

MARINE RESOURCES

KEY FINDINGS

- 88% of survey respondents said proximity to the ocean is a major reason why they choose to live in Cape Elizabeth.
 - Commercial fishing continues to be a vital part of the Cape heritage and public access to marine waters must be maintained.
 - When recreational boat permits increase, potential conflicts for water access with commercial fisherman also increase.
 - The town's strict regulations should be maintained to protect marine wildlife habitat.
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The Town of Cape Elizabeth is surrounded on two sides by the Atlantic Ocean which begins at the Town's northeast municipal boundary with the City of South Portland and extends along the Town's easterly and southerly coastline terminating at the Spurwink River which represents the Town's westerly municipal boundary with the Town of Scarborough.

The residents of Cape Elizabeth value shoreline activities and consider accessibility to the Town's marine resources important. When asked why they chose to live in Cape Elizabeth, 88% of survey* respondents said proximity to the ocean is a major reason (second only to respondents who chose "quality of life"). A wide variety of users enjoy activities such as picnicking, sunbathing, and sightseeing to more strenuous activities such as walking, swimming, kayaking, paddle boarding / sailboarding, surfing, and scuba diving. This resource is also used for recreational boating and fishing. Marine resources are essential to the livelihood of the Town's commercial fishing and aquaculture industry.

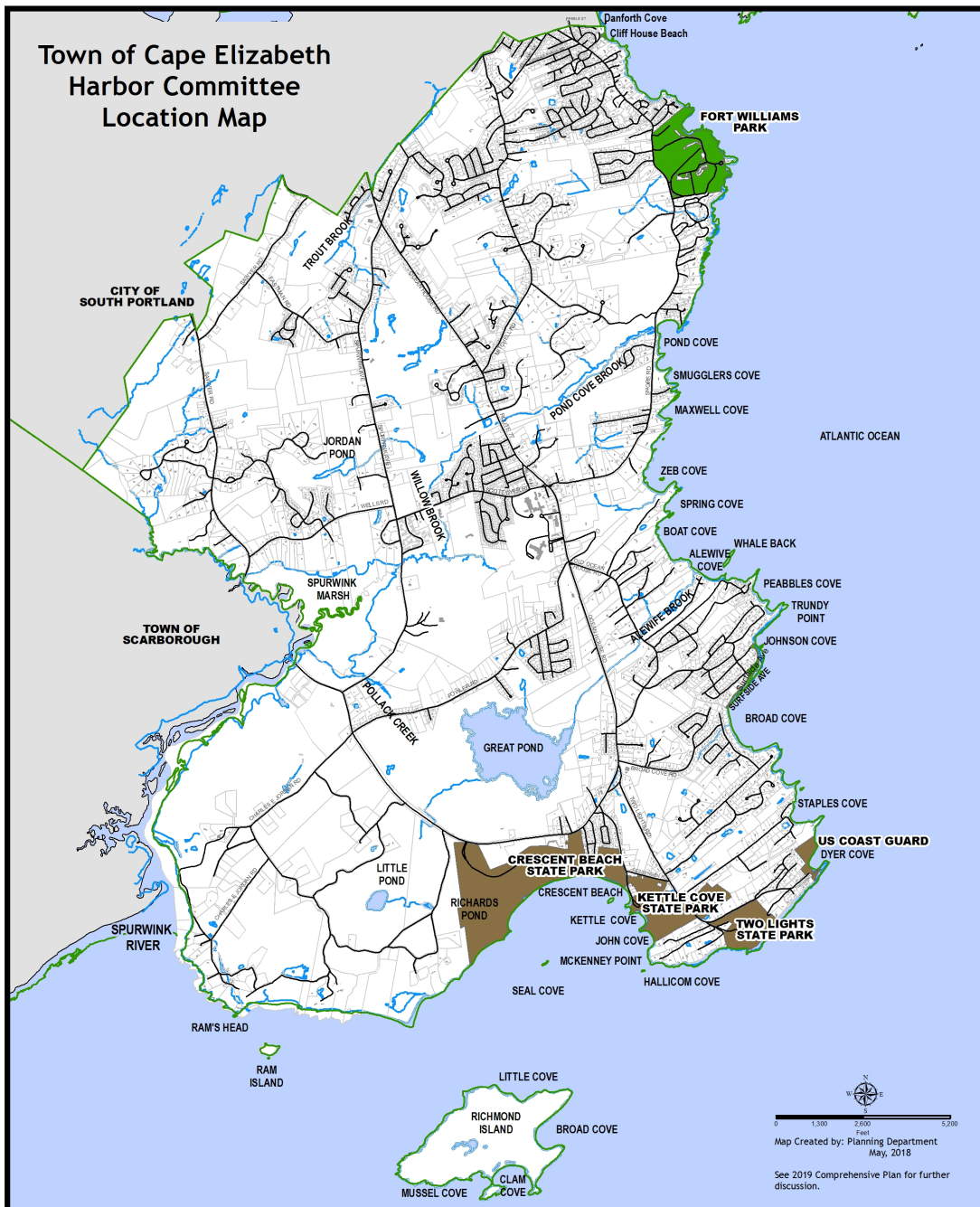
Tourism is also an essential element of the Cape Elizabeth shoreline. The Town owns and maintains Fort Williams Park which with its approximately 5,700 feet of coastline access and an iconic lighthouse is a destination for residents and visitors alike. (See Recreation and Open Space chapter).

