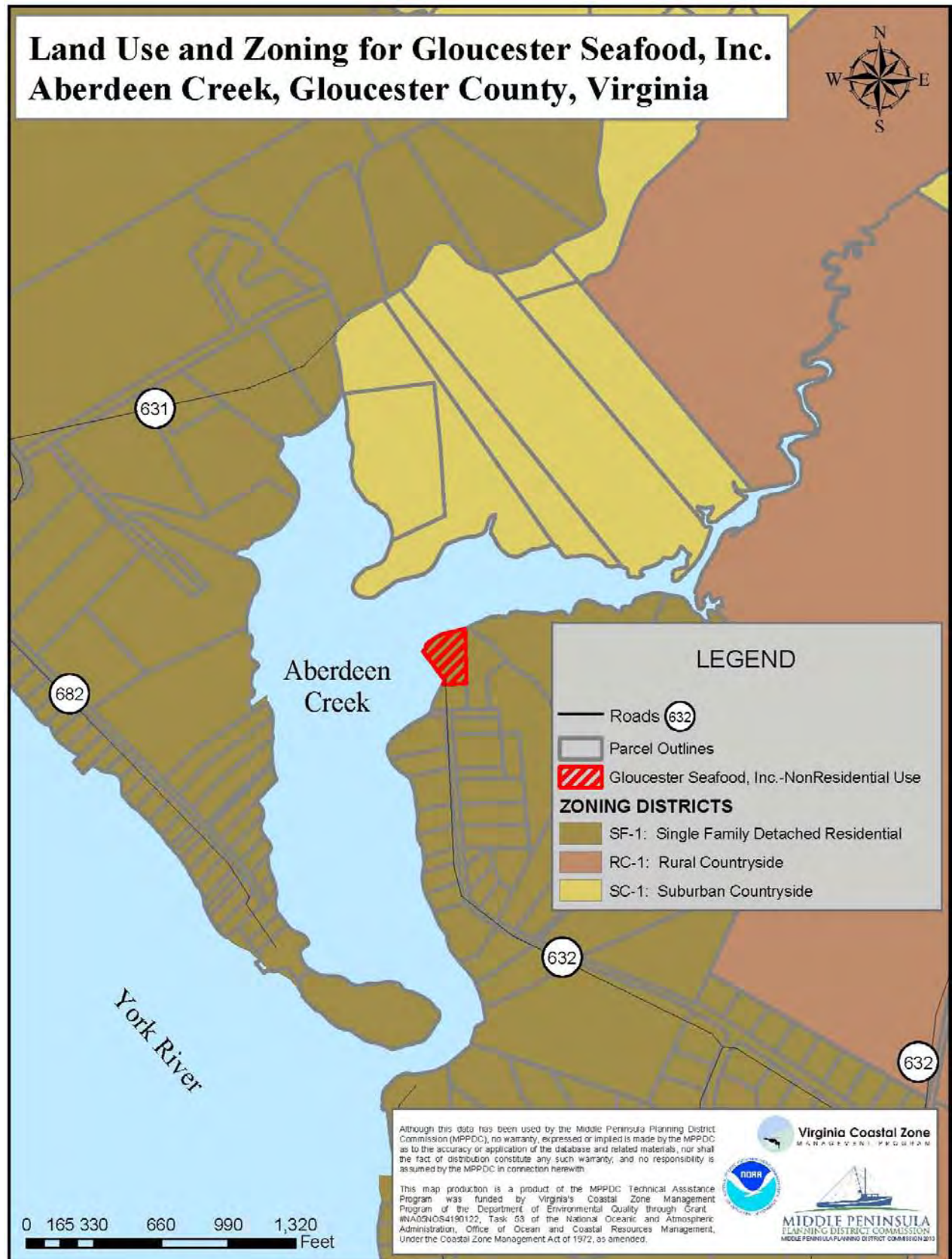
Land use and zoning aspects of the location of this business were not factors in the closing of the business, but could be factors if the present or a future owner wished to reopen the business as previously used. Gloucester Seafood was located in an area of Gloucester County zoned SF-1 or the Single Family Detached Residential Zoning District. The intent of the SF-1 district is to preserve existing residential areas and provide for future areas of similar character. To this end, development is limited to low concentration and permitted uses are limited to detached single-family dwellings providing homes for residents plus certain additional uses such as schools, parks, churches and certain public facilities that serve the residents of the district.

In the Gloucester County Zoning Ordinance marinas, boatyards and seafood processing plants require a special exception to be granted by the Board of Zoning Appeals (BZA) in all the districts in which they are permitted to establish a new use or to expand an existing one. This zoning (SF-1) does not allow marinas or seafood processing plants by right or by special exception. This means that in order for the new owner of this property to operate a seafood processing plant, they would have to apply for re-zoning. The point is, it is not guaranteed that the historical use of the property can continue without extra steps taken by the property owner-and even then it is not guaranteed.

Because many of the existing waterfront industry activities occurring along the County's Rivers 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. Unfortunately, the setbacks imposed by subsection (3) below make expansion of some of the existing facilities by adding additional structures difficult, if not impossible. A property owner can apply for a variance to avoid meeting the setback requirements if the situation meets criteria set in the zoning ordinance.

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 (mentioned above) 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.

Map K: Land Use and Zoning for Gloucester Seafood, Inc.



Section 3.5.3: Legacy and Succession Planning for Gloucester Seafood, Inc.

There were no known legacy or succession plans in place for this business. Financial hardship and the death of the owner were the major factors in the closing of this business and the sale of the property.

Section 3.6: Cooks Oyster Company, Inc.

Section 3.6.1: Issues & Needs of Cook's Oyster Company, Inc./Cook's Seafood

Eldridge Cook, founder and owner of Cook's Seafood, began hauling seafood to New York, Baltimore, Philadelphia, and Savannah in 1932, when he was just 17 years old. In 1939 he purchased 10 acres on Sarah's creek and, in the early 1950's, started processing seafood. The processing plants once employed up to 250 workers and the company delivered seafood from Virginia to California and overseas to Europe.

In 2010, after more than 70 years, Mr. Cook decided to retire. Though he still owns the property, he has no family to take over the business and he does not have any plans to sell the business or the property. The 15 or so commercial seafood boats that docked at Cook's Seafood were displaced and had to find dockage elsewhere.



Above: Aerial of Cook's Seafood (Red Circle) on Sarah's Creek. (Google Earth)

Map L: Location of Cook's Oyster Company, Inc./Cook's Seafood



Section 3.6.2: Land Use and Zoning for Cook's Oyster Company, Inc.

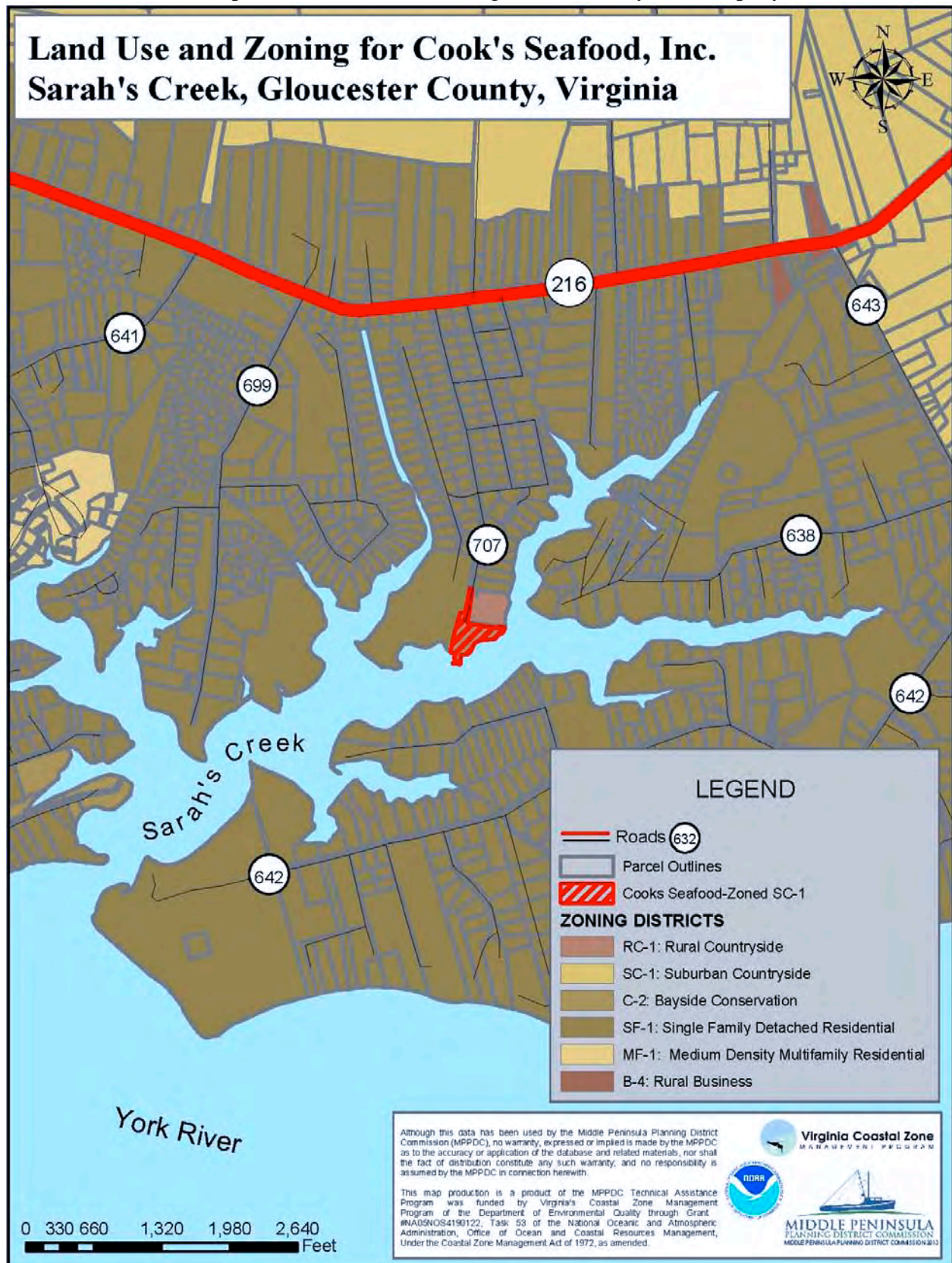
Land use and zoning aspects of the location of this business were not factors in the closing of the business, but could be factors if the present or a future owner wished to reopen the business as previously used. Cook's Seafood is located in an area of Gloucester County zoned RC-1 or the Rural Countryside Zoning District. The intent of the RC-1 district is to conserve farm and forest land and to encourage agricultural activities, thereby helping to ensure that commercial agriculture and silviculture will continue as long term land uses and viable economic activities within the county. The RC-1 district is also established to preserve natural features and the rural landscape, while allowing low density, clustered residential development. Residential development is to be permitted only when it is located and designed to minimize its impact on agricultural land, farming and silviculture, and sensitive environmental features; to create attractive rural developments; and to respect existing features of the rural landscape.

