



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

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Local Boundary Commission Staff

May 24, 2007

## Report to the Alaska Local Boundary Commission Regarding the Proposed Annexation of 1.722 Acres to the City of Soldotna





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The provisions of 3 AAC 110.530 state that the Department of Commerce, Community, and Economic Development, which serves as Staff to the Local Boundary Commission, "shall investigate and analyze" a petition filed with the Local Boundary Commission. In accordance with 3 AAC 110.530 and 3 AAC 110.590(a)(6), the Local Boundary Commission Staff has prepared this report regarding the pending annexation proposal by the City of Soldotna. This report presents the Staff's findings and recommendations concerning the Soldotna annexation proposal.

Interested persons may submit written comments on this report to the Local Boundary Commission Staff. To be considered, comments must be received by 4:30 p.m., June 25, 2007. Comments may be submitted by mail, courier, facsimile, or e-mail to:

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Division of Community Advocacy  
Department of Commerce, Community, and Economic Development  
550 West Seventh Avenue, Suite 1770  
Anchorage, AK 99501-3510  
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# Table of Contents

<b>Part I. Introduction.....</b>	<b>1</b>
<b>Part II. Summary of Proceedings .....</b>	<b>3</b>
<b>Part III. Findings and Conclusions .....</b>	<b>8</b>
Section 1: Needs of the territory .....	9
Section 2: Character of the territory.....	12
Section 3: Resources .....	13
Section 4: Population.....	15
Section 5: Boundaries .....	16
Section 6: Best Interests of the State .....	17
Section 7: Local Action Annexation .....	18
Section 8: Transition.....	19
Section 9: Civil and Political Rights.....	24
<b>Part IV. Recommendation.....</b>	<b>24</b>
<b>Appendix A Proposed Revisions to 3 AAC 110.590 (December 13, 2006) .....</b>	<b>25</b>
<b>Appendix B Maps of Potential Annexation Areas being Considered by the City of Soldotna .....</b>	<b>27</b>
<b>Appendix C Notice of and Agenda for the June 28, 2007, LBC Hearing and Decisional Session .....</b>	<b>33</b>



## Part I. Introduction

The City of Soldotna ("City"), a first-class city in the Kenai Peninsula Borough (KPB), has petitioned the State of Alaska, Local Boundary Commission ("LBC" or "Commission") for annexation of 1.722 acres. The territory proposed for annexation consists of a single lot comprised of 1.595 acres plus a 0.127-acre portion of the public right-of-way adjoining that lot.

With the passage of Chapter 46 Session Laws of Alaska 2006, and adoption of regulations by the LBC on April 30, 2007, there are four methods by which annexation to a city may occur. Those are:

(1) **Local Action Annexation by Election:**

If an annexation proposal using this method is approved by the LBC, it takes effect only if approved by voters in each of two areas: those residing in the city to which annexation is proposed and those residing in the territory proposed to be annexed. (AS 29.06.040(c)(1) and (c)(2); 3 AAC 110.150(3).)

(2) **Local Action Annexation of Municipally Owned Property.** This method requires adoption of an ordinance to authorize a petition to the LBC. The property must be municipally owned and must adjoin the existing boundaries of the city to which annexation is proposed. (AS 29.06.040(c)(3); 3 AAC 110.150(1).)

*Figure 1* - 1.595-acre lot and 0.127-acre portion of right-of-way proposed for annexation to the City of Soldotna.



**(3) Local Action Annexation Upon Unanimous Consent of Property Owners and Resident Voters.** This method requires all property owners<sup>1</sup> and registered voters residing in a territory adjoining the city to sign a simple petition for annexation. The city must then adopt an ordinance to authorize a petition to the LBC and submit a petition in the form and content required by law. (AS 29.06.040(c)(4); 3 AAC 110.150(2).)

**(4) Legislative Review Annexation.** This method of annexation does not require voter approval. Instead, tacit approval of the Alaska State Legislature is required before a legislative review annexation takes effect. (Art. X, sec. 12, Constitution of the State of Alaska; AS 29.06.040(b); AS 44.33.812(b)(2); 3 AAC 110.425).)

The City is using the third method above: local action annexation by unanimous consent of property owners and resident voters. While no annexation process is simple, the method used by the City in this proceeding and the method for local action annexation of municipally owned property are far less complicated than the other two methods of annexation.

Procedural requirements for annexation to cities and boroughs in Alaska are designed to facilitate the business of the LBC and are to be construed to secure the reasonable, speedy, and inexpensive determination of every action and proceeding (3 AAC 110.985). The procedures applicable to the particular method of annexation involved in this proceeding require the Alaska Department of Commerce, Community, and Economic Development (“DCCED”), which serves as staff to the LBC under AS 44.33.020(a)(4), to prepare a single report outlining DCCED’s findings, conclusions, and recommendations to the LBC regarding the annexation proposal. This report fulfills that requirement.

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<sup>1</sup> 3 AAC 110.990(12) defines "property owner" as "a legal person holding a vested fee simple interest in the surface estate of any real property including submerged lands; "property owner" does not include lienholders, mortgagees, deed of trust beneficiaries, remaindermen, lessees, or holders of unvested interests in land."



## Part II. Summary of Proceedings

On December 27, 2006, Joseph S. Wackler, the owner of property described as Lot L-1 Oehler Subdivision according to the plat filed as KN 90-33 ("Lot L-1"), adjoining the City, petitioned the City to annex Lot L-1.

On December 29, 2006, the City submitted a written request to the LBC to suspend or relax certain procedural requirements of 3 AAC 110.400 - 3 AAC 110.660 for annexation of Lot L-1, as authorized by 3 AAC 110.660.<sup>2</sup>



*Lot 2A (foreground) and Lot L-1 (background)*

In support of its request to relax or suspend certain procedural requirements, the City noted that Mr. Wackler owns a lot adjoining Lot L-1 and that the adjoining lot (Lot 2A) is already within the existing boundaries of the City. City officials reported that Mr. Wackler desires to replat the two lots into a single lot. The City stated that annexation of Lot L-1 would have little impact on the City due to the small size of Lot L-1, the adjoining Lot 2A owned by Mr. Wackler is already inside boundaries of the City, and Lot L-1 is sparsely inhabited.

The City noted correctly that 3 AAC 110.660 allows the LBC to relax or suspend the procedural requirements in 3 AAC 110.400 - 3 AAC 110.660 if the LBC "determines that a strict adherence to the regulations would work injustice, would result in a substantially uninformed decision, or would not serve relevant constitutional principles in the broad public interest." The specifics of the City's request are outlined below:

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<sup>2</sup> The provisions of 3 AAC 110.660 state:

The purpose of the procedural requirements set out in 3 AAC 110.400 - 3 AAC 110.660 is to facilitate the business of the commission, and will be construed to secure the reasonable, speedy, and inexpensive determination of every action and proceeding. Unless a requirement is strictly provided for in the Constitution of the State of Alaska, AS 29, or AS 44.33.810 - 44.33.849, the commission may relax or suspend a procedural regulation if the commission determines that a strict adherence to the regulation would work injustice, would result in a substantially uninformed decision, or would not serve relevant constitutional principles and the broad public interest.

[T]he City of Soldotna requests that the following procedural requirements of 3 AAC 110.420(b) (Petition Form and Content) be relaxed or suspended in order to “facilitate the reasonable, speedy, and inexpensive determination” of this annexation request pursuant to 3 AAC 110.660:

- 1) Relax provisions in 3 AAC 11.420(b)(6) to require only legal descriptions and maps, but not plats;
- 2) Suspend the requirements in 3 AAC 110.420(b)(11) regarding tax data;
- 3) Suspend the requirements in 3 AAC 1 10.420(b)(12) regarding three-year revenue, operating and capital budgets;
- 4) Suspend the requirements in 3 AAC 1 10.420(b)(13) regarding existing long-term municipal debt;
- 5) Suspend the requirements in 3 AAC 110.420(b)(14) regarding the powers and functions of the city; and
- 6) Relax the requirements in 3 AAC 110.420(b)(18) to allow a summary brief in lieu of a detailed brief.

