

KODIAK CITY COUNCIL

WORK SESSION AGENDA

Tuesday, October 11, 2016
Kodiak Public Library Multi-Purpose Room
7:30 p.m.

Work sessions are informal meetings of the City Council where Councilmembers review the upcoming regular meeting agenda packet and seek or receive information from staff. Although additional items not listed on the work session agenda are sometimes discussed when introduced by the Mayor, Council, or staff, no formal action is taken at work sessions and items that require formal Council action are placed on a regular Council meeting agenda. Public comments at work sessions are NOT considered part of the official record. Public comments intended for the "official record" should be made at a regular City Council meeting.

Discussion Items

1. Public Comments (limited to 3 minutes)
2. Alaska Permanent Capital Management Investment Update..... No Backup
3. Review Near Island Conceptual Land Use Plan1
4. Overview and Council Direction Regarding Tax Revenues PowerPoint
5. Review Industrial Water Rate Structure for Years Two – Five (Councilmembers Whiddon and Bishop) No Backup
6. Discussion About Downtown Vagrancy Issues No Backup
7. Discussion About Teleconferencing Council Meetings34
8. Elected Officials Training/Travel Requests
9. October 13, 2016, Agenda Packet Review

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MEMORANDUM

TO: The City of Kodiak City Council

FROM: Michelle J. Ritter, AICP, Senior Planner 

DATE: September 20, 2016

SUBJECT: Near Island Development Plan Update Summary

DOWL presented an update on the Near Island Development Plan to the Kodiak City Council on August 9, 2016. The purpose of the presentation was to provide a briefing on project progress, answer City Council questions, and determine next steps. The briefing reviewed work completed to date, summarized public outreach efforts, and provided recommendations to the City Council for moving forward with the Plan.

The City Council requested additional information in order to provide better guidance. Below is the requested additional information.

Additional Materials Provided

In addition to this memo and the Community Council Summary prepared for the August 9, 2016 work session, attached are 11X17 versions of the following figures:

- Conceptual Land Use Plan A
- Conceptual Land Use Plan B
- Conceptual Land Use Plan C
- 1974 Land Use Map
- 1987 Land Use Map
- KIB Proposed Future Land Use Map
- Proposed Land Use Plan
- Existing Zoning Map
- Proposed Zoning Map

Land Use Versus Zoning Designations

There was some conversation regarding zoning designations versus land use designations. To clarify, zoning designations dictate the variety of allowable uses on a property and are regulated by the Kodiak Island Borough (KIB). Land use designations indicate the desired type of use the community would like to see at a specific location. Approval and adoption of the Near Island Development Plan Update will not rezone property, but will provide guidance for where and what types of development occur. If the desired uses are not in line with the underlying zoning designation then an adopted land use map may be used to support a zoning map amendment request, which would need to be recommended for approval by the City Council and approved by the KIB Planning and Zoning Commission.

Intent of Land Use Designations

Please note, the following land use designations and their intent are taken from the 1987 Near island Development Plan.

Future Reserve

This designation is intended to identify future reserve areas for development or preservation as the need arises. At present, no development other than the trail around the island would be allowed. Decisions on the appropriate use of reserve areas will be made in the future through completing special studies and/or market analysis to determine the highest and best use of the parcel.

General Commercial

Areas designated for commercial development are intended to allow a broad range of retail and commercial activities. These activities could be oriented to the needs of the fishing fleet and the visitor industry. Specifically excluded from the commercial designations are all industrial land uses and residential development. Commercial and industrial activities carry the definitions of the existing KIB Zoning Code. Commercial areas should be designed to accommodate adequate off-street parking, provide alleys at rear property lines, limit the visibility of structures from downtown Kodiak through height restriction, and provide sidewalks for pedestrians.

General Commercial Tourism Related

Areas designated for general commercial – tourism related development are intended to allow a broad range of retail and lodging oriented to the needs of the visitor industry. Specifically excluded from the commercial designations are all industrial land uses and residential development. Commercial and lodging activities carry the definitions of the existing KIB Zoning Code.

Institutional

This designation is intended to support the Fishery Industrial Technology Center by providing additional lands for related development. This may include, but is not limited to, a museum, a convention center, multi-family residential, student-related activity buildings, and a possible area for commercial development.

Open Space and Recreational

This designation is intended to be limited to park areas, greenbelts, and minor structural developments. Development would be limited to picnic facilities, restrooms, and recreational facilities such as a basketball hoop, volleyball net, horseshoes, etc.

Seaplane Base & Support Services

Areas identified as possible float plane facilities would include docking and tie-down areas, a shore-based haul out area for maintenance, and parking areas.

Water Dependent Marine Industrial

The intent of this designation would be for the development of water dependent marine industrial land use. Development in this area should give priority to those types of businesses and services that are most affected by or dependent on their proximity to the water and harbor.

Water Related Marine Industrial

The intent of this designation would be for the development of water related marine industrial land use. This area could accommodate a variety of commercial marine related uses such as hardware and tackle, electronic shops, fishing gear supply outlets (both commercial and sport), net hanging and repair facilities, etc. Businesses such as welding and engine repair and sales should be considered. Restaurants, grocery and supply stores, and other public sales and services could help to maximize visitor attraction to the waterfront, while providing a convenience area for the users of the harbor.



Near Island Development Plan Update

Revised City Council Summary
September 2016

Project Overview

The Near Island Development Plan Update is intended to provide the City of Kodiak a plan that encourages revenue generation while balancing development and land conservation. The plan will allow the City of Kodiak to anticipate and plan for the future development of Near Island. Specifically, which types of uses are desired and where development should occur. Overall the project's goal is to develop a plan with goals, policies, and recommendations that can be implemented, including:

- Identifying required steps to implement recommended goals and policies.
- Identifying responsible parties for implementation.
- Identifying potential funding sources and any intergovernmental coordination required for successful implementation



Figure 1 - Project Study Area

Initial Site Visit & Review of Previous Plans

Before the initial public meeting we walked Near Island in order to best understand the issues and opportunities of the area. We looked at terrain, topography, existing trails, existing development, views, and other opportunities. We also reviewed existing plans and zoning regulations and determined the locations of existing utilities. From this research we developed an existing zoning map, existing conditions

map, slope analysis map, and utilities map (figures 2, 3, 4, & 5). These became the materials presented at the first public Open House used to solicit public input.

