



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Community and Regional Affairs

Sean Parnell, Governor
Susan K. Bell, Commissioner
Scott Ruby, Director

Final Report to the Local Boundary Commission

Regarding the Proposal to
Annex by Legislative Review
Approximately 16 Square Miles
of both Land and Water
to the City of Gustavus

July 2011

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This is the *Final Report to the Local Boundary Commission Regarding the Proposal to Annex by Legislative Review Approximately 16 Square Miles of both Land and Water to the City of Gustavus*. The report was written by Brent Williams and Don Burrell, staff to the Local Boundary Commission. The staff are part of the Division of Community and Regional Affairs of the Alaska Department of Commerce, Community, and Economic Development (Commerce). The report can also be found at the following address:

http://www.commerce.state.ak.us/dca/lbc/gustavus_annex.htm

This report is issued in accordance with 3 AAC 110.530(b) which requires Commerce to issue a final report after considering written comments regarding the preliminary report.

Commerce complies with Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Such requests should be directed to the Local Boundary Commission staff at 907-269-4559 or lbc@alaska.gov.

The maps included in this publication are intended to be used as general reference guides only. Source documents remain the official record and should be reviewed to determine accuracy of the illustrations.

Special thanks to Lorence Williams and Cheryl Bieseimer who provided information or assistance in developing the report.

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Chapter 1 - Introduction

On May 20, 2011, Commerce issued its preliminary report on Gustavus' annexation petition. The report's 84 pages of background and analysis concluded that the petition met the standards for city annexation. It recommended that the Local Boundary Commission (hereafter "LBC" or "commission") approve the petition to annex the Falls Creek and Icy Passage territories as requested by the petitioner.

A period for the public to comment on the preliminary report lasted until June 22, 2011. A comment was received from the city, but no other public comments were submitted or received. This report considers and analyzes the comment submitted and makes the department's final recommendation to the LBC. The background information about the LBC is not repeated in this report. The report also addresses relevant developments that have occurred since the preliminary report was issued in Chapter 2.

Copies of this report will be distributed to the petitioner, each LBC member, and others. Copies will be sent to be displayed at Gustavus city hall, and the Gustavus public library. All materials related to this petition are also available online at <http://cms.gustavus-ak.gov/government>, or http://www.commerce.state.ak.us/dca/lbc/gustavus_annex.htm.

The LBC chair has scheduled a meeting to discuss other LBC business for Wednesday, August 17th 2011, at 1:00 p.m., in the Gustavus city hall conference room. The hearing will follow the meeting, and decisional meeting will follow the hearing. The proceedings will continue Thursday, August 18th at 9:00 am in the same location. A copy of the hearing notice is included in Appendix C.

Under AS 29.06.040, at the decisional meeting "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."

Further information is available from:

LBC staff
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Brent Williams: Telephone: (907) 269-4559
Don Burrell: Telephone: (907) 269-4587
Fax: (907) 269-4539
Email: LBC@alaska.gov

Chapter 2 - Developments Since the Department's Preliminary Report and Future Developments

Preliminary Report Distribution

On May 20, 2011, the department distributed copies of its 84 page *Preliminary Report to the Local Boundary Commission Regarding the Proposal to Annex by Legislative Review Approximately 16 Square Miles of both Land and Water to the City of Gustavus* to interested parties including the petitioner, Local Boundary Commission members, and others.

Receiving Timely Comments on Preliminary Report

The public comment period for the preliminary report was from Friday, May 20, 2011, until June 22, 2011. The department received one comment from the City of Gustavus and no other public comments. The submitted comment is produced in full as Appendix A of this report.

Notice of Local Boundary Commission Public Hearing and Decisional Meeting

Formal notice of the hearing has been given by Commerce under 3 AAC 110.550. Commerce published the full notice in the *Juneau Empire* on July 18, 2011. It will also be published August 1st, and August 15th. The notice was also posted on the internet through the state's *Online Public Notice System*, and on the LBC website.

Additionally, notice of the hearing was provided to the petitioner. The city has posted the notice where the petition documents are available for public review (Gustavus City Hall, and the Gustavus Public Library), and also the Gustavus post office and the Glacier National Park headquarters.

Chapter 3 –Department’s Analysis

This report clarifies points made in the preliminary report, in response to the sole comment received. A final recommendation to the LBC will appear at the report’s end.

In previous final reports staff has recently written (e.g. Fairbanks, Dillingham), there was extensive reanalysis of the standards because the petitioner, the respondent, and public commenters had commented on the preliminary report. There were at least several comments, and the writers pointed out why they thought staff was right or wrong in its preliminary report analysis.

In this case, however, there was no respondent. There were no public comments on the petition. Staff (also referred to as “we,” “DCRA,” “department,” or “Commerce”) received only one comment on the preliminary report from the City of Gustavus (“Gustavus” or “city”). The city’s comment unsurprisingly generally agreed with the staff’s report. The comment submitted by the city was more clarification than criticism, although we feel that in at least one case Gustavus disagreed with a staff position.