In addition to the above request, the City of Soldotna also requests the Commission relax or suspend the existing procedural requirements in 3 AAC 110.400 - 3 AAC 110.660 for a local action annexation by unanimous consent to the extent that the City of Soldotna would comply only with the requirements set forth in the December 13, 2006 proposed revisions to 3 AAC 110.590. Approval of this request will ensure a reasonable, timely, and inexpensive determination by the Local Boundary Commission pursuant to 3 AAC 110.660.

(Letter of December 29, 2006, from Thomas R. Boedeker, City Manager, City of Soldotna.)

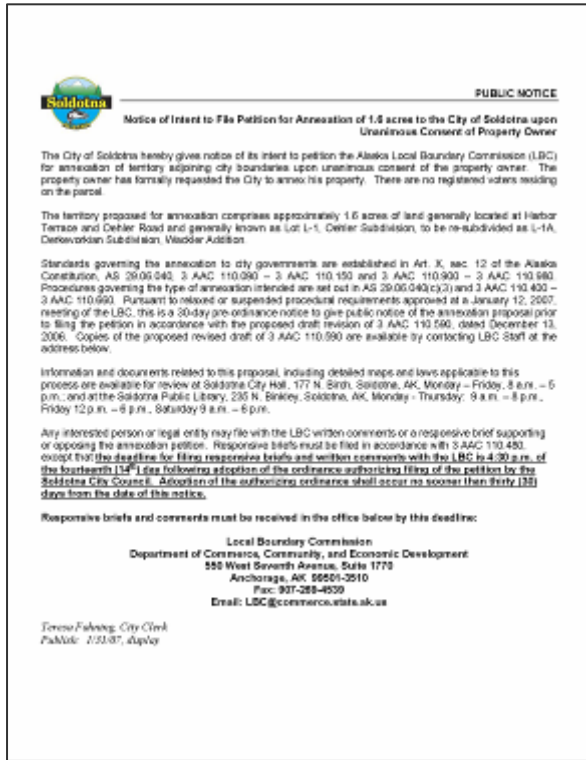
At its meeting of January 12, 2007, the LBC granted the City’s request. The procedures applicable to this proceeding (i.e., the December 13, 2006, proposed revisions to 3 AAC 110.590) are included in this report as Appendix A.

In accordance with 3 AAC 110.590(a), “pre-ordinance notice” of the proposed annexation (“Notice”) was prepared in the format prescribed by 3 AAC 110.450(a)(1). The form and content of the Notice were approved by DCCED.

On January 31, 2007, the City published the Notice as a display ad in the *Peninsula Clarion*, a newspaper of general circulation in Soldotna.

On January 31, the City also sent a copy of the Notice to each owner-of-record of the six parcels adjoining Lot L-1.

**Figure 2 – Beginning January 31, 2007, the City of Soldotna issued extensive notice of the proposed annexation.**



In accordance with 3 AAC 110.590(a)(3), the Notice was also mailed to all municipal governments within 20 miles of the territory proposed for annexation (i.e., KPB and the City of Kenai) on January 31, 2007. Additionally, on January 31, 2007, the Notice was posted at the Soldotna City Hall, Soldotna Public Library, and the Soldotna Branch of the U.S. Post Office. Further, the Notice was posted on the City's Website (<<http://www.ci.soldotna.ak.us/>>) under "Meetings and Notices," beginning January 31, 2007.

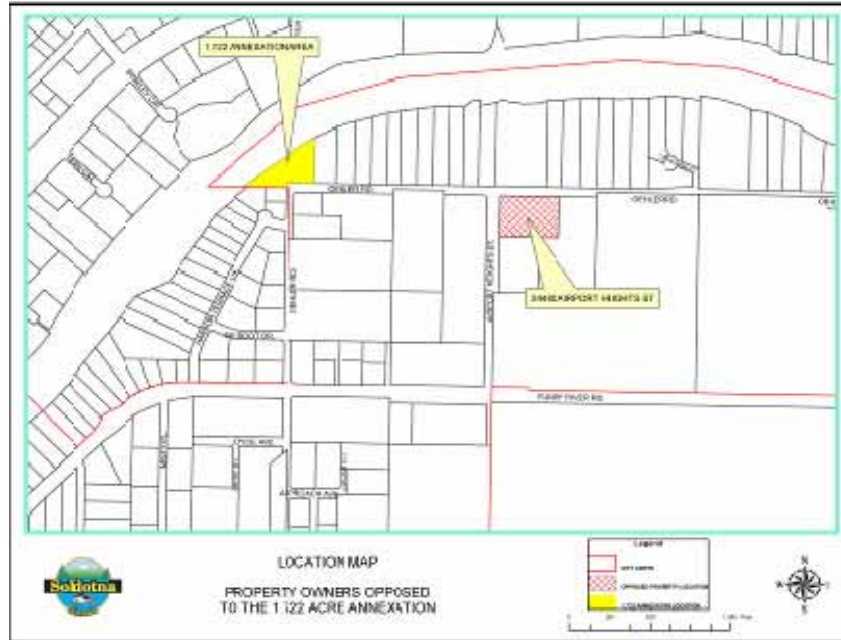
The Notice indicated that information and documents related to the prospective annexation proposal were available for public review at the Soldotna City Hall and the Soldotna Public Library. Moreover, all of the notices included the

following invitation to comment on the proposal:

Any interested person or legal entity may file with the LBC written comments or a responsive brief supporting or opposing the annexation petition. Responsive briefs must be filed in accordance with 3 AAC 110.480, except that the deadline for filing responsive briefs and written comments with the LBC is 4:30 p.m. of the fourteenth (14<sup>th</sup>) day following adoption of the ordinance authorizing the filing of the petition by the Soldotna City Council. Adoption of the authorizing ordinance shall occur no sooner than thirty (30) days from the date of this notice.

In a letter dated January 31, 2007, Dan and Gail Brittingham expressed their opposition to the proposed annexation. The Brittings own property in the general vicinity of Lot L-1. As reflected in Figure 3, the Brittingham property is approximately 1,200 feet (nearly one-quarter mile) from Lot L-1 at its closest point.

**Figure 3** – Map showing location of territory proposed for annexation and the property owned by Dan and Gail Brittingham, who have expressed opposition to the pending annexation proposal.



The property owned by the Brittings and Lot L-1 are part of an area generally described as the “Funny River Road area,” which is one of four areas that have been contemplated for annexation to the City since at least 2005. The prospective annexation of those other areas is unrelated to the pending proceeding.

DCCED views the Brittings’ objection to the pending annexation as resistance to the prospect that the larger Funny River Road area, including their property, might be proposed for annexation.<sup>3</sup> The Brittings will have an opportunity

<sup>3</sup> With regard to the prospect of the larger annexation of the four areas, DCCED notes that the City’s Planning and Zoning Commission (“P&Z Commission”) conducted a series of public work sessions in 2005 to examine the merits of annexation of those areas. The P&Z Commission evaluated service impacts, land use, and city services currently provided to those

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to address the LBC regarding any concerns relating to the annexation of Lot L-1 at a public hearing to be conducted by the LBC. A copy of this report and notice of the LBC hearing have been provided to the Brittinghams. Outside of the Brittinghams, the record indicates that no other individual or organization expressed objection to or concern regarding the proposed annexation of Lot L-1.