*2016 Comprehensive Plan public opinion survey

Kettle Cove

The most significant public access point to marine waters for fishing is Kettle Cove State Park, which hosts a commercial fishing boat ramp. Kettle Cove State Park encompasses approximately 67 acres of coastal area with approximately 4,400 linear feet of shoreline. This park is accessed from Kettle Cove Road and includes a 67+/- space paved parking lot for users of the park. The park features

public beach access and commercial boat launches, a sandy beach area, and supports a variety of coastal activities and wildlife habitat. Despite its open exposure and often rough seas, a large mooring field is positioned here. The Town's commercial fishing fleet and the town's water extraction team (WETeam) also use Boat Cove within the state park limits for boat launching in marine emergency response situations.



See the Recreation and Open Space Chapter for a complete inventory of public access points.

Harbor Management and Moorings

The following map depicts the many coves along the mostly rocky coast of Cape Elizabeth. The Town of Cape Elizabeth does not contain any structural wharfs or piers to host marinas or launch boats. Additionally, there are no formal channels associated with the Cape Elizabeth coastline or harbors so there is no need for dredging in the waters of Cape Elizabeth. Commercial fishermen have historically held moorings at Kettle Cove, but some commercial fishermen also hold moorings off Crescent Beach. Moorings along the coves on the eastern shore are exclusively recreational and a majority are accessed from nearby private properties.

Currently, the Town conducts the administrative duties of the harbormaster position through its staff within the police department and provides a harbormaster presence on the water by sharing its harbormaster with the adjacent Town of Scarborough. While the Town of Scarborough employs the bulk of the harbormaster's time, this arrangement allows for the Town of Cape Elizabeth to have a certified enforcement officer with full arrest powers through the Maine Criminal Justice Academy. The harbormaster has access to several boats and being well-versed in marine law is able to respond appropriately to possible criminal and emergency situations. The Town of Scarborough also provides the harbormaster with an equipped response vehicle that can be used on calls in Cape Elizabeth.

By staffing the current harbormaster position in this fashion, the town has greatly improved both the functionality and the professionalism of the harbormaster role. Past harbormasters were not formally trained in law enforcement and were required to use their own boats to conduct their work. Further, past harbormasters operated with little supervision and provided very little documentation of their activities. By professionalizing the harbormaster position, the town now has greater control of the ongoing harbor activities and is in a much better position to respond to issues as they occur.

The Town of Cape Elizabeth administers moorings with its police department and its part-time harbormaster. According to town records, there were 59 registered moorings in 2017. By comparison, the 2007 Comprehensive Plan listed 104 registered moorings in 2006. The registered moorings generated \$3,000 in revenue in 2017. Mooring revenue over the past five-year period has averaged \$3,260 annually a low of \$2,250 in 2015 and a high of \$5,100 in 2016. The variation in revenue is likely due to fluctuations in the actual year in which mooring fees were collected versus variations in the actual number of moorings. The number of moorings by location were as follows:

Cape Elizabeth Moorings by Location

LOCATION	2017 MOORINGS	2006 MOORINGS	CHANGE
Alewife Cove	3	7	-4
Broad Cove	1	1	0
Cliff House Beach	3	3	0
Crescent Beach	14	32	-18
Kettle Cove	13	15	-2
Maiden Cove	10	19	-9
Ram Island	1	1	0
Staples Cove	5	9	-4
Pond Cove	1	1	0
Trundy Point	3	10	-7
Zeb Cove	5	6	-1
TOTAL	59	104	-45

Source: Cape Elizabeth Police Department

The number of moorings appears to have been significantly reduced over the past decade. There are a number of factors which may be involved with this situation. According to the town's police department, Maiden Cove is the only cove in town with a mooring waiting list, currently at five. Rather than this location being less popular for moorings, it is likely that the cove was historically too crowded so fewer moorings are now allowed. Likewise, the Crescent Beach area was once considered to be over-crowded so a reduction of moorings allowed in this location is also entirely likely.