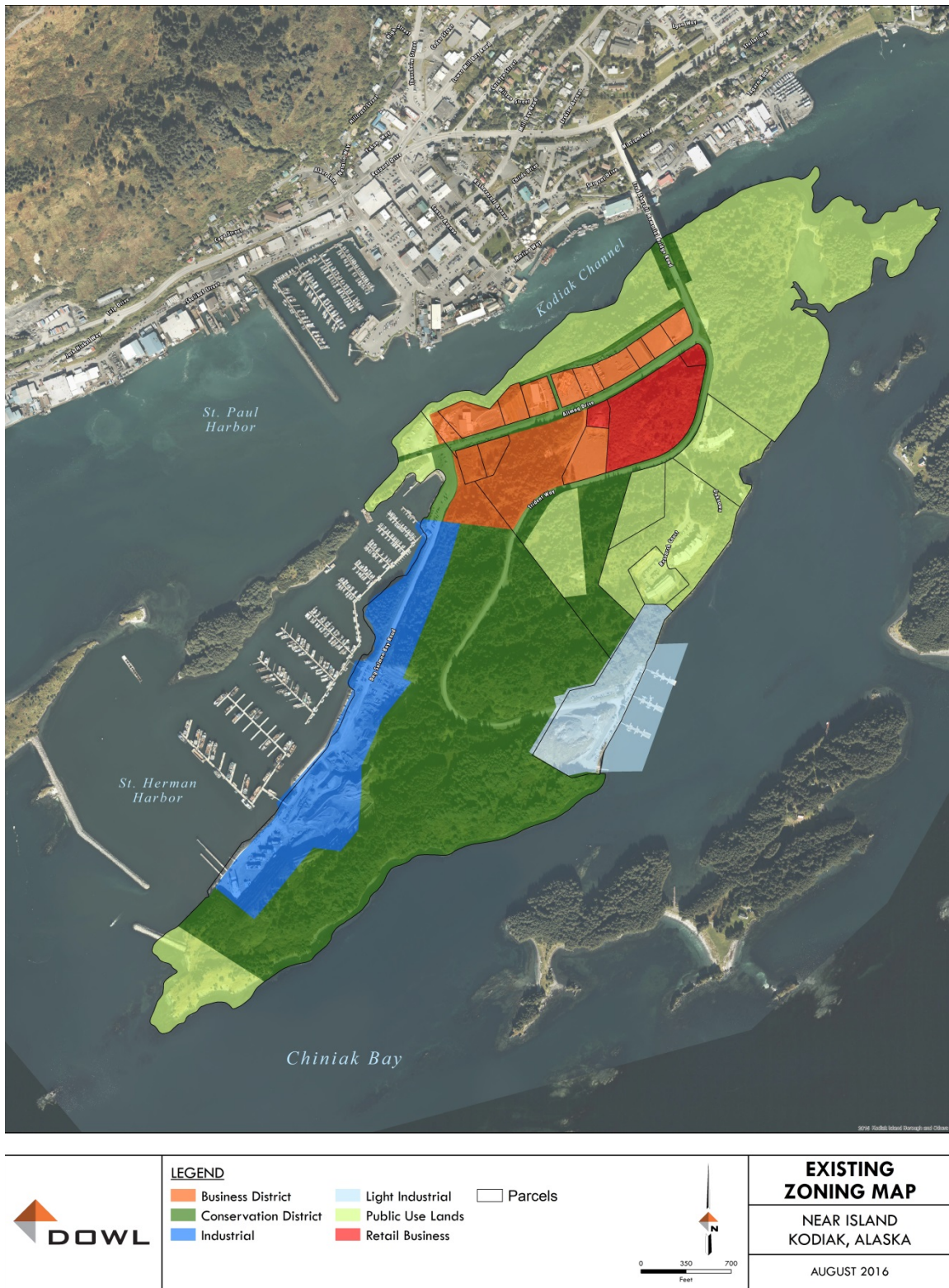


Figure 2 – Existing Zoning Map

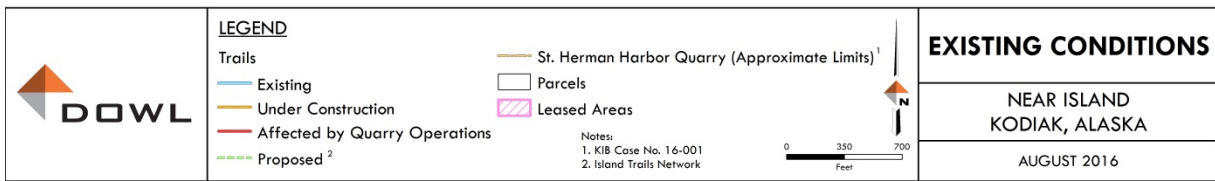


Figure 3 - Existing Conditions Map



Figure 4 – Slope Analysis Map



Figure 5 – Utility Map

Collecting Initial Feedback

Technical Advisory Committee Meeting #1

A Technical Advisory Committee (TAC) was established as part of this project and includes representatives from the: Kodiak Island Borough, Community Development Department , Alaska Fish & Game, City of Kodiak Public Works Department , City of Kodiak City Council, City of Kodiak Parks & Recreation, Island Trails Network, and the Ports & Harbor Advisory Board. The role of this Board is to provide technical feedback regarding existing conditions, the practicality of moving forward specific ideas, and to provide insight to any known conflicts and/or opportunities. The first TAC meeting was held on February 1, 2016. This meeting was the first opportunity to introduce the project to the TAC, review the work done-to-date, and to get feedback on the accuracy of the existing conditions as presented.

Comments from the TAC included suggestions for future presentation materials and addressed issues, opportunities and constraints.

Open House #1

The first public meeting was an Open House that took place on February 1, 2016. This meeting was the first opportunity to introduce the project, review the work done-to-date, and listen to the public's preferred areas for development and to hear what type of development is needed. Project representatives from DOWL worked with the 26 attendees to collect information on existing conditions, preferred areas for development and for conservation, and the types of desired development. The evening was divided into three segments:

- 6:00 – 6:30 People arrived and reviewed posters that covered previous projects, the current project and work done to date (summary of site inventory, site opportunities and constraints, and bulkhead parking design).
- 6:30 – 7:00 DOWL team gave a presentation that reviewed the project background, project schedule, and what information we were looking for from the public.
- 7:00 – 9:00 For the remainder of the evening attendees worked one-on-one and in small groups with project representatives to discuss existing conditions and desired improvements. We collected feedback by forming several small groups around tables to get input on provided maps. Figures 6, 7 & 8 show the comments received. A detailed list of comments will be provided with the Draft Plan.



Figure 6 – Comments from Open House #1 – Part 1



	LEGEND Trails Existing Under Construction Affected by Quarry Operations Proposed ²		St. Herman Harbor Quarry (Approximate Limits) ¹ Parcels Leased Areas		DRAFT EXISTING CONDITIONS NEAR ISLAND KODIAK, ALASKA FEBRUARY 2016
	Notes: 1. KIB Case No. 16-001 2. Island Trails Network				

Figure 7 – Comments from Open House #1 – Part 2



	LEGEND Trails Existing Under Construction Affected by Quarry Operations Proposed ²		St. Herman Harbor Quarry (Approximate Limits) ¹ Parcels Leased Areas	Notes: 1. KIB Case No. 14-001 2. Island Trails Network	 	DRAFT EXISTING CONDITIONS NEAR ISLAND KODIAK, ALASKA FEBRUARY 2016	

Figure 8 – Comments from Open House #1 – Part 3

Development of Draft Land Use Concepts

The results from feedback at the first TAC and Open House, online/e-mail comments, site investigations, and stakeholder discussions helped us develop three draft land use concepts to be presented at the TAC and Public Meeting #2. Figures 9, 10 & 11 represent each proposed Land Use Concept. A description for each concept is also provided.

Each concept depicted various levels of land use designation changes to encourage feedback from the public on what was most important to them. Each concept also provided circular trail connections around Near Island, and promoted providing a vegetated buffer between the roadways and development. A proposed coastal trail along the harbor is also included, which would allow for a vegetated buffer between the roadway and the water. Additionally, the retail business (red designation) has been modified to encourage tourism related business.

CONCEPT A: MINIMIZED DEVELOPMENT

This concept reflects public feedback that we heard about not expanding the industrial area by more than what has recently been approved under the conditional use permit. Specifically it limits both the industrial area supporting the harbor and the float plane basin to their current areas of disturbance. This concept does not add any new commercial or institutional land uses.



Figure 9 – Land Use Concept A (larger version appended)

CONCEPT B: MODERATE DEVELOPMENT

This concept reflects public feedback that we heard about not expanding the industrial area by more than what has recently been approved under the conditional use permit, but considers concerns heard that there are limited industrial lands elsewhere and that this may be the opportunity to secure additional industrial land needed to support to the small boat harbor into the future. This concept extends the industrial area supporting the harbor to the east, to the end of Almaq Drive, but limits the area around the float plane basin to its current area of disturbance. This concept also looks at taking advantage of existing infrastructure by expanding general commercial northwest (towards the harbor) along the existing road. This additional industrial and commercial land could provide marine supported and/or enhanced business opportunities. This concept also extends the institutional land use designation to the east.



Figure 10 – Land Use Concept B (larger version appended)

CONCEPT C: MAXIMUM DEVELOPMENT

This concept considers the public feedback that we heard about not expanding the industrial area by more than what has been approved by the recently approved conditional use permit, but reflects concerns heard that there are limited industrial lands elsewhere and that this may be the opportunity to secure additional industrial lands needed to support to the small boat harbor into the future. This

concept extends the industrial area supporting the harbor to the east, to the end of Almaq Drive, and adds additional general commercial along the existing roadway, as well as provides general commercial (tourism related) between the float plane base and the institutional lands which could be developed to support either use. This concept also extends the institutional lands to the east.



Figure 11 – Land Use Concept C (larger version appended)

TAC Meeting #2

The second TAC meeting was held on May 5th. The group discussed the three proposed Land Use Concepts and some feedback was provided. The majority of the conversation was in regards to recent trail disturbance and how the restoration would be completed and by whom.

Open House #2

A second Open House was held on May 5th. There were 33 attendees, most had been to the first Open House, but a few were joining us for the first time. Using the same meeting format as past meetings, this Open House included:

- An initial Open House
- A brief presentation going over work completed to date, a summary of the findings from first public meeting, and the draft improvement projects

- A final Open House format with individual and group discussions

During the Open House portion attendees were provided markers and asked to make comments on each of the concepts. Below are consolidated comments shown on each concept (Figures 12, 13 & 14).



Figure 12 –Proposed Land Use Concept A Comments – Open House #2



THIS HAS A GOOD BALANCE OF GREEN & FUTURE BUSINESS OPPORTUNITY

READY TO BUILD IF WE GET THE GREEN LIGHT.

FUTURE INSTITUTIONAL?

	LEGEND			CONCEPTUAL LAND USE PLAN CONCEPT B NEAR ISLAND KODIAK, ALASKA MAY 2016
	<ul style="list-style-type: none"> Conservation District General Commercial General Commercial Tourism Related Institutional 	<ul style="list-style-type: none"> Public Use Lands Seaplane Base & Support Services Water Dependent Marine Industrial Vegetated Buffer 	<ul style="list-style-type: none"> Existing Trail Trail (Under Construction) Proposed Trail, Trail Linkages Possible Coastal Trail Gate On Trail (Seasonal Closure) 	

Figure 13 – Proposed Land Use Concept B Comments – Open House #2



	LEGEND			CONCEPTUAL LAND USE PLAN CONCEPT C NEAR ISLAND KODIAK, ALASKA MAY 2016
	<ul style="list-style-type: none"> Conservation District General Commercial General Commercial Tourism Related Institutional Public Use Lands 	<ul style="list-style-type: none"> Public Use Lands Seaplane Base & Support Services Water Dependent Marine Industrial Marine Related Marine Industrial Vegetated Buffer 	<ul style="list-style-type: none"> Existing Trail Trail (Under Construction) Proposed Trail, Trail Linkages Possible Coastal Trail Gate On Trail (Seasonal Closure) 	

Figure 14– Proposed Land Use Concept C Comments – Open House #2

Recommendations

A proposed Draft Land Use Plan Map and Proposed Zoning Map have been developed based off of public comment and our understanding of the City's goal to have balanced growth that provides economic opportunities (Figures 12 & 13).