On February 28, 2007, the Soldotna City Manager introduced for first reading by the Soldotna City Council an ordinance authorizing a proposal for annexation of the 1.722 acres in this proceeding. The second reading of the ordinance occurred on March 14, 2007. At that time, the City Council postponed action on the ordinance until April 11, 2007. On April 11, the City Council enacted the ordinance with 5 "yes" votes. One member of the City Council abstained from voting.

The City's Petition was filed with DCCED on April 13, 2007. On May 14, 2007, the City provided DCCED with an affidavit regarding notice of the proposed annexation and the availability of the Petition for public review. DCCED completed its technical review of the Petition on May 15, 2007, in the manner and within the time constraints imposed by 3 AAC 110.440. Based on the review, DCCED determined that the form of the Petition was proper and its contents complete.

State law (3 AAC 110.590(a)(6)) provides that interested persons may submit written comments regarding the report. Comments may be submitted by mail, courier, facsimile, or e-mail. To be considered, comments must be received at the following location by 4:30 p.m., June 25, 2007 (three days prior to the LBC's public hearing on the annexation proposal):

**Local Boundary Commission Staff  
Division of Community Advocacy  
Department of Commerce, Community, and Economic Development  
550 West Seventh Avenue, Suite 1770  
Anchorage, AK 99501-3510  
Fax: 907-269-4539  
E-mail: [LBC@commerce.state.ak.us](mailto:LBC@commerce.state.ak.us)**

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areas. After a public process of some eighteen months, the P&Z Commission voted on December 20, 2006, to recommend that the City Council consider a proposal for annexation of all four areas. Maps of those four areas are included in Appendix B to this report.

The LBC will hold a public hearing on the annexation proposal on June 28, 2007, beginning at 2:30 p.m. The hearing will be conducted by teleconference. The Soldotna City Council Chamber will be among the teleconference sites. Public notice of the hearing and the hearing agenda are included in Appendix C of this report.

Within 10 days of the hearing, the LBC must conduct a decisional meeting under 3 AAC 110.570. At the decisional meeting, the LBC may approve the Petition, with or without amendments and conditions. Alternatively, the LBC may deny the Petition. Following the decisional session, the LBC will adopt a written decisional statement explaining the basis for its decision. The Commission's action is then subject to reconsideration under 3 AAC 110.580, except that a request for reconsideration must be filed within 10 days after a written statement of decision is mailed under 3 AAC 110.570(f).

### **Part III. Findings and Conclusions**

AS 29.06.040(a) provides as follows regarding annexation petitions to the LBC:

The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62 (Administrative Procedure Act).

As reflected above, the LBC may approve the pending annexation proposal only if it determines that the proposal meets applicable standards. Those standards are examined in this part of the report. There are nine broadly stated applicable standards, each of which is examined in a separate section in this part of the report. Each section begins with a statement of the standard. Facts relevant to the standard are then addressed. Lastly, DCCED states its conclusion whether the applicable standard has been met.

## Section 1: Needs of the territory

The standard established in law:

3 AAC 110.090. Needs of the territory. (a) The territory must exhibit a reasonable need for city government. In this regard, the commission may consider relevant factors, including

(1) existing or reasonably anticipated social or economic conditions, including the extent to which residential and commercial growth of the community has occurred or is reasonably expected to occur beyond the existing boundaries of the city;

(2) existing or reasonably anticipated health, safety, and general welfare conditions;

(3) existing or reasonably anticipated economic development;

(4) adequacy of existing services;

(5) extraterritorial powers of the city to which the territory is proposed to be annexed and extraterritorial powers of nearby municipalities; and

(6) whether residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of services and facilities provided by the annexing city.

(b) Territory may not be annexed to a city if essential city services can be provided more efficiently and more effectively by another existing city or by an organized borough on an areawide basis or non-areawide basis, or through an existing borough service area.



**Figure 4 – Lot 2A, the territory in the foreground, is currently within the City's boundaries. Lot L-1 (shown as Lot 1A on the plat below), is proposed for annexation.**



**DCCED's Findings and Conclusions:**

As noted earlier in this report, Lot L-1 is proposed to be replatted to combine it with Lot 2A, which is already inside the boundaries of the City. If Lot L-1 is not annexed, the replat will create a parcel that overlaps the corporate boundaries of the City of Soldotna.

City officials reasonably anticipate that such an overlapping parcel would create difficulties and inconsistencies in the ability of the City to regulate the property. In particular, City officials indicate that the City exercises land-use zoning and regulation, but that the KPB does not.<sup>4</sup> City officials stress that such

<sup>4</sup> AS 29.35.150 provides that "A borough shall exercise the powers as specified and in the manner specified in AS 29.35.150 - 29.35.180 on an *areawide* basis." (Emphasis added.) AS 29.35.180 provides that "A first or second class borough shall provide for planning, platting, and land-use regulation in accordance with AS 29.40." The KPB is a second-class borough. AS 29.40.010(b) provides that "If a city in a borough consents by ordinance, the assembly may by ordinance delegate any of its powers and duties under this chapter to the

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circumstances can present issues for a property owner wishing to develop property. They note further that such conditions also present enforcement issues for the two governments over different portions of the same property. Furthermore, City officials stress that the property owner initiated the pending annexation proposal and has volunteered to be annexed to facilitate the full development of his property.

DCCED concludes that the circumstances above demonstrate that a reasonable need for city government exists with respect to the territory proposed for annexation. DCCED concludes further that the City can provide essential city services<sup>5</sup> to the territory proposed for annexation more efficiently and more effectively than another existing city or the KPB on an areawide basis or non-areawide basis, or through an existing borough service area. Thus, DCCED

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city. The assembly may by ordinance, without first obtaining the consent of the city, revoke any power or duty delegated under this section."

<sup>5</sup> The provisions of 3 AAC 110.970(c) and (d) state:

(c) If a provision of this chapter provides for the identification of essential city services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the community; and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

(B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

(d) The commission may determine essential city services to include

(1) levying taxes;

(2) for a city in the unorganized borough, assessing and collecting taxes;

(3) for a first class or home rule city in the unorganized borough, providing primary and secondary education in the city;

(4) public safety protection;

(5) planning, platting, and land use regulation; and

(6) other services that the commission considers reasonably necessary to meet the local governmental needs of the community.

concludes that the proposed annexation meets the standard set out in 3 AAC 110.090.

## Section 2: Character of the territory

The standard established in law:

**3 AAC 110.100. Character.** The territory must be compatible in character with the annexing city. In this regard, the commission may consider relevant factors, including the

- (1) land use and subdivision platting;
- (2) salability of land for residential, commercial, or industrial purposes;
- (3) population density;
- (4) cause of recent population changes; and
- (5) suitability of the territory for reasonably anticipated community purposes.

### DCCED's Findings and Conclusions:

Lot 2A, the property within the boundaries of the City that adjoins Lot L-1, is zoned "limited commercial." That zoning classification allows low-volume business, mixed residential, and other compatible uses intended to provide transition areas between commercial and residential districts.

Mr. Wackler, the owner of Lot L-1 and the adjoining Lot 2A inside the City, currently resides upon and operates a fishing lodge located on Lot L-1. Lot L-1 includes one main lodge, which is also used as a residence, and six small rental cabins that house clients during the summer fishing season. This use is compatible with the limited commercial zone.

DCCED concludes, therefore, that Lot L-1 and the adjoining right-of-way proposed for annexation are compatible with the character of the territory presently within the boundaries of the City. Thus, DCCED concludes further that the standard set out in 3 AAC 110.100 is met.