In the Gloucester County Zoning Ordinance marinas, boatyards and seafood processing plants require a special exception to be granted by the Board of Zoning Appeals (BZA) in all the districts in which they are permitted to establish a new use or to expand an existing one. This zoning (RC-1) permits a limited amount of low density residential development and low density residential subdivisions with an emphasis on clustering to protect natural resources. RC-1 allows a seafood processing plant by special exception.

Because many of the existing waterfront industry activities occurring along the County's Rivers 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. 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 (mentioned above) 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.

Map M: Land Use and Zoning for Cook's Oyster Company, Inc.



Section 3.6.3: Legacy and Succession Planning for Cook's Oyster Company, Inc.

There was no planning for legacy or succession for Cook's Oyster Company, Inc. Mr. Cook still owns the property and has no plans to sell it, and does not have family to restart the business.

Section 3.7: International Seafood

Section 3.7.1: Issues & Needs of International Seafood

International Seafood was founded in 1988 as a family business (father and son). They were located on the Cook's Seafood property on Sarah's Creek in Gloucester Point, Virginia. They did not own the property, but were a tenant. The primary business was the processing of scallops, spiny dogfish and conch. Spiny dogfish were the primary fish processed. In April 1998 the National Marine Fisheries Service (NMFS) declared spiny dogfish overfished, which resulted in the development of the federal Fishery Management Plan (FMP) for spiny dogfish. International Seafood had not anticipated the closing of the fishery and had no secession plan in place. In anticipation of the closing of the spiny dogfish fishery (which did happen in August of 2000 – NCDMF, 2008), International Seafood closed. The father retired and the son started another business. The new business started by the son was opened in an adjoining county that is NOT in the Middle Peninsula. The new business is not water dependent, is seafood related (dealing with the regulations on the import of seafood), and was enticed to open in another location due to a "business incubator" incentive.



Above: Aerial of Internaitonal Seafood's previous location (Red Circle) on Sarah's Creek. (Google Earth)

Map N: Location of International Seafood



Section 3.7.2: Land Use and Zoning for International Seafood

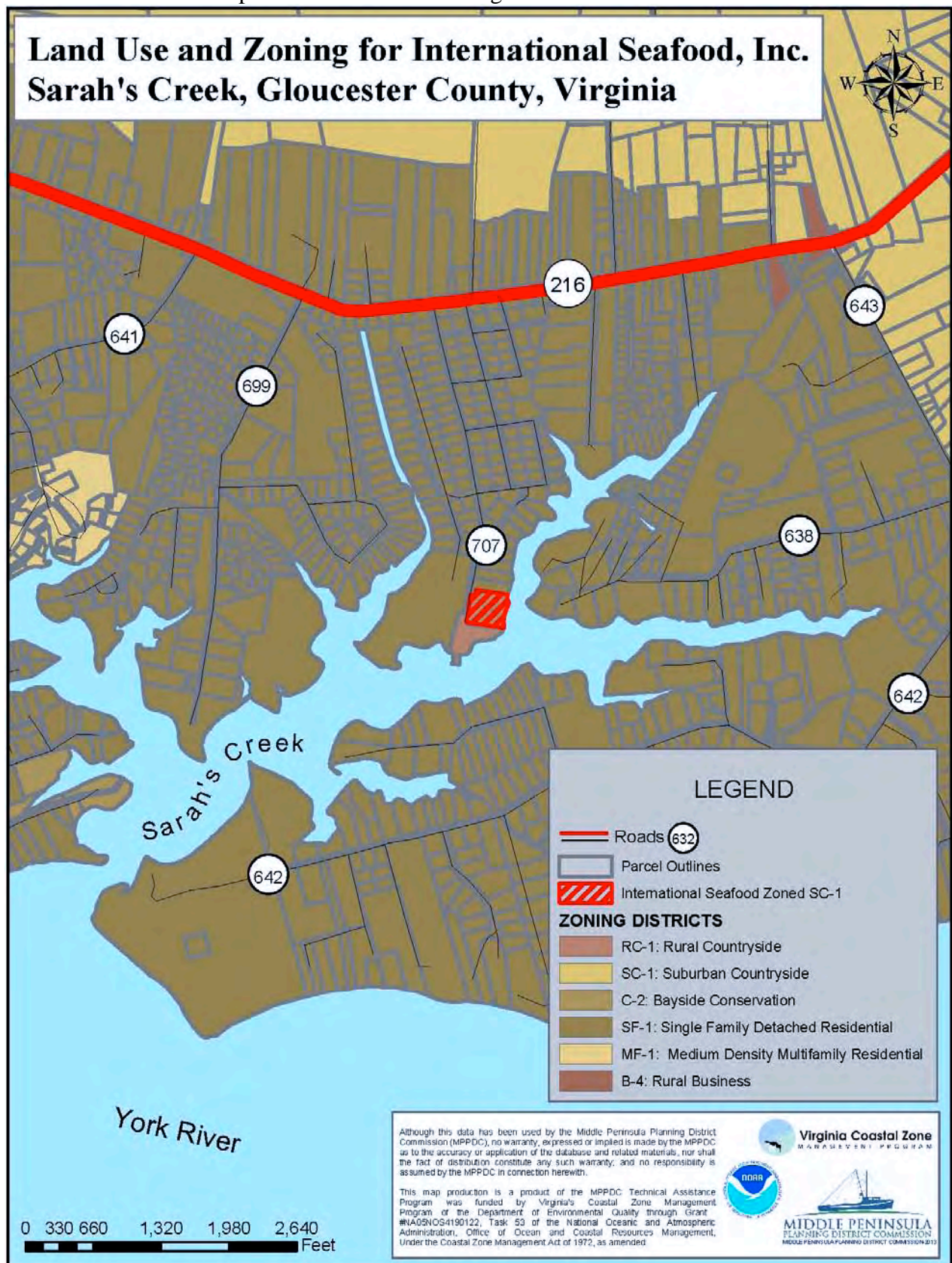
Land use and zoning aspects of the location of this business were not factors in the closing of the business at this location in Gloucester County, but could be factors if the present (Mr. Cook) or a future owner of the property wished to reopen the same type of business there. International Seafood, like Cook's Oyster Company, was located in an area of Gloucester County zoned RC-1 or in the Rural Countryside Zoning District. The intent of the RC-1 district is to conserve farm and forest land and to encourage agricultural activities, thereby helping to ensure that commercial agriculture and silviculture will continue as long term land uses and viable economic activities within the county. The RC-1 district is also established to preserve natural features and the rural landscape, while allowing low density, clustered residential development. Residential development is to be permitted only when it is located and designed to minimize its impact on agricultural land, farming and silviculture, and sensitive environmental features; to create attractive rural developments; and to respect existing features of the rural landscape.

In the Gloucester County Zoning Ordinance marinas, boatyards and seafood processing plants require a special exception to be granted by the Board of Zoning Appeals (BZA) in all the districts in which those types of uses can be permitted by, to establish a new land use of that type or to expand an existing one. This zoning (RC-1) permits a limited amount of low density residential development and low density residential subdivisions with an emphasis on clustering to protect natural resources. The RC-1 zoning district does allow a seafood processing plant by special exception.

Because many of the existing waterfront industry activities occurring along the County's Rivers 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. 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.

Map O: Land Use and Zoning of International Seafood



Section 3.7.3: Legacy and Succession Planning for International Seafood

International Seafood, as mentioned in Section 4.7.1 above, did not have a legacy or succession plan in place prior to their main product, the Spiny Dogfish, being taken off the market by regulations prohibiting the harvesting and processing of that resource.

Northern Neck Region Businesses

Section 3.8: Keyser Brothers Inc.

Section 3.8.1: Issues & Needs of Keyser Brothers, Inc.

