US Army Corps of Engineers
Alaska District

KENAI FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
44669 Sterling Highway, Suite B
Soldotna, Alaska 99669-7915

Public Notice of Application for Permit

PUBLIC NOTICE DATE:	**July 28, 2020**
EXPIRATION DATE:	**August 27, 2020**
REFERENCE NUMBER:	**POA-2015-00197-M1**
WATERWAY:	**Portage Cove**

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States (U.S.) as described below and shown on the enclosed project drawings.

All comments regarding this Public Notice (PN) should be sent to the address noted above. If you desire to submit your comments by email, you should send it to the Project Manager's email at: Benjamin.L.Polley@usace.army.mil. All comments should include the PN reference number listed above and reach this office no later than the expiration date of this PN to become part of the record and be considered in the decision. Please contact Mr. Polley by email or at 907-753-2627 if further information is desired concerning this notice.

APPLICANT: Mr. Greg Schlachter, Front Street LLC

LOCATION: The project site is located within Section 35, T. 30 S., R. 59 E., Copper River Meridian; USGS Quad Map Skagway A-2, Haines Townsite, Block 21; Lots 17-19, at the intersection of North Front Street and Union Street, in Haines, Alaska

PURPOSE: The applicant's stated purpose is to expand the current pad for marine vessel storage and maintenance.

PROPOSED WORK: To discharge 14,295 cubic yard of 12-inch minus material and 400 cubic yards of coarse shot rock into 0.72 acres of intertidal area below the High Tide Line (HTL) 21.2 feet above the Mean Lower Low Water (MLLW) 0.00-foot contour of Portage Cove, a navigable water of the U.S., in order to expand existing vessel storage/maintenance operations. All work would be performed in accordance with the enclosed plan (sheets 1-5), dated July 23, 2020.

ADDITIONAL INFORMATION: The applicant reports that a Land Use Permit from the Haines Borough was applied for in May 2019.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the U.S. from activities involving discharges of dredged or fill material.

a. Avoidance: In their application, the applicant indicates that avoidance is not possible due to a lack of practicable alternatives.

b. Minimization measures proposed by the applicant:

- Erosion of the core fill (dredged material), will be mitigated by constructing a berm which will be placed around the perimeter of the core fill. The berm will be constructed using class I riprap as the inner lens with class III riprap as the outer lens (a total of 4 ft thick). This rock will contain the material from escaping the fill area. Depending upon the material encountered, if additional protection is necessary with use of a riprap liner, it will be provided/installed. A riprap liner will be available and on-site during construction.
- Armor rock, used in the rubble mound, has been known to improve marine habitat and will be the preferred alternative over concrete blocks or sheet pile construction.
- Work in waters of the U.S. will be conducted in accordance with the terms and conditions of the Corps of Engineers (Corps) permit, if issued.
- Placement of armor rock and fill will occur during lower tidal cycles to avoid or minimize in-water work. Armor rock used for the authorized work will be clean, free from pollution in toxic amounts. Armor rock will be free of fine sediments to the extent practicable, to reduce suspended material from entering the water column during tidal cycles.
- A Hazardous Materials Control plan (HCMP) for handling, storage, cleanup, and disposal of petroleum products and hazardous materials needed for the project. Front Street LLC will provide and maintain a hazardous waste clean-up kit on-site at all times.

c. Compensatory Mitigation statement as provided by the applicant:

The 0.72 acres that will be filled for this project have an un-vegetated sand and cobble bottom. The riprap used in the armor rock provides a medium for marine vegetation to grow, and interstitial spaces for migrating salmonids, thus creating 0.23 acres of high value marine habitat.

Front Street LLC will use riprap for the rubble mound as opposed to concrete block construction or sheet pile construction.

Front Street LLC has previously proposed the following compensation for the loss of intertidal habitat, and would again consider the following:

- Provide Alaska Chilkat Bald Eagle Preserve with 3.25 acres of the Porcupine Point Pond (26 Mile, Haines Highway), the entirety of the portion privately owned, for restoration as wetlands. If they are unwilling to take the property, land owner will place a deed restriction specifying the sole use for preservation and restoration of the property.
- Provide Alaska Chilkat Bald Eagle Preserve with adjacent privately-owned, delineated high value wetland, which we estimate to be 1-1.5 acres.