## Section 3: Resources

The standard established in law:

**3 AAC 110.110. Resources.** The economy within the proposed boundaries of the city must include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including the

- (1) reasonably anticipated functions of the city in the territory being annexed;
- (2) reasonably anticipated new expenses of the city that would result from annexation;
- (3) actual income and the reasonably anticipated ability to generate and collect local revenue and income from the territory;
- (4) feasibility and plausibility of those aspects of the city's anticipated operating and capital budgets that would be affected by the annexation through the third full fiscal year of operation after annexation;
- (5) economic base of the city after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;
- (9) personal income of residents in the territory and in the city; and
- (10) need for and availability of employable skilled and unskilled persons to serve the city as a result of annexation.

### DCCED's Findings and Conclusions:

If annexation is approved, the expanded boundaries of the City will encompass an estimated 7.383 square miles (approximately 4,725 acres). Lot L-1 and the adjoining right-of-way proposed for annexation would account for a tiny fraction

(thirty-six one-thousandths of 1 percent) of the territory within the expanded boundaries of the City. Similarly, if annexation is approved, the expanded boundaries of the City will encompass an estimated 3,808 residents (based on DCCED's certified population figures for 2006). The Lot L-1 would account for a minuscule part (twenty-six one-thousandths of 1 percent) of the population within the boundaries of the City.

The City is currently a vibrant and sophisticated local government with ample human and financial resources. Services provided by the City include road maintenance, city police protection, land-use regulation, building code enforcement, library, airport, public works, parks and recreation, water utility, sewer utility, and general governmental services.



*A portion of the trail system and parks inside the City of Soldotna*

City officials have judged the annexation proposal to be fiscally sound. The City levies a 3 percent general sales tax and a property tax of 1.65 mills.<sup>6</sup> The real property in the territory proposed for annexation had a taxable value of \$309,100 in 2006.<sup>7</sup> The Petition states that annexation will generate sufficient revenue through property and sales taxes to provide essential City services to Lot L-1 once annexation becomes effective.<sup>8</sup>

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<sup>6</sup> In 2006, the City generated \$6,348,529 in sales taxes and \$577,874 in property taxes. The 2006 assessed value of real and personal property in the City was \$394,029,489. Source: *Alaska Taxable 2006*, DCCED (January 2007).

<sup>7</sup> The assessed value of the land and building totals \$409,300; however, \$100,200 of that is exempt. Source: *KPB Property Management System Assessment Roll*, p. 4,410 (May 31, 2006).

<sup>8</sup> AS 29.06.055(a) states:

Unless the annexation takes effect on January 1, the annexing municipality may not levy property taxes in an annexed area before January 1 of the year immediately following the year in which the annexation takes effect. However, notwithstanding other provisions of law, the municipality may provide services in the annexed area that are funded wholly or partially with property taxes during the period before the municipality may levy property taxes in the annexed area.

DCCED concludes that the economy within the proposed expanded boundaries of the City includes the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. Thus, in DCCED's view, the standard set out in 3 AAC 110.110 is met.

## Section 4: Population

The standard established in law:

**3 AAC 110.120. Population.** The population within the proposed boundaries of the city must be sufficiently large and stable to support the extension of city government. In this regard, the commission may consider relevant factors, including

- (1) total census enumeration;
- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

### DCCED's Findings and Conclusions:

The most recent population figures certified by DCCED estimate that the population of the City was 3,807 in 2006. The territory proposed for annexation is inhabited by one individual. Annexation would minimally increase the size of the population within the boundaries of the City. Annexation would have virtually no effect on the stability of the population.



*Aerial View of Soldotna*

DCCED concludes that the City's population would remain sufficiently large and stable to support the extension of city government. Therefore, DCCED concludes that the standard in 3 AAC 110.120 is met.

## Section 5: Boundaries

The standard established in law:

**3 AAC 110.130. Boundaries.** (a) The proposed boundaries of the city must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

- (1) land use and ownership patterns;
- (2) population density;
- (3) existing and reasonably anticipated transportation patterns and facilities;
- (4) natural geographical features and environmental factors; and
- (5) extraterritorial powers of cities.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that territory that is not contiguous to the annexing city, or that would create enclaves in the annexing city, does not include all land and water necessary to allow for the full development of essential city services on an efficient, cost-effective level.

(c) The proposed boundaries of the city must include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation.

(d) The proposed boundaries of the city may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.090 - 3 AAC 110.135.

(e) If a petition for annexation to a city describes boundaries overlapping the boundaries of an existing organized borough, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough, or detachment of the enlarged

city from the existing organized borough. If a petition for annexation to a city describes boundaries overlapping the boundaries of another existing city, the petition for annexation must also address and comply with the standards and procedures for detachment of territory from a city, merger of cities, or consolidation of cities.

### **DCCED's Findings and Conclusions:**

The territory proposed for annexation comprises 1.722 acres developed as a fishing lodge and inhabited by one permanent resident. The territory within the existing boundaries of the City is relatively small compared to many city governments in Alaska. As such, neither the territory proposed for annexation nor the proposed post-annexation boundaries of the City include large, unpopulated, geographical regions. The area proposed for annexation is contiguous to the city boundaries and will not create enclaves in the expanded boundaries of the City. Moreover, annexation will have no adverse impact on the extent to which the boundaries of the City include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. Annexation will not add territory beyond the community of Soldotna, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation. The proposed expanded boundaries of the City will not overlap the boundaries of the KPB.

DCCED concludes from the findings above that the proposed expanded boundaries of the City satisfy the standards set out in 3 AAC 110.130. That conclusion should not be construed as a presumption that further annexation of territory in the foreseeable future as contemplated by the City is unwarranted.

## **Section 6: Best Interests of the State**

The standard established in law:

**3 AAC 110.135. Best interests of state.** In determining whether annexation to a city is in the best interests of the state under AS 29.06.040 (a), the commission may consider relevant factors, including whether annexation

- (1) promotes maximum local self-government;
  - (2) promotes a minimum number of local government units;
- and
- (3) will relieve the state government of the responsibility of providing local services.

**3 AAC 110.980. Determination of best interests of the state.** If a provision of AS 29 or this chapter requires the commission to determine whether a proposed municipal boundary change or other commission action is in the best interests of the state, the commission will make that determination on a case-by-case basis, in accordance with applicable provisions of the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, and this chapter, and based on a review of

- (1) the broad policy benefit to the public statewide; and
- (2) whether the municipal government boundaries that are developed serve
  - (A) the balanced interests of citizens in the area proposed for change;
  - (B) affected local governments; and
  - (C) other public interests that the commission considers relevant.

### **DCCED's Findings and Conclusions:**

The proposed annexation serves the mutual interests of the City and the KPB by avoiding a circumstance where portions of a single parcel of land are subject to the regulation by two different local governments. Annexation also serves the interest of the solitary citizen residing in the territory proposed for annexation. Annexation also serves the State's interest by avoiding conflicting jurisdictions in accordance with broad principles set out in Article X of the Alaska Constitution.

DCCED concludes from the findings above that annexation is in the best interests of the state. Thus, DCCED concludes that the standard set out in 3 AAC 110.135 is met.

## **Section 7: Local Action Annexation**

The standard established in law:

**3 AAC 110.150. Local action.** Territory contiguous to the annexing city, that meets the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.135 and has been approved for local action annexation by the commission, may be annexed to a city by any one of the following actions:



- (1) city ordinance if the territory is wholly owned by the annexing city;
- (2) city ordinance and a petition signed by all of the voters and property owners of the territory;
- (3) approval by a majority of voters residing in the territory voting on the question at an election;
- (4) approval by a majority of the aggregate voters who vote on the question within the area proposed for annexation and the annexing city;
- (5) approval by a majority of the voters who vote on the question within the annexing city if the territory is uninhabited.

