



# ASSEMBLY LANDS HOUSING AND ECONOMIC DEVELOPMENT AGENDA

July 17, 2023 at 5:00 PM

Assembly Chambers/Zoom Webinar

<https://juneau.zoom.us/j/94215342992> or 1-253-215-8782 Webinar ID: 942 1534 2992

**A. CALL TO ORDER**

**B. LAND ACKNOWLEDGEMENT**

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land, and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

**C. ROLL CALL**

**D. APPROVAL OF AGENDA**

**E. APPROVAL OF MINUTES - June 26, 2023 Draft Minutes**

1. June 26, 2023 Draft Minutes

**F. AGENDA TOPICS**

2. 2023 City Foreclosure Property Disposal

3. Southeast Alaska Food Bank Request for Gravel for Less Than Fair Market Value

4. An Ordinance Amending the Sensitive Areas Requirements of the Land Use Code Related to Landslide and Avalanche Areas

**G. STAFF REPORTS**

5. LHED Committee Updates

**H. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS**

**I. NEXT MEETING DATE - August 7, 2023**

**J. ADJOURNMENT**

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: [city.clerk@juneau.org](mailto:city.clerk@juneau.org).

# ASSEMBLY LANDS HOUSING AND ECONOMIC DEVELOPMENT MINUTES



June 26, 2023 at 5:00 PM

## Assembly Chambers/Zoom Webinar

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### A. CALL TO ORDER

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### C. ROLL CALL

**Members Present:** Chair Alicia Hughes-Skandijs, Wade Bryson, Christine Woll, Wáahlaal Gíidaak

**Liaisons Present:** Mandy Cole, Planning Commission

**Liaisons Absent:** PRAC; D&H liaisons have not been assigned to this committee.

**Staff Present:** Dan Bleidorn, Lands Manager; Roxie Duckworth, Lands & Resources Specialist; Jill Maclean, CDD Director; Rorie Watt, City Manager; Michele Elfers, Deputy Parks and Recreation Director; Sherri Layne, Assistant Municipal Attorney

**Members of the Public Present:** Darrin Crapo, President Juneau Off-Road Association

### D. APPROVAL OF AGENDA – approved, Mr. Bleidorn noted that there was one piece of public comment for Agenda Topic #3, that has been removed, as public comment is collected through the Clerk's Office

### E. APPROVAL OF MINUTES - May 22, 2023 Draft Minutes – approved as presented

#### 1. 05 22 2023 LHED Draft Minutes – approved as presented

### F. AGENDA TOPICS

#### 2. A Resolution Supporting the Manager Entering into an Agreement with Juneau Off-Road Vehicle Association for the 35 Mile ORV Riding Park

Ms. Elfers discussed this topic.

Wáahlaal Gíidaak asked about how this relates to the land use plan for this area, if there is one, to see what the area future plans are as opposed to what's being proposed here. Mr. Bleidorn replied that this is at 35 mile out the road with no long term neighborhood plan or anything like that. It's property that we haven't looked at and this seems like a use that would fit in with all the information we currently have with nothing on the books for plans out there. There are no utilities, it goes against all of our process to try to infill, and its large track out the road. Wáahlaal Gíidaak asked to confirm that there is no land use plan that currently exists with CBJ for this area. Ms. Maclean replied that the Planning Commission has heard this conditional use permit. It has been approved with some conditions and it did meet the comprehensive plan and any of the other plans that may have included this area. It has a full permit from the Planning Commission to move forward.

Mr. Bryson asked if this facility will be year round, so that snowmobile riders can use it in the winter, or whatever other vehicles they have. Ms. Elfers replied that it's not planned to be year round now and didn't know what the future of it would be. It's not really an ideal site for snowmobilers, for a few reasons. One, because it's the elevation is low, it's right at ocean level and just holding enough snow in that area is probably unlikely. We're finding that riders are needing to get up high for snow, and that's been a large part of the conversation with Montana Creek planning. They want to get to Spaulding Meadows because that's where the snow is. I don't see this ever being a successful snowmobiler site. The other problem with it is that the road out this far isn't plowed in the winter. It would be challenging

to get out there and to do maintenance. It doesn't mean it's out of the question, or it couldn't be developed in the future. I just don't know that there's a lot of promise to it.