Many recreational mooring locations are accessed entirely by nearby private residential properties. Therefore, the replacement use of these moorings is restricted from the overall general public due to accessibility limitations. So when past moorings are released, they can only be reactivated by people with access to the cove which may not readily occur.

Other possible theories for the reduction in moorings include that some moorings in the past may not have been actually in use, but had been continually carried on the mooring location list. Another possibility is that the past documentation was not accurately kept which has led to some discrepancies. Now that the harbormaster position has been elevated, and police department is now actively involved in the record keeping process, the mooring information will be much more reliable in the future.

Beach Permits

The town also administers beach permits through its police department and offers day, pleasure, and commercial passes to the Kettle Cove/Crescent Beach area where boats and other marine equipment can be launched. Day permits with a fee of \$5 are issued to non-residents and seasonal pleasure permits with a cost of \$25 are issued to residents. Pleasure permits and commercial permits are

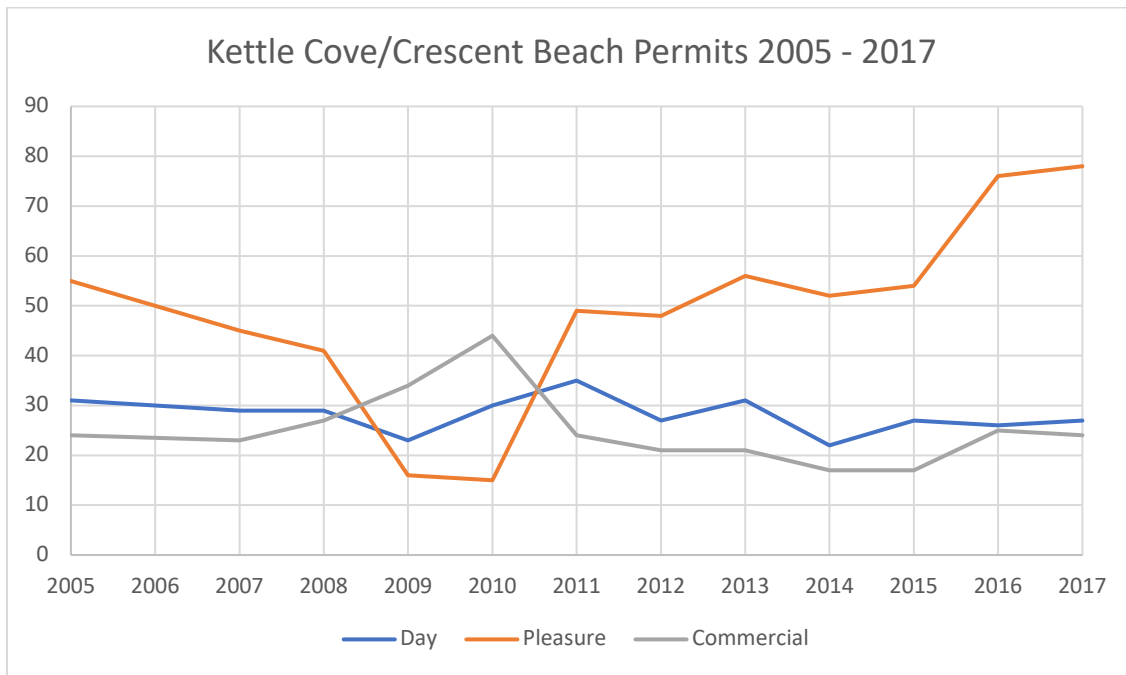
free to those that have moorings as this is the area where all of the town commercial fishing fleet is moored. For those without moorings, commercial permits are issued with a fee of \$25 for a resident and \$60 for a non-resident.

As can be seen in the permit table below, the number of commercial permits is down 20 from its decade high peak in 2010, but exactly the same as when the last comprehensive plan reporting was done in 2005. Meanwhile, the number of day passes has remained relatively stable over this period. The number of pleasure permits have risen dramatically over the past two years, however, so the total number of passes issued for the 2016 and 2017 years are 20% higher than the next highest level over the past 10 years and 16% higher than was reported in 2005.

