



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

ANCHORAGE FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
1600 A Street, Suite 110
Anchorage, AK 99501-5146

PUBLIC NOTICE DATE: June 14, 2012
EXPIRATION DATE: July 16, 2012
REFERENCE NUMBER: POA-2012-250
WATERWAY: Seldovia Slough

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

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact **Faith Martineau** at (907)753-2767, toll free from within Alaska at (800) 478-2712, by fax at (907) 279-0064, or by email at **faith.c.martineau@usace.army.mil** if further information is desired concerning this notice.

APPLICANT: Ms. Beth Terry, 10041 Hanley Circle, Anchorage, AK 99507.

AGENT: Mr. Tim Dillon, P.O. Box 126, Seldovia, AK 99663.

Mr. Dillon may also be contacted by phone at (907)234-7858 or by e-mail at dillontimber@gmail.com.

LOCATION: The project site is located within Section 32, T. 8 S., R. 14 W., Seward Meridian; USGS Quad Map SELDOVIA B-5; Latitude 59.4367° N., Longitude 151.7102° W.; original Seldovia townsite, Block 31, Lot 2; Kenai Peninsula Borough, Tax Parcel ID No. 192-120-45; in Seldovia, Alaska.

SPECIAL AREA DESIGNATION: The project is located within the Kachemak Bay National Estuarine Research Reserve and the Alaska Department of Fish and Game's Kachemak Bay State Critical Habitat Area.

PURPOSE: The applicant's stated purpose is to construct a wooden pylon dock, which would support a residential home.

PROPOSED WORK: The applicant proposes to dredge up to 137 cubic yards of gravel, stone, and large angular boulders below the high tide line (HTL 23.1 feet) of

Seldovia Slough in order to construct a 2,403 square foot dock and install a sewer line for a proposed residence on Kenai Peninsula Borough (KPB) Parcel No. 192-129-45. The dock would have a total of fifteen sides, with the longest leg of the dock being 69 feet and the longest opposing leg of the dock being 40 feet. The lower deck of the dock would sit level with the HTL elevation, while the upper deck of the dock would sit level at an elevation of 26 vertical feet above mean lower low water (MLLW 0.0 feet), and would be supported by up to 40 creosote-treated wooden pylons. The recycled pylons would originate from the old Seldovia cannery dock.

The applicant proposes to install the pylons by dredging holes, 3 feet in diameter and six feet deep, down to bedrock. Each hole would be dredged and backfilled. The tracked excavator used to dig-in the pylons would access the site via the city street approximately 300 yards from the lot. All pylon installation is expected to be completed in less than four days.

The applicant proposes to install a 25-foot sewer line that would connect to the existing City of Seldovia sewer main, which sits approximately 25 linear feet seaward of the southeast edge of the proposed dock. The installation would include dredging 17 cubic yards of material from a 6-foot by 25-foot trench in order to place the sewer line. The trench would be immediately backfilled. All of the installation work would take place below mean high water (MHW) and is expected to be completed in one day.

All dredging would occur at low tide, when the area is dewatered. All dredged material removed for pylon installation and sewer line installation would be compacted back into the source holes and any excess material would be placed in super sacks and disposed of in an upland rock quarry located in KPB Parcel No. 191-123-60.

All work would be performed in accordance with the enclosed plan (sheets 1-6), dated June 11, 2012.

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

a. Avoidance: The applicant proposes to avoid impacts to 1,874 square feet of land, or 44% of the available lot space. The applicant would ensure that all tracked vehicles would be used only during dewatered periods and in a manner that would not alter the slope and drainage pattern of the tideland. No on-site storage of material is proposed. All excess dredged material would be disposed of in an upland location via supersacks.

b. Minimization: The applicant proposes to install pylons by digging one at a time, which would minimize the area of disturbance and allow for immediate backfilling of dredged material upon placement of each pylon. Should inclement weather occur, the applicant proposes to install tympar fencing around holes in order to reduce runoff.

c. Compensatory Mitigation: Due to the short time required to complete the pylon and sewer line installations and the small scale of the impacts to the aquatic environment, the applicant does not feel that compensatory mitigation is appropriate or practicable for the proposed project.