Chair Hughes-Skandijs wanted to clarify insurance, because this is modeled after the Hank Harmon Rifle Range and noted the line for board insurance for \$2,000. She recalled a previous conversation about this with someone asking a question about city liability and was hoping for a reclarification on that point. Ms. Elfers replied that is something we've spent a lot of time talking about with Law and Risk over the last few months. The way we're setting this up is different than Hank Harmon. Basically, rifle ranges can't be insured, you can't buy an insurance policy for them. There is not an insurance policy specifically for range activities. The board doesn't hold one for range activities and that's a little bit different. We spent quite a bit of time looking around the country at ORV parks that are publicly owned state land. The way we've set this future management up, is that there would not be any user fees charged, and because of that, there's some recreational immunity that could be granted because it's public land and the city. We wouldn't have a special policy for users that are using the site and it would fall under the city's main insurance. The board, however, as a nonprofit, will be doing specific activities on the site, such as contracting someone to pump the portable sanitary units and cleaning up litter. The board would have insurance for their own activities, which is typical for nonprofit boards. That insurance is what you saw on the line item, it's just insuring the board activities for what the board is doing.

**Mr. Bryson moved that the Lands Housing and Economic Development Camp Committee move a resolution supporting the manager entering into an agreement with the Juneau Off-Road Vehicle Association for the 35 mile ORV Riding Park. Motion passed unanimously.**

**3. An Ordinance Amending the Sensitive Areas Requirements of the Land Use Code Related to Landslide and Avalanche Areas**

Ms. Maclean and Mr. Watt discussed this topic.

PC Cole wanted to point out this recommendation wasn't an effort to say we don't know what to do, so we're punting this back, it was actually an affirmative, "don't do anything." The distinction is important because we listened to multiple rounds of public testimony, read the technical memos, and spent a lot of time analyzing what we were looking at and considering this idea of hazard versus risk. Does hazard exist, obviously, but what are the actual risks. Even though you can read and infer some things from Tetra Tech memo, the fact is that to determine the risk site-by-site is prohibitively expensive for the city. If you agree that we can't get a handle on specific risk site-by-site, then what are we doing, we're saying, hazard exists here. We are paying the price to mitigate the hazard without fully understanding the risk of that site. We were looking at the weighing the "you can Do Something," "capital D capital S," that has some great impacts to individuals, including people who have their whole lives wealth tied up in their home, for the sake of mitigating hazard. Or you can imagine that the risk is not at this phase of the of the investigation and is not clear enough for the cost for those individuals. Then we are making the price too high for individuals for a hazard that we can't necessarily nail down. That was the objection of the of the Planning Commission in essence. Rather than say, adopt the maps and not adopt the ordinances, because that was the other option, we did hear from a couple of public members who were quite articulate in explaining that the adoption of the maps for information purposes only, creates the same issue that essentially adopting the regulation would do. One of the ideas was, don't accept the regulation just except the maps, but once the maps are accepted by CBJ, then they hold a different kind of weight than maps that are unaccepted by CBJ. Even though they exist, and they absolutely exist, their adoption by CBJ lends a credence to them that then translates into insurance, mortgage, and other consequences. We fully recognize that this is not the conservative approach, but this is basically handing risk back to the individual landowner and their insurer or mortgage person rather than holding it within

CBJ, and that's after lots of testimony, that's the side we came down on. We listened to everything, and that was our affirmative decision.

Ms. Woll noted that the assembly may also have similar question as she does, and maybe this is a process of surfacing questions that can be presented back to the full assembly. She had a question about PC Cole's recap, she understood her logic as presented, but we already have maps, and we already have regulation, and so did the Commission talk about repealing all maps and all regulation. The owners that are currently in those zones, how are they different from owners who are going to be in hazard zones if these maps were adopted. PC Cole replied that the Planning Commission did talk about that, and this Commissioner said, yes, let's repeal all the maps and not have hazard maps because there are flaws with the 1987 maps. One of the issues about the 1987 maps is that there were some mitigation strategies built into the regulation, and we heard from quite a few homeowners who had spent money to be able to move the hazard lines through geotechnical study, so that their property was no longer in it. That apparently, is not an option anymore, it's too prohibitively expensive and there's no one in town who will do it. The option for doing that seems to have dwindled significantly, and there are probably, I know there are people in this room who can just describe the reason why better than I can, but that was some of what we had considered is that these 1987 maps, there have been accommodations for them. But yes, absolutely, I think there are some of us who would advise repealing the prior maps for the same logic that holds for the 2022 maps.