Proposed Land Use Plan Map: BALANCED GROWTH

The proposed land use plan map (Figure 15) reflects a balanced growth approach to developing Near Island.

- It takes advantage of existing infrastructure by focusing expansion of industrial and commercial development to where existing utilities and roadway are located.
- Extends the industrial area supporting the harbor to the east, to the end of Almaq Drive.
- Conservation land adjacent to South End Park is recommended to be converted to public use lands for open space/recreational resources. This area should remain undeveloped as it provides important vegetation providing weather protection the small boat harbor.
- The map also reflects looping the trail system around the island as well as a potential coastal trail along the harbor.
- Allows for tourism related commercial opportunities near the float plane basin.
- The area reserved for institutional uses is expanded to the northeast as additional lands may be necessary for future opportunities.



Figure 15– Proposed Land Use Map (larger version attached)

Proposed Zoning Map

The zoning map should be updated to reflect the proposed land uses, to provide better direction on location and type of development and to protect open space areas. The proposed zoning map (Figure 16) reflects the recommended land use plan map.

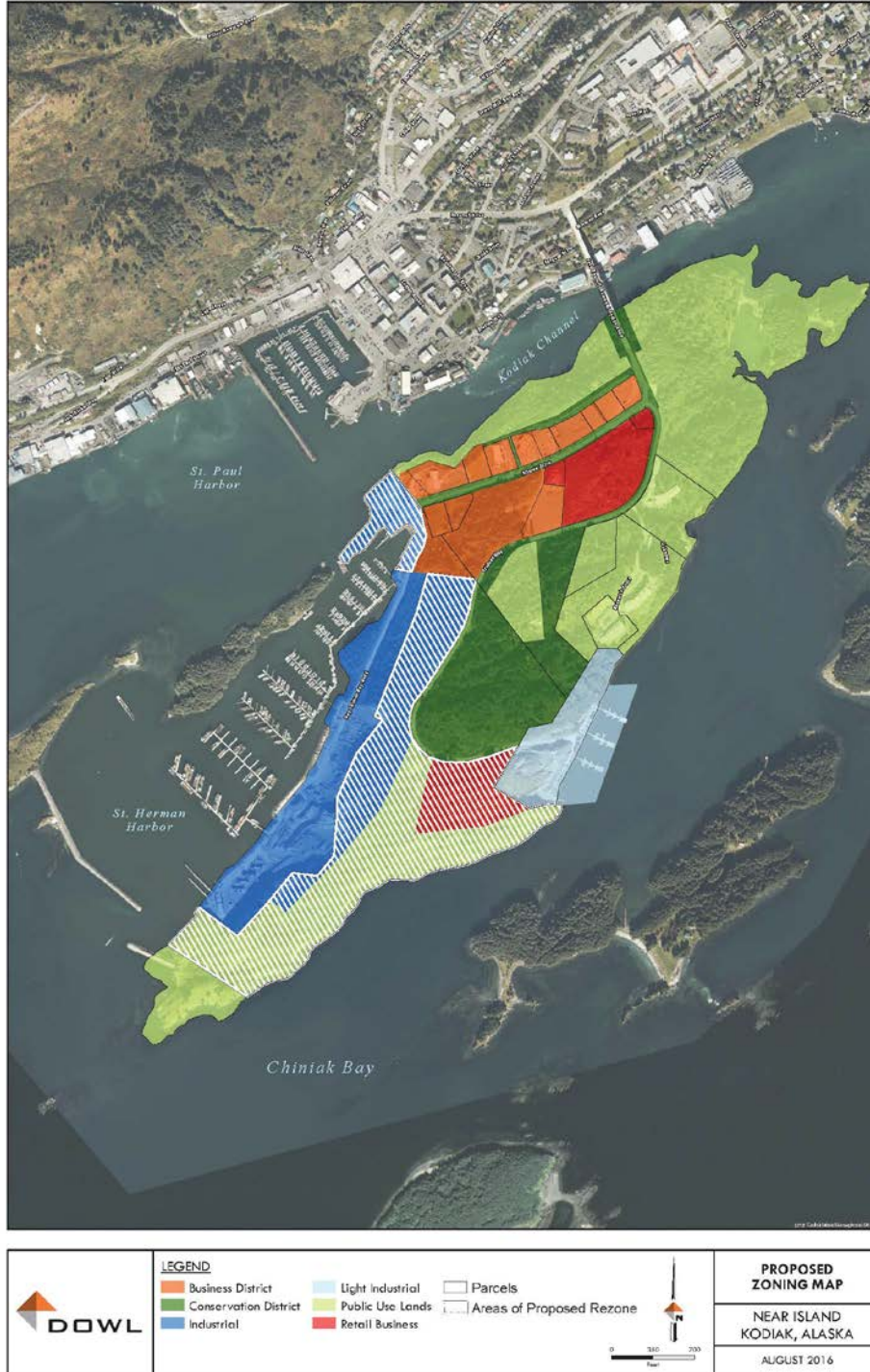


Figure 16– Proposed Land Use Map (larger version attached)

Proposed Action Items

In addition to updates to the before mentioned figures, following are a list of recommended action items that will be incorporated into the implementation plan section of the Near Island Development Plan.

- Adopt the Near Island Development Plan Update as part of the Kodiak Island Borough Comprehensive Plan.
- Replat island so that property lines follow zoning designations, and establish City of Kodiak right-of-way along road corridors.
- Rezone lands to reflect the Land Use Plan Map, as necessary.
- Enhance entrance onto Near Island.
- Evaluate if highest return of investment is through retaining land ownership and providing long-term leases for development, or selling property and taxing.
- Formalize relationship with Island Trails Network through a Memorandum of Agreement which would allow for streamlined execution of trail construction as grant funding becomes available. As well it could provide guidance for roles and responsibilities of each organization.
- Pursue revenue stream that would support trail maintenance on Near Island.
- Complete a storm drain master plan for Near Island.
- Adopt standards for road improvements that consider drainage and trails along roadways.
- Provide light duty cranes for small boats at the harbor.
- Analyze lighting levels at the transition from the Near Island Bridge onto Near Island to determine if adequate levels exist.
- Develop a managed parking and/or dry storage plan for the land at the bottom of Alimaq Drive. This could include the relocation of storage to provide parking closer to the harbor.

Next Steps

Since the second Open House we have been collecting and reviewing feedback on the draft pedestrian improvement projects. The next steps include:

1. Draft Near Island Development Plan Update (complete mid-December)
2. Update City Council & Post Draft Plan for Public Review (mid-January)
3. Incorporate Final Feedback (through February)
4. Final Near Island Development Plan (March)

Draft Table of Contents

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Report Overview

Section II: Background and Technical Information

Introduction/Goals and Objectives

Borough and City Planning Powers

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Review of Existing Plans and Code

