



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: April 10, 2008
Comment Deadline: May 9, 2006
Corps Action ID #:200001602

All interested parties are hereby advised that the Wilmington District, Corps of Engineers (Corps) has received an application for work within jurisdictional waters of the United States. Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at www.saw.usace.army.mil/wetlands.

Applicant: Olde Towne Yacht Club.
c/o Mr. Jim Bailey
5113-B Arendell Street
Morehead City, North Carolina 28557

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 10 of the Rivers and Harbors Act of 1899.

Location

The project site is located at 100 Olde Towne Yacht Club Drive, on Radio Island, Carteret County, North Carolina. The property is located adjacent to and south of Morgan Creek and west of Bulkhead Channel.

Existing Site Conditions

According to information provided by the applicant, the property encompasses approximately 2.66 acres (116,000 sf) and averages 10 feet above mean sea level. The property has approximately 890 linear feet of shoreline adjacent to Bulkhead Channel/Morgan Creek. Existing high ground structures on the site include a condominium and a marina facility with 95 wet slips. The Carteret County zones this property as PD (Planned Development).

Site History

The following information was provided by the applicant and supplemented with information from previous permit applications for this project. In 1998, the Olde Towne Yacht Club was issued a CAMA Major Permit (#107-84) and Corps Section 10/404 permit (Action ID 199800287) for development of the marina facility. This original permit was modified numerous times to authorize the construction of a 128-slip dry stack storage facility, clubhouse, swimming pool, 44 wet slips, a launching ramp, fuel facilities, bulkhead, wave attenuator, parking, and other marina amenities.

The applicant has submitted numerous permit modification requests on this project. The following is summary of these requests. On June 21, 2000, the applicant applied to convert the high ground use from a dry stack storage facility to a 50-unit residential hotel and to add 64 additional wet slips to the 44 existing slips, 2,916 cubic yards (cy) of excavation of the shallow water adjacent to southernmost bulkhead, and 131 parking spaces for the marina, residential hotel, and clubhouse. This application proposed to delete the dry stack storage (and replace with proposed hotel), the launching ramp, loading dock, and septic field. Additionally, this application proposed construction of an offsite water supply and offsite wastewater treatment and disposal facility located on land owned by North Carolina State Ports Authority (NCSPA) property adjacent to Marine Drive. The applicant proposed to lease this property from the NCSPA. In 2001, the applicant was issued a CAMA Major Permit (#131-98) and a Corps General Permit, GP1980000291 to dredge 26,250 square feet (sf) of non-vegetated waters and construct 64 new wet slips, for a total of 128 slips, at Olde Towne Yacht Club Marina. On May 15, 2001, the applicant was issued a Notice of Violation for dredging outside the approved dredging window. This violation was resolved June 5, 2001. On August 4, 2001 the Corps received the applicant's request for another permit modification to install six boatlifts within six existing slips, 1D, 12D, 14D, 1E, 2E, and 4E. On November 27, 2001, the Corps approved the applicant's permit modification request to relocate the existing wave attenuator on Dock "B" and shorten the wave attenuator on Dock "E", reduce the number of boat slips from 108 to **95**, and construction of a new wooden deck. On July 25, 2002, the Corps approved the applicant's permit modification request to install a finger pier in slip #D-14. On July 25, 2002, the Corps approved the applicants permit modification request to perform emergency maintenance dredging during the dredging moratorium. On August 14, 2003, the Corps approved the applicants permit modification requests to construct a 20' x 62' building expansion, a deck, and a walkway. On March 29, 2004 and April 28, 2005, the Corps approved the applicant's request to renew the Corps permit and the permit was extended to December 31, 2005. On March 24, 2006, the Corps approved the applicant's request to renew the Corps permit and the permit was extended to December 31, 2007. On October 30, 2006, the Corps approved the applicant's request to extend the 4' finger dock at slips B9 and B20. On November 26, 2007, the Corps received the applicant's permit modification requests to add two additional slips to the existing wave attenuator on Dock "B". By email dated November 26, 2007, the Corps denied this request due to the proposed encroachment into the 80 foot Federal Channel Setback and navigation concerns. On March 13, 2008, the Corps received a second permit request from the applicant to add these two additional slips.