Mr. Bryson asked what the consequences are of removing all of the hazard maps and handing the risk back to the owners. He thought that was the phrase that he heard, would that be the correct outcome, or would that be what happens if we said, oh, there's no more hazard, we don't have any hazard maps. Ms. Maclean replied that the choice and the responsibility of where you choose to live is with the property owner. The risk may be there in that situation for them to choose if it's right for them or not. I will flag that when it comes to the maps, the proposed Tetra Tech maps, not adopted, based on other events, CBJ is confident that we have to at least make the Tetra Tech maps available publicly. They don't have to be adopted, but they do need to be made available publicly, because we now, as the city, know of a potential risk, we have the responsibility to notify those owners living there that there is a risk. Insurance companies will likely find them, they're aware of the maps already existing, the ones that we have dealt with or heard from property owners. It's not as if we just don't adopt them, they go away, I want to make that very clear, they can't just go away.

Wáahlaal Gíidaak asked that when we're talking about the legal risk for CBJ with these maps and say they never get put anywhere, we don't want to adopt them, what's our risk factor in terms of the City and Borough of Juneau and homeowners in the future, or even currently, coming back to CBJ to seek legal ramifications for a landslide. Mr. Watt replied that we've talked to attorneys Layne and Palmer about this, and one of them did some research and found a court case, in Washington State with a community that had hazard maps and repealed them. They didn't make those hazard maps publicly available and then there was a hazard event, and there was some harm, I don't know if it was personal harm or property harm, and that owner then went to that municipality and said they couldn't have known about this hazard, because that municipality denied them that opportunity. The municipality was found to be in the wrong. Now that we have the maps, we have a threshold duty of making that publicly procured information available, and whether we do any requirements with it or not, that's a different issue. I think this conversation started with, what happens if we repeal the code in the ordinance. This is a fundamental balance between health, safety, and welfare of the community. People living on these properties now, and in the future, balanced against the ownership and development. That's a hard call because those are really two different value systems. We are where we are in our current code and current maps because we had historic mass wasting and avalanche events in these areas. People have

rightfully pointed out that just because they have property in these current mapped areas doesn't mean hazards don't exist in other parts of the borough, we are in mountain country. It's a fair comment and it's a difficult needle to thread. We tried to get there, or I personally tried to get there when I made a recommendation to the assembly in November and December of last year. The Commission received a lot of testimony and ultimately made your recommendation. I think you'll recall that I was critical of some elements of the hazard mapping, but that that didn't stop me from recommending a level of protection, of health, safety, and welfare of our citizens. So me personally, I would look to modernize the code as I recommended in December, but I think this is worth spending quite a bit of time to understand why the Commission got to where they did because I think a lot of outcomes are possible, and it's going to be difficult for the body to coalesce around what is the right philosophy.

Wáahlaal Gíidaak followed up about the maps that are in the packet, that they are already public. But by putting them on our website, not adopting them, not passing the ordinance to coincide them, does that give us a level of protection for the future. Thinking about what might happen, is that protection enough for CBJ. Ms. Layne replied that CBJ doesn't have a duty to make sure that everyone living in a landslide area knows they're living in a landslide area. With respect to liability, there's always going to be some level of liability, you're never going to be able to protect all of your residents. You're never going to be able to have all the right maps or not have all the right maps and there's going to be a level of risk. But CBJ doesn't have a duty to make sure everyone knows exactly the risks of where they're living. With that, said, these maps are out there. Many in the community have seen the new maps, and it's not going to hurt to have the maps out there for people to review, but you don't have to and that's on you. That's a policy decision for the assembly as whether you want to put them up on your website or if you want to make them available someplace else. There is some case law out there, there's the Washington case, it does have a little bit of a different set of facts that are important. A lot of this is a policy call for the assembly to decide how much information you want out there and understand that you're never going to be able to negate all of the risks and completely protect the city.

Chair Hughes-Skandijs asked to clarify that the landslide and avalanche is all together now and for those in a landslide zone, can they not get insurance. Ms. Cole replied that the Planning Commission did touch on that to an extent, but the problem is that when you separate out avalanche and landslide, when you distinguish those landslide spaces, if you were to separate them out, you would have a set of spaces for severe avalanche and severe landside. It is impossible at this point to get insurance for those demarcations of severe landslides; it doesn't exist. With avalanche, there are ways that you can get insurance and it's not perfect. There are definitely homeowners who are struggling, but there are avenues for insurance. If you live in the landslide area. now, I don't know that that's 100% for everyone who lives in the landslide area, but there are certainly people currently living in the landside area with some insurance. The landslide piece has no insurance available, so just remember when you pull them apart, you will adopt the maps, you will be saying anyone in that severe landslide area will be unable to get homeowners insurance, and that was part of it, trying to not dig any deeper into a place where it would put homeowners in that position and recognizing that there are already some homeowners in some precarious positions. So every time you try and put a fix, something else pops up.