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 listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). 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 endangered Cook Inlet beluga whale (*Delphinapterus leucas*) and Steller sea lion (*Eumetopias jubatus*), the threatened Steller's eider (*Polysticta stelleri*), and candidate species Kittlitz's murrelet (*Brachyramphus brevirostris*).

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 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 salmon (*Oncorhynchus tshawytscha*), Chum salmon (*Oncorhynchus keta*), Coho salmon (*Oncorhynchus kisutch*), Pink salmon (*Oncorhynchus gorbuscha*), and Sockeye salmon (*Oncorhynchus nerka*).

We have determined the described activity would not adversely affect EFH in the project area.

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 Public Notice 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)(1) 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 of Engineers 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 of Engineers 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

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-7564/FAX: (907) 334-2415

**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 No. POA-2012-250, Seldovia Slough, 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 by the expiration date of the Corps of Engineer's Public Notice.

POA-2012-250, Seldovia Slough, Beth Terry KPB Tax Parcel No. 192-120-45



Sources

2006 aerial photography for the City of Seldovia.
Imagery for inset map courtesy of Alaska Mapped
via the Best Data Layer Web Mapping Service.



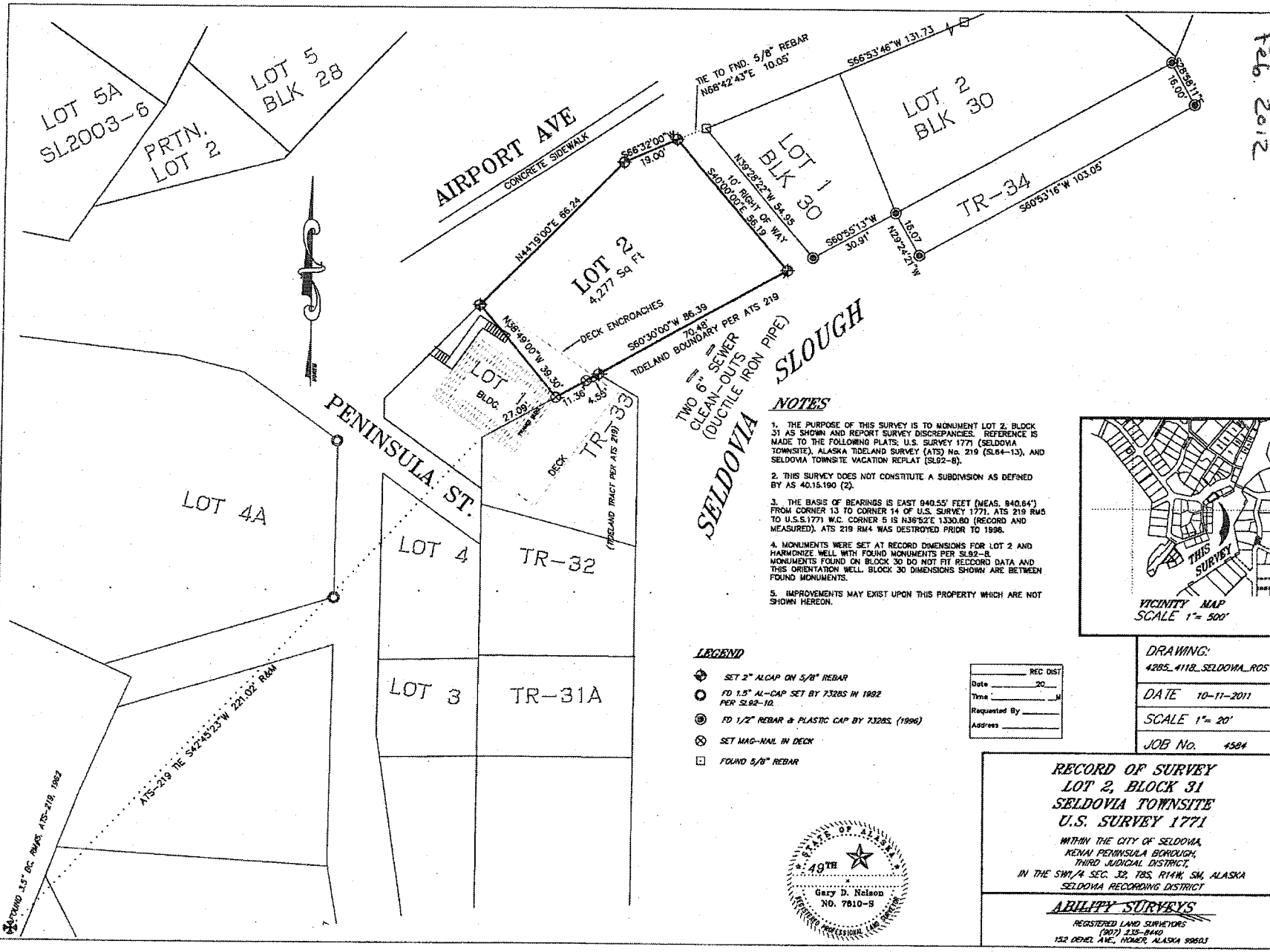
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Alaska District