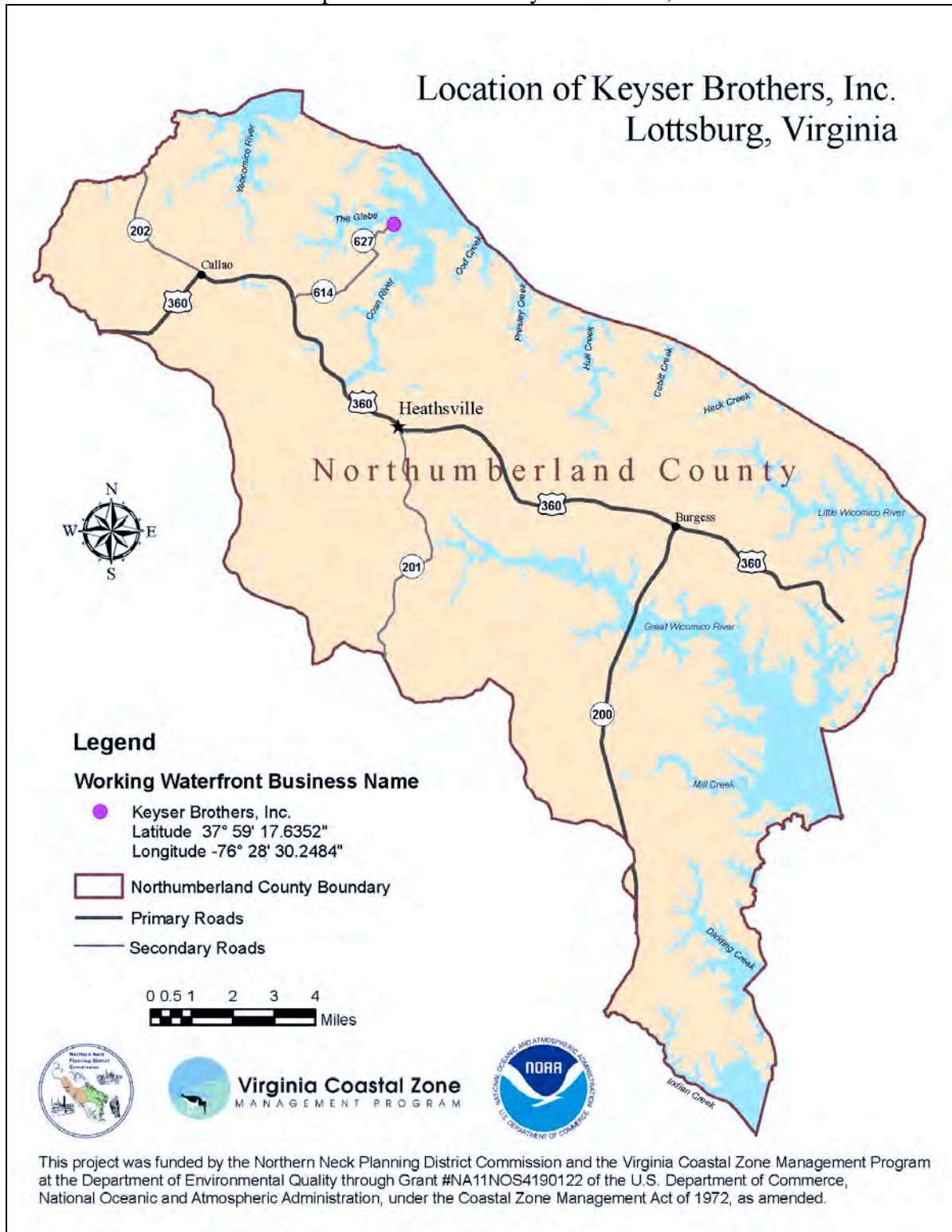
Norman and Calvin Keyser began shucking oysters in 1947. In 1955, they joined together, bought the land and built Keyser Brothers, Inc. (locally known as Keyser's Crab House) near the end of Honest Point Road in Northumberland County near Lottsburg. The two brothers were the sole owners of the business until Norman passed away in October of 2009. In the beginning, Keyser Brothers mostly shucked oysters, then turned to crabs and crab meat production. When crabs were plentiful, they employed more than a dozen crab pickers to pick crabs for packaging fresh and pasteurized crab meat. However, fluctuations in the availability of crabs meant that longtime customers sought out other suppliers to keep their seafood restaurants and seafood re-sellers stocked with crab meat from their traditional customers. Customers wanted steady supplies of crabmeat, and at times, the Keyzers could not keep up with the demand for crab meat. Many of Keyzers main customers switched crab meat suppliers and the business that was lost was never recovered. Importation of crab meat from the Gulf of Mexico and other countries also undermined the market for Chesapeake Bay Blue Crabs. Restrictions on the amount of immigrant workers that helped to pick crab meat also hurt the Keyser Brothers operation. Crab picking is hard and dirty work; in the summer, it gets very hot and humid with the steaming of crabs. Local labor was not interested in working long hours for comparatively low pay, and the immigrant workers helped the Keyzers maintain profitability. All of these factors, as well as Mr. Keyser's age, have resulted in the business operating at a limited capacity since 2007. In the last few years, Calvin Keyser has operated two days a week with three oyster shuckers and generates between 15 and 20 quarts of oysters a week during oyster season.

Please see Appendix B for a newspaper article from the Freelance Star, November 2001, that discusses the declining of crab houses.

Below: View of Keyser Brothers, Inc from Coan River.



Map P: Location of Keyser Brothers, Inc.



Section 3.8.2: Land Use and Zoning for Keyser Brothers, Inc.

There were no land use planning tools that were associated with closing. The crab house is located near the end of a road on a peninsula with only a few neighbors across the road. Lack of availability of crabs combined with the importation of crab meat was cited as two reasons for the business ending. In addition, it was difficult to attract affordable labor (without importing seasonal worker), and this also contributed to the closing.

Below: Keyser Brothers, Inc. Crab House from Coan River.



Map Q: Land Use and Zoning Map for Keyser Brothers, Inc.



Section 3.8.3: Legacy & Succession Planning Suggestions

Mr. Keyser stated that he expects to operate at a limited capacity for the near future. He said he has not planned for succession. He has sold some of his adjacent land for residential development.



Above & below: These two 2011 VBMP Aerial Photo shows Keyser Brothers, Inc. Crab House.



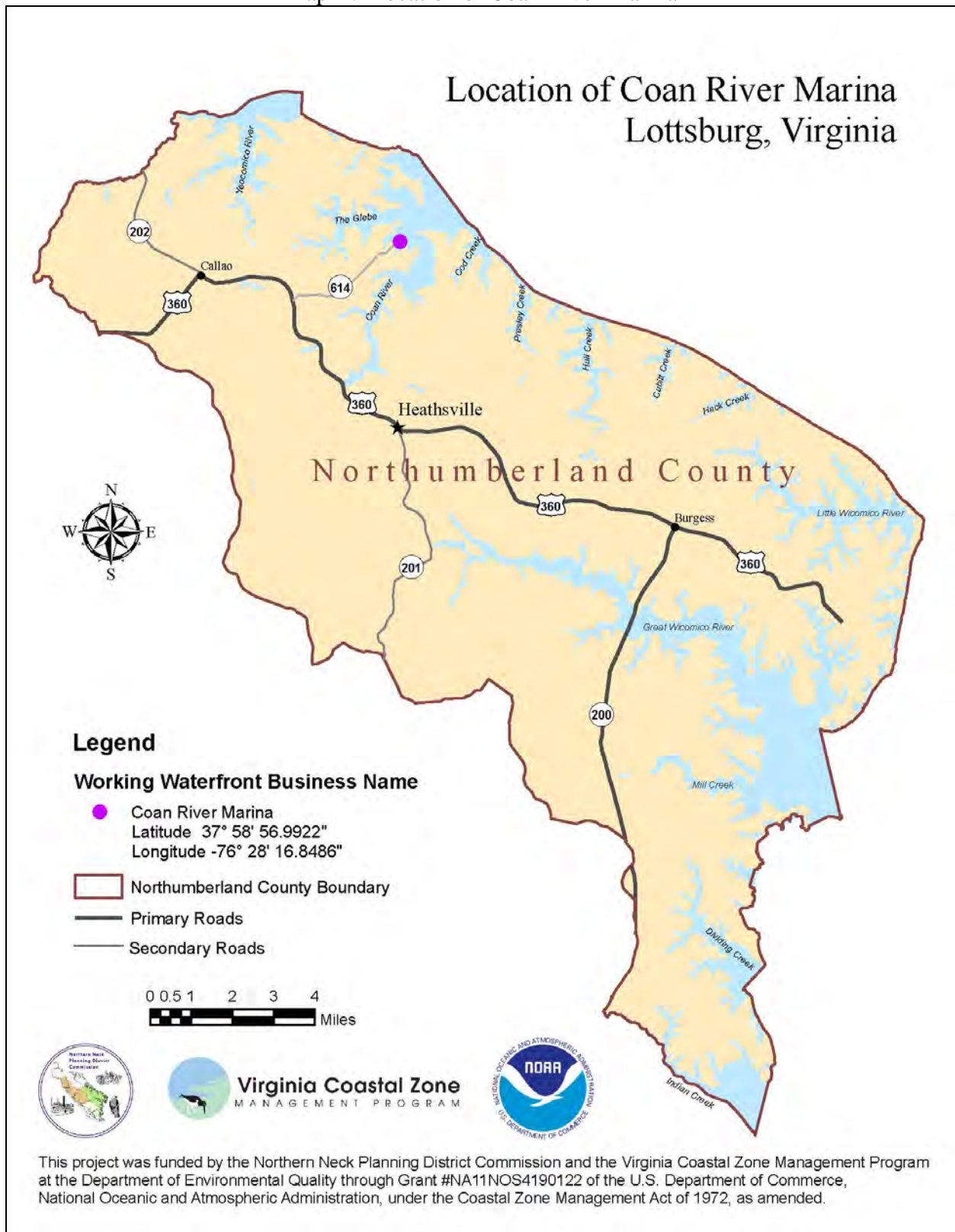
Section 3.9: Coan River Marina

Section 3.9.1: Issues & Needs of Coan River Marina

In June 2007, the owner of the Coan River Marina, Gary Giberson applied for a conditional use permit for a cluster development to be built on the two parcels where the marina currently operates. Cluster developments are allowed by conditional use permit in the Waterfront Residential zoning district where the marina is located. The applicant was interested in building a cluster development with six structures, containing 12 housing units on the site currently occupied by the marina. Amenities would have included a swimming pool and would make use of the marina's existing docks for residential dockage as well as for rental slips for nonresidents. Since that time, the economy experienced a downturn and the applicant never went forward with the development. The Coan River Marina still operates as a marina.

In issuing the conditional use permit the Northumberland County Board of Supervisors attached eleven conditions to the approval upon recommendation by county staff. One of the conditions was that the marina would have to retain eight slips currently in use by watermen in perpetuity. Another condition was that the development would have to reserve four slips to accommodate transient boat traffic. From these two conditions it is evident that the staff and elected officials in Northumberland County are cognizant of the potential losses to working waterfront businesses and uses from residential waterfront development, and seek to protect the shoreline for use by the seafood industry and other maritime interests while still allowing compatible development.