In its brief comment (or “letter”), the city made seven points. We will address each point in turn. In response to the points, staff might modify some of its findings within a standard. But, after reviewing the sole comment received, staff still finds that the standards are met. We still recommend that the LBC approve the petition as is, subject to the caveat (for the Icy Passage territory) that the city intends to regulate the moorage. That caveat does not affect our recommendation that the LBC approve the annexation of Falls Creek.

Due to the fact that we only received one comment, and due to the brief nature of the comment received, we do not feel it necessary to address each standard in turn. We only address the points raised by the city, and explain how they relate to a particular standard. We will address the city’s points under the heading “City,” and the department’s response under “Commerce.”

City:

Our comments will be divided into two categories: correction of details and matters of substance.

Correction of details

On page 32, on the first line, the report states "Gustavus has a 2% sales tax ... ". The correct figure is 3%, pursuant to a October 2010, vote of the populace to that effect.

Commerce:

Page 32 of the report dealt with 3 AAC 110.110, Resources. We found there that Gustavus had sufficient human and financial resources to provide essential municipal services on an efficient, cost-effective level. We found under the understanding that Gustavus had a 2% sales tax which has since increased to 3% sales tax. Commerce finds that a 50 % increase in sales tax revenue (assuming level of sales is constant) only enhances the city's ability to provide essential municipal services on an efficient, cost-effective level.

City:

On page 39, second to last paragraph, "RMS" should read "EMS".

Commerce: The city is right. "RMS" is a typographical error. It should read "EMS."

City:

Matters of substance

On page 37, the first paragraph states "The city will control the moorage situation in Icy Passage ... "It would be more accurate to say "The city will cooperate with other management entities to control the moorage and dock/float access ... ".

Commerce:

Staff's recommendation that the LBC approve the annexation of the Icy Passage territory was based largely on our understanding that the city would regulate the moorage. Based on a conversation with Greg Streveler of the city after the comment was submitted, we still understand that Gustavus will manage the moorage itself. It is our understanding that before the city can do so it will need to coordinate with other entities, but ultimately Gustavus will regulate the moorage soon after annexation, if approved.

This is important because Icy Passage has to show a need for city government (even though the city's quote comes from the 3 AAC 110.130 Boundaries section). In the department's view, how much the Icy Passage territory needs the city depends largely on whether the city intends to regulate the moorage.

On July 21, staff spoke with Gustavus City Clerk Kapryce Manchester. She was very helpful, and indicated that the language in the letter was cautionary, as the city did not want to overstep its regulatory bounds regarding other entities (e.g. the Coast Guard). Staff understood Ms. Manchester to say in effect that if the city was regulatorily empowered to regulate the moorage, it would.

Staff appreciated Ms. Manchester's clarification, which was consistent with Mr. Streveler's. We pointed out to her that our recommendation that the LBC approve the annexation of Icy Passage

was based partly on 3 AAC 110.090 (Need). As above, in our view Icy Passage's need for city government is based on its need for the city to control/regulate the moorage.

On July 22, staff spoke with city representatives Kapryce Manchester and Karen Taylor. Ms. Taylor indicated that the city was being methodical. Its Marine Facilities Committee is working on regulations to manage the moorage. They wanted to do this before the city passed an ordinance empowering the city to regulate the moorage (assuming that the annexation is approved). Based on all of these conversations, staff understands that the city intends to regulate the moorage if annexation is approved, but that it is being methodical about it.

Staff explained that commissioners might want Gustavus to definitively indicate at the hearing whether or not the city intended to regulate the moorage. Staff had understood that from the petition, and from the conversations with Mr. Streveler, Ms. Manchester, and Ms. Taylor. But, staff did not infer that intent from the letter/comment. As the commission received that letter, but did not participate in the conversations, we believe that it will need clarification. Staff respectfully suggests to the LBC that it ask at the hearing about the city's intent and timeline.

We respectfully recommended that the city prepare to explain and answer questions about whether it could and would regulate the moorage before the August 17 hearing.

City:

On the same page [37], third paragraph states that "The city is examining piping water from Falls Creek... ". It would be more accurate to state "The city would be in a position to consider piping water from Falls Creek, which may become necessary due to inadequate septage management."

Commerce:

Staff found on page 37 that the city presently has adequate water. Based on a July 22 conversation with city representatives Kapryce Manchester and Karen Taylor, the groundwater is not adequate because of leaking sewage. The school system is buying water from the Glacier Bay National Park. It appears that the city presently has adequate amounts of water, but that the quality is in some cases dubious. That situation would likely deteriorate if Gustavus grows, has more tourism, or if the shallow groundwater becomes unacceptable.

The standard of 3 AAC 110.130(a), however, asks whether the proposed expanded boundaries of the city include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level. The proposed expanded boundaries would have adequate land and water. The water, however, would need to be obtained by working with the Gustavus Electric Company (GEC), FERC (Federal Energy Regulatory Commission), and DNR. We also found that if Falls Creek is annexed, that the GEC and FERC would need to change their

lease for Gustavus to be able to pipe the water. Gustavus feels that it would have a much greater say in such a lease change if the annexation of Falls Creek were approved.