June 11 2012



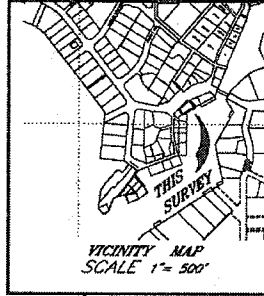
Terry
Dillon Project
Feb. 2012

Survey Plot



SELDOVIA SLOUGH
NOTES

1. THE PURPOSE OF THIS SURVEY IS TO MONUMENT LOT 2, BLOCK 31 AS SHOWN AND REPORT SURVEY DISCREPANCIES. REFERENCE IS MADE TO THE FOLLOWING PLATS: U.S. SURVEY 1771 (SELDOVIA TOWNSITE), ALASKA TIDELAND SURVEY (ATS) No. 219 (SL64-13), AND SELDOVIA TOWNSITE VACATION REPLAT (SL92-8).
2. THIS SURVEY DOES NOT CONSTITUTE A SUBDIVISION AS DEFINED BY AS 40.15.190 (2).
3. THE BASIS OF BEARINGS IS EAST 940.55' FEET (MEAS. 940.64') FROM CORNER 13 TO CORNER 14 OF U.S. SURVEY 1771. ATS 219 R/W TO U.S.S.1771 W.C. CORNER 5 IS N36°32'E 1330.00 (RECORD AND MEASURED). ATS 219 R/W4 WAS DESTROYED PRIOR TO 1998.
4. MONUMENTS WERE SET AT RECORD DIMENSIONS FOR LOT 2 AND HARMONIZE WELL WITH FOUND MONUMENTS PER SL92-8. MONUMENTS FOUND ON BLOCK 30 DO NOT FIT RECORD DATA AND THIS ORIENTATION WELL. BLOCK 30 DIMENSIONS SHOWN ARE BETWEEN FOUND MONUMENTS.
5. IMPROVEMENTS MAY EXIST UPON THIS PROPERTY WHICH ARE NOT SHOWN HEREON.