### **DCCED's Findings and Conclusions:**

In accordance with AS 29.06.040(c)(4) and 3 AAC 110.150(2), annexation of the proposed territory was initiated by all property owners and all registered voters residing in the territory proposed for annexation. The territory proposed for annexation adjoins the existing boundaries of the City of Soldotna. The Soldotna City Council has adopted an ordinance authorizing the filing of the Petition.

DCCED concludes from the findings above that the pending Petition meets applicable local action annexation requirements. Thus, in DCCED's view, the standard set out in 3 AAC 110.150 is satisfied.

## **Section 8: Transition**

The standard established in law:

**3 AAC 110.900. Transition.** (a) A petition for incorporation, annexation, merger, or consolidation must include a practical plan that demonstrates the capacity of the municipal government to extend essential city or essential borough services into the territory proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for city reclassification under AS 29.04, or municipal detachment or dissolution under AS 29.06, must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after city reclassification, detachment, or dissolution.

(b) Each petition must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights,

and functions presently exercised by an existing borough, city, unorganized borough service area, and other appropriate entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city and unorganized borough service area, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.

(c) Each petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included in the area proposed for the change, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

(d) Before approving a proposed change, the commission may require that all boroughs, cities, unorganized borough service areas, or other entities wholly or partially included in the area of the proposed change execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

### **DCCED's Findings and Conclusions:**

The territory proposed for annexation adjoins to the current boundaries of the City and lies within the unincorporated area of the KPB. Currently, the territory within the City in the vicinity of Lot L-1 receives the following City services: road maintenance, city police protection, land-use regulation, building code enforcement, library, airport, public works, parks and recreation, and general government services. Water and sewer utility services are available to portions of the territory within the existing boundaries of the City but not to the territory in the vicinity of Lot L-1.

Due to the small size of the territory proposed for annexation, the transition and extension of City services to the annexed territory will have minimal impact on both the territory and the City. City officials indicate that extension of current City services to the territory will not be difficult. All City departments and all necessary agencies, both State and Borough, will be notified of the expanded boundaries of the City. The City's transition plan included with its Petition states as follows regarding specific services:

*Planning/Land Use/Zoning:* The area inside city limits is adjacent to the territory proposed for annexation is currently zoned as a limited commercial district. The territory proposed for annexation is compatible with the limited commercial zone which allows low volume business, mixed residential, and other compatible uses intended to provide a transition areas between commercial and residential districts. Once



*Soldotna City Hall*

annexed, a recommendation will be made to the Soldotna Planning and Zoning Commission to zone the territory similar to the surrounding properties within thirty days following the effective date of annexation. Soldotna Municipal Code, section 17.10.215, requires that the Soldotna Planning and Zoning Commission recommend a zoning plan for any annexed lands to the City Council within 30 days after the effective date of annexation. Therefore, once annexed, the territory will be zoned in accordance with the zoning plan of the Soldotna Planning Commission shortly following the effective date of annexation.

City officials will also investigate to determine if any structures or uses presently existing on the territory proposed for annexation will be nonconforming with provisions of the Soldotna Municipal Code. If nonconformities do exist, city officials will take the appropriate steps to inform the owner of the nonconformity and what rights are afforded to the owner of a nonconformity which prior to annexation, was a legally existing use or structure, and/or provide the proper zoning and building permits to allow the use to continue. At this time, there are no known nonconformities on the subject property.

The [KPB] currently holds the platting authority for the entire borough, including the incorporated cities within the borough boundaries. This authority shall remain with the KPB Planning Department.

*Road Maintenance:* City road maintenance will be extended without difficulty due to the close proximity and small size of the territory to be annexed. The territory is currently approximately 280 feet from the end of the City of Soldotna road maintenance area. City maintenance crews will be informed of the new area to be serviced once annexation of the area is effective. The [KPB] will continue servicing the rest of the road lying in the KPB road service area pursuant to discussions with KPB Roads Director, Gary Davis.

*Water/ Sewer Utilities:* The territory proposed for annexation lies approximately 1300 feet from City of Soldotna water and sewer utilities. These City utilities end approximately at the intersection of Funny River Road and the west end of Oehler Road. The [KPB] does not provide these utilities to borough residents and the subject property is serviced by its own water well and septic system. The City of Soldotna currently does not provide city water and sewer utilities to the area inside city limits adjacent to the territory proposed for annexation. These properties use private well and septic systems. At the present time, the City recently extended the utility connection lines in this area and has begun to serve and make these services available to this area outside city limits.

*Property Tax:* The [KPB] currently assesses and collects property taxes for properties inside and outside organized cities in the borough. This system will not change; however, the KPB Assessing Department will be notified of the new property in the city to make sure that the property receives the proper assessment because property tax rates differ depending on whether the property is located in the borough or within city limits. A process in place to transition the parcel to the correct tax code area so that it is within the proper tax code area for Soldotna, which will begin at the beginning of the next calendar year following the effective date of annexation.

*Sales Tax:* The [KPB] currently has a 2% sales tax throughout the borough. The City of Soldotna has a sales tax in the amount of 3%. Once annexed, the subject property will be under a combined 5% sales tax. Because the property owner requesting annexation

operates a lodge on the property, the lodge will be subject to the additional City of Soldotna sales tax rate of 3%.

*Law Enforcement:* The territory proposed for annexation lies within the law enforcement protection area of the Alaska State Troopers and the [KPB] Central Emergency Services (CES) area for fire and paramedic response. Once annexation becomes final, the City will notify the Alaska State Troopers and the Soldotna Police Department that the subject property lays inside city jurisdiction. Central Emergency Services currently serves the City of Soldotna as well as borough areas outside the City. This service arrangement will not change and the territory will continue to lie within the CES service area.

The City's transition plan states that the City will assume no assets or liabilities as a result of annexation. Lot L-1 is privately owned, contains no public infrastructure, and will have no affect on the assets or liabilities of the City.

The City's transition plan indicates that five officials of the KPB were consulted during January – March 2007 in the development of the transition plan. Those were:

- Max Best, KPB Planning Director (consulted regarding planning, platting, legal descriptions, and land-use needs);
- Gary Davis, KPB Roads Department Director (consulted regarding borough road service area and transfer of service area to the City);
- Shane Horan, KPB Assessing Department;
- Sherry Biggs, KPB Clerk; and
- Chris Clough, KPB GIS Department.

The City states in its transition plan that implementation of most aspects of the annexation will be complete within a few months of the effective date of annexation and following preclearance by the U.S. Department of Justice. The one aspect of annexation that will lag involves the levy and collection of property taxes on the territory proposed for annexation. That should be implemented effective January 1, 2008.

Based on the foregoing, DCCED concludes that the City's transition plan is complete and proper. Thus, DCCED concludes that the standards set out in 3 AAC 110.900 are satisfied.

## Section 9: Civil and Political Rights

The standard established in law:

**3 AAC 110.910. Statement of non-discrimination.** A petition will not be approved by the commission if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

### DCCED's Findings and Conclusions:

Nothing in this proceedings suggest that the proposed annexation will adversely affect the enjoyment of any individual's civil or political rights, including voting rights, because of race, color, creed, sex, or national origin. The territory proposed for annexation is inhabited by a single resident registered voter, who initiated the pending annexation proposal.

Based on the foregoing, DCCED concludes that annexation will result in no illegal discrimination. Thus, in DCCED's view, the standard set out in 3 AAC 110.910 is satisfied.

## Part IV. Recommendation

DCCED concluded in Part III of this report that all of the applicable standards for annexation of the territory are met. Based on the findings and conclusions set out in Part III, DCCED hereby recommends that the LBC grant the City's Petition for annexation of 1.722 acres.

If the LBC approves the Petition, annexation will take effect when the City provides notification to the Commission that the United States Department of Justice has granted preclearance for the annexation under 42 U.S.C. 1973c (Voting Rights Act of 1965). Following such notification, DCCED will issue a certificate describing the annexation.