Applicant's Stated Purpose

The applicant's stated purpose of the project is to allow the designation of two permanent slips on the east side of Dock "B" and increase the total number of slips at the Olde Pointe Yacht Club from 95 to 97.

Project Description

The applicant proposes to permanently designate two slips located on the east side of Dock "B" along the existing wave attenuator. No additional pilings are proposed since the boats will dock along the wave attenuator. No construction is proposed.

Anticipated Impacts

The proposed slips would permanently encroach into the 80 foot Federal Channel Setback and violate the Wilmington District's policy on setbacks along Federally authorized channels. Additionally, the Olde Towne Yacht Club is located in a Federal No Wake Zone.

Federally authorized and maintained navigation channels are those channels the construction, improvement or maintenance of which are authorized by Congress; marked by the Federal Government; and maintained by the U.S. Army Corps of Engineers. Navigable capacity is the ability of the channel to accommodate the movement of waterborne commerce and the public rights of navigation for which the Federal channel was designed and authorized. The Federal channel setbacks are designed to ensure there is sufficient clearance for dredging the navigation channel.

The proposed encroachments into the Federal setback at the Olde Towne Yacht Club could result in unreasonable interference with navigation and jeopardize the Corps ability to protect navigation in this channel. A Notice To Mariners will also be issued by the Coast Guard to solicit comments regarding this project's affect on safety in the Federal navigation channel.

Other Required Authorizations

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ

Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 2321 Crabtree Boulevard, Raleigh, North Carolina 27604. Attention: Ms Cyndi Karoly by May 2, 2008.

The applicant has not provided to the Corps, a certification statement that his/her proposed activity complies with and will be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2(b)(2), the Corps can not issue a permit for the proposed work until the applicant submits such a certification to the Corps and the North Carolina Division of Coastal Management (NCDCM), and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project may adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service. These impacts to EFH include destruction of habitat at the dredge site, siltation plums, erosion and sedimentation issues, time frame work is performed (fish moratoriums) and water quality issues.

Cultural Resources

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

Endangered Species

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined there may be species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. A final determination on the effects of the proposed project will be made upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, May 9, 2008. Comments should be submitted to Dave Timpy, Project Manager for this project.

Applicant: Olde Towne Yacht Club.
C/o Mr. Jim Bailey
5113-B Arendell Street
Morehead City, North Carolina 28557