LEGEND

- ◆ SET 2" AL CAP ON 5/8" REBAR
- FD 1.5" AL-CAP SET BY 73285 IN 1982 PER SL92-10.
- ⊙ FD 1/2" REBAR & PLASTIC CAP BY 73285 (1996)
- ⊗ SET MAG-NAIL IN DECK
- ⊠ FOUND 5/8" REBAR

REC DIST	
Date	20
Time	M
Requested By	
Address	

DRAWING:	
4285_411B_SELDOVIA_ROS	
DATE	10-11-2011
SCALE	1" = 20'
JOB No.	4584

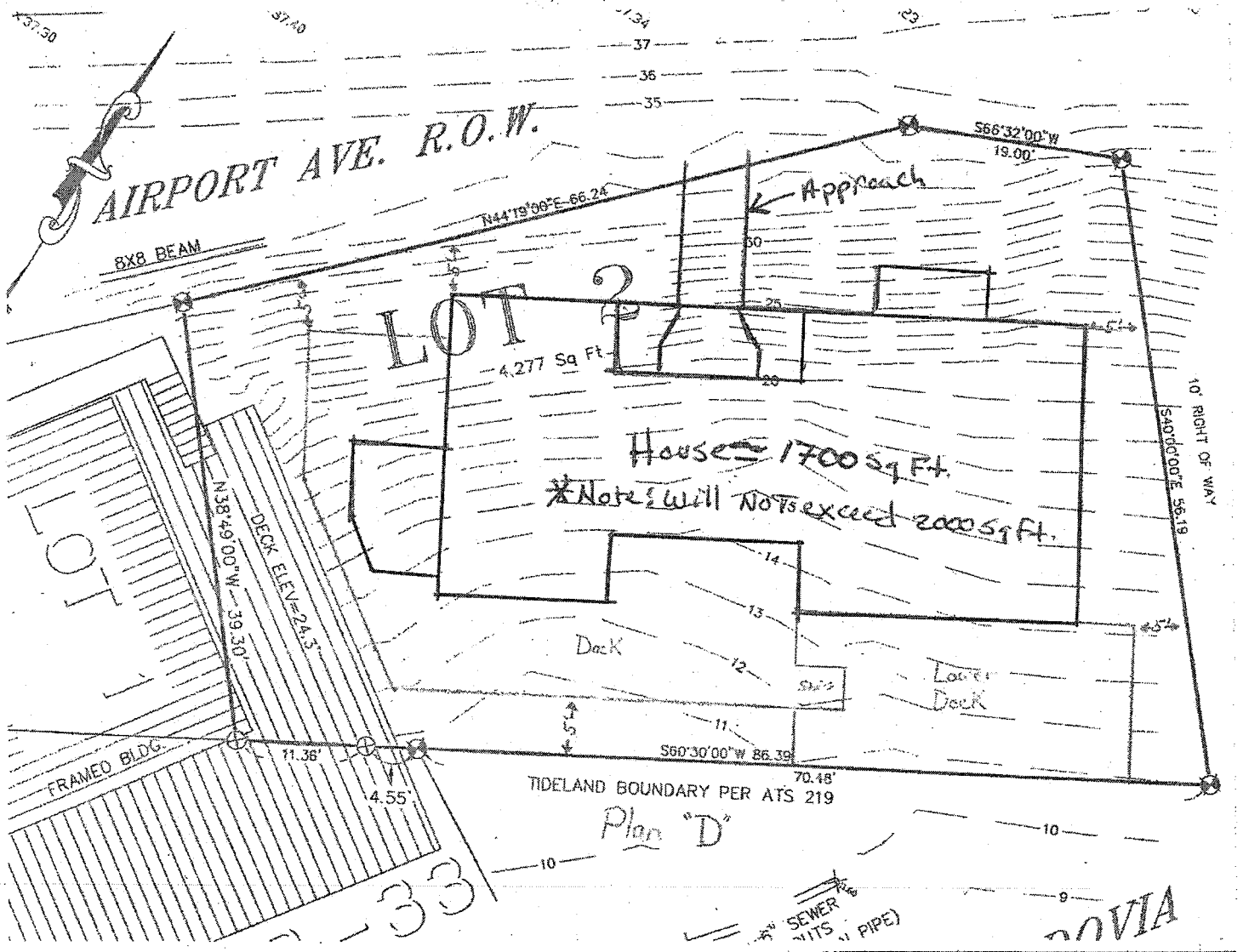


RECORD OF SURVEY
LOT 2, BLOCK 31
SELDOVIA TOWNSITE
U.S. SURVEY 1771
WITHIN THE CITY OF SELDOVIA,