Kettle Cove/Crescent Beach Permits 2005-2017

YEAR	DAY	PLEASURE	COMMERCIAL	TOTAL
2005 (from CP)	31	55	24	110
2007	29	45	23	97
2008	29	41	27	97
2009	23	16	34	73
2010	30	15	44	89
2011	35	49	24	108
2012	27	48	21	96
2013	31	56	21	108
2014	22	52	17	91
2015	27	54	17	98
2016	26	76	25	127
2017	27	78	24	129

Source: Cape Elizabeth Police Department



It appears that the day passes have remained relatively stable throughout the years, however, the number of pleasure and commercial permits have fluctuated. During the period of the economic recession years of 2009 and 2010, it is reasonable that the pleasure permits would have dropped significantly to reflect the times. Now that the economy has improved, the number of pleasure permits has risen accordingly.

The number of commercial permits have varied, but are at the same level as in 2005. The fluctuations may be associated with fishermen using Portland Harbor as a base and the changing conditions of the local fishing industry in southern Maine. Regardless, it appears that the Town of Cape Elizabeth's commercial fishing fleet continues to be sustainable.

Commercial fishing

Native americans and europeans were drawn to Cape Elizabeth to harvest fish, and that tradition continues today. The Maine Department of Marine Resources has historically tracked marine licensure information for various communities throughout the State. Six commercial fishing vessels, ranging in size from 16' to 38' in length are registered in Cape Elizabeth. A review of the changes in licensure levels from 2005 to 2016 indicated that the total number of permits have remained essentially steady, however, there was a noticeable drop in commercial licenses which has been primarily offset by an increase in noncommercial marine related licenses.

Marine Fish and Shellfish Licenses, 2016 and 2005

TYPE OF LICENSE	2016	2005	CHANGE
Commercial Fishing Crew (CFC)	8	8	0
Commercial Fishing Single (CFS)	6	2	4
Commercial Shellfish (CS)	1	0	1
Commercial Shellfish Under 18 (CSU)	1		1
Elver Dip Net (E0)	1		1
Lobster/Crab +70 (LCO)	1	6	-5
Lobster/Crab Apprentice (LA)	1	1	0
Lobster/Crab Class 1 (LC1)	19	20	-1
Lobster/Crab Class 2 (LC2)	16	28	-12
Lobster/Crab Class 2+70 (LC2O)	1		1
Lobster/Crab Class 3 (LC3)	8	6	2
Lobster/Crab Non Commercial (LNC)	44	35	13
Lobster/Crab student (LCS)	6	14	-8
Recreational Saltwater Fishing Operator (SWRO)	2		2
Recreational Saltwater Registry (SWR)	3		3
Scallop Diver with Tender (SDT)	1	1	0
Scallop Dragger (SD)	2	3	-1
Scallop Non Commercial (NCS)	1	3	-2
Seaweed (SW)	3	1	2
Total	125	128	-3

Source: State of Maine, Department of Marine Resources

The regulations currently in place makes it difficult to gain a new lobster / crab license with the limited entry system restrictions in both of the two zones that straddle Cape Elizabeth. It should be noted that the current regulatory system also incentivizes the student entry process by making it difficult to gain a new license. While the number of student licenses has decreased in Cape Elizabeth, this reduction may be due to cultural trends which tend to diminish the younger generations from entering the commercial fishing industry and the town's lack of a pier which other communities use to develop and foster the sustainability of their commercial fleet. While the drop in commercial licenses is a trend that is reflective across nearby states, Cape Elizabeth has been able to sustain a working waterfront.