In previous discussions with Takshanuk Watershed Council and Southeast Alaska Watershed Coalition, the Porcupine Pond has been deemed a high quality restoration project, as well a priority for both councils. Although the Haines region does not have a watershed assessment, this restoration project is considered a watershed priority.

Intertidal areas in need of restoration are challenging to find in the Haines area, this is why we've proposed wetlands above the HTL for compensatory mitigation.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no cultural resources in the permit area or within the vicinity of the permit area. The permit area has been determined to be the footprint of the proposed fill in waters of the U.S. Consultation of the AHRS constitutes the extent of cultural resource investigations by the Corps at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Potential to Cause Effects determination for the proposed project. Consultation with the State Historic Preservation Office (SHPO) is not required, however, any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: The project area is within the known or historic range of the Humpback whale (*Megaptera novaeangliae)* and Western Distinct Population Segment of Steller sea lions (*Eumetopias jubatus)* and within proposed Critical Habit for Humpback whales.

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (NMFS) is required. However, any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

The project area is within the known range of the Chinook (*Oncorhynchus tshawytscha*), Chum (*Oncorhynchus keta*), Coho (*Oncorhynchus kisutch*), Pink (*Oncorhynchus gorbuscha*), and Sockeye (*Oncorhynchus nerka*) salmon.

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This PN serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

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 and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore 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 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(l) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

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 and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the United States – Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

Project drawings and a Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures

MICHAEL J. DUNLEAVY, GOVERNOR

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
Wastewater Discharge Authorization Program (WDAP) / 401 Certification

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WDAP/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-6285 | EMAIL: dec-401cert@alaska.gov

NOTICE OF APPLICATION
FOR
STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice (PN) Reference Number **POA-2015-00197-M1, Portage Cove**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

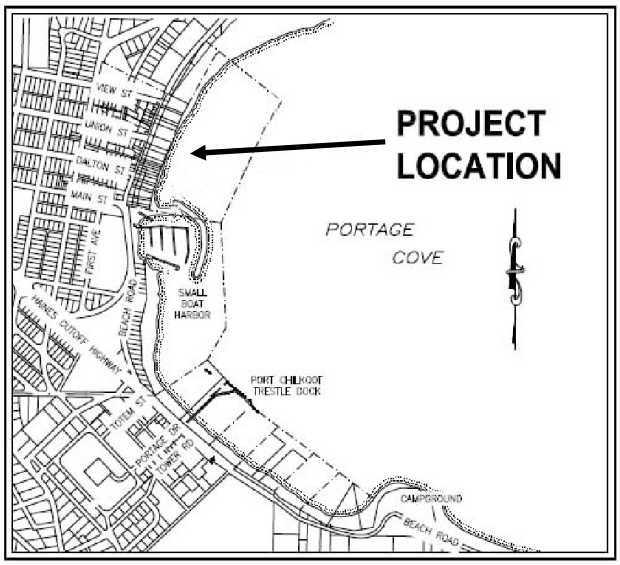
Any person desiring to comment on the project with respect to Water Quality Certification, may submit written comments to the address above or via email to dec-401cert@alaska.gov by the expiration date of the Corps of Engineer's Public Notice. All comments should include the PN reference number listed above. Mailed comments must be postmarked on or before the expiration date of the public notice.

Disability Reasonable Accommodation Notice

The State of Alaska, Department of Environmental Conservation complies with Title II of the Americans with Disabilities Act of 1990. If you are a person with a disability who may need special accommodation in order to participate in this public process, please contact Kate Orozco at 907-465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 within 5 days of the expiration date of this public notice to ensure that any necessary accommodations can be provided.