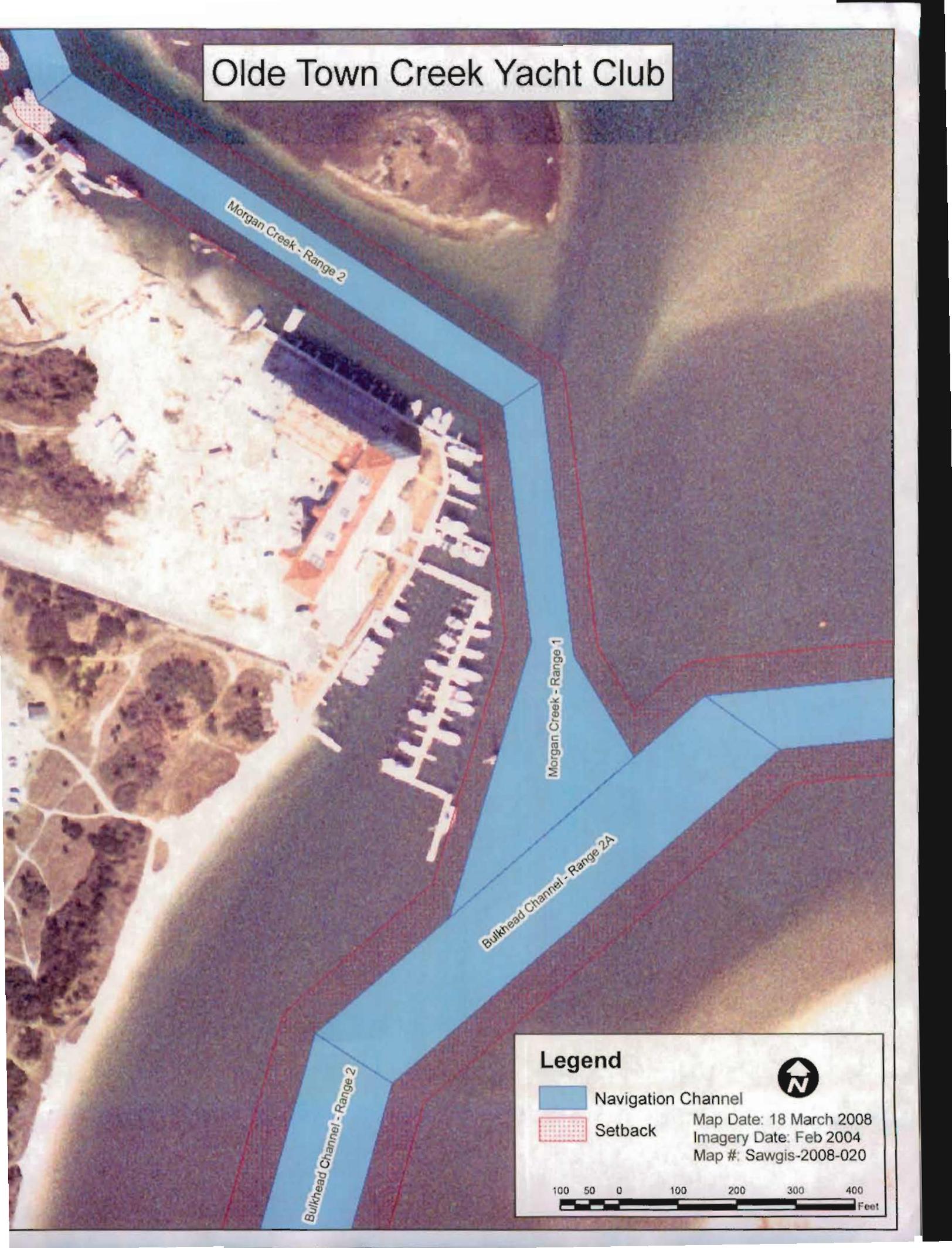
Proposed Work: The applicant proposes to permanently designate two slips located on the east side of Dock "B" along the existing wave attenuator. No additional pilings are proposed since the boats will dock along the wave attenuator. No construction is proposed.

No. Cys. Mailed To

Lists of addresses that requested All NC Public Notices and Addresses
Receiving Notices for Wilmington Field office

- 1 U.S. Representative Walter B. Jones, 1605 Longworth House Office
 Building, Washington, DC 20515
- 2 Mr. Ronald Mikulak, EPA, Atlanta, GA
- 15 Doug Huggett, North Carolina Division of Coastal Management, 400
 Commerce Avenue, Morehead City, North Carolina 28557
- 1 Postmaster, Town of Beaufort, North Carolina 28516
- 1 Postmaster, Morehead City, North Carolina 28557
- 1 Dave Timpy, Wilmington Regulatory Field Office
- 1 Ron Sechler, National Marine Fisheries
- 1 Pete Benjamin, U.S. Fish and Wildlife Service
- 1 North Carolina State Ports Authority, P.O. Box 9002, Wilmington, NC 28401
- 1 Radio Island Development Co., LLC, 5113-B Arendell Street, Morehead City,
 NC 28557
- 1 Jones Coastal Consulting, Inc, 296 Bay Drive, Smyrna, NC 28579
- 5 Extra