Map R: Location of Coan River Marina



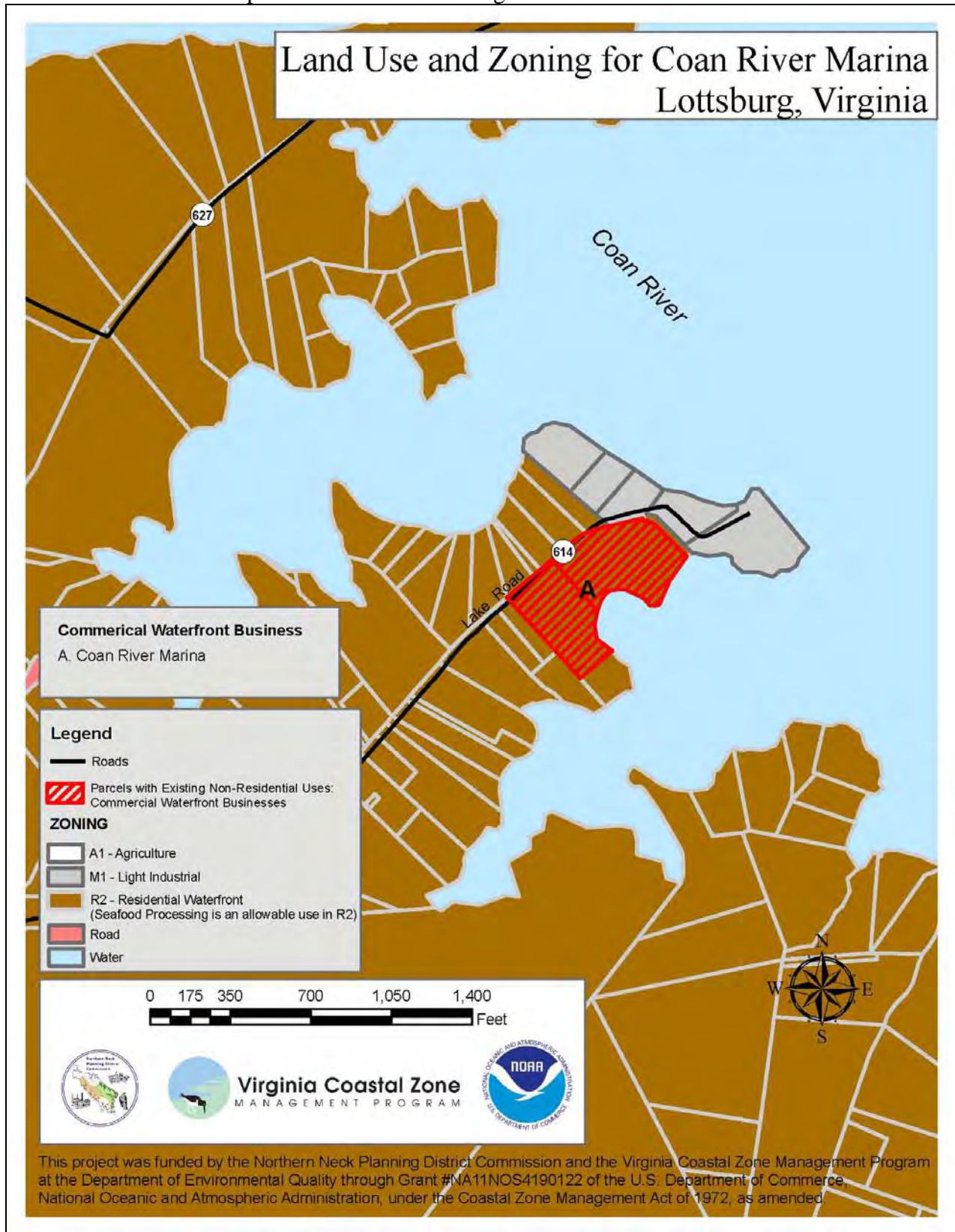
Section 3.9.2: Land Use and Zoning for Coan River Marina

The marina is still operating as a marina, and has not closed. Cluster developments are allowed in areas zoned Residential Waterfront through conditional use permits. Marinas, however, are not allowed in Residential Waterfront Zoning District (R2), but the Coan River Marina is grandfathered as an existing use. Undoubtedly, if the economy and housing market had not experienced a downturn, the cluster development that was approved by the Board of Supervisors would have been constructed, and the Coan River Marina would have ceased to exist.

Below: This 2011 VBMP Aerial Photo is zoomed in to show the infrastructure associated with the Coan River Marina.



Map S: Land Use and Zoning for Coan River Marina

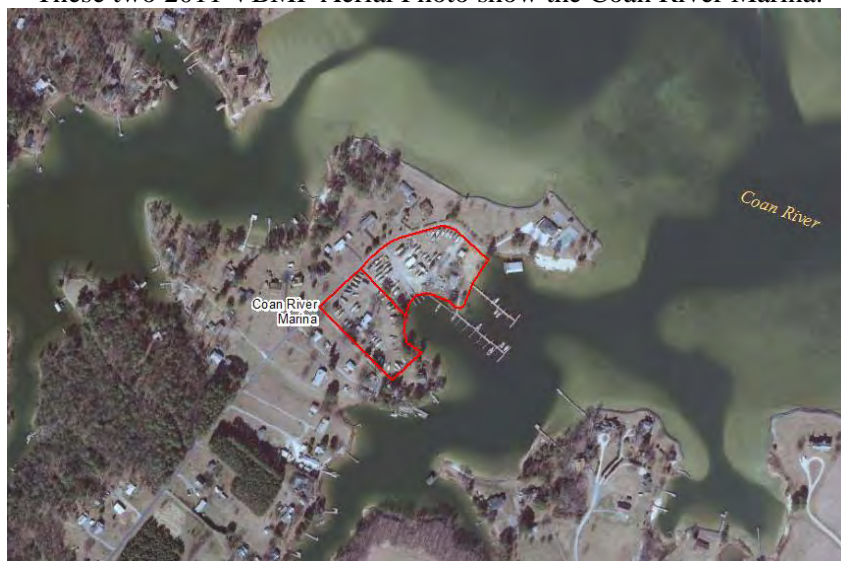


Section 3.9.3: Legacy & Succession Planning Suggestions

The Coan River Marina likely will continue to operate as a marina for the foreseeable future. The one year conditional use permit issued by Northumberland County in June of 2007 is now null and void. The marina serves local as well as transient boating needs. In addition to the eight slips used by watermen (mostly crabbers, but also some oystermen), a charter boat operation is based at the Coan River Marina. The Coan River Marina has a boat launching ramp, septic pumpout station, fuel, water, electricity and restrooms available for its patrons. Haul out and repair services are also offered.



These two 2011 VBMP Aerial Photo show the Coan River Marina.

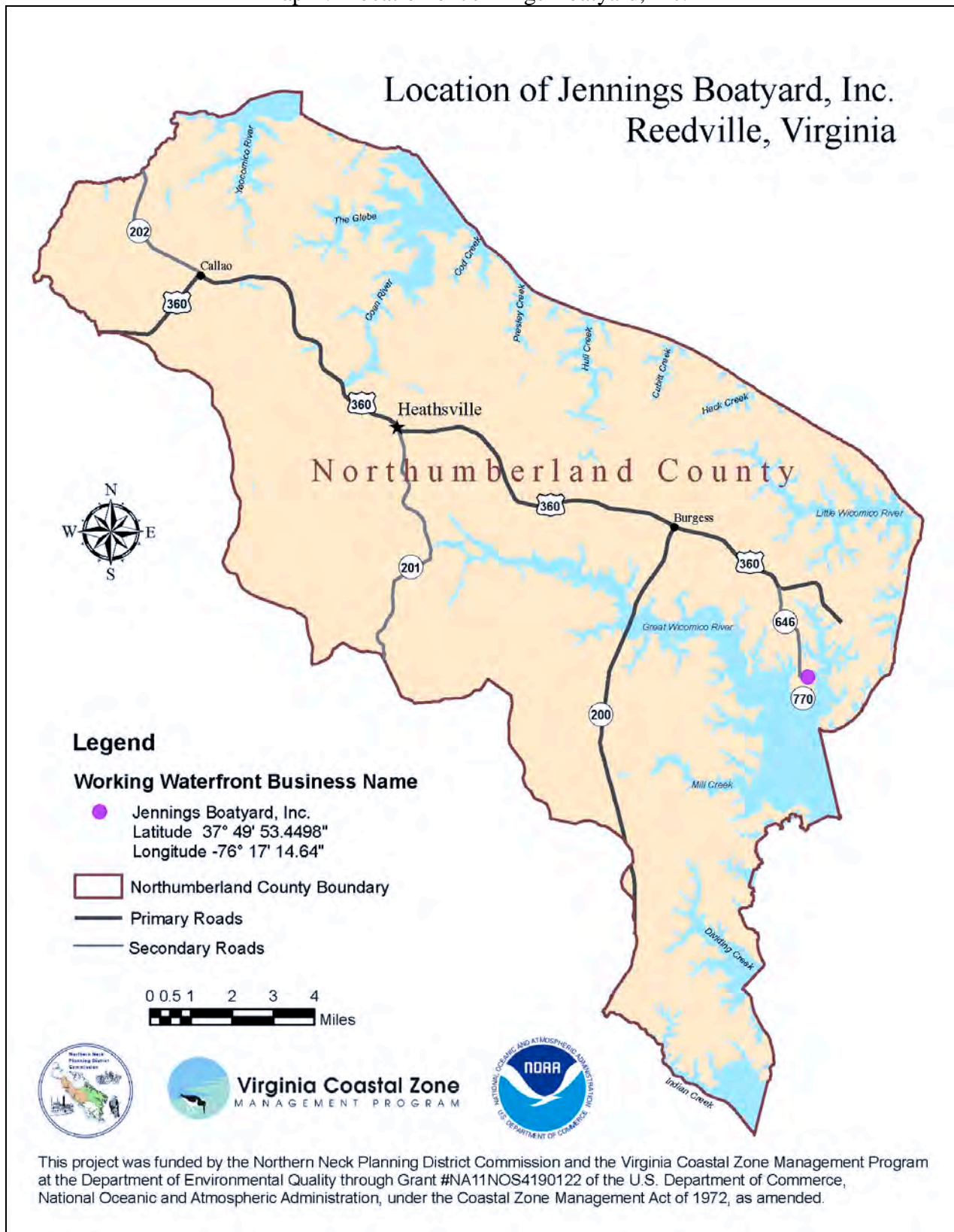


Section 3.10: Jennings Boat Yard

Section 3.10.1: Issues & Needs of Name of Business

John L. Jennings, who owns Jennings Boatyard on the Cockrell's Creek in Northumberland County, a waterfront landowner with subsequent riparian rights, wanted to expand his existing marina with the construction of 46 additional deep water mooring slips for sailboats and accompanying piers. Mr. Jennings requested a special exception permit in March 2005 from Northumberland County Board of Supervisors to proceed with the expansion. When presented with the marina expansion project, the Northumberland County Board of Supervisors tabled the request, citing the need for the applicant (Mr. Jennings) to obtain a riparian rights survey. After obtaining the riparian rights survey, Mr. Jennings reduced the number of additional slips from 46 to 31 to accommodate the riparian rights of adjacent landowners. The Northumberland County zoning administrator, in a letter to Mr. Jennings, stated that the "Board felt that since there are currently three (3) marinas in the area, [including Jennings'], that have mooring slips available to boaters, there would be no justification to allow an expansion at this time."