Staff sees the letter as stating not that Gustavus is looking into such a possibility, but that it would be more empowered to look into piping the water. If Gustavus needs GEC and/or FERC approval to pipe the water, how difficult would it be to obtain that permission or agreement?

Staff respectfully suggests to the city that it explain at the hearing whether or not it can obtain the potentially piped Falls Creek water, and how easily.

City:

On page 46, the first paragraph states "The city has discussed regulating and enforcing the moorage sites." To date, this has not been formally discussed, but will be part of the discussion necessitated by City management of the new floats. It would be more accurate to state that

"...more traffic from barges and ferry will require the city to cooperate with other management entities to deal with moorage and access problems."

Commerce:

This is the part of the comment that most concerned the staff, because the second sentence states that regulating the moorage hasn't been discussed yet. After talking with Ms. Manchester and Ms. Taylor, and previously with Mr. Streveler, we understand that the city does intend to regulate the moorage, but that it hasn't voted on the matter yet.

Based on the fact that staff has both read the comment and spoken with city representatives, but the LBC will have only read the comment, staff repeats its respectful suggestion that the city be in a position to explain to the LBC at the hearing whether and when the city intends to regulate the moorage. The staff also respectfully suggests that the commissioners ask about that intent and timetable.

City:

On page 48, the first paragraph under Commerce states that uses of the Falls Creek area other than for a water system "are speculative". We believe that use of the rock resource for community use is not speculative. There is no other local source for rock, and DNR has addressed the mechanism for leasing the rock pit to local contractors during the negotiations between FERC and Gustavus Electric over conditions of the hydropower license with the latter.

Commerce:

For several reasons, beyond whether the rock quarrying is or is not speculative, we found that 3 AAC 110.140(5) (Legislative Review) was not met. Staff found that three of the eight standards had been met for Falls Creek. Only one of the eight is needed, so staff found that 3 AAC 110.140 was met.

If Gustavus wants to show that 3 AAC 110.140(5) was also met, we respectfully suggest that Gustavus explain at the hearing why 3 AAC 110.140(5) is met.

City:

On page 58, the third paragraph under Commerce states "Placing the moorage area inside city limits would empower the city by giving it control . . .". We recommend placing the word "regulatory" before the word "control", thus recognizing the role of other management agencies such as the US Coast Guard. Similarly, on the next page, we would prefer to insert the word "regulatory" before the word "control" in the last sentence.

Commerce:

We understand the importance of the phrasing to Gustavus, but respectfully stand by our using the standalone verb "control."

Chapter 4 - General Conclusion and Recommendation

Due to the fact that only one brief comment was received on the preliminary report, little analysis is needed. The analysis is above.

We still recommend that the LBC approve the petition as it is, subject to the caveat (for the Icy Passage territory) that the city intends to regulate the moorage. That caveat does not affect our recommendation that the LBC approve the annexation of Falls Creek.

Appendix A: Public Comment



City of Gustavus
P.O. Box 1
Gustavus, AK 99826
Phone: (907) 697-2451

June 22, 2011

Mr. Brent Williams
LBC Staff Supervisor
DCCED
550 W. 7th Avenue, Suite 1770
Anchorage, AK 99501-3510

Dear Mr. Williams:

The purpose of this letter is to provide you with the City of Gustavus response to the "Preliminary Report to the Local Boundary Commission, May 2011".

In general, we believe the report fairly and fully reflects the City's argument for annexation of portions of Icy Passage and the Falls Creek area. We find its conclusions appropriate and generally well reasoned. Our comments will be divided into two categories: correction of details and matters of substance.

Correction of details

On page 32, on the first line, the report states "Gustavus has a 2% sales tax...". The correct figure is 3%, pursuant to a October, 2010, vote of the populace to that effect.

On page 39, second to last paragraph, "RMS" should read "EMS".

Matters of substance

On page 37, the first paragraph states "The city will control the moorage situation in Icy Passage..." It would be more accurate to say "The city will cooperate with other management entities to control the moorage and dock/float access ...".

On the same page, third paragraph states that "The city is examining piping water from Falls Creek...". It would be more accurate to state "The city would be in a position to consider piping water from Falls

Creek, which may become necessary due to inadequate septage management.”

On page 46, the first paragraph states “The city has discussed regulating and enforcing the moorage sites.” To date, this has not been formally discussed, but will be part of the discussion necessitated by City management of the new floats. It would be more accurate to state that “...more traffic from barges and ferry will require the city to cooperate with other management entities to deal with moorage and access problems.”

On page 48, the first paragraph under Commerce states that uses of the Falls Creek area other than for a water system “are speculative”. We believe that use of the rock resource for community use is not speculative. There is no other local source for rock, and DNR has addressed the mechanism for leasing the rock pit to local contractors during the negotiations between FERC and Gustavus Electric over conditions of the hydropower license with the latter.

On page 58, the third paragraph under Commerce states “Placing the moorage area inside city limits would empower the city by giving it control...”. We recommend placing the word “regulatory” before the word “control”, thus recognizing the role of other management agencies such as the US Coast Guard. Similarly, on the next page, we would prefer to insert the word “regulatory” before the word “control” in the last sentence.