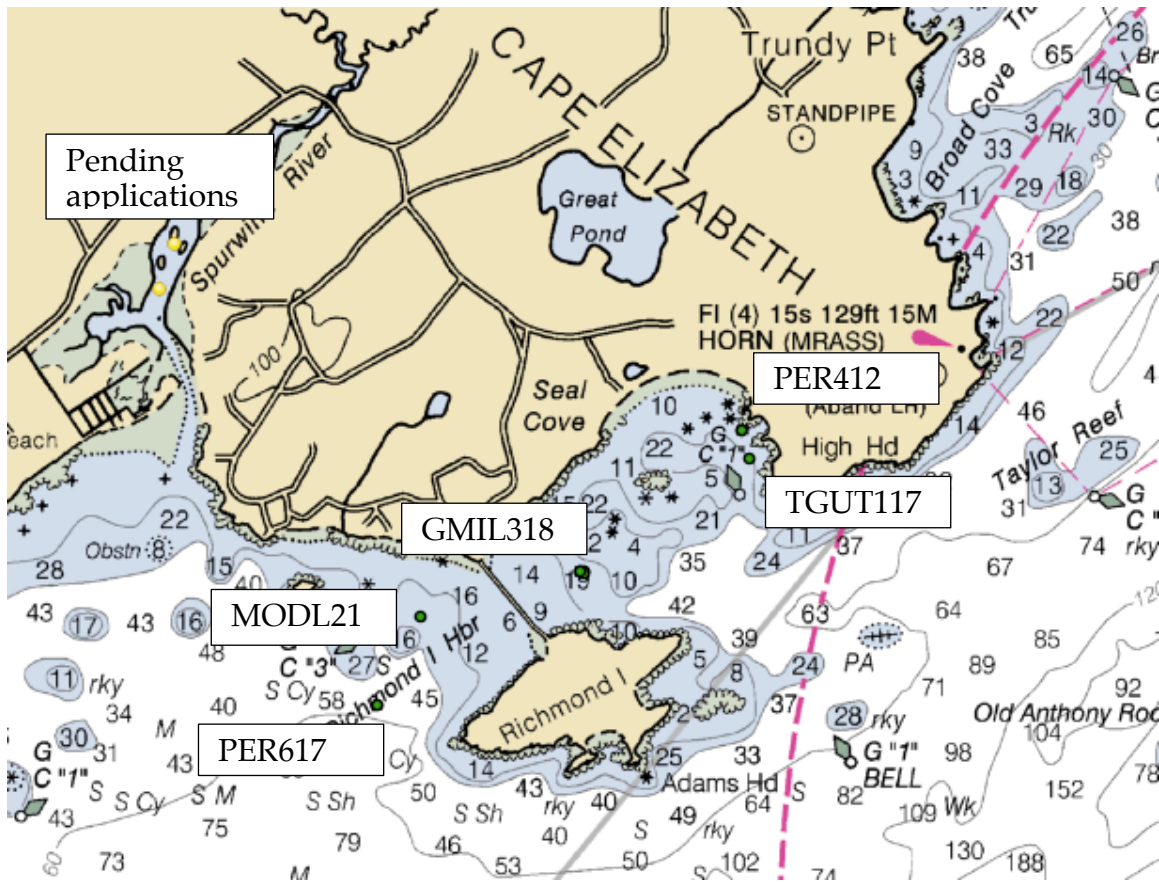
Aquaculture

The State of Maine has issued the following aquaculture permits for waters off the coast of Cape Elizabeth.

Site ID	Name	Species	Purpose	Width	Length	No	Gear Type	Assistants
PER412	Nathaniel Perry	Oyster (<i>Crassostrea virginica</i>)	Commercial	20	20	2	and/or cages of oyster bags on bottom	Ed Perry, Ben Perry, Jake Hall
TGUT117	Todd Gutner	American/Eastern Oyster (<i>Crassostrea virginica</i>)	Commercial	8	50	1	shellfish tray racks and overwintering cages, soft bags, semi rigid bags, and or floating	Greg Miller, Patrick Miller, Andrew Miller
GMIL318	Greg Miller	American/Eastern Oyster (<i>Crassostrea virginica</i>)	Commercial	8	50	6	shellfish tray racks and overwintering cages, soft bags, semi rigid bags, and or floating trays	Todd Gutner, Patrick Miller, Andrew Miller
MODL217	Matthew Odlin	American/Eastern Oyster (<i>Crassostrea virginica</i>)	Commercial	3	130	1	shellfish tray racks and overwintering cages,	David Soroka, Matt Anderson
PER617*	Nathaniel Perry	American/Eastern Oyster (<i>Crassostrea virginica</i>)	Commercial	1	290	2	Lantern nets and/or pearl nets and scallop	Edward Perry, Ben Perry, Matt Moretti

*Transfer permit required when moving stock from outside of LPA Health Zone. Specific biotoxin testing requirements at the cost of the grower are associated with any scallop product adductor muscle.

Aquaculture licenses have been issued in the following areas:



Most licenses are subtidal, which means that the site is underwater during mean low tide. If the site is not underwater, then it is considered within the intertidal zone. When a town has adopted a Shellfish Management Ordinance and created a Shellfish Committee, then the committee may regulate licenses in the intertidal zone. License review includes avoiding conflicts with other marine uses, such as clamming flats and recreational water users. Cape Elizabeth has not adopted a Shellfish Ordinance, so licensing is handled by the State of Maine.