Map T: Location of Jennings Boatyard, Inc.



Section 3.10.2: Land Use and Zoning for Jennings Boatyard, Inc.

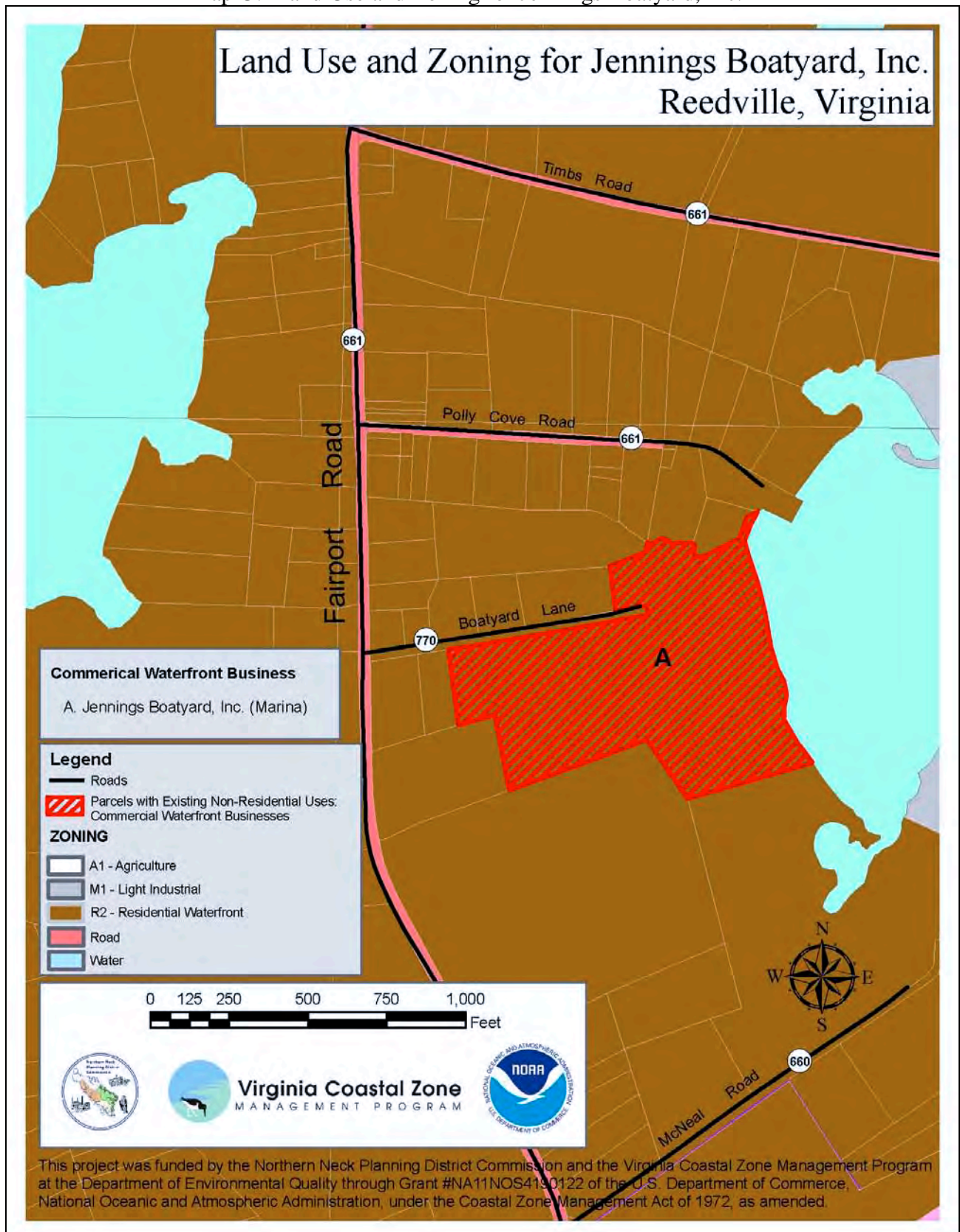
Mr. Jennings filed a court action seeking declaratory relief against the Board of Supervisors. Jennings alleged that only the Virginia Marine Resources Commission (VMRC) has authority to permit placement of piers beyond the low water mark, therefore the county lacked jurisdiction to regulate through the special exception process. The Northumberland County Board of Supervisor's responded that they had the authority to regulate below the mean low water mark of the County's creeks and rivers.

Mr. Jennings moved for summary judgment. The Northumberland County Circuit Court reasoned that the "general grant of authority to zone land...necessarily and fairly implie[s] that the county ['] in zoning for a marina/boatyard[,] has the authority to regulate...piers and boat slips which are necessarily all part of the same use." Thus the Northumberland County Circuit Court concluded that Jennings' "proposed expansion of piers and slips may be constructed only pursuant to a permit from VMRC, but [is also] subject to the Northumberland County Zoning Ordinance." The Northumberland County Circuit Court, accordingly, denied Jennings' motion for a summary judgment.

At a subsequent evidentiary hearing regarding the reasonableness of the Northumberland Board of Supervisors' denial of Jennings' application for a special exception permit, Jennings argued for the first time that Northumberland County's special exception permit ordinances, are void for lack of any "objective criteria stated." In a letter opinion, the circuit court concluded that the Northumberland County Board of Supervisors denial of Jennings' special exception permit application "was not arbitrary, capricious and unreasonable." Relying on a previous court case Bollinger v. Board of Supervisors (1976), the court concluded "that the [challenged ordinance] is not invalid for failure to state standards to be applied by the Board in the issuance of a special exception permit." Accordingly, the Circuit Court entered an order denying the relief sought by Jennings. Jennings appealed the Circuit Court judgment to the Virginia Supreme Court.

The Virginia Supreme Court affirmed the lower court's ruling, stating that the authority granted to VMRC from the Virginia General Assembly to regulate the construction of piers on state owned bottomland does not preclude, but rather contemplates that VMRS and a locality will have concurrent authority to regulate piers upon state owned bottomlands where the pier is "also erected along the waterfront of such locality". The Virginia Supreme Court, ruling on the validity of the Northumberland Special Exception permit process is not "invalid for failure to state standards to be applied by the Board in the issuance of a special exception permit."

Map U: Land Use and Zoning for Jennings Boatyard, Inc.



Section 3.10.3: Legacy & Succession Planning for Jennings Boatyard, Inc.

Jennings Boatyard will likely continue to operate as a marina for the foreseeable future. No inquiries were made as to any legacy and succession planning regarding this working waterfront asset.



Above & below: VBMP Aerial Photos shows the location of Jennings Boatyard in Cockrell Creek and the infrastructure associated with it.



CHAPTER 4: TOOLS FOR THE TOOLBOX

Section 4.1: Conclusions, Suggested Strategies and Recommendations

Working Waterfronts are slowly but surely being displaced in the Chesapeake Bay. The results of this report show that working waterfront businesses close for a variety of reasons such as: loss of fishery; death of owner; retirement of owner; sale to developer; and loss of property due to sea level rise, storms, and flooding. The zoning for the properties varies from businesses that: are non-conforming uses and cannot open after being closed for 2 years; are zoned residential with a conditional use permit; and have limited or no restrictions. The common theme for legacy planning was that it was not done. Subsequently, most of the businesses identified indicated that selling their property and/or business is their retirement solution, with no guarantee that the property would continue as a working waterfront.

In some jurisdictions, the zoning is a barrier to working waterfront businesses locating or expanding there. 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. For example, in a zoning ordinance marinas, boatyards and seafood processing plants may 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 typically unrealistically limit these uses and the expansion of existing uses. If the goal of a locality is to encourage an active commercial seafood hub on rivers, the current land use tools adopted by the locality may not provide ease of entry, expansion, or certainty for business decisions.

One recommended tool around the zoning barrier is a working waterfront zoning district designation or, where several existing and previously used working waterfronts are clustered in one area, a commercial seafood overlay district. 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 waterfront and would subsequently attract more of those uses to an area where the locality and its communities desire to have them.

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. The district boundary could include only land based parcels which require waterfront for seafood operations or land based parcels and water areas. The goal is to protect the harbor and working waterfront uses which routinely happen in and along the coastal waterways of the Commonwealth 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).

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.

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. A jurisdiction, watermen and other working waterfront businesses owners could advocate for the Virginia 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.

If a locality is interested in preserving working waterfronts, steps must be taken. Suggested strategies and recommendations include: working waterfronts need to be thoroughly inventoried; zoning needs to be evaluated where the working waterfronts exist, and if the zoning is non-compatible, a decision on what zoning is appropriate needs to be made; comprehensive plans need to reflect the need to preserve working waterfronts; elected officials need to be educated on the value of working waterfronts; working waterfront owners need to be educated on legacy and succession planning; citizens need to be educated on the place of working waterfronts in a community; and the threat of sea level rise on working waterfront infrastructure needs to be assessed.

Section 4.2: Legacy and Succession Planning

Legacy and succession planning are the strategies employed by business owners to take control of their estate and pass on their business to another generation or another owner. This process takes time and must be done in advance (sometimes measured in years). Without legacy and succession planning, a business is at the mercy of the current laws (including estate laws and taxes), limits the options for what ultimately happens to the business, and can cause a major amount of stress to the surviving family and heirs. Getting this information out to working waterfront businesses is important. Methods could include: offering the information on websites run by the counties and the MPPDC; including this information in working waterfront workshops; disseminating the information through coalition partners, especially the marine trade groups; holding information seminars; direct mailings and/or emails; and other methods as necessary.

The below discussion is taken directly from legal communication provided by Ms. Alison V. Lennarz, Kaufman and Canoles Attorneys at Law (see Appendix C).

Timing of Succession Planning

Many business owners, with numerous demands on their time and the perception that other responsibilities are more pressing, postpone hard discussions about what will happen to their business following their retirement. Many wait to address the question until terminal illness or imminent death leaves no alternative. Under those circumstances, succession planning becomes emotional, highlighting weaknesses and aggravating friction. Moreover, business is more likely to be disrupted when transitions are sudden and rash. To minimize risks and maximize opportunities, owners should undertake business succession planning while they are still healthy and in control.