## **Appendix A**

### **Proposed Revisions to 3 AAC 110.590 (December 13, 2006)**

**3 AAC 110.590. Modified procedures for certain local action annexations.** (a) Except as otherwise provided in this section, if a petition is filed with the department under a local action method provided for in AS 29.06.040(c)(3) or (c)(4) for annexation of adjacent municipally owned property or adjacent property by unanimous consent of voters and property owners, only the following procedures specified in 3 AAC 110.400 – 3 AAC 110.990 are required:

(1) filing a petition under 3 AAC 110.420;

(2) technical review of the petition under 3 AAC 110.440;

(3) notice and service of the petition under 3 AAC 110.450 - 3 AAC 110.470, unless the petitioning municipality, at least 30 days before the adoption of its authorizing ordinance under AS 29.06.040(c)(3) or (c)(4), publishes notice of the annexation proposal in a newspaper of general circulation in the area or territory proposed for annexation and provides the notice to each owner of property abutting the boundaries proposed for annexation. That pre-ordinance notice must be published at least once in the format prescribed by 3 AAC 110.450(a)(1) and a copy served on each municipality within 20 miles of the boundaries of the area or territory proposed for change;

(4) responsive briefs and comments under 3 AAC 110.480, except that the time allowed under 3 AAC 110.640 for the filing of responsive briefs and comments is limited to 14 days from

(A) the date of first publication of the notice of filing of the petition; or

(B) the adoption of the ordinance required by AS 29.06.040(c)(3) or (c)(4) if the petitioning municipality published notice at least 30 days before adoption of the ordinance;

(5) a reply brief under 3 AAC 110.490, except that the time allowed under 3 AAC 110.640 for the filing of a reply brief is limited to seven days from the date that the petitioner received the responsive brief;

(6) a departmental report under 3 AAC 110.530, except that the department shall issue only one report concerning the local action annexation proposal at least 10 days before the public hearing under 3 AAC 110.550; interested persons may submit written comments to the department on its report no later than three days before the public hearing;

(7) the commission's public hearing under 3 AAC 110.550, except that the commission may conduct the hearing by teleconference;

(8) the decisional meeting under 3 AAC 110.570, except that the commission will convene a decisional meeting to examine the written briefs, exhibits, comments, and testimony and to reach a decision regarding the proposed change within 10 days of the last hearing on the petition;

(9) reconsideration under 3 AAC 110.580, except that a request for reconsideration must be filed within 10 days after a written statement of decision is mailed under 3 AAC 110.570(f); and

(10) the amendment and withdrawal provisions of 3 AAC 110.540 and 3 AAC 110.545.

(b) The commission may expand local action procedures for annexations under (a) of this section, so that those procedures include other requirements of 3 AAC 110.400 - 3 AAC 110.990, such as informational sessions, and public meetings and hearings, if the commission determines that the best interests of the state will be enhanced.

(c) Repealed \_\_/\_\_/\_\_.

(d) Repealed 5/19/2002.

(e) If the commission determines that the balanced best interests of the locality and the state are enhanced by statewide participation, the commission may convert a local action petition for an annexation described in (a) of this section to a legislative review petition. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am \_\_/\_\_/\_\_, Register \_\_\_\_)

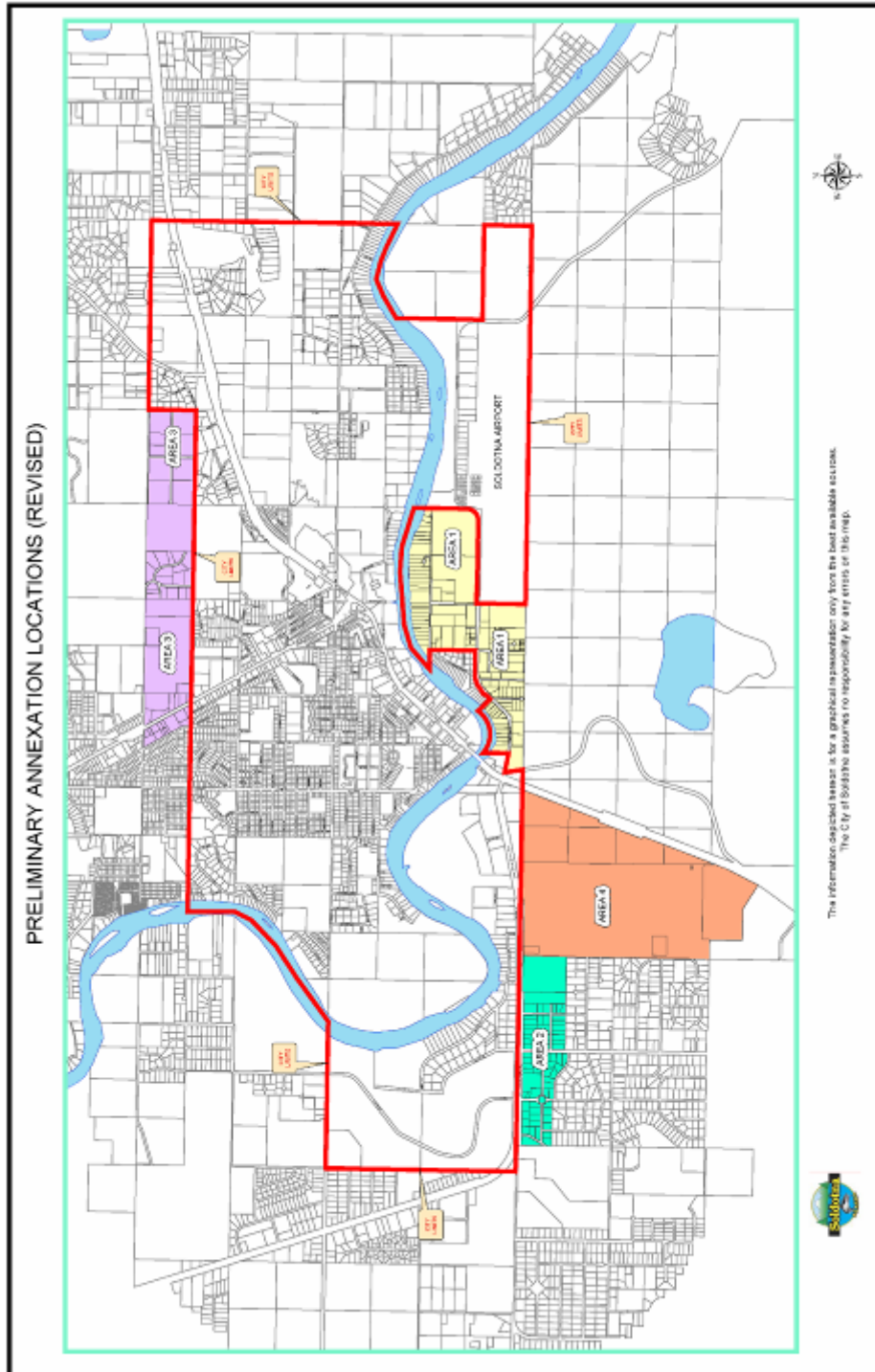
Authority:	Art. X, sec. 1, Ak Const.	AS 29.06.040	AS 44.33.812
	Art. X, sec. 3, Ak Const.	AS 29.06.090	AS 44.33.814
	Art. X, sec. 7, Ak Const.	AS 29.06.450	AS 44.33.818
	Art. X, sec. 12, Ak Const.	AS 44.33.020	AS 44.33.826
	Art. X, sec. 14, Ak Const		