Thank you for this opportunity to respond to the Preliminary Report. We reiterate our general support for its conclusions and look forward to approval of our annexation petition.

Sincerely,



Lou Cacioppo
Acting Mayor

Appendix B: LBC Public Hearing and Decisional Meeting, Regulations, and Tips for Public Comment

Hearing Procedures (3 AAC 110.560)

3 AAC 110.560. Commission hearing procedures

(a) The chair of the commission shall preside at the hearing, and shall regulate the time and the content of statements, testimony, and comments to exclude irrelevant or repetitious statements, testimony, and comments. The department shall record the hearing and preserve the recording. Two members of the commission constitute a quorum for purposes of a hearing under this section.

(b) As part of the hearing, the commission may include

- (1) a report with recommendations from the department;
- (2) an opening statement by the petitioner, not to exceed 10 minutes;
- (3) an opening statement by each respondent, not to exceed 10 minutes;
- (4) sworn testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by the petitioner;
- (5) sworn testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by each respondent;
- (6) sworn responsive testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by the petitioner;
- (7) a period of public comment by interested persons, not to exceed three minutes for each person;
- (8) a closing statement by the petitioner, not to exceed 10 minutes;
- (9) a closing statement by each respondent, not to exceed 10 minutes;
- (10) a reply by the petitioner, not to exceed five minutes; and
- (11) points of information or clarification by the department.

(c) If more than one respondent participates, the chair of the commission, at least 14 days before the hearing, may establish for each respondent time limits on the opening and closing statements that are lower than those time limits set out in (b) of this section.

(d) A member of the commission may question a person appearing for public comment or as a sworn witness. The commission may call additional witnesses.

(e) A brief, document, or other evidence may not be introduced at the time of the public hearing unless the commission determines that good cause exists for that evidence not being presented in a timely manner for written response by the petitioner or respondents or for consideration in the reports of the department under 3 AAC [110.530](#).

(f) The commission may amend the order of proceedings and change allotted times for presentations to promote efficiency if the amendment does not detract from the commission's ability to make an informed decision.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185 | Authority: Art. X, sec. 12, Ak Const.; Art. X, sec. 14, Ak Const.; [AS 29.04.040](#); [AS 29.05.090](#); [AS 29.06.040](#); [AS 29.06.120](#); [AS 29.06.490](#); [AS 44.33.020](#); [AS 44.33.812](#); [AS 44.33.814](#); [AS 44.33.816](#); [AS 44.33.820](#); [AS 44.33.826](#)

Decisional Meeting (3 AAC 110.570)

3 AAC 110.570. Decisional meeting

(a) Within 90 days after the last commission hearing on a proposed change, 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. During the decisional meeting,

- (1) the commission will not receive new evidence, testimony, or briefing;
- (2) the chair of the commission or a commission member may ask the department or a person for a point of information or clarification; and
- (3) the department may raise a point of information or clarification.

(b) Repealed 1/9/2008.

(c) If the commission determines that a proposed change must be altered or a condition must be satisfied to meet the standards contained in the Constitution of the State of Alaska, [AS 29.04](#), [AS 29.05](#), [AS 29.06](#), or this chapter, and be in the best interests of the state, the commission may alter or attach a condition to the proposed change and accept the petition as altered or conditioned. A motion to alter, impose conditions upon, or approve a proposed change requires at least three affirmative votes by commission members to constitute approval. If the proposed change is a

- (1) municipal annexation, detachment, deunification, dissolution, merger, or consolidation, a city reclassification, or a legislative-review borough incorporation under [AS](#)

[29.05.115](#) , and if the commission determines that the proposed change must be altered or a condition must be satisfied before the proposed change can take effect, the commission will include that condition or alteration in its decision; or

(2) municipal incorporation subject to [AS 29.05.060](#) - 29.05.110, and if the commission determines that an amendment to the petition or the placement of a condition on incorporation may be warranted, the department shall provide public notice and an opportunity for public comment on the alteration or condition before the commission amends the petition or imposes a condition upon incorporation; if the department recommended the proposed change or condition and the public had an opportunity to comment on the proposed change or condition at a commission hearing, an additional notice or comment period is not required.

(d) If the commission determines that a proposed change fails to meet the standards contained in the Constitution of the State of Alaska, [AS 29.04](#), [AS 29.05](#), [AS 29.06](#), or this chapter, or is not in the best interests of the state, the commission will reject the proposed change. If a motion to grant a proposed change receives fewer than three affirmative votes by commission members, the proposed change is rejected.

(e) The commission will keep written minutes of a decisional meeting. Each vote taken by the commission will be entered in the minutes. The approved minutes are a public record.

(f) Within 30 days after the date of its decision, the commission will issue a written decision explaining all major considerations leading to the decision. A copy of the statement will be mailed to the petitioner, respondents, and other interested persons requesting a copy. The department shall execute and file an affidavit of mailing as a part of the public record of the proceedings.