Sale of Business to Non-Family Buyer or Transfer to Family Members?

The owner may direct the sale of the business if the owner has particular expertise that cannot be replaced or the family has no interest in continuing the business. In either of those situations, the sale of a business as a going concern will likely generate more money for the owner's beneficiaries than a liquidation, which usually results in a significant loss of value. Usually, however, the owner wishes to pass ownership and control of the business to one or more family members.

Preparing for Transition

1. A Vision of the Future.

Successfully transitioning a business to family members requires years of careful preparation and communication. First, the business owner must prime the family by presenting the succession issues and articulating a clear vision, including the broad ownership, governance, and management goals of business. These in turn will direct the organizational structures which connect the family with its assets and values and which balance the family's economic and non-economic goals.

2. *Identifying One or More Successors.*

In many cases, an owner's successor is an obvious choice. In the event the successor is not obvious, a succession committee may be tasked with deciding who will select the successor and setting the criteria for selection. The best candidates are obviously those who want the job for the right reasons and who have the trust and respect of family members and employees. Candidates do not just appear; they are developed, ideally by involving children at an early age, designing positions to match their interests, providing responsibilities and training, and possibly requiring work outside the organization. These strategies should promote competence, foster independence, and provide exit strategies.

3. *Addressing Financial and Legal Issues.*

Incumbent business owners must prepare not just their successors but themselves, both financially and emotionally. A successor might not be able to afford the outright purchase of ownership interests, so the plan must include financial arrangements that ensure the incumbent's financial security. The plan may also include a clearly defined role and responsibilities for the retiring incumbent that may diminish over time. Finally, the succession plan should be timed so that transition occurs when the incumbent is secure and confident in the successor's competence and status in the business and family. A team of outside professionals can provide critical objectivity, problem-solving experience, and financial and legal expertise necessary to value the business, to draft operating or buy-sell agreements, trust instruments and other documents, and to perform other necessary tasks.

4. *The Particular Problem of Commercial Waterfront Land-Use and Zoning.*

Waterfront businesses present challenges that are not faced by other businesses. Although the value of a working waterfront to a locality's economic development may be undisputable, traditional working waterfronts are nonetheless regularly being replaced by residential and recreational uses. In many cases, a waterfront business which has operated for decades may now be legal but "non-conforming", either because the facilities associated with the business no longer meet the requirements of the locality's code (such as minimum lot sizes and setbacks, for example) or because a new zoning ordinance has been adopted, resulting in a rezoning of its land from a district in which the waterfront commercial activity is permissible by right to a district in which it is permissible only by the granting of a special exception. These issues become particularly problematic if the business seeks to expand its existing operations, either in terms of use or physical plant, or if the business needs to move to another waterfront location for any reason. Moreover, in some localities, if a non-conforming use is discontinued for a period of time, the use may no longer be

considered a legal non-conforming use, and the business may be required to apply for a special use permit—which may or may not be granted. Because of the risk that a commercial waterfront use may no longer be permitted, and the expense of going through the rezoning or permitting process, the land use issues associated with a waterfront business should be researched and addressed as part of the business succession and general planning process.

5. *Protecting the Business and Promoting Family Harmony.*

Ownership and management of a business may not always transfer to family members equally. If a business owner's children make unequal contributions to the business but share ownership and management rights equally, problems resulting from resentment among siblings or spouses are likely to impact the business. Therefore, a succession plan must realistically acknowledge and address the family dynamics, passing the business to family members willing and competent to run it and providing for non-business assets to pass to other family members. Alternatively, the plan may call for a capital structure with preferred or voting and non-voting stock, or an operating agreement that separates management powers from ownership, to give those active in the business the authority needed to fulfill their responsibilities without enough power to abuse their positions. Such structures may also segregate investment assets of a business (such as real estate or intellectual property) from the operating assets of the business, to accomplish estate planning, tax and creditor protection goals. In all events, preservation of family harmony depends upon achieving the perception of fairness in planning the transfer of business and non-business assets.

6. *Valuing and Preserving the Business.*

A prerequisite to the fair allocation and preservation of family wealth, or alternatively, to obtaining a fair price in the sale of a business, is a clear understanding of the value of the business, along with how intrinsic characteristics of the business and outside influences impact the value. While methods such as net asset or market value may be used to value the business, business valuation remains more inexact art than precise science. For example, business value will determine how much life insurance may be needed to fund the purchase price to be paid to beneficiaries who will have no ownership interest in the business, or to augment the owner's estate to the extent that the business will pass to some family members but not others. If certain employees contribute disproportionately to the value of the business, the succession plan should include one or more of the following: a board of advisors that may include non-family members to periodically review the operations of the business; employment agreements with key employees to prevent the death of the owner from jeopardizing their employment and to assure that key employees do not abandon the company following the death of the owner; and key person life insurance, payable to business to compensate for loss of leadership and management skills of owner, in order to recruit or retain talented management.

Business succession planning must take place within the context of a larger estate plan; succession and estate plans cannot be made independently of one another. In addition to addressing transition matters, an effective plan may include lifetime strategies to reduce estate and gift taxes, such as annual and lifetime gifting, creation of grantor retained annuity installment sales to intentionally defective trusts, and similar tactics. But a business succession plan is much more than the transactions necessary to transition ownership and minimize taxes. Without a plan that addresses family issues, neither the family nor the business will thrive.

Please see Appendix C for legal opinion memorandum from Ms. Alison Lennarz, Kaufman and Canoles Attorneys at Law, Williamsburg, Virginia which the above information originated from.

Section 4.3: Examples of Resources for Small Businesses

The three programs highlighted below are examples of resources available in the state of Virginia to assist small businesses (some resources are for any size business). The resources mentioned below are not comprehensive of the assistance that is available for small businesses and working waterfront businesses under state or other programs.

Virginia Department of Business Assistance (VDBA) Programs:

- Virginia Jobs Investment Program:

The Virginia Jobs Investment Program (VJIP) is one of Virginia's most actively used economic development incentives. The program encourages the expansion of existing Virginia businesses and start-up of new business operations in Virginia. It specifically addresses the top concerns of existing businesses and economic development prospects – finding and developing a skilled workforce. VJIP exists to support private sector job creation. It helps offset recruiting and training costs incurred by companies that are either creating new jobs or implementing technological upgrades. In addition to offering direct funding, VJIP also provides assistance with workforce-related challenges and organizational development workshops.

- Virginia Small Business Financing Authority:

The Virginia Small Business Finance Authority (VSBFA) is the Commonwealth of Virginia's economic development and small business financing arm. They help Virginia's existing businesses and those businesses that are seeking to come to Virginia through their extensive portfolio of financing programs. VSBFA does not offer grants, but they can assist by helping Virginia's financial institutions offer business loans that they might not be able to offer without VSBFA assistance. Loans could be procured to purchase a building or some equipment, whether the business is just starting or looking to expand.

- Business Information Services:

VDBA's Business Information Services (BIS) Division houses a number of programs designed to assist entrepreneurs and existing business owners in obtaining the information they need to establish and grow their businesses. Under this assistance category, VDBA offers online resources, seminars on starting a business, software that goes through a step by step process to develop a business plan, free seminars on growing sales and one-on-one technical assistance to explore tools available to grow a business. (Information obtained from the Virginia Department of Business Assistance website at <http://vdba.virginia.gov/>.)

The Virginia Marine Resources Commission (VMRC) encourages the gardening and farming of oysters and clams and has a list of available shellfish sites for lease on their website. VMRC and other agencies may work with watermen who, because of restrictions on their primary catch or other reasons, may desire to expand their business to include aquaculture in order to continue operating in the seafood market.

APPENDIX A:

EXAMPLE OF SURVEY QUESTIONS FOR WORKING WATERFRONT BUSINESS CASE STUDIES

APPENDIX A: SURVEY QUESTIONS FOR WORKING WATERFRONT BUSINESS CASE STUDIES

Example:

1. When did your business open?
2. What is the history of your business?
 - a. How did it start?
 - b. Who started it, how many owners have there been, who were they?
 - c. Did it move locations over the years (where, why did it move, any zoning conflicts over the years)?
 - d. Was the business always water dependent?
 - e. What were the products; did they change over the years; why?
 - g. Do you still own the property (why, what are your plans for it)?
3. Is the business closed or did it just move from the waterfront location?
4. Why did the business close at the waterfront location?
 - a. Zoning
 - b. Conflicting waterfront uses
 - c. Altered business model
 - d. Loss of product or market
 - e. Other
5. What is/was the legacy/secession planning?
 - a. Give to child/family member/friend
 - b. Sell (to whom)
 - c. Planned to close all along
 - d. No planning
6. Do you have any plans to re-open the business; where?
7. What would have helped keep the business open (zoning, regulations, product, etc.)?
8. Do you have any historical photos, news articles, or historical documents on your business you would be willing to share?

APPENDIX B:

NEWSPAPER ARTICLE – KEYSER BROTHERS, INC.

'I don't see any future in this business.'

Calvin Keyser, 76, Keyser Bros. Seafood

'The future is in importing and buying and selling.'

Greg Lewis, 50, Little River Seafood

In March 1995, Potomac Creek crabbers throw out pots. Since then, catches from the Chesapeake Bay and the Potomac River have been declining.



Caught in a pinch

As harvests
decline, so do
crab houses

Story by **FRANK DELANO**
Photos by **SUZANNE CARR**

CRAB-PICKING houses in Virginia are vanishing with the crabs.

In 1990, the Virginia Health Department's Bureau of Shellfish Sanitation certified 52 Virginia picking houses. Now 33 remain, 15 of them on Northern Neck waters.

In the face of dwindling crab catches from the Chesapeake Bay, at least one Lancaster County picking house on Indian Creek has been bulldozed to make way for condominiums.

Others are importing crab meat from Indonesia, Thailand and South America to meet customer demand. Still others are thinking about new ventures.

"I don't see any future in this business," says Calvin Keyser, 76, of Keyser Brothers Inc.

Keyser and his brother Norman, 78, have operated their business on the Coan River near Lottsburg since 1955. Now, Calvin says, they're thinking about turning a portion of their plant and docks into a marina.