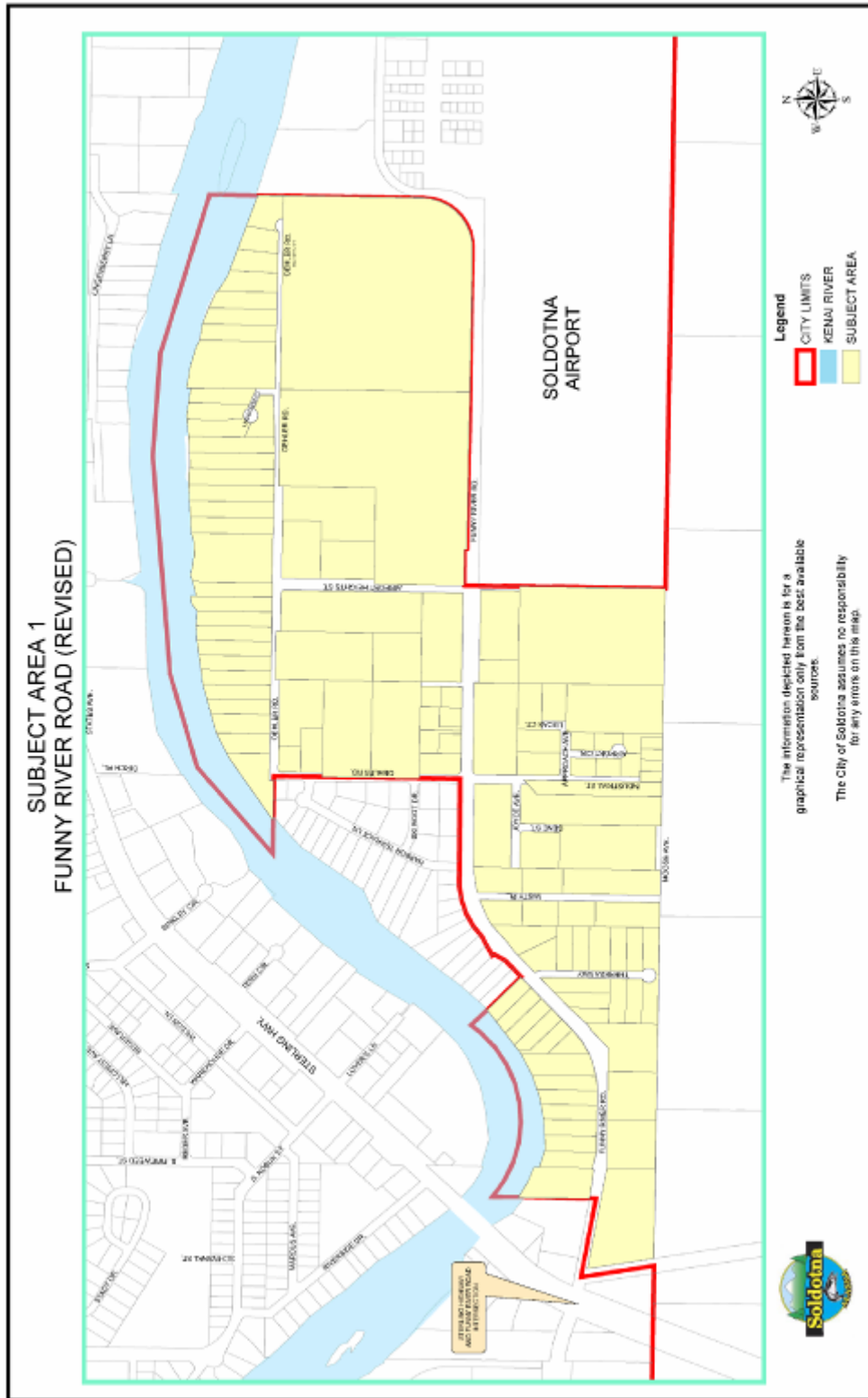
## Appendix B

# Maps of Potential Annexation Areas Being Considered by the City of Soldotna

Map 1. Preliminary Annexation Locations (Revised)