When aquaculture activities are underway, there is a need for convenient all-tide access with space for a trailer. Land activities that pollute adjacent waters can result in closure of shellfish flats and longer periods of depuration needed for shellfish before it can be sold for human consumption.

Water Dependent Support Facilities

Cape Elizabeth has limited infrastructure supporting water dependent uses. All facets of mooring management and boat access has been comprehensively reviewed by the Harbors Committee, which completed its report in April, 2018.

In 2017, the Cape Elizabeth Town Council created the Harbors Committee which is an ad hoc committee organized to investigate among other charges, solutions to the functional situation in the Kettle Cove/Crescent Beach area. One of the main issues that the Harbors Committee studied is the limited area available for commercial fishermen to use the boat launch area of Boat Cove which is within the Kettle Cove State Park property controlled by the State of Maine. While the state prioritizes the exclusive use of this boat launch area to the commercial fleet and the town's WETeam, recreational users sometimes encroach upon this area which creates operational and safety issues diminishing the functional ability of the intended users of the launch to effectively use this area.

The commercial fleet relies on this launch area to gain access to the ocean to not only launch boats, but also to transfer gear and bring in their catch to transport to markets. While limited use of the nearby sandy beach area of Kettle Cove is sometimes made by commercial fishermen at non-peak periods of recreational use of the beach, these instances are rare and the nearby beach is not a suitable or reliable option for the commercial fleet.

Likewise, the Town of Cape Elizabeth WETeam relies on Boat Cove as its only suitable launch site in Cape Elizabeth. While the WETeam can use the nearby sandy beach area of Kettle Cove under ideal situations, the Boat Cove launch site is the only reliable area for the WETeam's use due to limitations often created by tide and surf conditions. The restricted gravel parking area of Boat Cove along with its limited suitable launch area further exacerbate any recreational use of these facilities.

Another issue related to the Kettle Cove/Crescent Beach area is the conditions related to the launch area promoted for the public. This public access is currently located along a narrow gap between two portions of the Crescent Beach landholdings by the State of Maine. It is located to the north of the state's Kettle

Cove parking lot and is accessed by a gap in the boulders which line the west side of Kettle Cove Road.

The relatively steep public use ramp is maintained by the town and often requires the replacement of gravel caused by the loss of material to wave action due to the ramp's open exposure to the ocean. The launch's proximity to residences across Kettle Cove Road often creates conflicts with the neighborhood residents when users prolong the unloading of equipment and the launching of recreational crafts or use the launch area inappropriately.

Further, an open drainage course which crosses the beach area nearby to the northwest of the launch site often temporarily erodes a channel which cannot be passed over by most recreational vehicles. This situation creates a very restricted area near the launch site for users and prevents the access of the much wider and protected sections of Crescent Beach to the west.

Boat Ramp improvements

The April 2018 Harbors Committee Report to the Town Council, the local Cape Elizabeth Fishermen's Alliance (CEFA), and residents of the town have proposed a relocation of the existing town public beach access to a historical boat launching area further to the northwest off of Kettle Cove Road. The use of the boat launch was curtailed many years ago due to its improper activities and access to the area is now currently restricted by a series of large boulders placed by the state along the west side of Kettle Cove Road. It is believed that the gravel placed for the original launch area is predominately still in place and is now overgrown with vegetation.

State of Maine representatives indicated that the state would endorse the effort to move the public vehicle beach access and would not impede its progress, however, any improvements to reuse it would need to be funded by the town. Further, the improvements would need to be engineered and properly permitted. To do so, there would need to be a comprehensive agreement between the state and the town that stipulates each party's responsibilities. That agreement would then need to be followed by an easement which would allow the town to construct and maintain the improvements as well as operate the boat launch.

If this change were pursued, the existing boat launch could be utilized as a pedestrian-only access point to that section of Crescent Beach and vehicular use of the current launch would then be prohibited. The town should devise a means through stairs, vehicle barriers, and signage to clearly demonstrate the location of the access and its purpose in providing pedestrian access to the beach area. In doing so, the rights of the public to access and enjoy the beach area would be clearly identified and enhanced by providing a safe, year-round means to readily access the beach by foot.

The clear separation of uses and proper signage stipulating these uses would resolve much of the conflict within the Kettle Cove/Crescent Beach area. By providing an improved public beach access and launching capabilities, the public

users would be more inclined to use the more accessible public area and less apt to attempt to use the more restrictive Boat Cove launch area, which should be limited to commercial users and the town's WETeam. By moving the public vehicle beach access area to the northwest, conflicts with the drainage channel would be mitigated. In addition, the new public beach access location would create a buffer between boat launch activities and the nearby residential homes along Kettle Cove Road.