Olde Town Creek Yacht Club



Morgan Creek - Range 2

Morgan Creek - Range 1

Bulkhead Channel - Range 2A

Bulkhead Channel - Range 2

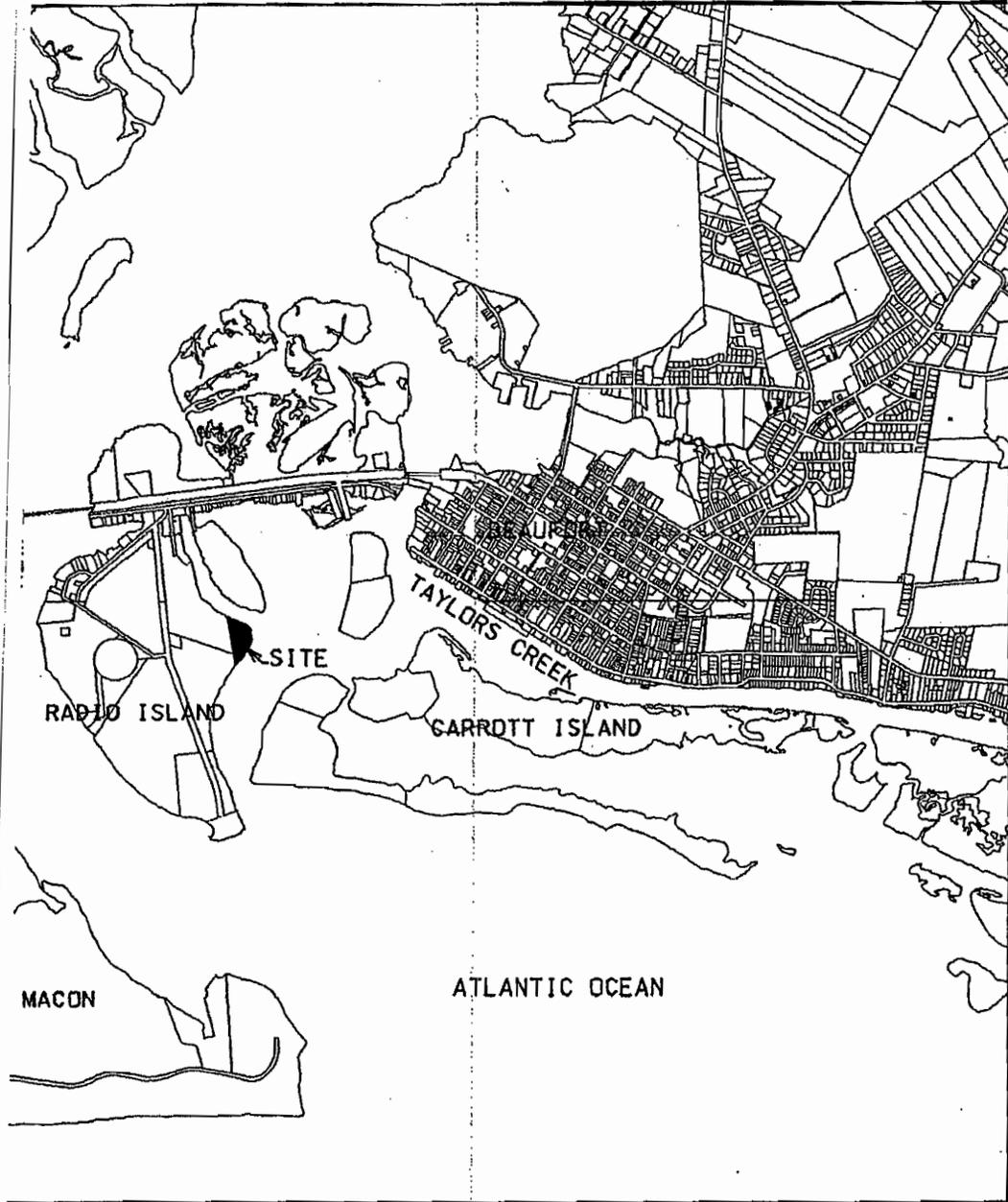
Legend

-  Navigation Channel
-  Setback

Map Date: 18 March 2008