LOCATION MAP

SOUTHEAST ALASKA



VICINITY MAP

SCALE (FEET)
0 750 1500

TIDAL DATA
HIGHEST OBSERVED WATER LEVEL (APPROX.) = 26.1 FEET
EXTREME HIGH WATER = 22.5 FEET
HIGH TIDE LINE = 21.2 FEET
MEAN HIGH WATER = 15.8 FEET
MEAN LOWER WATER = 1.6 FEET
MEAN LOWER LOW WATER = 0 FEET
MEAN LOWER LOW WATER (MLLW)
LOWEST OBSERVED WATER LEVEL (APPROX.) = −6.7 FEET

FROM: NOAA NOS/CO-OPS STATION ID: 9452400 SKAGWAY, ALASK

Sheet No.	Title
1 of 5	Cover Sheet & Maps to Site
2 of 45	Overall Concept
3 of 5	Site Plan from 12.0'-21.2'
4 of 5	Site Profile
5 of 5	Riprap Illustration

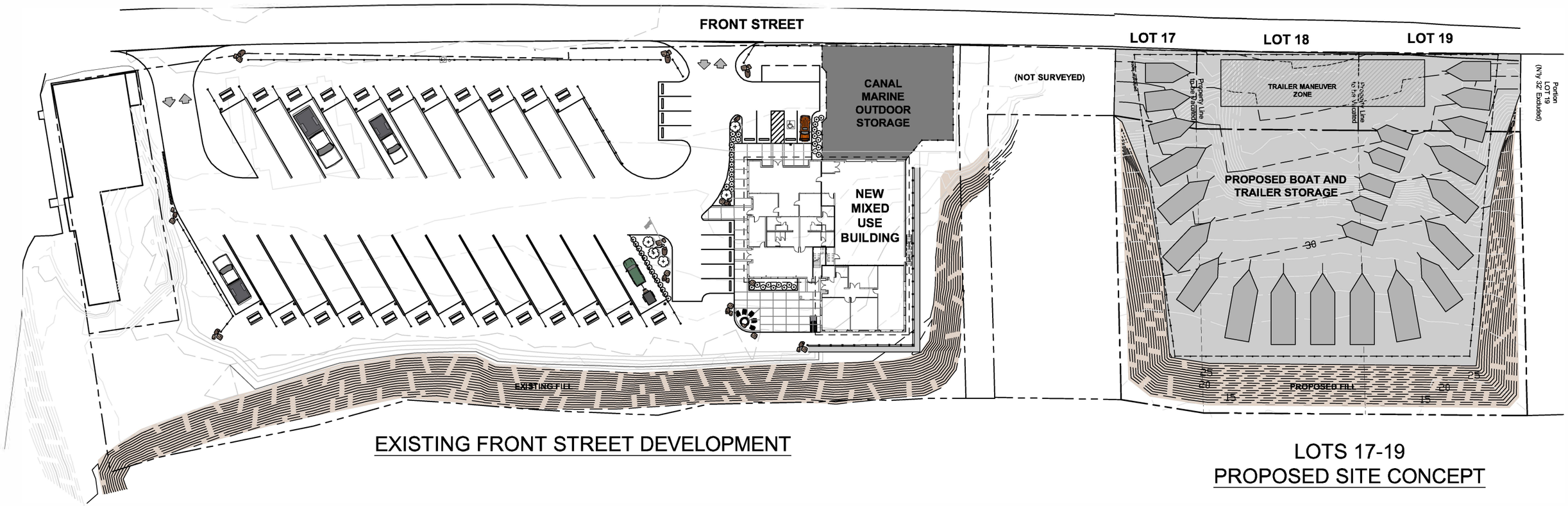
Project Purpose:
Marine Vessel Storage Yard

Adjacent Property Owners:
Pahl
Haines Borough
Hannon

Map of Project

Application By:
Front Street LLC

Front Street II Project
POA-2015-00197-M1
At: Haines, Alaska
Located In: Portage Cove
Date: July 23, 2020
Page 1 of 5



EXISTING FRONT STREET DEVELOPMENT

LOTS 17-19
PROPOSED SITE CONCEPT

0 30 60 90 feet
SCALE: 1" = 30' at 22"x34"; 1" = 60' at 11"x17"
NORTH

Anderson Land Planning

MONIQUE ANDERSON
Landscape Architect
ANDERSON LAND PLANNING
473 Katlian Street, #151A | PO Box 6078
Sitka, AK 99835 :: 907-230-6003