Finally, while the town recognizes that the state currently does not intend to restrict either the commercial fishing fleet or the town's WETeam from using the launch area at Boat Cove, there is no definitive easement in place with those access rights being clearly documented and recorded. Recognizing the disastrous effect that a restriction or limitation of use would place on the town's commercial fishing community and its water related emergency response abilities, the town should negotiate with the state to obtain a recorded easement for the continued and unabated rights of its commercial fleet and WETeam to utilize the Boat Cove launch area.



High Value Plant and Animal Habitat

According to the Maine Department of Inland Fisheries & Wildlife provided mapping, the shoreline of Cape Elizabeth offers high value plant and animal habitat. Beginning in the northern portion of the town at Danforth Cove and then

along the shoreline of Fort Williams Park is located habitat for harlequin duck, which is a threatened species. Fort Williams Park also offers habitat for the endangered new england cottontail rabbit.

Moving further to the south beyond Broad Cove, past Trundy Point and around Dyer Cove, and then along the southern shoreline associated with Two Lights State Park and Kettle Cove State Park are areas of habitat for harlequin duck and large swaths of the new england cottontail rabbit habitat.

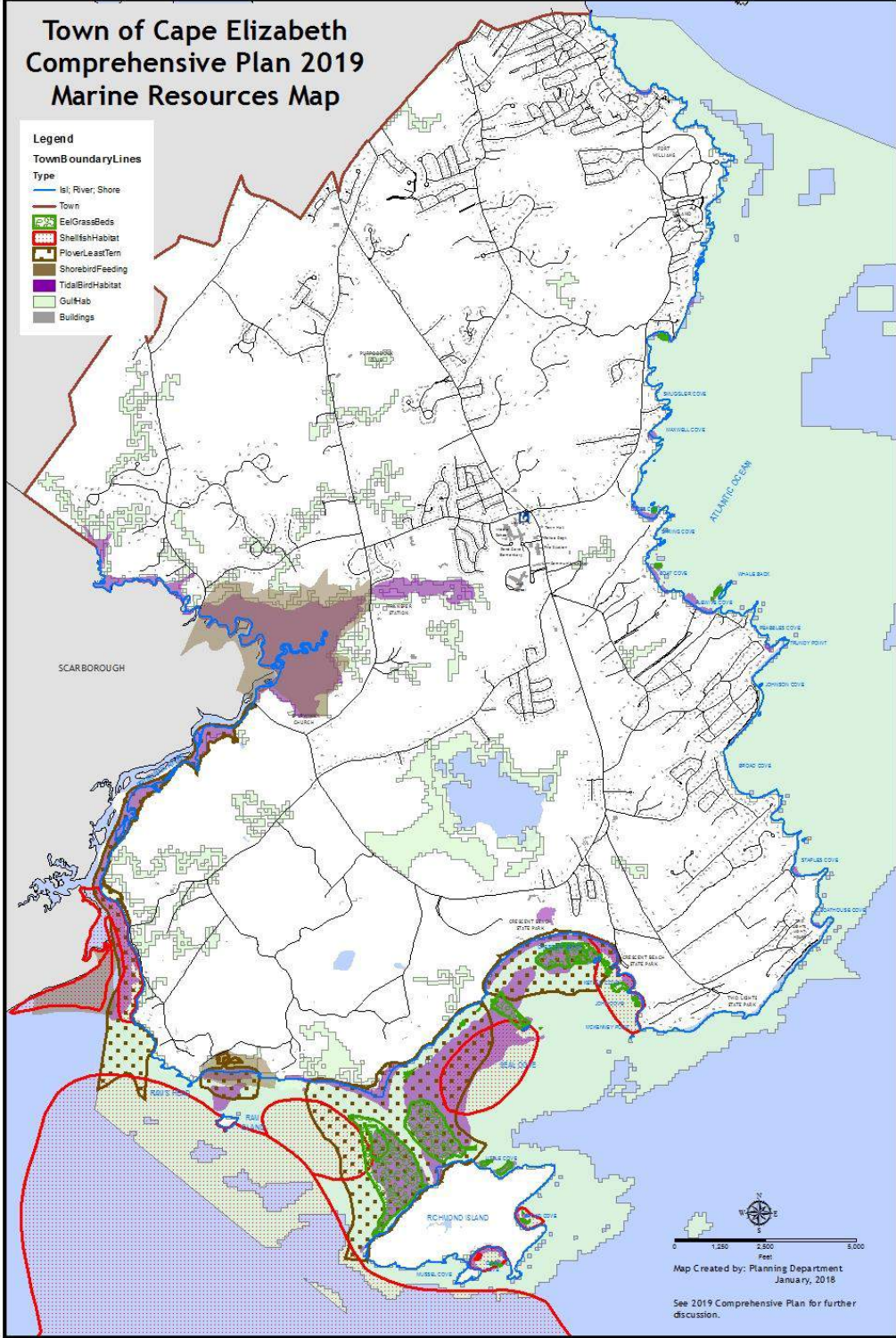
Once along the coastline of Crescent Beach on the southerly shore, shorebird habitat extends for the endangered piping plover. A pitch pine dune woodland natural community is located westerly of the Crescent Beach State park parking lot. Further to the west extending toward the Spurwink River are dune grassland natural communities, additional piping plover habitat, and a pocket of habitat for the endangered beach plum species.