Chair Hughes-Skandijs noted that if she were to make a recommendation, that this needs more work before it goes to the Committee of the Whole.

Mr. Bryson agreed with the Chair because he's not sure what to do right now. He has not heard from any members of the public and hasn't gone to any meetings that had public testimony. I didn't know if that was something that we could pull off at a Lands meeting to give the residents of these affected areas a chance to speak to the assembly before we send it to the assembly, and then the next time

would be public testimony, allowing them to have their say early on in the process. As we know, we're going to touch this a lot of times. I think it would be helpful, but I don't know how to get us out of this one either. Ms. Maclean noted a point of information, if it's helpful to the Committee, and she thinks it is beneficial to hear from the public, the zoom recordings of the Planning Commission meetings are available on Municode. You can just go right there and click the link now next to the agendas. That would be another avenue to hear all the public comments, especially if people then aren't able to make your meetings, they've made a meeting or two, and you can hear exactly what they said, and also then here for yourselves the full commission discussion as well.

**Mr. Bryson moved to keep this topic in committee for further discussion. Motion passed unanimously.**

**G. STAFF REPORTS**

4. **Foreclosures** - Verbal update to notify that we had recently received a Clerk's deed for a property on Sixth Street in downtown Juneau and will begin the foreclosure process and also include a property that we received the Clerk's deed last fall. We will have more information at our next meeting.

**H. STANDING COMMITTEE TOPICS**

5. **LHED Committee Goals** – no updates
6. **Telephone Hill Updates** – We had a kickoff meeting hosted by Engineering, CDD, Lands, and the consultants that will be working on the planning and design services. We did a site visit and will bring regular updates forthcoming.

**I. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS** – no discussion

**J. NEXT MEETING DATE** - July 17, 2023

**K. ADJOURNMENT** – 5:55PM

# MEMORANDUM

## CITY/BOROUGH OF JUNEAU

Lands and Resources Office  
 155 S. Seward St., Juneau, Alaska 99801  
[Dan.Bleidorn@juneau.gov](mailto:Dan.Bleidorn@juneau.gov)  
 (907) 586-5252

**TO:** Alicia Hughes-Skandijs, Chair of the Assembly LHED Committee  
**FROM:** Dan Bleidorn, Lands and Resources Manager *Daniel Bleidorn*  
**SUBJECT:** 2023 City Foreclosure Property Disposal  
**DATE:** July 13, 2023

Every year at the end of the property tax cycle, any properties that have unpaid property taxes will be foreclosed upon and a State of Alaska Clerk's Deed is issued to the City and Borough. In June of 2023, the City and Borough of Juneau received a Clerk's Deeds for the following property that has not paid property taxes:

Priscilla Corpuz  
 Parcel Code Number 1C040A090030  
 520 Sixth Street  
 Total Due Tax Years 2019 – 2023: \$21,806.90  
 (value gathered on 07/13/23, interest accrues daily)

The City and Borough of Juneau has previously received a Clerk's Deed for the following property that has not paid property taxes:

Peter D. Lie-Nielsen  
 Parcel Code Number 1B0201000102  
 0 Thane Road (vacant lot)  
 Total Due Tax Years 2018 – 2023: \$14,288.56  
 (value gathered on 07/13/23, interest accrues daily)

State law concerning property taxes is clear. If the properties are not needed for a public purpose, the municipality can sell them. Notably, the municipality only retains the value of the outstanding taxes, fees, and interest. If the properties sell for more than the amount owed to CBJ, the remainder is forwarded to the former owner and lienholders. If the former owner cannot be located and there are no lienholders, the extra funds are sent to the State of Alaska. If at any time up until the day before the sale the former owner pays the outstanding balance, the property is returned to their ownership.