Greg Lewis, 50, president of Little River Seafood Co. near Reedville, is taking a different approach.

"The future is in importing and buying and selling," he says. "You can never sustain a crab business on picking alone like you could even just five years ago. The business has changed dramatically."

Experts cite many possible causes for the decline in local hard-crab populations: overfishing, loss of female brood stock, water quality, depletion of aquatic grasses, predation by finfish such as striped bass and croaker, increased soft-crab harvests and natural population cycles.

According to the Virginia Marine Resources Commission, 15 million pounds of hard crabs were pulled from the Chesapeake through August of this year, compared with nearly 22 million pounds last year.

Marine Resources Commission spokesman Wilford Kale attributes part of this year's decline to new catch restrictions imposed on crabbers.

Through August, 11 million pounds of hard crabs were caught



Little River Seafood:

Bushels of blue crabs are cooked every day to pick and sell to restaurants and seafood markets. Little River imports crabs from other states and countries.



this year in Maryland areas of the bay. The catch is about the same as last year, but well below a five-year average of about 18 million pounds, according to the Maryland Department of Natural Resources.

Hard-crab catches through September in the Potomac are ahead of last year, but far below a

four-year average of 109,000 bushels. Through September of this year, Potomac crabbers had caught 43,780 bushels versus 38,500 bushels last year.

"But that's not saying much, considering last year was the worst hard-crab catch in 30 years," says

See **CRABS**, Page B8



Calvin and Norman Keyser prepare canned Chesapeake blue-crab meat for pasteurization at their plant near Lottsburg.

Keyser Bros. Seafood

CRABS: Houses turn to imports to stay afloat

FROM PAGE B1

Kirby Carpenter of the Potomac River Fisheries Commission. The 15-year average of Potomac hard-crab catches through August is about 80,000 bushels.

With hard crabs scarce and expensive, Keyser says he has had trouble supplying his customers with the fresh and pasteurized crab meat he processes at his plant at Honest Point near Lottsburg.

Many of his customers are in Philadelphia and nearby areas of Pennsylvania and New Jersey. He says that some of them, including some longtime accounts, have changed to new crab-meat suppliers.

"Customers want regular supplies. But it's hard to get. One day you've got crabs, the next day nothing. One day you've got all the labor in the world and the next day nobody shows up," Keyser says.

Crab-picking is a labor-intensive business. Barrels of crabs are steamed and dumped on stainless-steel tables, where employees—usually women in plastic aprons, caps and gloves—crack the shells and pick out the tasty meat.

A good crab picker can pick 60 pounds of meat a day.

The meat is then packed into one-pound containers and sold fresh or pasteurized—boiled in a hot water until the meat reaches 180 degrees for two minutes. Pasteurized crab meat, if kept refrigerated, can last indefinitely. In the good old days, Keyser could buy crabs cheap in the summer and fall, can and pasteurize the meat and sell it at good profit margins over the winter.

Now with local crabs scarce and imported crab meat relatively cheap, "there's just no profit in it," he says.

"Maybe I should have bought the foreign meat, but I've been kind of shunning it," Keyser says.

At Little River Seafood, Lewis has been importing crab meat from Indonesia since January. Each month, he receives a refrigerated container containing about 20,000 one-pound cans ready for sale. The cans bear bar codes, nutrition facts, his Little River Seafood label, address and his company's Internet address: www.littleriverseafood.com.

Lewis says the quality is superb—large lumps of crab meat and no shell—and the flavor is almost as good, "but not quite as sweet," as the Chesapeake Bay product. Only the fine print—"Imported from Indonesia"—gives it away.

New accounting for about 30 percent of his sales, the imported product has helped Lewis find a reliable supply for his customers. It costs about the same to import crab meat from the far side of the world as it does to process local crab meat in his plant, he says.

Only about 25 percent of his crabs come from local waters. He also buys crabs from the Carolinas and fresh crab meat from the Gulf of Mexico, some of which he cans at his plant on the Little Whicomico River near Burgess.

Lewis has been in the seafood business since 1983. He employs about 50 people, including his daughter, Kelly Lewis Minor, 24, a 1999 graduate of Virginia Tech with a degree in food science, manages quality control and prepares the 20 reports required each day by the U.S. Food and Drug Administration. The plant also is inspected regularly by the Virginia Department of Health.

"If you don't have your paperwork right, your product is not right," the father says.

Importing pasteurized crab meat from Indonesia is not without risks. Indonesia is a predominately Muslim country and, in the aftermath of the Sept. 11 terrorist attacks, Lewis postponed a fall trip to visit his supplier.

Still, "it's a good business," his daughter says. "I plan to be in it for a while." Keyser and Lewis say a good run of Chesapeake crabs has occurred this fall and prices have dropped. Lewis has recently been selling local crabs to North Carolina dealers from whom he was buying crabs this summer when local supplies were scarce.

Sales of crabs and crab meat have dropped since Sept. 11, the suppliers say.

New York's famed Fulton Fish Market, not far from the World Trade Center, has been closed since the attacks. Exports of live crabs to Canada have virtually stopped because of long delays crossing the border. And business has plummeted at restaurants from Washington to New York.

Instead of scarcity, the crab dealers now worry about a glut.

"It's up and down, up and down," Keyser says. "To try to organize a little business like this is very difficult."



Keyser Bros. Seafood

ABOVE: Crabber Steve Obler (left) drops off blue crabs at the plant in Lottsburg while Norman Keyser writes him a check for his catch.

LEFT: Calvin Keyser wheels pasteurized lump crabmeat through the plant's picking area. His company has been in business for more than 50 years, dealing only in locally caught crabs.

Little River Seafood

RIGHT: Virginia Treagle, 61, picks shells out of crabmeat before packaging it for sale to seafood markets. Treagle works for Little River Seafood, near Reedville in the Northern Neck.

BELOW: The plant runs a crab-picking plant and also imports crabmeat from other locations.



APPENDIX C:

LEGAL COMMUNICATION ON LEGACY AND SUCCESSION PLANNING

Provided by Ms. Alison V. Lennarz, Kaufman and Canoles, Attorneys at Law.

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April 22, 2013

Harrison P. Bresee III
Middle Peninsula Planning District Commission
125 Bowden Street
Saluda, VA 23149

Re: Legacy and Succession Planning Options for Working Waterfronts in Virginia

Dear Harrison:

You asked me to provide a guide for small business owners and/or sole proprietors who are interested in passing on a business to another generation, with the expectation that the business will continue in existence. The information below may be just a starting point for a more expanded discussion.

Timing of Succession Planning

Many business owners, with numerous demands on their time and the perception that other responsibilities are more pressing, postpone hard discussions about what will happen to their business following their retirement. Many wait to address the question until terminal illness or imminent death leaves no alternative. Under those circumstances, succession planning becomes emotional, highlighting weaknesses and aggravating friction. Moreover, business is more likely to be disrupted when transitions are sudden and rash. To minimize risks and maximize opportunities, owners should undertake business succession planning while they are still healthy and in control.

Sale of Business to Non-Family Buyer or Transfer to Family Members?

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The contents of this communication are intended for general information only and should not be construed as legal advice or a legal opinion on specific facts and circumstances. Disclosure Required by Internal Revenue Service Circular 230: This communication is not a tax opinion. To the extent it contains tax advice, it is not intended or written by the practitioner to be used, and it cannot be used by the taxpayer, for the purpose of avoiding tax penalties that may be imposed on the taxpayer by the Internal Revenue Service.

Preparing for Transition

1. *A Vision of the Future.* Successfully transitioning a business to family members requires years of careful preparation and communication. First, the business owner must prime the family by presenting the succession issues and articulating a clear vision, including the broad ownership, governance, and management goals of business. These in turn will direct the organizational structures which connect the family with its assets and values and which balance the family's economic and non-economic goals.

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4. *The Particular Problem of Commercial Waterfront Land-Use and Zoning.* Waterfront businesses present challenges that are not faced by other businesses. Although the value of a working waterfront to a locality's economic development may be undisputable, traditional working waterfronts are nonetheless regularly being replaced by residential and recreational uses. In many cases, a waterfront business which has operated for decades may now be legal but "non-conforming", either because the facilities associated with the business no longer meet the requirements of the locality's code (such as minimum lot sizes and setbacks, for example) or because a new zoning ordinance has been adopted, resulting in a rezoning of its land from a district in which the waterfront commercial activity is permissible by right to a district in which it is permissible only by the granting of a special exception. These issues become particularly problematic if the business seeks to expand its existing operations, either in terms of use or physical plant, or if the business needs to move to another waterfront location for any reason. Moreover, in some localities, if a non-conforming use is discontinued for a period of time, the use may no longer be considered a legal non-conforming use, and the business may be required to apply for a special use permit—which may or may not be granted. Because of the risk that a commercial waterfront use may no longer be permitted, and the expense of going through the rezoning or permitting process, the land use issues associated with a waterfront business should be researched and addressed as part of the business succession and general planning process.

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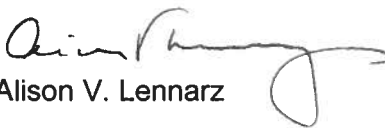
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I hope this information is helpful. If you would like additional detail in any of the subject areas or if a different format would be more useful to you, do not hesitate to let me know.

Very truly yours,


Alison V. Lennarz

AVL

Product 3

Working Waterfront Initiatives

Marine Advisory Services at the Virginia Institute of Marine Sciences is coordinating the Virginia Coastal 309 Working Waterfront Strategy designed to develop a clear consensus definition among planning district commissions of water-dependent commercial activities and working waterfronts, define the necessary infrastructure for working waterfronts and identify critical working waterfront infrastructure throughout the coastal zone. Marine Advisory Services has held several meetings with the PDC coalition partners to coordinate the 309 strategy. The meetings made it clear that a graphic of the various projects was needed in order to illustrate the connection of various working waterfront initiatives at the national, state, regional and local level. The working waterfront “umbrella” graphic was developed for this purpose. The audience is large: citizens and businesses interested in and involved with working waterfronts; state and local governments who manage zoning and regulate working waterfronts; the Virginia Coastal Zone Management Program and NOAA who have a direct interest in working waterfronts; Congress who ultimately writes policy on Coastal Zone issues; and others. The Indirect Projects (blue boxes on the left of the umbrella illustration) are projects that were originally not directly intended for local (Virginia Coastal Zone) working waterfronts. However, the work done in these projects illustrated the need for working more directly on the working waterfront issues. The Direct Projects (peach boxes on the right of the umbrella illustration) build off of the indirect projects by directly researching the issues of and providing solutions for working waterfronts. This product is complete. The product is below with the projects described in chronological order.