There is limited activity for shellfish harvesting along the coastal areas associated with the Spurwink River, however, most of these activities predominately occur on the Town of Scarborough side of the river. There is very little private or public development near the areas associated with this shellfish harvesting, so development activities currently do not impact this area, nor is it anticipated to be a factor in the future as any potential development in these areas would be closely regulated by both the municipalities of Scarborough and Cape Elizabeth.

Clearly, the shoreline of Cape Elizabeth particularly in the southwesterly area offers essential habitat of considerable value. Contributing to the ability of these habitats to thrive is the sparse development in this portion of town and the town's stringent wetland and coastline zoning which further protects plant and animal habitats from impacts of development. The Town's municipal Shoreland Zoning regulations have been found consistent by the Maine Department of Environmental Protection (DEP) with the state mandatory shoreland zoning regulations and the local wetland regulations are considered a model for local level resource protection.

Town of Cape Elizabeth Comprehensive Plan 2019 Marine Resources Map

- Legend**
- TownBoundaryLines**
- Type
- IsL, River, Shore
 - Town
 - EelGrassBeds
 - ShellfishHabitat
 - PloverLeastTern
 - ShorebirdFeeding
 - TideBirdHabitat
 - GulfHab
 - Buildings



Marine Resources Goals

Goal 1: The town shall protect and enhance exclusive commercial fishing boat access at the designated commercial fishing boat access at Kettle Cove.

Recommendations:

1. Implement the recommendations in Goal 2 to provide improved recreational boat access in order to minimize instances where recreational boats are using the commercial boat only access.
2. Restrict parking and use of the turnaround area near the commercial boat launch to the exclusive use of the commercial fishing fleet and the WETeam. Signage, enforcement and education efforts shall be used to implement this restriction.
3. Obtain from the State of Maine an easement for the uninterrupted use of Boat Cove by the Town's commercial fishermen and WETeam.

Goal 2: The town shall advocate for and support construction of improved recreational boat access facilities at Kettle Cove.

Recommendations:

4. Obtain an easement from the State of Maine that would allow the town to construct and maintain the improvements and then operate the new public vehicle beach access site at the historical location accessed from Kettle Cove Rd.
5. Plan, design, permit, construct, maintain, and operate the new public vehicle beach access area while repurposing the existing beach access area to provide safe pedestrian-only access to Crescent Beach.

Goal 3: The town shall encourage and participate in a coordinated management of the Kettle Cove/Crescent Beach area with parties including the State of Maine, town police department, and shared harbormaster with the Town of Scarborough.

Recommendations:

6. Continue collaboration between the town's police department and the State of Maine in providing enforcement in the Kettle Cove/Crescent Beach area.
7. Continue to share the harbormaster with the Town of Scarborough.
8. Encourage the State of Maine to share and promote their management goals and priorities for the Crescent Beach, Kettle Cove, and Two Lights State Park and schedule periodic management coordination meetings.

9. Incorporate the June 2015 “Cape Elizabeth Sea Level Rising Vulnerability Assessment” report as prepared by the Greater Portland Council of Governments in all water access improvements.
10. Expand the mooring section posted on the town website to include information on current conditions, policies, and links to mooring maps so that users can access information on specific mooring locations and permit status.
11. Incorporate into town council practice a review of shoreline and harbors related issues a minimum of once every 10 years.

Goal 4: The town should protect vulnerable natural resources along the coast.

Recommendation:

12. Retain the current stringent shoreland zoning and resource protection district zoning regulations.