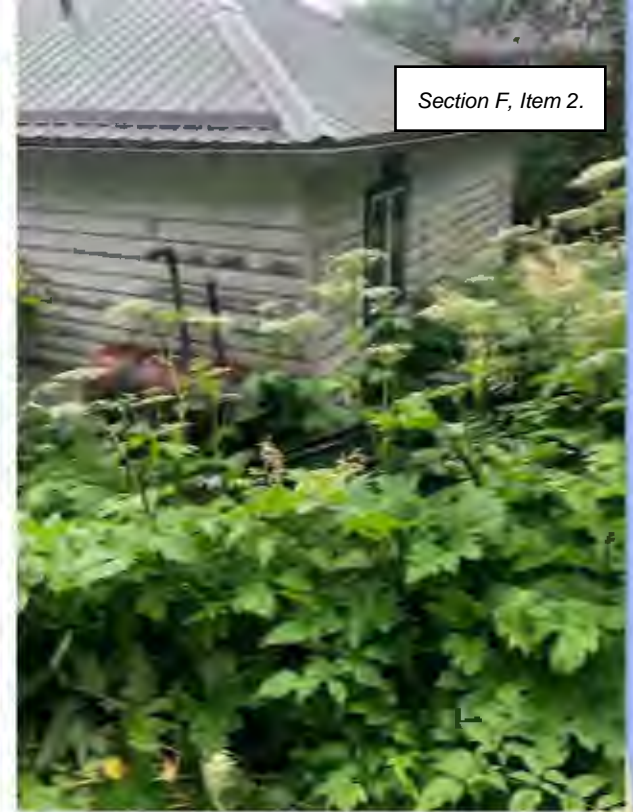
The Lands Division solicited comments from the Parks Department, Docks and Harbors, Engineering and Public Works, CCFR, and the Community Development and determined that these properties should be sold by the CBJ because staff does not believe there is a public purpose to retain them. The CBJ prefers to dispose of foreclosed property quickly because it poses a higher amount of risk and liability.



**Staff request that the Lands Housing and Economic Development Committee direct the attorney to draft and introduce ordinances that authorize disposal of these properties because of delinquent property taxes.**







Section F, Item 2.



1







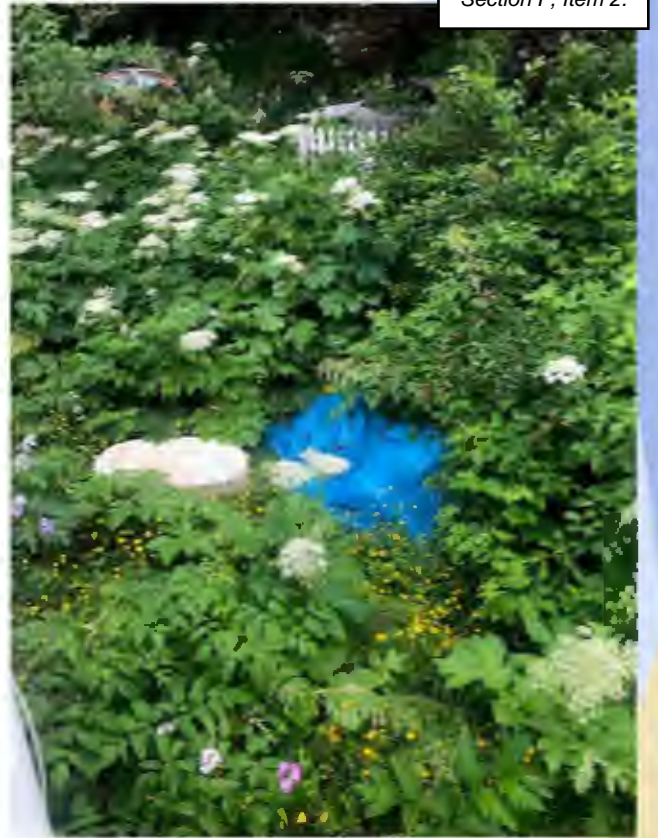














Section F, Item 2.





# MEMORANDUM

CITY/BOROUGH OF JUNEAU

Lands and Resources Office  
155 S. Seward St., Juneau, Alaska 99801  
Dan.Bleidorn@juneau.org  
(907) 586-5252

**TO:** Alicia Hughes-Skandijs, Chair of the Assembly LHED Committee

**FROM:** Dan Bleidorn, Lands and Resources Manager *Daniel Bleidorn*

**SUBJECT:** Southeast Alaska Food Bank Request for Gravel at Less than Fair Market Value

**DATE:** July 13, 2023

Since 2005, the Southeast Alaska Food Bank has leased a fraction of U.S. Survey 1041, which is located in the Mendenhall Valley at the end of Crazy Horse Drive. This property is roughly 32 acres in size and fractions of this parcel are leased to the Food Bank, the FAA, and more recently, to Vertical Bridge for a communications tower. The lease was amended in 2015 to increase the leased area to .50 acres from .25 acres and again in 2023 for an additional 1.0 acre for a total of 1.50 acres.