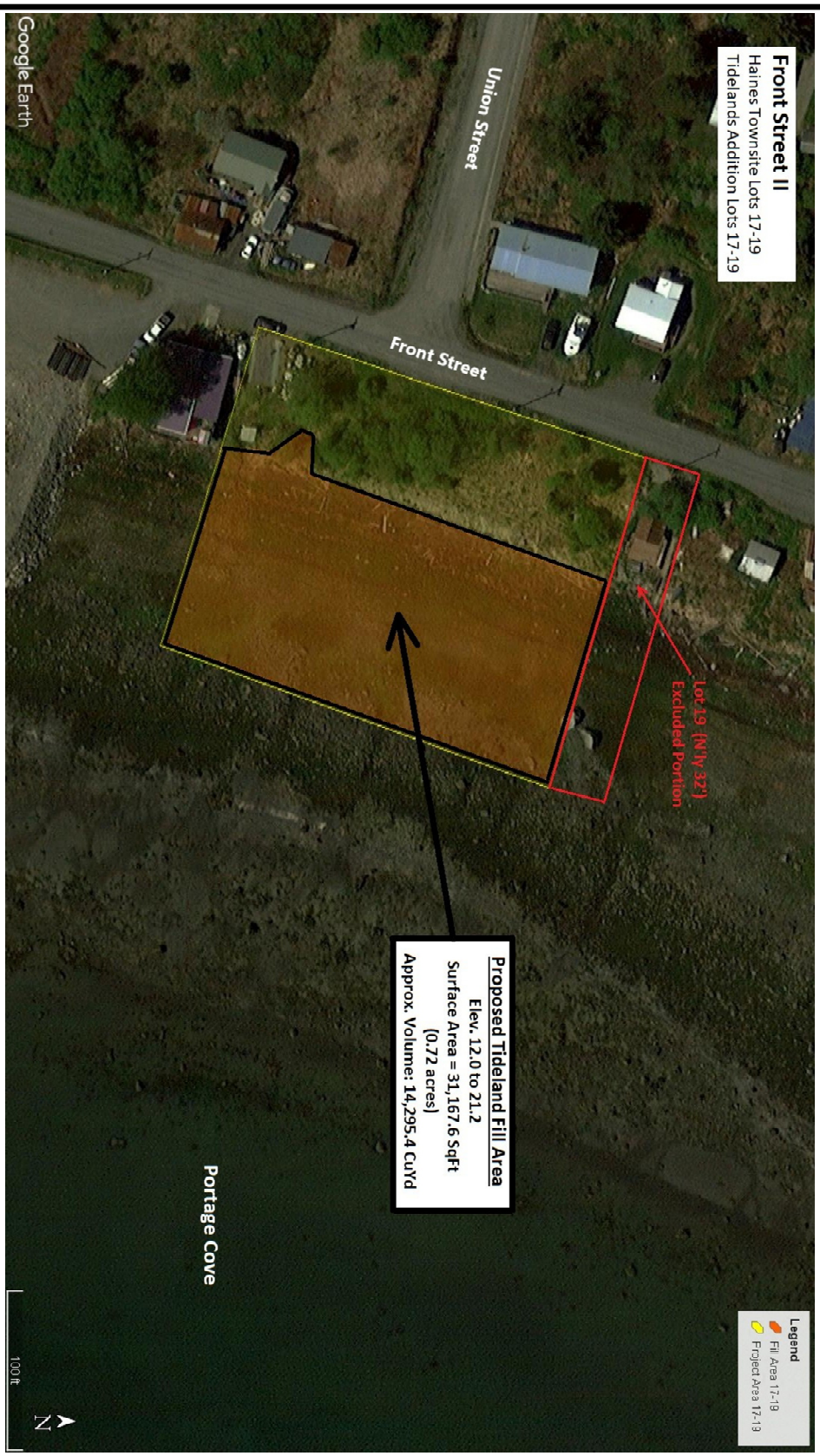
At: Haines, Alaska
Located In: Portage Cove
Date: July 23, 2020
Page 2 of 5