KENAI PENINSULA BOROUGH,
THIRD JUDICIAL DISTRICT
IN THE S1/4 SEC. 32, T8S, R14W, S4, ALASKA
SELDOVIA RECORDING DISTRICT
ABILITY SURVEYS
REGISTERED LAND SURVEYORS
(907) 235-8440
152 DENEL AVE., HOMER, ALASKA 99603

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Drawing # 4
House Footprint

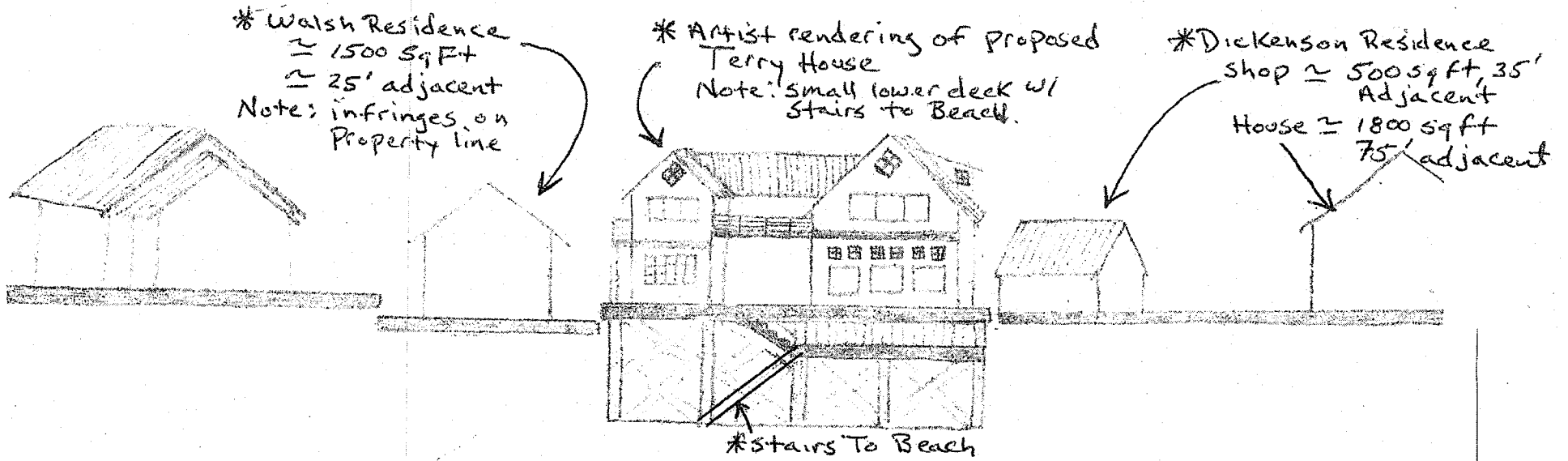
3/4" = 10'



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Drawing # 1
Adjacent ownership