The Food Bank has been working towards the construction of additional warehouse space and the next phase includes clearing unusable organic material and backfill with gravel. The Food Bank has requested use of the City gravel resources to fulfill their need for site prep. The city gravel resources are reserved for City or State projects as this is a limited resource which costs a significant amount to operate and maintain.

The Food Bank is a non-profit and they would be utilizing the gravel to enhance a property that is owned by the City which will be returned to City management if the lease expires or is not renewed. In a discussion with the City Rock and Gravel Resource Manager it was determined that the Lemon Creek Material Site could be made available for this use, but the quantity and timing will need to be negotiated as the amount of rock available, without site-work, is extremely limited.

It is not recommended that the Food Bank receive gravel for free because that cost would be passed on to the CIP projects that utilize city gravel. In a discussion with the Food Bank, they were aware of this cost and would consider paying the operational cost for gravel.

**Staff requests that the LHED Committee provide a motion of support for the City Manager to work with the Southeast Alaska Foodbank to grant access to City gravel resources at the cost of \$4.90/Ton.**



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PO BOX 33681 JUNEAU AK 99803 • 10200 CRAZY HORSE DRIVE  
WWW.SEAFB.ORG

July 6, 2023

City Assembly  
City & Borough of Juneau  
155 S. Seward Street  
Juneau, AK 99801

**Regarding:** Improvements to Leased Land

First off, thank you for the prior approval to improve CBJ’s land we currently lease on Crazy Horse Drive adjacent to our current warehouse. We have now obtained the permit from the U.S. Army Corps of Engineers – Alaska and are ready to take the next steps towards removing unusable materials from the lot and filling it in with material suitable to build on. As previously approved, we are expanding our footprint of buildable land by half an acre.

The cost of bringing the land to buildable condition is more expensive than we previously anticipated. The land is roughly 3.5 feet below the current level of our facility, additionally we will need to remove approximately 1.5 feet of organic unusable material from the roughly 110ft x 200ft footprint of land. We will then need to fill it back in with material suitable for building to bring it to the necessary level. Our estimate is about 110,000 square feet of material is needed to complete this step.

It has come to my attention that in the past, CBJ’s Assembly has approved the use of its Pit Run material from Lemon Creek for such uses. As we are improving land being leased to us by CBJ, and are in need of all the assistance we can get to have the proper warehousing capabilities to provide the current and future food security services that Juneau and Southeast Alaska need, we are requesting the same permissions granted to other agencies to use the Pit Run material to bring the land to a buildable state. We are currently in need of approximately 12,000 yards of Pit Run to improve our CBJ leased land to buildable standards.

The demands on us from our 30+ member agencies have seen significant increases recently for multiple reasons, and we are not currently able to continue to meet these needs, or those that we anticipate increasing, without building additional warehousing. There are great pressures being placed on middle- and working-class families across the nation. Increases of income are not, and have not, been meeting inflationary pressures. It was not long ago that a purchase of \$6,000 in food supplies would have provided us four pallets of shelf stable food items. Now we are lucky to get half that volume at that cost.

To prepare the CBJ leased land for building, our quotes are between \$240,000 and \$285,000. With the assistance of the Pit Run we should be able to reduce that cost significantly. We have not fully secured all the funding necessary for our warehouse build, but with your help, we will be one step closer to fully meeting the growing needs of the food insecure in Juneau and Southeast Alaska.

Please consider donating the Pit Run material to our cause as we do our best to meet the growing needs of our member agencies and pantry visitors. The more successful we are in fulfilling their nutritional needs, the more time and funding they have at their disposal to be spent doing what they do best. Please feel free to reach out with any questions at my cell number below.

Sincerely,

Jeremiah Beedle, Acting Board President  
Southeast Alaska Food Bank  
907-209-1480

Chris Schapp, Executive Director  
Southeast Alaska Food Bank



DATE: July 14, 2023  
 TO: Alicia Hughes-Skandijs, Chair LHED Committee  
 FROM: Sherri Layne and Robert Palmer, CBJ Law Department  
 SUBJECT: Ord. 2023-18: Landslide and Avalanche maps and regulations

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On June 26, 2023, the Lands, Housing, and Economic Development (LHED) Committee posed legal questions about potential changes to the avalanche and/or landslide maps and associated Title 49 regulations.