WORKING WATERFRONTS: Northern Neck, Middle Peninsula, Hampton Roads, and Accomack-Northampton Planning District Commissions

Improving Working Waterfront (WW) in the Region
*becoming a voice for economic and policy associated with
Working Waterfront Issues*

Working Waterfront Strategies

INDIRECT PROJECTS

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| 2011 | NOAA/ EDA <ul style="list-style-type: none">• An effort to develop federal policy focused on creating community and economic tools for preserving WW.• VIMS Marine Advisory Services is partnering with the Island Institute to develop a national tool. |
| 2011 | MPCBPAA <ul style="list-style-type: none">• Shallow water dredging policy and financing |
| 2009 | MPPDC <ul style="list-style-type: none">•Funded through the Virginia Coastal Zone Management to develop new public policy to support and sustain aquaculture-working waterfront infrastructure |
| 2008 | MPPDC <ul style="list-style-type: none">•York River Use Conflict |

Additional Projects:

DIRECT PROJECTS

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| 2011 | VIMS Marine Advisory Services <ul style="list-style-type: none">• Received Section 309 funding from the Virginia Coastal Zone Management (CZM) Program to develop a WW Strategy for the NNPDC, MPPDC, HRPDC & A-NHPDC. <ul style="list-style-type: none">Phase I: 4 PDC's will...<ul style="list-style-type: none">a. Develop a definition for WWb. Inventory WW infrastructurePhase 2: 4 PDC's will... (2012) How Important is that piece? Comparison of infrastructure utilization region/water bodyPhase 3: 4 PDC's will... (2013) |
| 2011 | MPCBPAA <ul style="list-style-type: none">• Perrin River Commercial Seafood Harbor Master Plan funded through the VIMS Advisory Service Fisheries Resource Grant Program <ul style="list-style-type: none">In conjunction with the Harbor Master Plan, Virginia DEQ CZM funded the MPCBPAA to transfer and make improvements to Perrin Wharf. |
| 2011 | WW Coalition Project <ul style="list-style-type: none">Phase I: Regulatory and Tax Relief for the NNPDC, MPPDC, and A-NHPDCPhase 2: TBD (2012) |

Additional Projects:

Description of Individual Projects from the Working Waterfronts “Umbrella Diagram” Above

Indirect Projects (BLUE BOXES)

2008 MPPDC – York River Use Conflict

As the Middle Peninsula continues to transition from a less rural to a more suburban community, public policies that currently serve as management tools for near-shore land, public water bodies, and water use rights and privileges must adapt. Conflicts are becoming increasingly common between waterfront property owners, watermen, boaters, recreational fishermen, sportsmen, aquaculture industries, and others seeking to use the Commonwealth’s water resources. The historical balance between working waterfronts and residential development is shifting to predominantly residential waterfront. Infrastructure to support working waterfronts and the economic opportunities they provide is disappearing.

In response to this transition, the Middle Peninsula Planning District Commission (“MPPDC”) and its member localities, in partnership with Virginia Sea Grants’ Coastal Community Development Program and Virginia Department of Environmental Quality’s Coastal Zone Management Program, undertook a study to enable local governments to identify and determine the issues and conflicts that are affecting the waterfront. The study resulted in a report with recommendations for local government.

Guiding Principles and Recommendations from the York River Use report

- Develop a coastal living policy
- Identity the County’s land, air and water territorial boundaries
- Develop a policy to protect working waterfront infrastructure
- Create a waterfront outdoor lighting ordinance
- Develop an ordinance restricting floating homes
- Develop a Master Plan for Public Access infrastructure

2009 MPPDC – Public Policy for Aquaculture -Working Waterfront Infrastructure

The objective of this project was to ultimately question the need for public policy to sustain and enhance aquaculture-working waterfronts in Mathews County. To begin this endeavor MPPDC staff, with assistance from the County Administrator, created an Aquaculture Working Waterfront Steering Committee. Consisting of commercial and hobby oyster and clam farmers, county planners, and the maritime foundation within Mathews County, this committee identified current industry challenges, shared business models, and discussed how the aquaculture-working waterfront industry could be supported or enhanced by the County. Along with the information gathered from committee members,

MPPDC staff researched how other coastal communities in the United States have dealt with similar issues and organized a matrix of public policy options that could be feasible in Mathews County. MPPDC staff also conducted an economic assessment of the seafood and aquaculture-working waterfront industries to supplement Mathews County Board of Supervisors understanding of the current economic climate these industries within the county. And finally MPPDC staff worked to create an educational DVD, titled *Mathews Working Waterfront for the 21st Century*, which focused on the economic and cultural tradeoffs of community scenarios and specific public policy options that may enhance aquaculture and associated working waterfront industries.

Throughout this project, the Mathews Board of Supervisors was provided periodic updates, as well as a culminating presentation at their August monthly meeting. Though supportive of the direction the project was taking, the Board asked for public and private cost estimates associated with the new public policy options presented at the meeting.

Additionally, MPPDC staff worked with County Planners and their consultants to develop model comprehensive plan language that reinforces the County's commitment to strengthening the aquaculture industry and the preservation of working waterfront infrastructure.

2010 MPPDC – Floating Homes Study

In response to floating structures conflicts, the Middle Peninsula Planning District Commission (MPPDC) and its member localities, in partnership with the Virginia Coastal Zone Management Program and Virginia Sea Grants' Coastal Community Development Program, undertook a study to enable local governments to identify and determine the issues and conflicts that are associated with floating structures and coastal governance (#NA07NOS4190178 Task 93.01).

A Floating Home (floating structure) Study Committee was established in the spring of 2010 to consider the policy implications of floating structures from a local government perspective, as well as from the perspective of stakeholders, industry and the citizens of the Middle Peninsula Region. The intentions of the Committee was not to address the issue of whether or not floating homes should be an allowable, but rather how to manage floating structures, of any kind, that are not intended to be used as a vessel.

The Middle Peninsula Planning District Commission (MPPDC) requested information from the National Sea Grant Law Center on how states, other than Virginia, and localities regulate and manage floating homes within their respective jurisdictions. This information was required as part of the project in order to evaluate how local governments in Virginia might regulate floating homes.

The report from the Sea Grant Law Center as well as research from local county codes and ordinances about floating homes and similar structures was compiled into a document for the Study Committee's use in determining how to define floating structures. The Study Committee decided on three classifications of floating structures based on the research, and went on to recommend tools that are available to manage them.

2011 NNCBPAA and MPCBPAA Shallow Water Dredging

The Middle Peninsula Planning District Commission (MPPDC) partnered with the Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA), Virginia Marine Extension Program, and the U.S. Army Corps of Engineers to develop a Regional Shallow Draft Navigation and Sediment Management Plan that provides a matrix of channels designated as Federal Navigation Channels within the Middle Peninsula that will need to be maintained, the approximate cost of the project, as well as a recommended timetable to dredge channels within the Middle Peninsula. To supplement that report the MPCBPAA developed the guidance report to assist localities, as well as commercial property and/or private citizens with the execution of a shallow draft channel dredging projects (i.e. federally designated channels or non-federally designated channels).

This project was funded through the Virginia Coastal Zone Management Program at the Department of Environmental Quality through Grant #NA10NOS4190205 Task 44 of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, under the Coastal Zone Management Act of 1972, as amended.

2011 NOAA/EDA Preserving Working Waterfronts

VIMS Marine Advisory Services partnered with the Island Institute to develop a national tool, *The Sustainable Working Waterfronts Toolkit*. The Sustainable Working Waterfronts Toolkit is a web-based information portal that contains a wealth of information about the historical and current use of waterfront space, the economic value of working waterfronts, and legal, policy, and financing tools that can be used to preserve, enhance, and protect these valuable areas. The toolkit also features case studies of successful working waterfront initiatives from communities around the country. Sharing this information with stakeholders – including waterfront businesses and industry, waterfront landowners, users and residents, and planners and governments – is an essential first step toward increasing knowledge, awareness, and implementation of the range of tools and options that are available. The Sustainable Working Waterfronts Toolkit can be accessed via the National Working Waterfronts Network's website at www.WaterAccessUS.com.

Direct Projects (PEACH BOXES)

2011 MPCBPAA – Perrin River Seafood Harbor Master Plan

Through a VIMS Advisory Service Fisheries Resource Grant, the Middle Peninsula Chesapeake Bay Public Access Authority developed a Commercial Seafood Harbor Master Plan for the Perrin River. The plan assessed the issues involved with the zoning and infrastructure in the Perrin River and made recommendations for maintaining, developing, and preserving the harbor as a commercial seafood hub. The Gloucester County Board of Supervisors unanimously approved the plan in December 2012 and forwarded it to the Gloucester County Planning Commission to review it and recommend it for adoption and potential implementation.

In conjunction with the Harbor Master Plan, Virginia DEQ CZM funded the MPCBPAA to transfer and make improvements to the Perrin Wharf.

2011-12 VIMS Marine Advisory Services – WW Strategy for VA Coastal Zone

VIMS Marine Advisory Services received Section 309 funding from the Virginia Coastal Zone Management Program to develop a WW Strategy for the NNPPC, MPPDC, HRPDC and the A-NHPDC. This brought together the Coastal Regional PDCs in the Virginia Coastal Zone to develop a Working Waterfront Policy for Virginia, develop a consensus on the definition of a working waterfront, and inventory working waterfronts in the region. The three rural PDCs (NNPPC, MPPDC, and A-NHPDC) developed a Coalition to pursue further action in regard to Working Waterfronts in their regions.

2012-13 WW Coalition Projects – Case Studies and Summit

The Coalition of the three rural Coastal Regional PDCs in the Virginia Coastal Zone received funding to: 1) develop case studies of three or more closed or threatened working waterfronts in each region and; 2) organize a summit of stakeholders to discuss the challenges faced by Coastal Virginian's engaged in owning, managing or developing policy on issues related to working waterfronts. Product 2 of this report is the Case Study portion of the WW Coalition Projects, and the summit of stakeholders is being planned during 2013, with a projected summit date of January or February, 2014.