(g) Unless reconsideration is requested timely under 3 AAC [110.580](#) or the commission, on its own motion, orders reconsideration under 3 AAC [110.580](#), a decision by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioners and the respondents.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185 | Authority: Art. X, sec. 12, Ak Const.; Art. X, sec. 14, Ak Const.; [AS 29.04.040](#); [AS 29.05.100](#); [AS 29.06.040](#); [AS 29.06.130](#); [AS 29.06.500](#); [AS 44.33.020](#); [AS 44.33.812](#); [AS 44.33.814](#); [AS 44.33.816](#); [AS 44.33.818](#); [AS 44.33.820](#); [AS 44.33.822](#); [AS 44.33.826](#)



Local Boundary Commission

Members

Lynn Chrystal
Chair
At large

John Harrington
Member
First Judicial District

Robert Harcharek
Member
Second Judicial District

Larry Semmens
Member
Third Judicial District

Lavell Wilson
Member
Fourth Judicial District

TIPS FOR EFFECTIVE PUBLIC COMMENT

If you plan to offer comments to the Local Boundary Commission (LBC) at the public hearing on the proposed annexation to the City of Dillingham, the following tips are offered to make your comments more effective.

1. Come prepared and informed. Plan your comments in advance. Prior to the hearing you may wish to review:

- ◆ the annexation petition, responsive brief, and written comments on the petition,
- ◆ Commerce's preliminary report, public comments on the preliminary report, and Commerce's final report.

The above materials are available at the Dillingham City Hall, Port of Dillingham small boat Office, and the Dillingham Public Library. The documents are also available on the LBC web site at <http://www.commerce.state.ak.us/dca/lbc/dillingham.htm>.

2. Provide relevant comments or testimony. The LBC's decision on the annexation proposal will be based on legal standards applied to the proposal's facts. Comments addressing those standards will most help the LBC. A summary of the criteria includes:

- ◆ There must be a reasonable need for city government in the territory proposed for annexation. (3 AAC 110.090(a));
- ◆ The territory may not be annexed if essential city services can be provided more efficiently and more effectively by another existing city, by an organized borough, or through a borough service area. (3 AAC 110.090(b));
- ◆ The territory must be compatible in character with the annexing city. (3 AAC 110.100);
- ◆ There must be sufficient human and financial resources in the proposed city boundaries (area within existing city, plus territory proposed for annexation) to provide essential city services on an efficient, cost effective level. (3 AAC 110.110);
- ◆ The population within the proposed city boundaries must be sufficiently large and stable to support the extension of city government. (3 AAC 110.120);
- ◆ The proposed expanded city boundaries must include all land and water necessary to provide the development of essential municipal services on an efficient, cost effective level. (3 AAC 110.130(a));
- ◆ Absent a specific and persuasive showing to the contrary, the Local Boundary Commission will, presume that territory that is not contiguous to the annexing city or would create enclaves in the existing city, does not include all land and water necessary to allow for the development of essential municipal services on an efficient, cost effective level. (3 AAC 110.130(b));
- ◆ The proposed boundaries of the city must be on a scale suitable for city government and may include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following annexation. (3 AAC 110.130(c)(1));
- ◆ The proposed boundaries of the city may not include entire geographical regions or large unpopulated areas, except when boundaries are justified by applying the annexation standards. (3 AAC 110.130(c)(2));
- ◆ Whether the petition for annexation is in the best interests of the state under AS 29.06.040(a). (3 AAC 110.135);



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- ◆ 3 AAC 110.140 requires that the territory to be annexed by legislative review must meet at least one of several specified criteria. (3 AAC 110.140);
- ◆ petition for annexation must include a practical plan:
 - ◆ demonstrating the annexing municipality's intent and capability to extend municipal services to the territory proposed for annexation in the shortest practical time after the effective date of the proposed boundary change;
 - ◆ providing for the assumption of all relevant and appropriate powers, duties rights and functions exercised by an existing borough, city, service area or other entity located in the territory proposed for change;
 - ◆ providing for transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, service area or other entity located in the territory proposed for change;
 - ◆ must state the names and titles of all officials of each existing borough, city, and unorganized borough service area that were consulted by the petitioner. The dates on which that consultation occurred and the subject addressed during that consultation must also be listed. (3 AAC 110.900);
- ◆ The commission cannot approve annexation if the effect of the change would be to deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin. (3 AAC 110.910);
- ◆ If a provision of this chapter calls for the identification of essential municipal services for a city, the commission will determine those services. (3 AAC 110.970(c));
- ◆ In determining whether a proposed boundary change promotes maximum local self-government under art. X, sec. 1, Constitution of the State of Alaska, the commission will consider for city incorporation or annexation in an organized borough, whether the proposal would extend local government to territory or population of the organized borough where local government needs cannot be met by the borough on an areawide or nonareawide basis, by annexation to an existing city, or through an existing borough service area. (3 AAC 110.981(8));
- ◆ Among the factors to be considered in determining whether a proposed boundary change promotes a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, the commission will consider for city annexation, whether the jurisdictional boundaries of an existing city are being enlarged rather than promoting the incorporation of a new city or creation of a new borough service area. (3 AAC 110.982(7)); and
- ◆ The commission is also guided by principles set forth in Article X of the Constitution of the State of Alaska in judging the merits of annexation proposals.
- ◆ All legal standards can be looked up on the legislative website (Title 3, Part 15, Chapter 110): <http://www.legis.state.ak.us/cgi-bin/folioisa.dll/aac?>

3. Observe the rules.

- ◆ New written materials may not be filed at the hearing unless good cause for such is shown.
- ◆ Public comment will be limited to a maximum of three minutes per speaker (does not apply to petitioner and respondent) to ensure that the LBC will be able to hear from all persons who wish to speak. Please honor the time limits.