### **City and Borough of Juneau as a Regulator**

In 2020, the City & Borough of Juneau (CBJ) contracted with Tetra Tech to update the landslide and avalanche maps. The CBJ currently regulates development in landslide and avalanche areas in CBJC 49.70.300 based on 1987 landslide and avalanche area maps. The CBJ also regulates hillside developments, which occasionally overlap with the landslide and avalanche regulations. CBJC 49.70.200-270. While the LHED Committee considers the various policy options, the following is a primer on the basic questions of government liability related to regulating landslides and avalanches risks (i.e. Title 49).

#### **(1) CBJ cannot be liable for money damages for failure to protect private property**

**owners/occupants from hazards on private property:** The CBJ—as a regulator—is immune from tort liability for failure to inspect, discover, or abate a hazard to health or safety on private property. A.S. 9.65.070(d)(1). Thus, a private property owner cannot successfully sue the CBJ for money damages for adopting the Tetra Tech maps *or* failing to adopt the maps under a theory that the CBJ knew of potential hazards but failed to discover or abate the hazards on the private property. While the government has an interest to keep residents informed about risks, it does not have a legal duty to do so, nor does it have liability for actually holding public meetings or providing information about those risks.

#### **(2) CBJ cannot be liable for money damages for publishing the Tetra Tech maps for legislative policy discussions.**

Similar to the above provision, the CBJ—as a regulator—is immune from tort liability for performing or the failure to perform a discretionary function. A.S. 9.65.070(d)(2). Thus, a private property owner cannot successfully sue the CBJ for money damages for publishing the Tetra Tech maps for legislative policy discussions.

#### **(3) CBJ cannot be liable for money damages for approving a development permit in a landslide or avalanche area.**

The CBJ—as a regulator—is immune from tort liability for approving a development permit. A.S. 9.65.070(d)(3). Thus, a private property owner cannot successfully sue the CBJ for money damages for approving a building permit, a variance, conditional use permit, or rezoning in a landslide or avalanche area.

**(4) Regulatory “takings.”** The regulatory takings analysis is more complex and usually arises due to an alleged substantial decrease in private property value or a substantial increase in costs to develop. As the CBJ considers whether to adopt the Tetra Tech maps and keep the associated development regulations, CBJC 49.70.300, the CBJ should explain why it is choosing one policy option instead of another (i.e. no action, just adopt the Tetra Tech maps for informational purposes, amend CBJC 49.70.300, or repeal CBJC 49.70.300).

- **100% Deprivation of property value.** If the CBJ has landslide or avalanche regulations (based on hazard areas defined on maps) that deprive the property owner of all economic valuable use of private property, then the CBJ could be liable for taking that private property, but it depends on the facts.
- **Diminished property value.** If the CBJ has landslide or avalanche regulations (based on hazard areas defined on maps) that deprive the property owner of some economic valuable use of the property, a case-specific analysis is necessary based on the following factors:
  - (1) character of the government [CBJ] action;
  - (2) economic impact of CBJ action;
  - (3) the private property owner’s economic expectations; and
  - (4) legitimacy of the CBJ’s interest.

**(5) Tetra Tech limitations.** The Tetra Tech maps include boundary line limitations,<sup>1</sup> and require parcel specific mitigation analysis:

The level of assessment prepared for this project is suitable for determining whether land areas could be affected by [avalanches or landslides]. A more detailed site-specific investigation and evaluation would be required to determine appropriate mitigations for specific properties.

While the maps have some limitations, the limitations do not prevent the CBJ from adopting them for informational purposes or making them a basis for some development regulations.

In summary, Alaska law provides immunity to the CBJ for most regulatory claims. However, to avert a takings claim, the Assembly should consider the limitations of the Tetra Tech maps and explain why it is choosing one policy option over the others.

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<sup>1</sup> Downtown Juneau Landslide and Avalanche Hazard Assessment, Tetra Tech, at 20 (PDF 41) (April 27, 2022) (1.5.2 Landslide Limitations) and at 39 (PDF 59) (2.5.2 Avalanche Limitations).