MARK	DATE	DESCRIPTION	BY

Front Street Project

LOTS 17-19
PROPOSED SITE CONCEPT
Permit Set

Project No:	HAN 1702
Date:	07-1020
Design/Drawn By:	MA
Checked By:	
Site Concept	

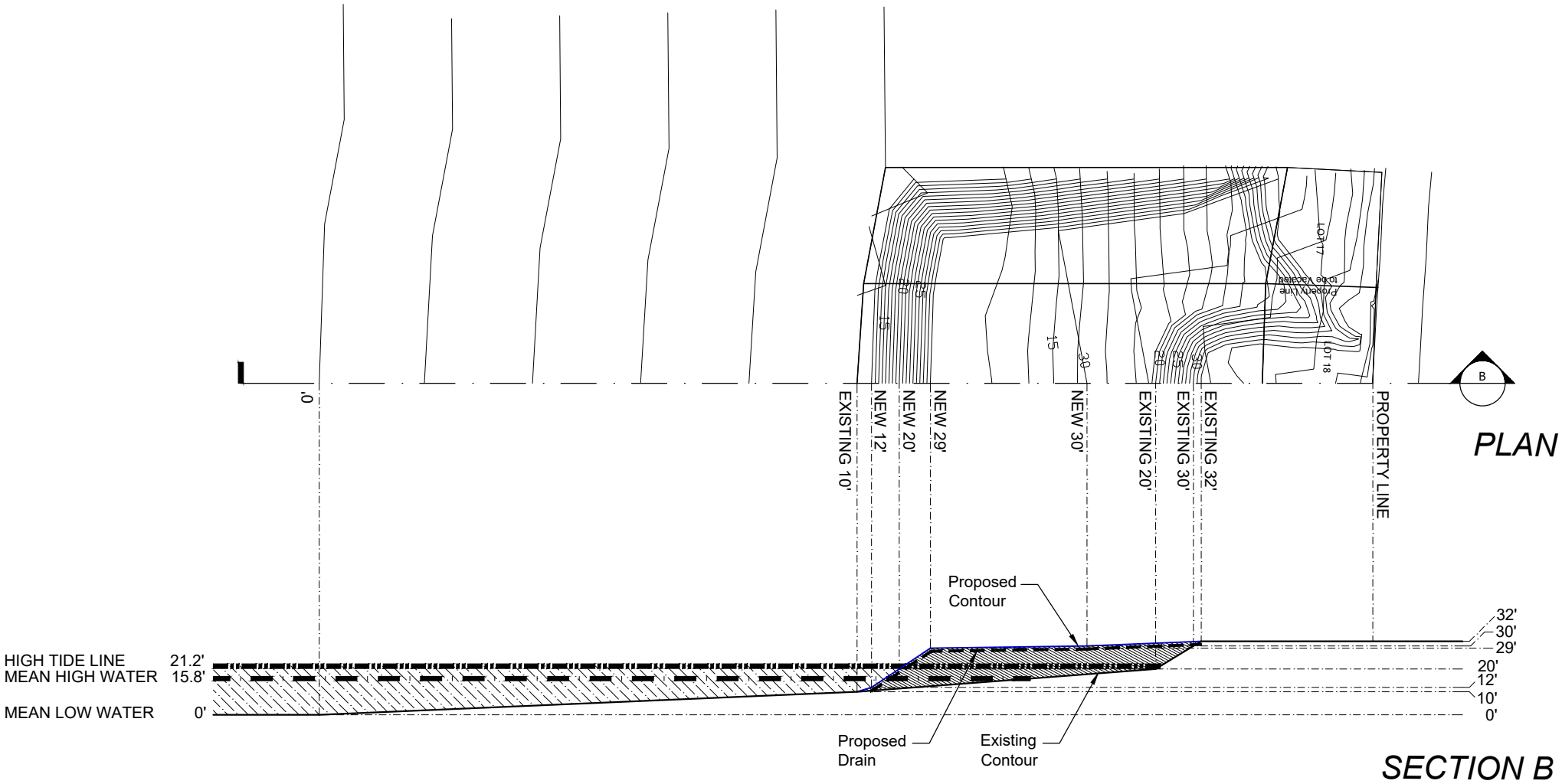


Project Purpose:
Marine Vessel Storage Yard

Adjacent Property Owners:
Pahl
Haines Borough
Hannon

Aerial Site Photo
Plan View
Application By:
Front Street LLC

Front Street II Project
POA-2015-00197-M1
At: Haines, Alaska
Located In: Portage Cove
Date: July 23, 2020
Page: 3 of 5



SCALE IN FEET