4. Avoid repetition.

- ◆ If an earlier speaker has addressed certain points to your satisfaction, you may wish to simply note that you agree with the earlier remarks, and then spend your allotted time on topics that have not yet been addressed.

Appendix C: Public Hearing and Decisional Meeting Notice

State of Alaska Local Boundary Commission (LBC)

Notice of Public Hearing and Decisional Meeting Regarding the City of Gustavus's Annexation Proposal

The LBC will meet to convene a public hearing under 3 AAC 110.560 regarding the proposal to annex an estimated 16 square miles of land and water to the city of Gustavus. The territories are generally described as the upland area known as "Falls Creek," and as the submerged portion of Icy passage lying between the present city limits and Pleasant Island, known as "Icy Passage." The LBC will also meet to approve minutes, to review or amend the written decision on the Kachemak annexation petition, and to discuss how far a LBC decision should go and to what extent the LBC can impose conditions, and other items. The hearing will follow, and a decisional meeting on the Gustavus petition will follow the hearing. The proceedings will start at:

Wednesday, August 17, 2011 – 1:00 p.m.
Gustavus City Hall
1/8 Mile Parker Road
Gustavus, AK 99826

The hearing will follow. The LBC will recess later in the day, and reconvene at city hall at 9:00 am Thursday, August 18. The decisional meeting will follow the hearing.

The hearing agenda and information concerning the hearing, decisional meeting, and other aspects of the annexation proposal may be obtained from:

LBC staff
550 West Seventh Avenue, Suite 1770
Anchorage, Alaska 99501-3510
Brent Williams: (907) 269-4559
Don Burrell: (907) 269-4587
Fax: (907) 269-4539
Email: LBC@alaska.gov

All petition materials are available for public review in Gustavus at the Gustavus City Hall, Gustavus library, U.S. Post office lobby, Glacier Bay National Park headquarters, and the City of Gustavus website. The materials are also available on the LBC website: <http://www.commerce.state.ak.us/dca/lbc/Gustavus.htm>.

Persons interested in receiving future LBC notices by email may subscribe to the LBC notice list service by visiting <http://www.commerce.state.ak.us/dca/lbc/lbcnotices.htm>, clicking on the link to the *LBC Subscription Service*, and following the instructions.

Teleconference sites for the proceedings might be added for the convenience of the public and/or LBC members. Individuals or entities who need one should let LBC staff know by August 9, 2011. Individuals with disabilities who need auxiliary aids, services, or special modifications to participate should contact LBC staff by August 9, 2011.