1974 Near Island Comprehensive Development Plan

1987 Near Island Development Plan

2002 Community Design Workshop

Kodiak Island Borough Comprehensive Plan

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Zoning

Ownership and Leases

Topography

Utilities

Section IV: Project Process and Public Involvement

Stakeholder Groups

Project Website

Public Meetings

Section V: Conclusions and Recommendations

Description of Development Categories and Allowable Land Uses

Other Recommendations

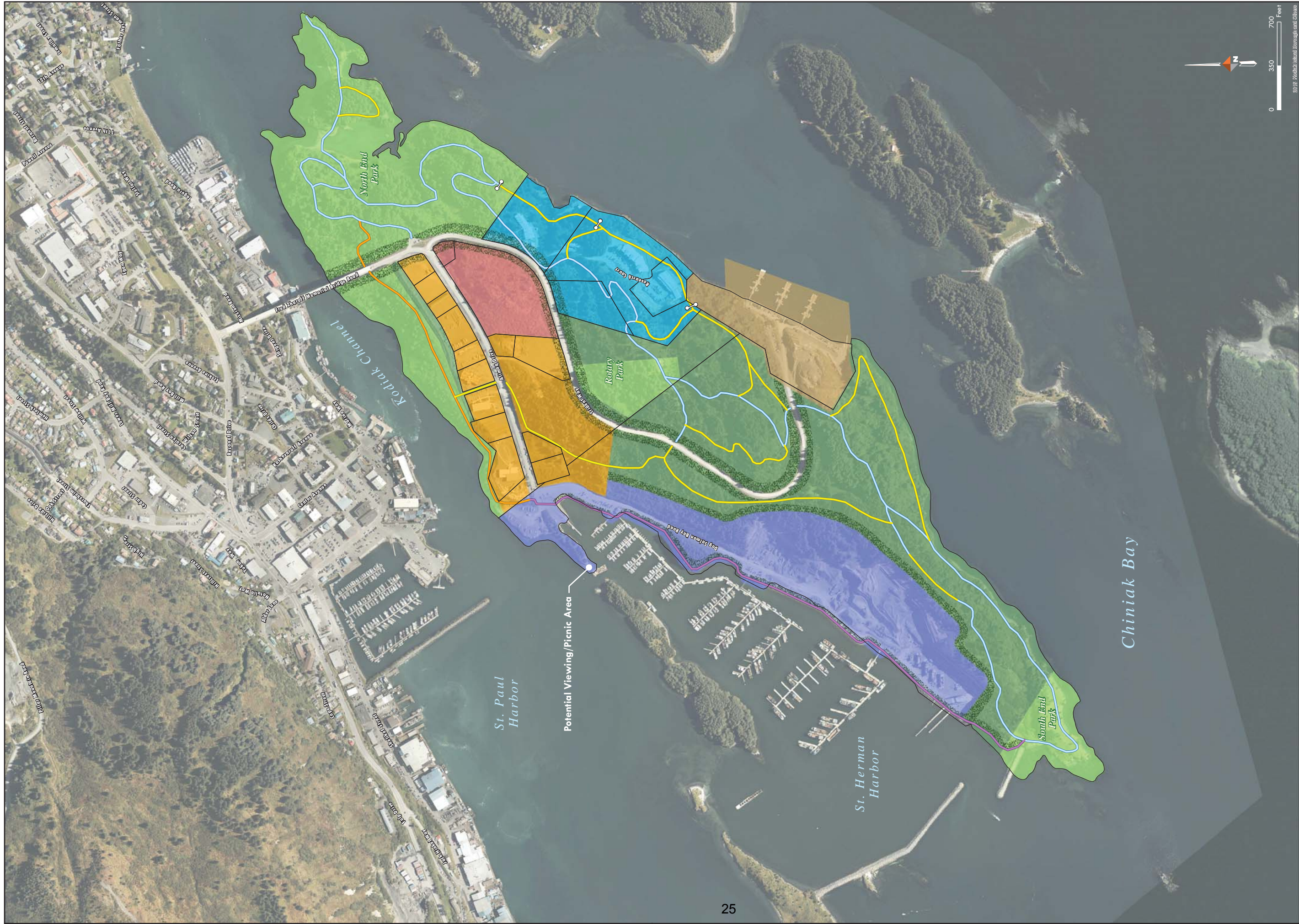
Section VI: Implementation Plan














Implementation

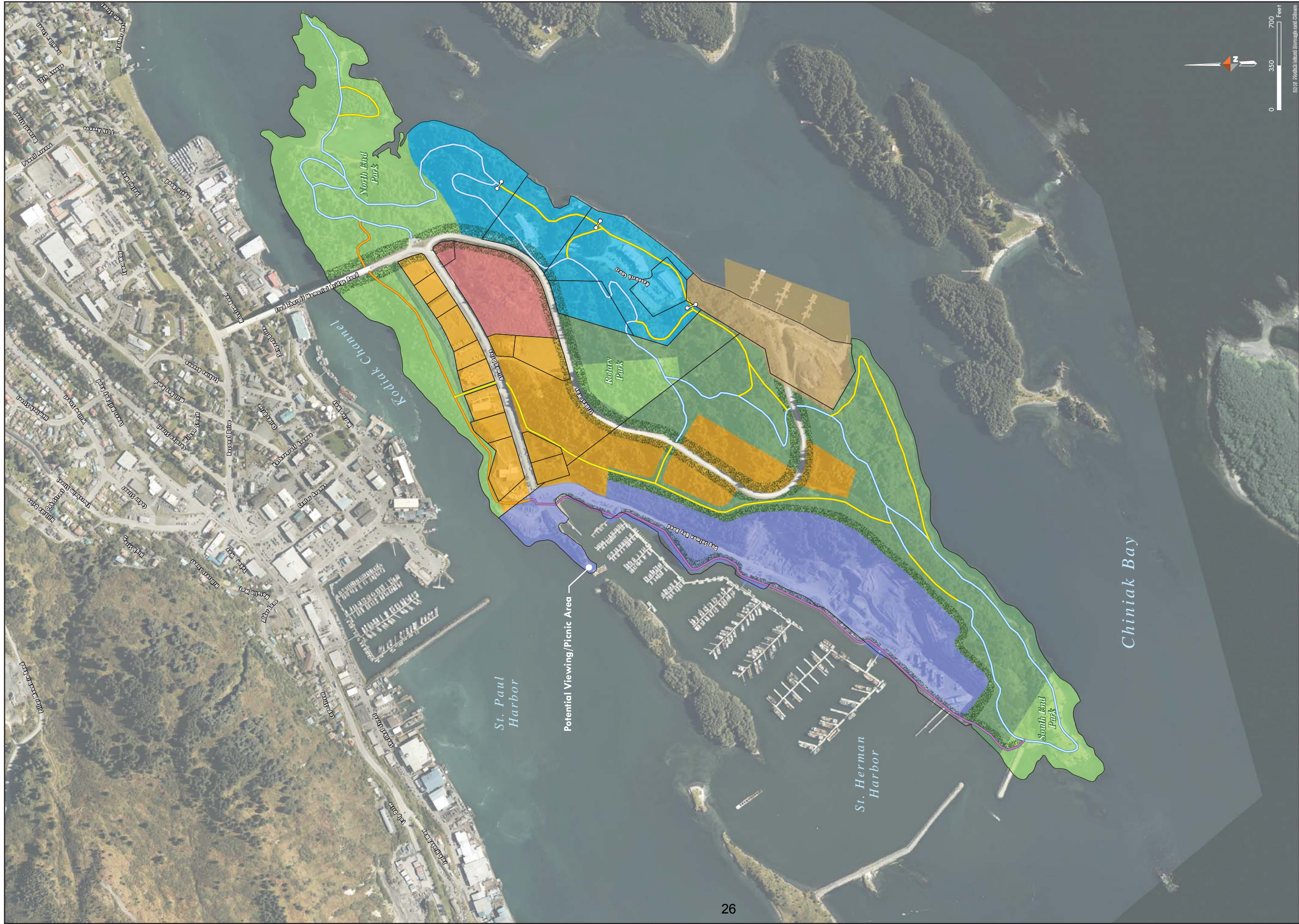
Potential Project Lead and/or Partners

Potential Funding

Next Steps



	CONCEPTUAL LAND USE PLAN CONCEPT A	
	NEAR ISLAND KODIAK, ALASKA AUGUST 2016	
LEGEND		
 Future Reserve	 Existing Trail	 Open Space & Recreation
 General Commercial	 Trail (Under Construction)	 Seaplane Base & Support Services
 General Commercial Tourism Related	 Proposed Trail, Trail Linkages	 Water Dependent Marine Industrial Vegetated Buffer
 Institutional	 Possible Coastal Trail	 Gate On Trail (Seasonal Closure)