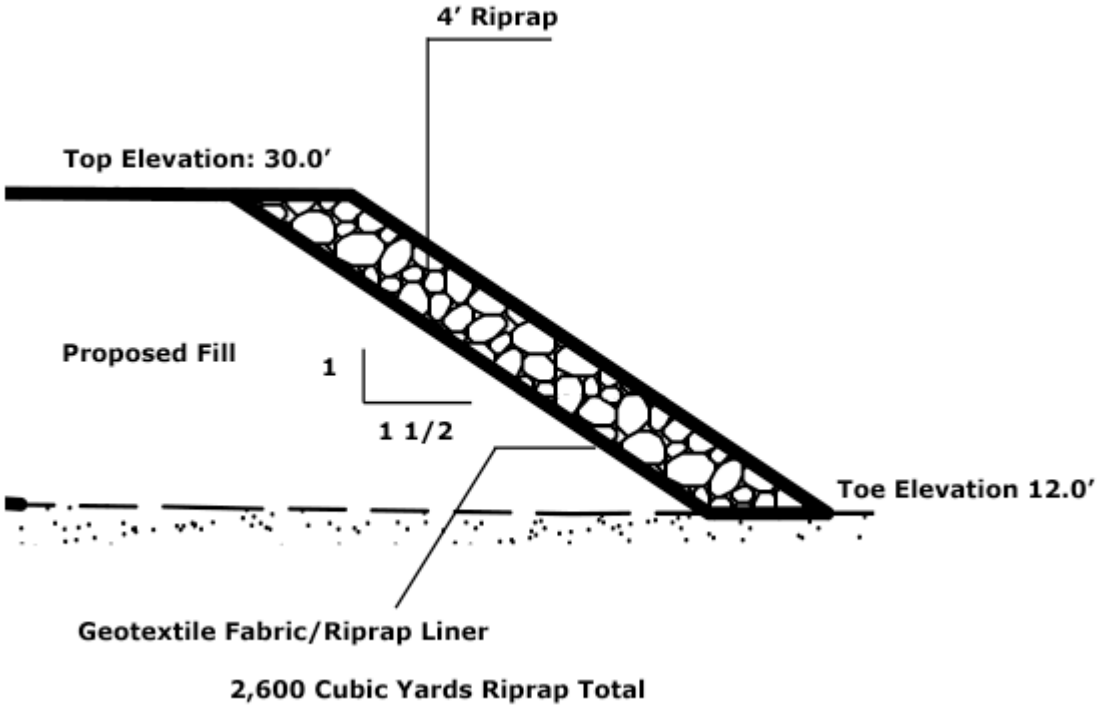
0 80 160 FT.

Front Street II Project
POA-2015-00197-M1

At: Haines, Alaska
Located In: Portage Cove
Date: July 23, 2020
Page 4 of 5

LEGEND

HIGH TIDE LINE (21.2')
MEAN HIGH WATER LINE (15.8')



Project Purpose: Marine Vessel Storage Yard **Adjacent Property Owners:** Pahl Haines Borough Hannon	**Typical Riprap Slope** **Application By:** Front Street LLC	**Front Street II Project** **POA-2015-00197-M1** **At:** Haines, Alaska **Located In:** Portage Cove **Date:** July 23, 2020 **Sheet** 5 of 5