Imagery Date: Feb 2004
Map #: Sawgis-2008-020

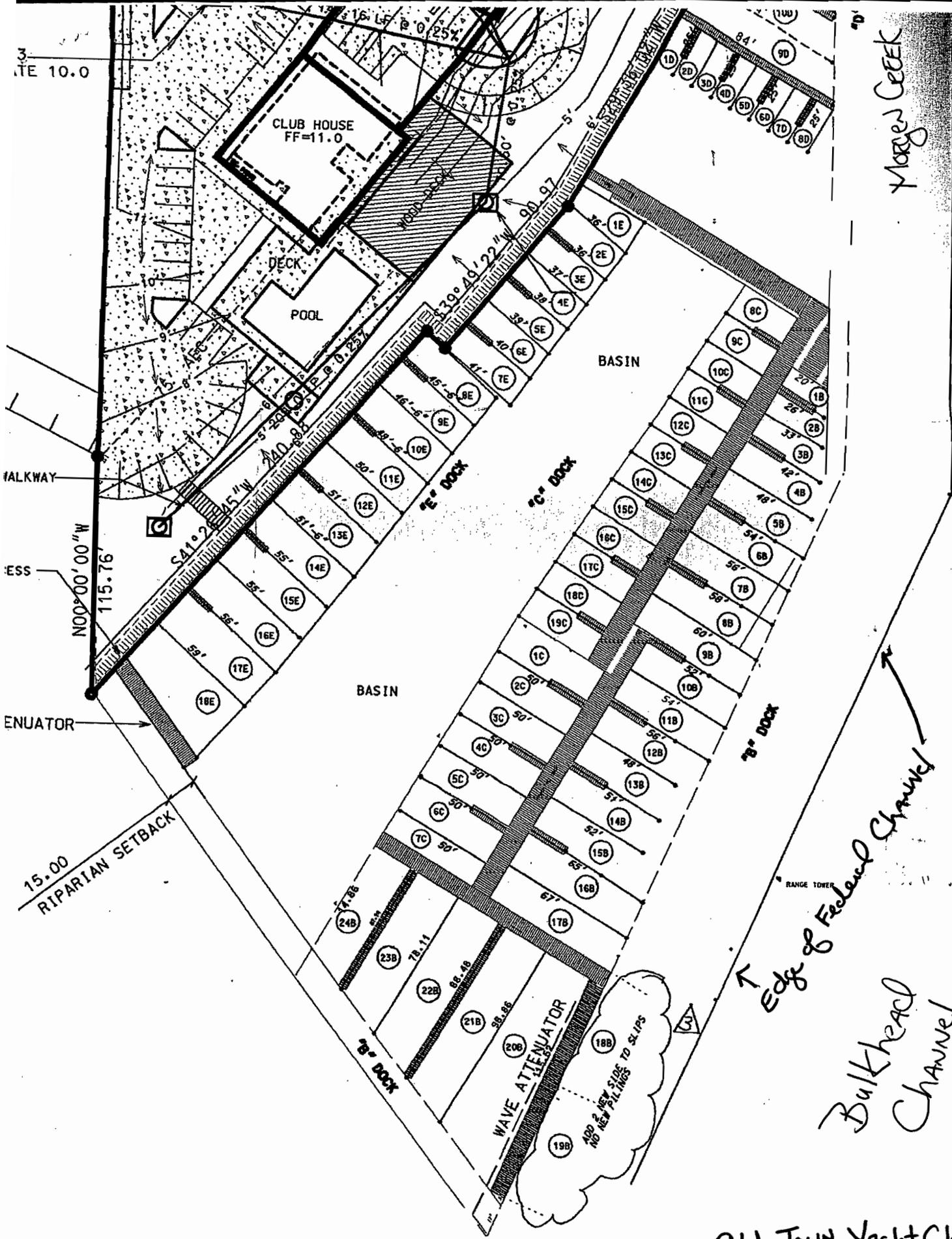
100 50 0 100 200 300 400 Feet





VICINITY MAP

Olde Town Yacht Club
Sheet 1 of 2



Morgan Creek

Edge of Federal Channel

Bulkhead Channel

Olde Town Yacht Club
Sheet 2 of 2