**CONCEPTUAL
LAND USE PLAN
CONCEPT B**

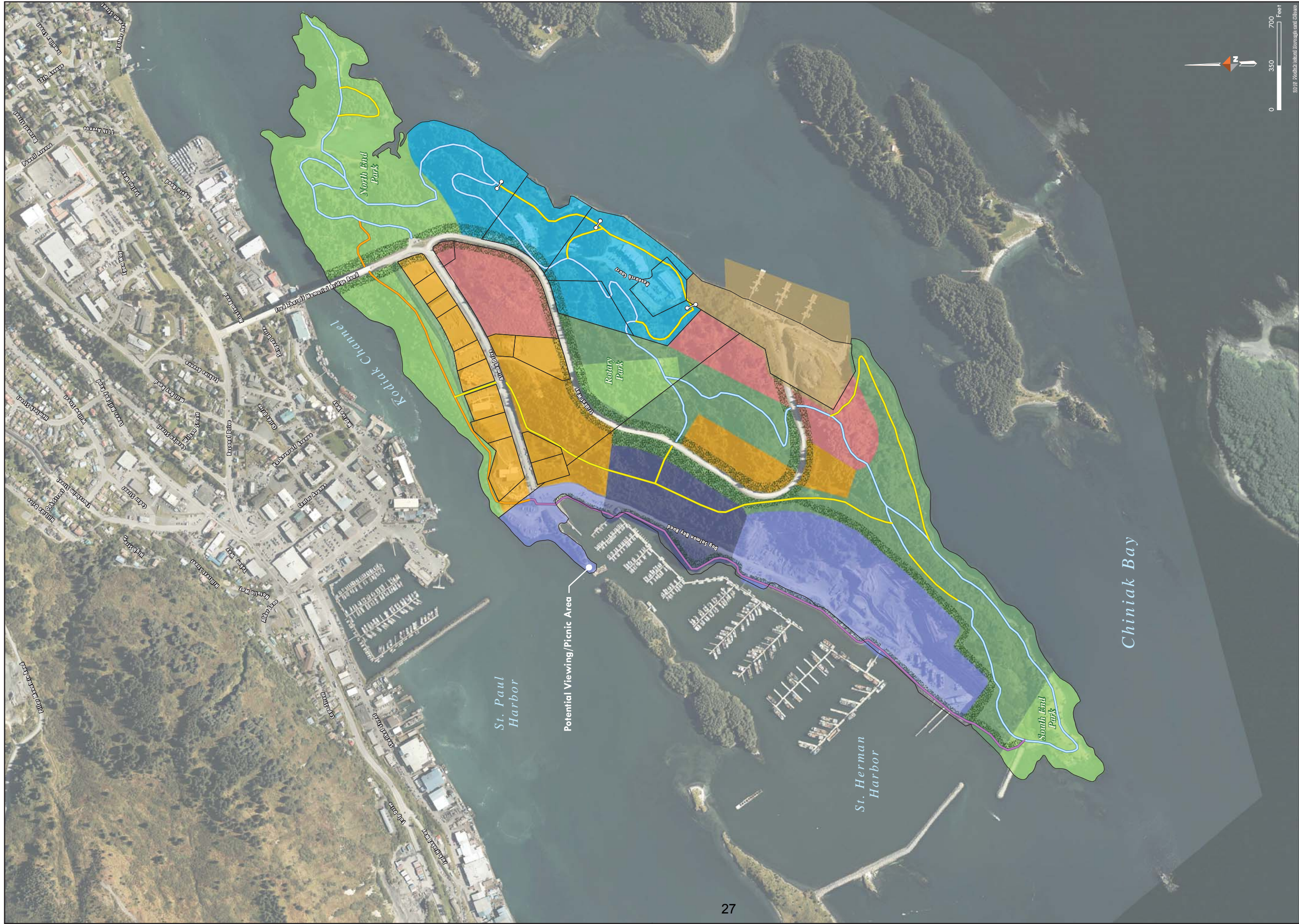
**NEAR ISLAND
KODIAK, ALASKA**


AUGUST 2016

LEGEND

	Furure Reserve		Existing Trail
	General Commercial		Trail (Under Construction)
	General Commercial Tourism Related		Proposed Trail, Trail Linkages
	Institutional		Possible Coastal Trail
	Open Space & Recreation		Gate On Trail (Seasonal Closure)
	Seaplane Base & Support Services		
	Water Dependent Marine Industrial		
	Vegetated Buffer		