Appendix D: Maps

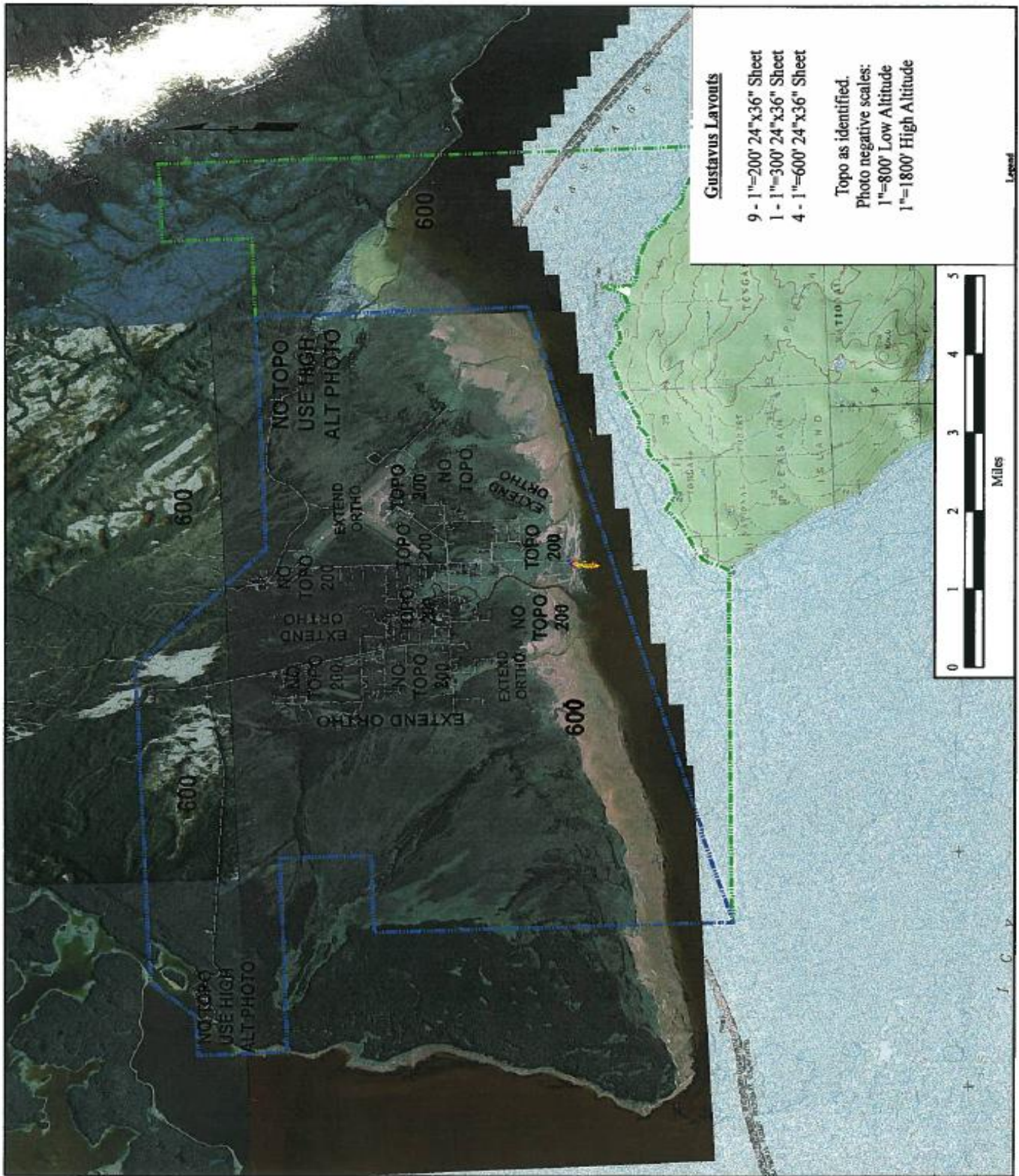
Appendix D1 - Aerial Topographic Map

Appendix D2 - Moorage Map

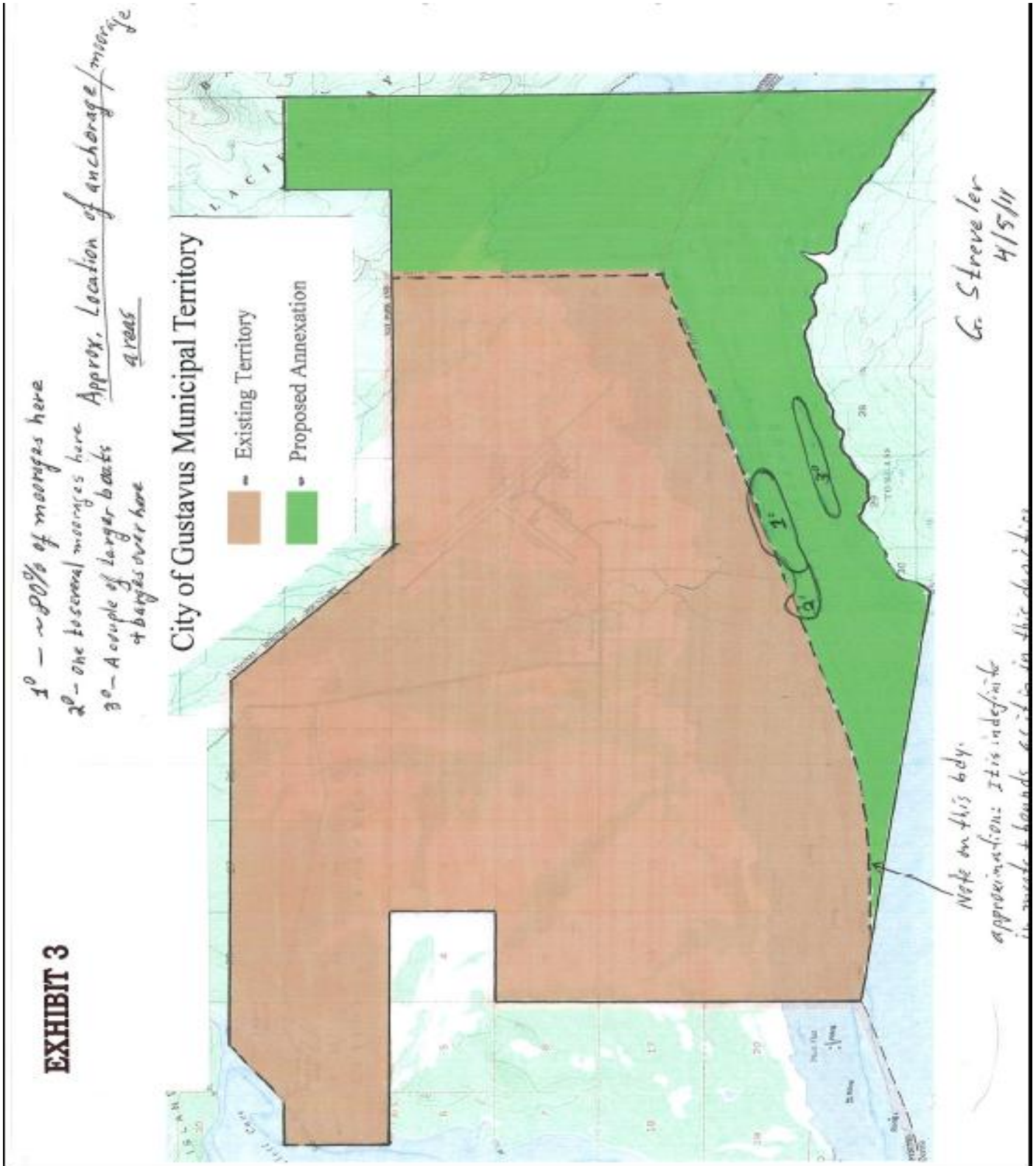
Appendix D3 - Full Gustavus Annexation Map