Artist rendering



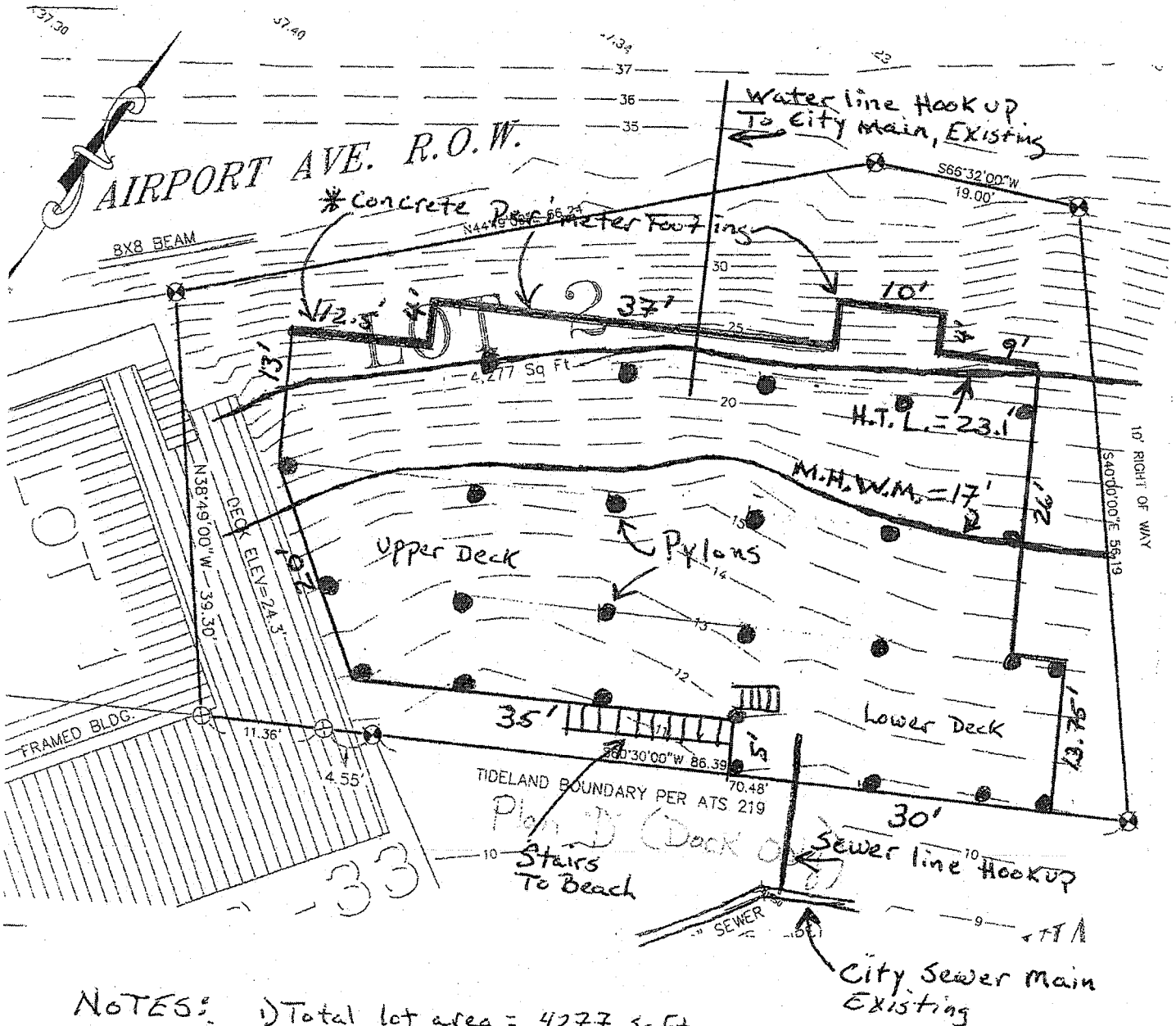
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Drawing # 2
 Plan View of Dock

3/4" = 1'

← H.T.L. = High Tide Line = 23.1'
 M.H.W.M. = Mean High Water Mark = 17.0'

*28-40 Pylons below H.T.L.
 (See Documentation)



- NOTES:
- 1) Total lot area = 4277 sqft
 - 2) Total dock area = 2403 sqft
 - 3) Total % undisturbed = 44%

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Drawing #3
Elevational View

1" = 10'