DOWL

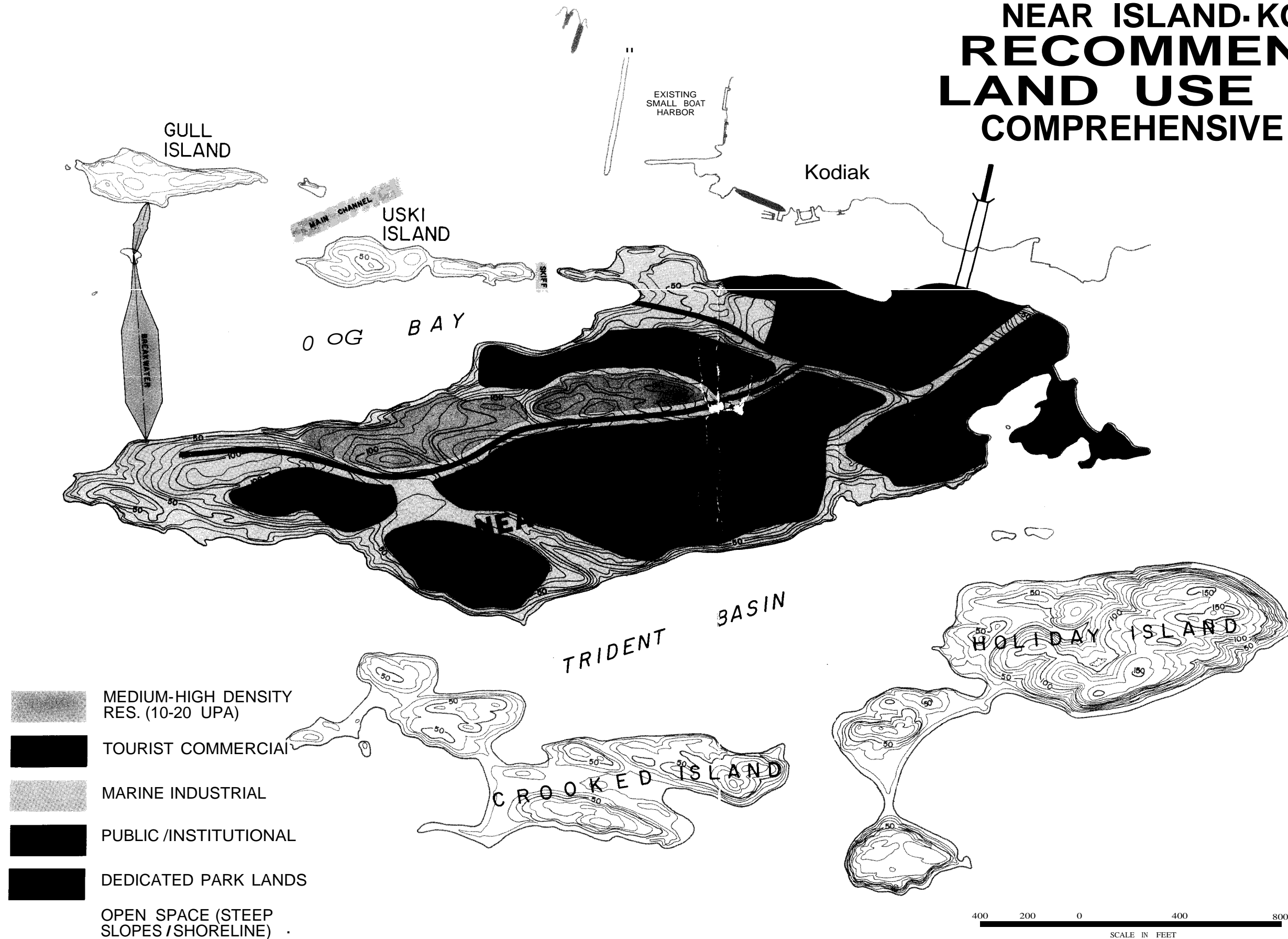
**CONCEPTUAL
LAND USE PLAN
CONCEPT C**

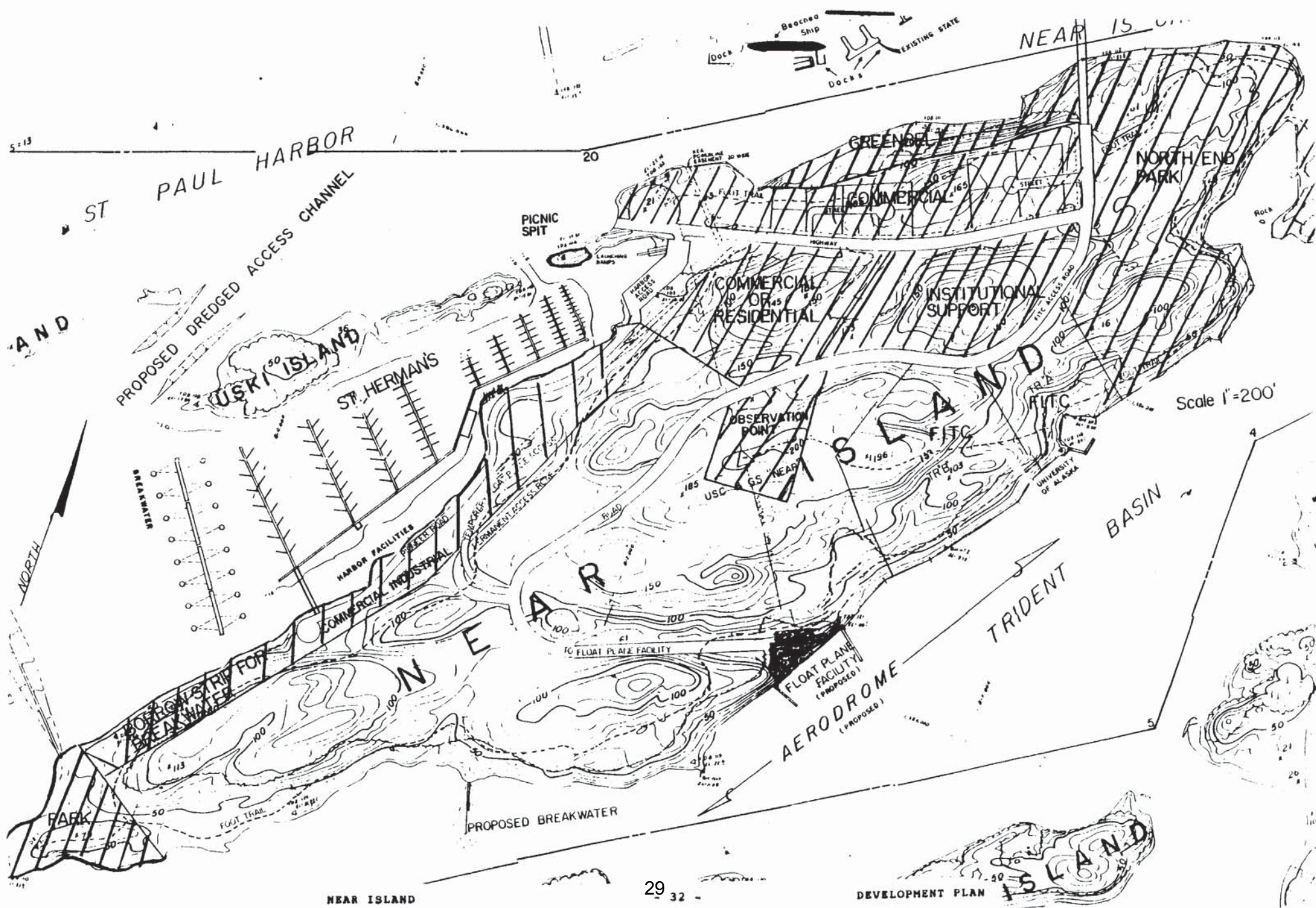
**NEAR ISLAND
KODIAK, ALASKA**

AUGUST 2016

LEGEND	
 Future Reserve	 Existing Trail
 General Commercial	 Trail (Under Construction)
 General Commercial Tourism Related	 Proposed Trail, Trail Linkages
 Institutional	 Possible Coastal Trail
 Open Space & Recreation	 Gate On Trail (Seasonal Closure)
 Seaplane Base & Support Services	 Vegetated Buffer
 Water Dependent Marine Industrial	
 Marine Related Marine Industrial	

NEAR ISLAND-KODIAK RECOMMENDED LAND USE PLAN COMPREHENSIVE PLAN





ST PAUL HARBOR
 AND PROPOSED DREDGED ACCESS CHANNEL

USKI ISLAND

ST HERMAN'S

GREENBELT

NORTH END PARK

COMMERCIAL OR RESIDENTIAL

INSTITUTIONAL SUPPORT

OBSERVATION POINT

NEAR ISLAND

Scale 1"=200'

NORTH

COMMERCIAL INDUSTRIAL

NEAR

TRIDENT BASIN

PROPOSED STRIP FOR BREAKWATER

FLOAT PLANE FACILITY (PROPOSED)
 AERODROME (PROPOSED)

PROPOSED BREAKWATER

NEAR ISLAND

29 32

DEVELOPMENT PLAN

ISLAND

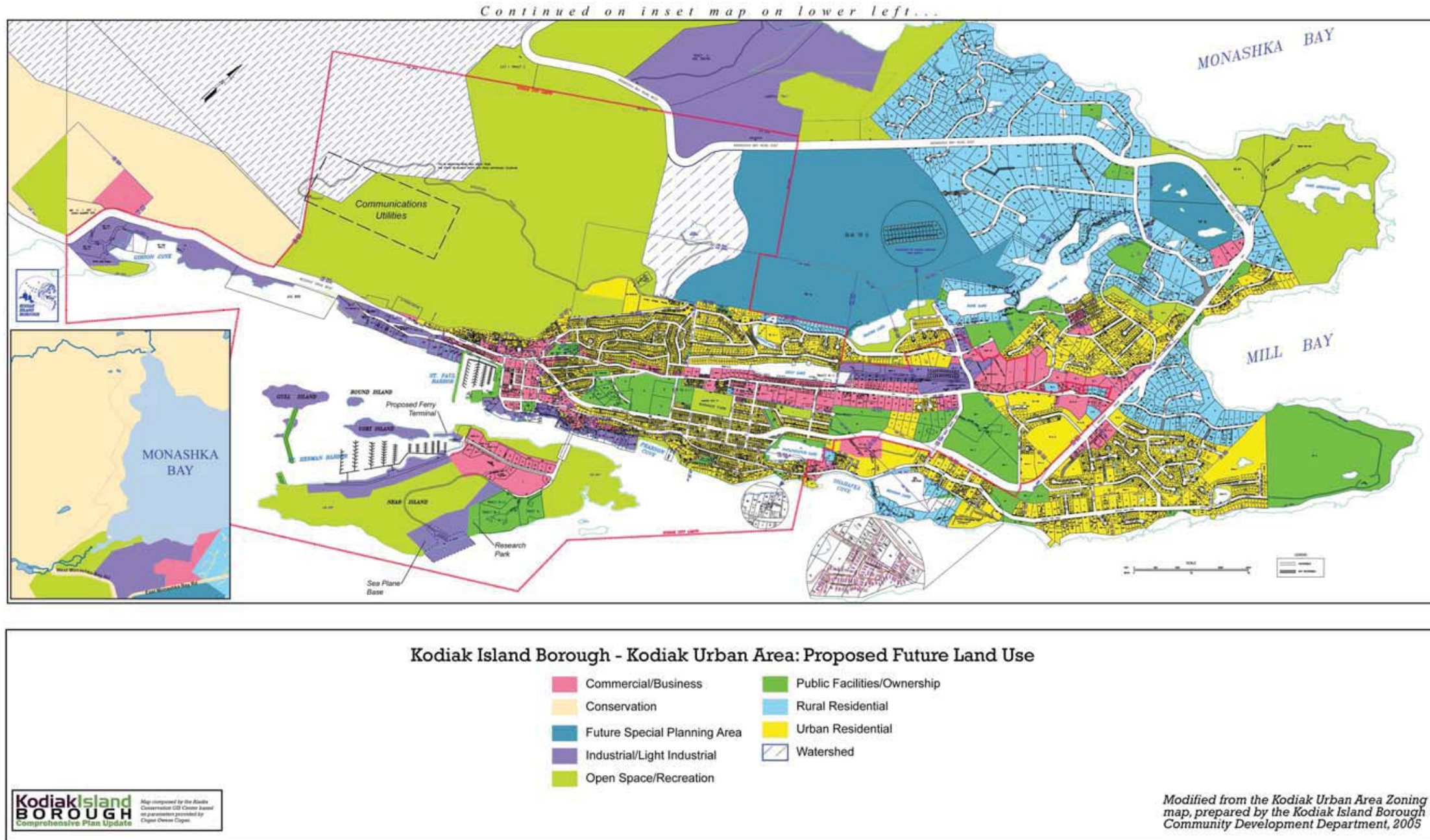
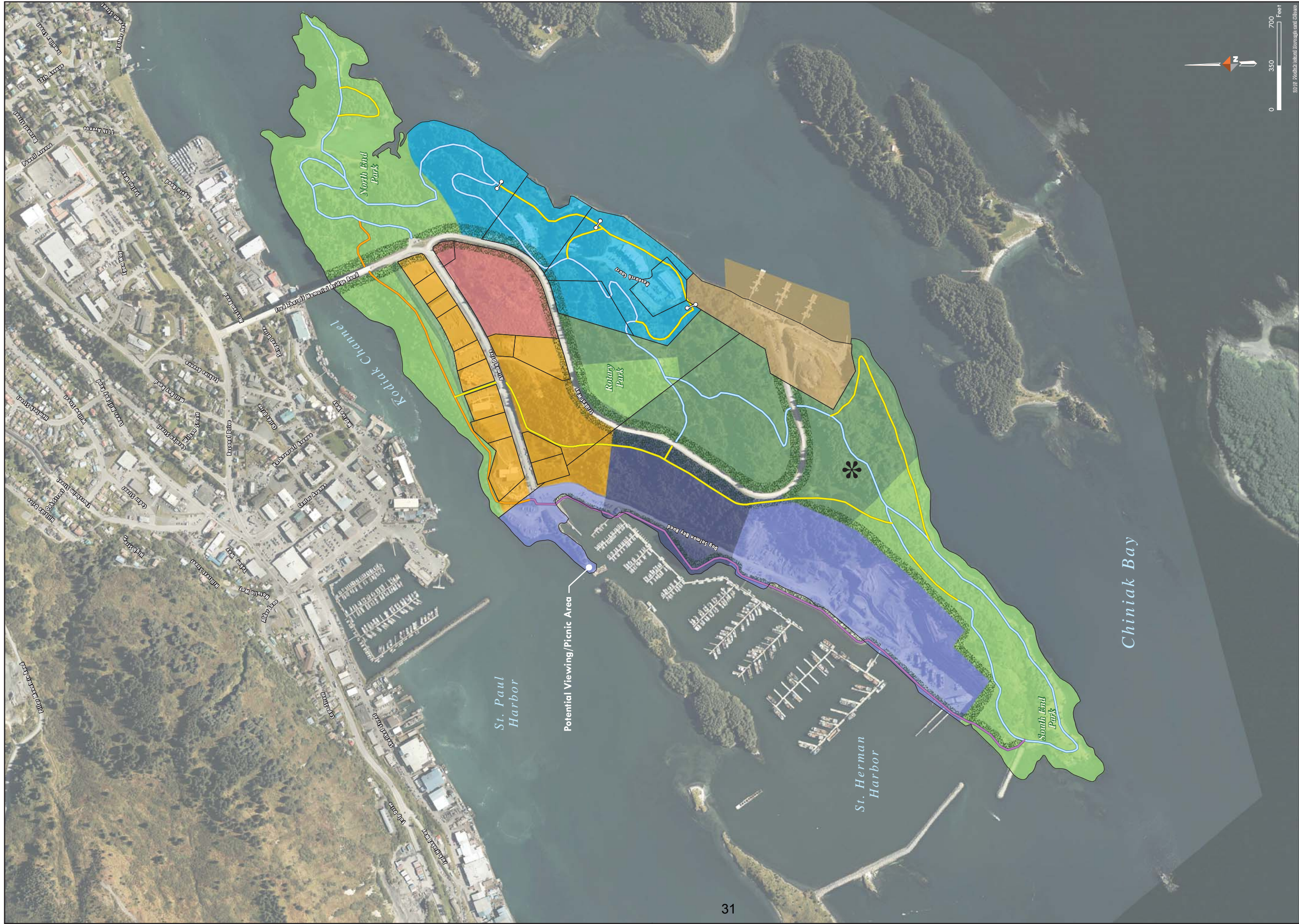