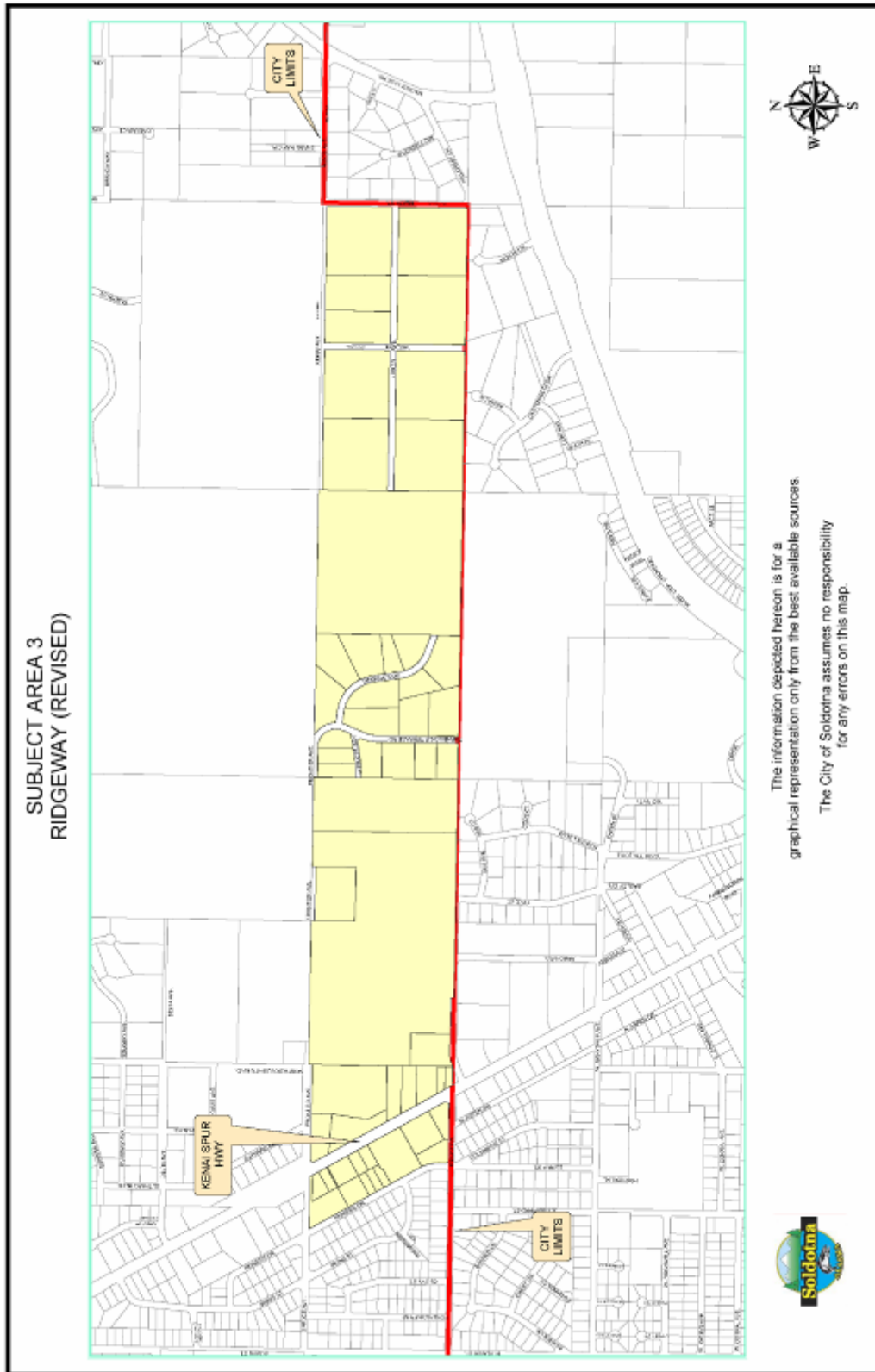


**Map 2.** Subject Area 1 – Funny River Road (Revised)

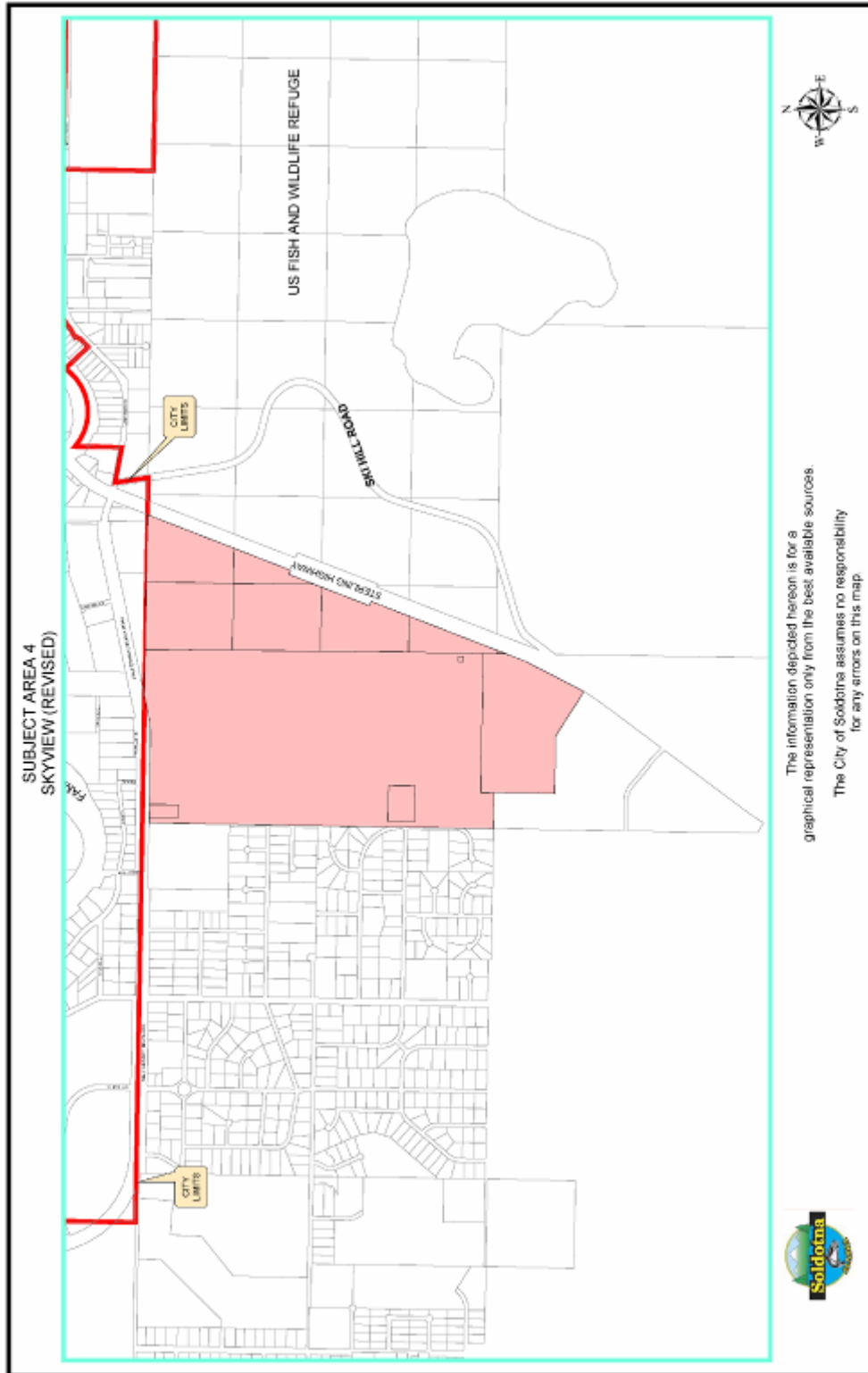




**Map 4.** Subject Area 3 – Ridgeway (Revised)



**Map 5.** Subject Area 4 – Skyview (Revised)





## **Appendix C**

### **Notice of and Agenda for the June 28, 2007, LBC Hearing and Decisional Session**

#### **State of Alaska Local Boundary Commission (LBC)**

**Notice of Public Hearing and Decisional Meeting Regarding Proposal by City Of  
Soldotna to Annex 1.722 Acres with Consent of All Property Owners and Resident  
Voters**

**June 28, 2007 – 2:30 p.m.  
Soldotna City Council Chamber, Soldotna City Hall  
177 North Birch Street, Soldotna, Alaska**

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On the date and at the time noted above, the LBC will convene a public hearing under 3 AAC 110.560 regarding the April 12, 2007, Petition by the City of Soldotna to annex 1.722 acres upon consent of all property owners and resident registered voters in the territory proposed for annexation (Derkevorkian Subdivision, Wackler Addition). The hearing will be conducted by teleconference. The Soldotna City Council Chamber will be included among the teleconference sites.

Following the public hearing, the LBC may convene a decisional meeting under 3 AAC 110.570, to act on the proposal. The hearing agenda and information concerning hearing, decisional meeting, and other aspects of the annexation proposal may be obtained from:

LBC Staff  
Department of Commerce, Community, and Economic Development  
550 West Seventh Avenue, Suite 1770  
Anchorage, Alaska 99501-3510

Telephone: (907) 269-4501  
Fax: (907) 269-4539  
E-mail: [LBC@commerce.state.ak.us](mailto:LBC@commerce.state.ak.us)

To view the proposed agenda, click on the *Notices* link on the LBC Website at <http://www.commerce.state.ak.us/dca/lbc/lbc.htm> and select the *June 28, 2007, LBC Public Meeting*, or call 907-269-4501 and request that a copy be mailed or faxed to you.

Persons interested in receiving future LBC notices by electronic mail may subscribe to the LBC notice list service by visiting the LBC Website set out above, clicking on the link to the *LBC Subscription Service*, and following the instructions.

Teleconference sites for the proceedings may be added for the convenience of the public and/or LBC members. Individuals with disabilities who need auxiliary aids, services, or special modifications to participate should contact LBC Staff.



## State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, Alaska 99501  
Telephone: 907-269-4501 • Fax 907-269-4539

# AGENDA

### PUBLIC HEARING AND DECISIONAL MEETING REGARDING PROPOSAL BY CITY OF SOLDOTNA TO ANNEX 1.722 ACRES WITH CONSENT OF ALL PROPERTY OWNERS AND RESIDENT VOTERS

June 28, 2007 – 2:30 p.m.

Soldotna City Council Chamber, Soldotna City Hall\*  
177 North Birch Street, Soldotna, Alaska

- I. Call to order
- II. Roll call and determination of quorum
- III. Approval of agenda
- IV. Comments by members of the Local Boundary Commission
- V. Comments by members of the public concerning matters not on the agenda
- VI. Public hearing on April 12, 2007, Petition by the City of Soldotna to annex approximately 1.722 acres upon unanimous consent of all property owners and all resident registered voters
  - A. Summary by Staff of its conclusions and recommendations
  - B. Petitioner's opening statement (limited to 10 minutes)
  - C. Sworn testimony of witnesses called by the Petitioner
  - D. Period of public comment by interested persons (limited to 3 minutes per person)
  - E. Petitioner's closing statement (limited to 10 minutes)
- VII. Decisional session (optional at this time)
- VIII. Comments from Commissioners and Staff
- IX. Adjourn

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\*The meeting will be conducted by teleconference originating at 550 West Seventh Avenue, Suite 1760.