Appendix D4 - Gustavus Dock

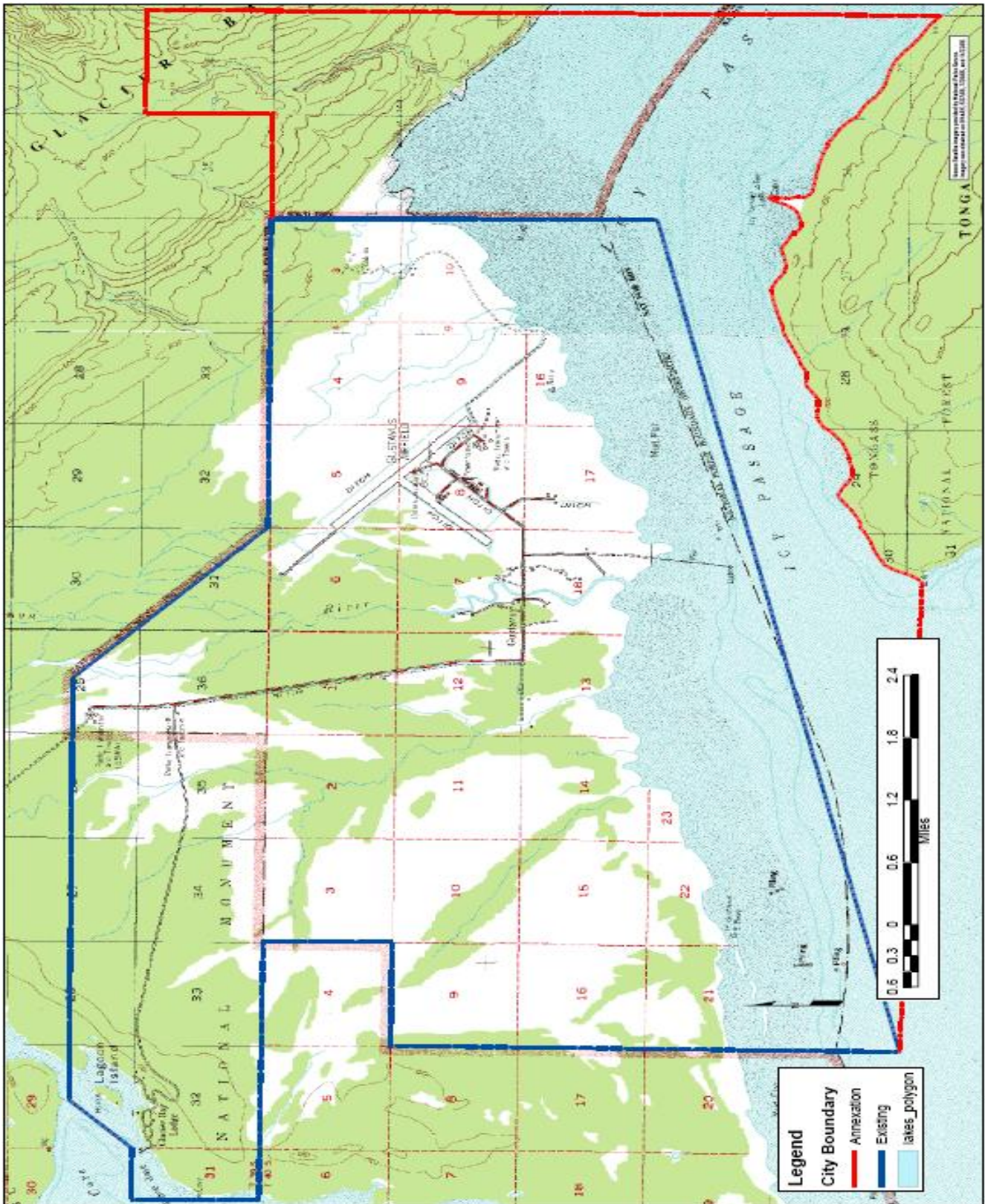
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