Figure 4.2



**PROPOSED
LAND USE PLAN**

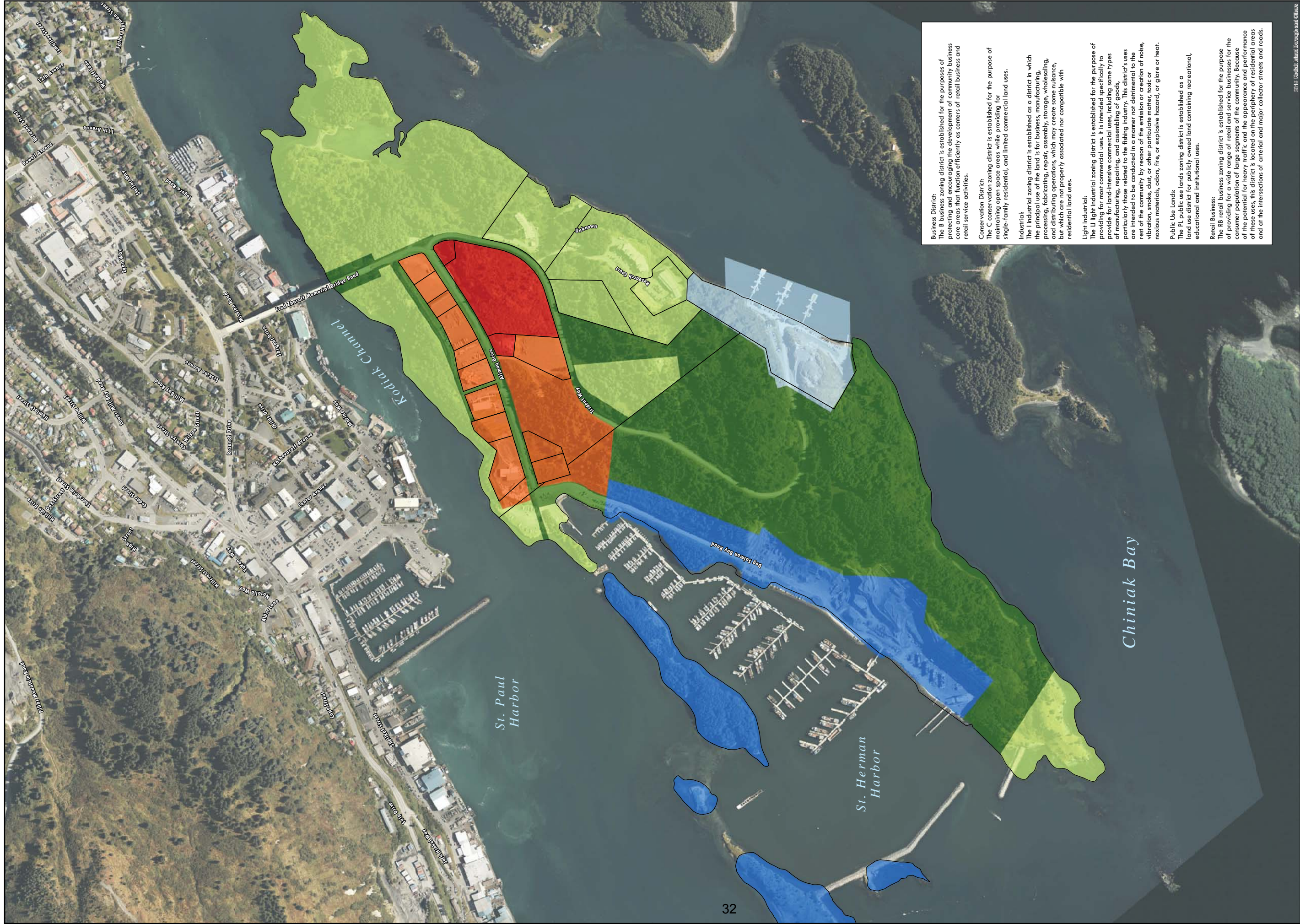
**NEAR ISLAND
KODIAK, ALASKA**

AUGUST 2016

LEGEND

	Future Reserve		Existing Trail
	General Commercial		Scaplane Base & Support Services
	General Commercial Tourism Related		Water Dependent Marine Industrial
	Institutional		Water Related Marine Industrial
	Open Space & Recreation		Vegetated Buffer
			Special Study Area
			Possible Coastal Trail
			Proposed Trail, Trail Linkages
			Trail (Under Construction)
			Gate On Trail (Seasonal Closure)





Business District:
The B business zoning district is established for the purposes of protecting and encouraging the development of community business core areas that function efficiently as centers of retail business and retail service activities.

Conservation District:
The C conservation zoning district is established for the purpose of maintaining open space areas while providing for single-family residential, and limited commercial land uses.

Industrial:
The I industrial zoning district is established as a district in which the principal use of the land is for business, manufacturing, processing, fabricating, repair, assembly, storage, wholesaling, and distributing operations, which may create some nuisance, but which are not properly associated nor compatible with residential land uses.

Light Industrial:
The LI light industrial zoning district is established for the purpose of providing for most commercial uses. It is intended specifically to provide for land-intensive commercial uses, including some types of manufacturing, repairing, and assembling of goods, particularly those related to the fishing industry. This district's uses are intended to be conducted in a manner not detrimental to the rest of the community by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic or noxious materials, odors, fire, or explosive hazard, or glare or heat.

Public Use Lands:
The PL public use lands zoning district is established as a land use district for publicly owned land containing recreational, educational and institutional uses.

Retail Business:
The RB retail business zoning district is established for the purpose of providing for a wide range of retail and service businesses for the consumer population of large segments of the community. Because of the potential for heavy traffic and the appearance and performance of these uses, this district is located on the periphery of residential areas and at the intersections of arterial and major collector streets and roads.

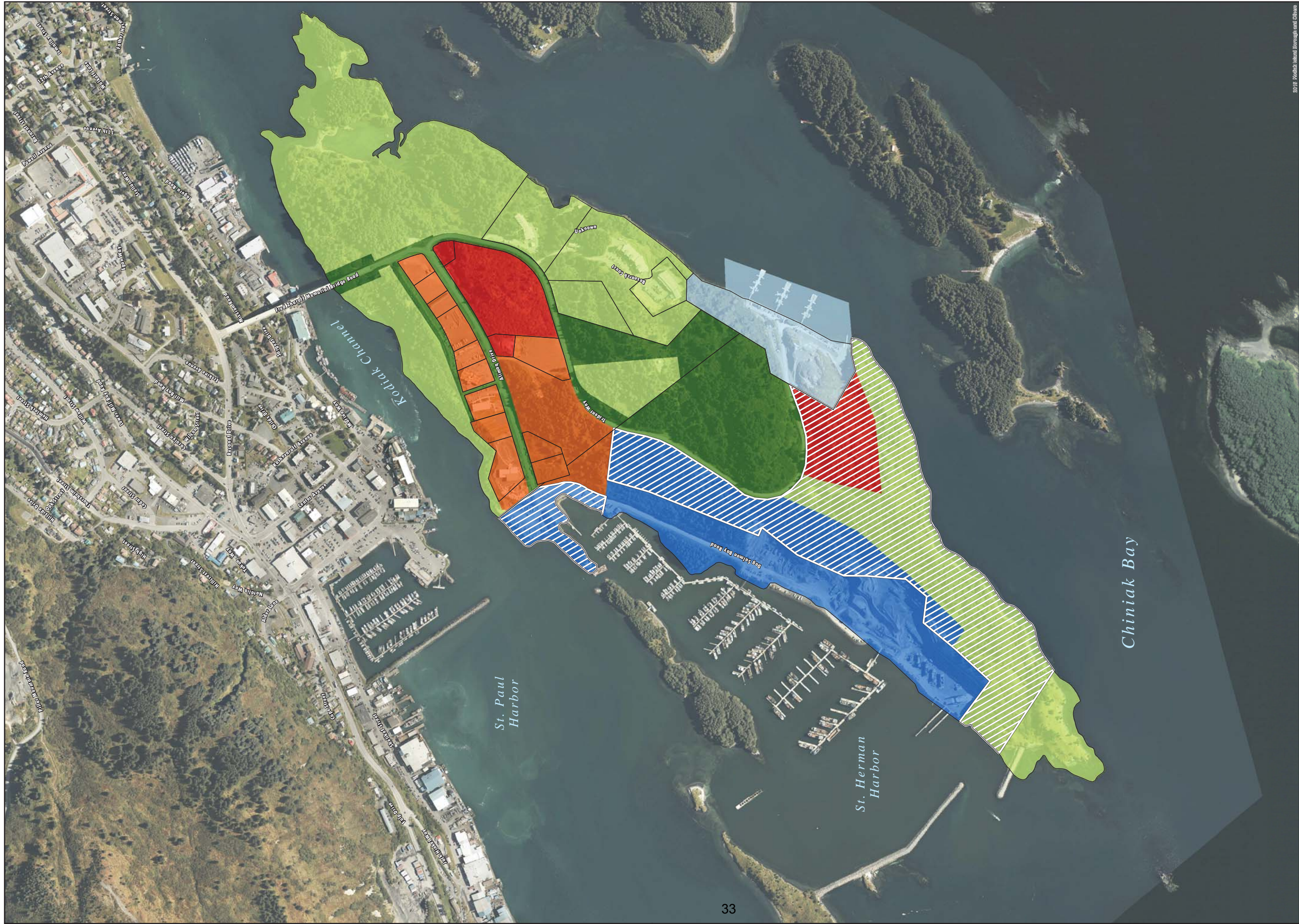
LEGEND

 Business District	 Light Industrial	 Parcels
 Conservation District	 Public Use Lands	
 Industrial	 Retail Business	

ZONING MAP

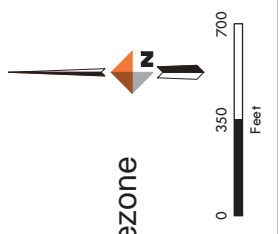
**NEAR ISLAND
KODIAK, ALASKA**

FEBRUARY 2016



2016 - Kodiak Island Borough and Village

PROPOSED ZONING MAP
 NEAR ISLAND
 KODIAK, ALASKA
 AUGUST 2016



- LEGEND**
- Business District
 - Conservation District
 - Industrial
 - Light Industrial
 - Public Use Lands
 - Retail Business
 - Parcels
 - Areas of Proposed Rezone



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Birch Horton Bittner & Cherot

a professional corporation

MEMORANDUM

TO: DEBRA MARLAR, CITY CLERK

FROM: LEILA KIMBRELL, THOMAS F. KLINKNER

RE: REQUIREMENTS FOR TELECONFERENCE COUNCIL MEETINGS

FILE NO.: 505,786.86

DATE: JANUARY 15, 2015

I. Introduction.

This responds to your request for advice regarding the requirements for conducting teleconferenced meetings of the Council of the City of Kodiak ("City"). In summary:

- The City is not required to establish a teleconference facility where the public may participate at each location from which a Council member participates in a Council meeting by telephone, and the location from which a Council member participates in a Council meeting by telephone does not automatically become a teleconference facility that must be open to the public.
- When a Council member participates in a Council meeting by telephone from a location that is not a publicly accessible teleconference facility, the City is not required to give public notice of that location, but the better practice is to give notice of the location when that information is known in sufficient time before the meeting.
- If the City does provide teleconference facilities for public participation in a Council meeting, the City must provide notice of the facilities' location in the public notice of the meeting.
- The City's standard requirements for public notice of the time and place of a Council meeting also apply to a meeting that is conducted by teleconference.
- All votes taken during a teleconferenced Council meeting must be taken by roll call.

This memorandum addresses those issues and raises additional issues for the City's consideration.

II. Discussion.

A. The Alaska Open Meetings Act.

Under the Alaska Open Meetings Act ("OMA"), all Council meetings are open to the public unless an exception in the OMA to this requirement applies.¹ Reasonable public notice of the date, time and place of the meeting must be given.² These requirements are explicitly applied to municipalities, including home rule municipalities such as the City.³ The City also has adopted a requirement that all Council meetings are open to the public, and that all actions of the Council must be taken at public meetings.⁴ The OMA provides the following regarding meetings held by teleconference:

Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable ... The vote at a meeting held by teleconference shall be taken by roll call.⁵

Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. ... the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.⁶

The OMA also states that "[i]t is the policy of the state that...the use of teleconferencing under [the OMA] is for the convenience of the parties, the public, and the governmental units conducting the meetings."⁷

¹ AS 44.62.310(a).

² AS 44.62.310(e).

³ AS 29.20.020.

⁴ Kodiak City Charter Art. II, §7.

⁵ AS 44.62.310(a).

⁶ AS 44.62.310(e).

⁷ AS 44.62.312(a)(6).

B. Council Members' Participation in Council Meetings by Telephone Need Not Be from a "Teleconferencing Facility."

The OMA permits members of a governmental body to attend and participate in meetings by "teleconferencing,"⁸ and requires notice of the location of "teleconferencing facilities."⁹ The term "teleconferencing facilities" in the OMA has been interpreted to refer to official teleconferencing facilities designated for public participation.¹⁰ However, this permission in the OMA does not preclude a Council member from participating in a Council meeting by telephone from a location that is not a "teleconferencing facility." The Alaska Supreme Court has held that allowing members of the public to call into a state agency meeting from locations that were not noticed and equipped as teleconferencing facilities did not violate the Open Meetings Act.¹¹

In response, the Alaska Attorney General has opined that "all phones used to participate in a meeting are not 'teleconferencing facilities' within the meaning of [the OMA]," and that a member of a state agency board may participate in a board meeting by telephone from a location that is not noticed and equipped as a teleconferencing facility.¹² The opinion noted that under the OMA teleconferencing is to be used to promote the convenience of the public and the government and to facilitate the conduct of government business, and that permitting members of public bodies to participate in meetings by telephone only from locations where the public was allowed to participate does not promote the purposes of the OMA. However, a later Alaska Attorney General opinion on this subject would indicate that a Council member who participates in a Council meeting by telephone should do so from a public teleconferencing facility "whenever possible."¹³ Circumstances in which a public teleconferencing facility need not be used include "unforeseen circumstances such as illness, inclement weather, or conflicting work obligations when a meeting is scheduled on short notice or planned circumstances such as travel out of state."¹⁴

C. Notice of Teleconferenced Meetings.

The OMA requires reasonable public notice of the date, time and place of Council meetings, including the location of teleconferencing facilities if the meeting is teleconferenced.¹⁵ The OMA also requires that notice of a public meeting must be

⁸ AS 44.62.310(a).

⁹ AS 44.62.310(e).

¹⁰ Ops. (Inf.) Ak. Att'y Gen., November 30, 1994.

¹¹ *Hickel v. Southeast Conference*, 868 P.2d 919, 929 (Alaska 1994).

¹² Ops. (Inf.) Ak Att'y Gen., August 21, 1995.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ AS 44.62.310(e).

given "in a consistent fashion for all meetings."¹⁶ Thus, notice of a teleconferenced meeting should include the same notice that would be given for a meeting without teleconferencing. However, the OMA does not require the City to give notice of the location of a Council member who participates in the meeting by telephone if that location is not also a teleconference facility that is available for public participation.¹⁷ However, notice of telephonic participation by a Council member should be given when possible.¹⁸ If it is known that a Council member will participate by telephone but the location is not known, the fact of such participation should be included in the public notice of the meeting. When it is not possible to give advance notice, the Council member participating telephonically should announce the location from where he is participating on the record when the meeting starts.¹⁹

D. Materials to Be Considered at the Meeting.

The materials that are to be considered at a teleconferenced meeting must be made available at each teleconference facility and at each other location at which a Council member may participate by telephone.²⁰ This would include the agenda packet for the meeting, and any other materials that are presented to the meeting. The latter materials may be distributed by fax or email if necessary. Visual materials presented at the meeting (Power Point slides, for example) also should be distributed in the same manner if practicable.

E. Voting.

All action that is taken at a meeting in which a Council member participates by telephone conference must be taken by roll call vote.²¹

¹⁶ *Id.*

¹⁷ *Hickel v. Southeast Conference*, 868 P.2d 919, 928-29 (Alaska 1994); Ops. (Inf.) Ak. Att'y Gen., November 30, 1994

¹⁸ Ops. (Inf.) Ak. Att'y Gen., November 30, 1994.

¹⁹ *Id.*

²⁰ AS 44.62.310(a).

²¹ *Id.*