(907) 586-0757  
Jill.Maclean@juneau.org  
www.juneau.org/CDD  
155 S. Seward Street • Juneau, AK 99801

June 23, 2023

**MEMO**

**To: Alicia Hughes-Skandijs, Chair, Lands Housing & Economic Development Committee and Members**

**CC: Rorie Watt, City Manager**

**From: Jill Maclean, Director, AIC** 

**RE: An Ordinance Amending the Sensitive Areas Requirements of the Land Use Code Related to Landslide and Avalanche Areas**

**Helpful Tip**

[Tetra Tech Technical Memo No. 4](#) provides a “*Guide to Avalanche and Landslide Hazard Designations*”. In other words, this memo provides the reader with a foundation towards understanding hazard mapping and its impacts. Staff strongly encourages all interested parties to read it prior to discussion. (Click link above and scroll down to Final Hazard Assessment to find Tech Memo No. 4)

**Background**

The downtown Juneau avalanche and landslide areas (also referred to as hazard areas) have been studied multiple times since the maps were first adopted in 1987. Over the decades, several attempts were undertaken to update the avalanche and landslide maps to no avail.

The adopted avalanche and landslide maps for downtown Juneau, dated September 9, 1987, are based on maps developed in the 1970s. These low-resolution maps combine landslide and avalanche areas into a single map, which identifies moderate and severe hazard areas. The avalanche and landslide areas cannot be distinguished, resulting in challenges for property owners to obtain property insurance. This lack of distinction also creates challenges for property owners seeking detailed safety information and mitigation options, because avalanche and landslide impacts are different. How and when to update the adopted landslide and hazard maps has been problematic for several decades, it is staff’s firm recommendation that the status quo should not be maintained.

With Assembly approval (Resolution Serial No. 2813), staff applied for FEMA grant funding to undertake an update and review of the adopted maps. During the FEMA grant application process, CDD consulted with CBJ Emergency Services, CBJ Lands Division, and the CBJ Engineering and Public Works to determine

the highest priority areas for updated hazard assessment based on known threats, critical infrastructure, housing density, and future development needs. Other priority areas not funded include the remaining stretch of Thane Road, Blackerby Ridge to Thunder Mountain, and the western side of Thunder Mountain. If the Assembly chooses, it may direct the City Manager to direct staff to apply for future grant funding for further hazard area assessments.

In 2018, CDD was awarded a grant from the Federal Emergency Management Agency (FEMA) to update these maps with current scientific analysis, and to evaluate avalanche and landslide areas separately. Following a competitive bid process, Tetra Tech Inc. was hired as the contractor.

The project area covered by Tetra Tech Inc. is larger than the currently adopted 1987 maps. Due to the increase in the scope area, approximately 42 properties have been evaluated for the first time, while the remaining properties have been updated. The following chart provides approximate figures on the changes between the adopted and proposed maps for severe areas.

	<b>1987 Adopted Maps</b>	<b>2022 Proposed Maps</b>
Number of properties within the mapped study area	1108	1150
Number of properties within high/severe landslide and avalanche zones	173	374
Number of properties within the 1987 adopted severe zone, but out of the 2021 proposed high/severe zone	16	N/A
Number of properties within the proposed 2021 high/severe zone, but out of the 1987 adopted severe zone	N/A	217

In August 2021, the Planning Commission (Commission) held a public hearing on the proposed Tetra Tech Inc. avalanche and landslide maps; a draft ordinance and regulations were not proposed at that time, as it was not part of the scope of the project and grant funding. At that time, the Commission forwarded the proposed map with a recommendation to the Assembly for direction on next steps for an appropriate community review and adoption process, including funding for steps which are deemed necessary. The Commission further recommended that new landslide and avalanche hazard mapping and study results should be held without adoption, pending development of associated hazard zone policies and regulations. The Commission also asked for preliminary direction from the Assembly.

In the fall and winter of 2021 to 2022, the Assembly reviewed the Commission’s Recommendation, and directed staff to further pursue FEMA grant funding to conduct public outreach, and to work with the contractor to develop additional technical memorandums to address public concerns and consult local avalanche experts.

CDD successfully procured additional FEMA grant funds which resulted in: updates to the avalanche maps; seven technical memorandums to address areas of concern and a user-friendly guide to the hazard designations; and website updates and a mailing to inform the public about the final report and memos. In December of 2022, the Manager presented a preliminary recommendation that was forwarded to the Planning Commission.

On May 23, 2023, the Commission held a public hearing on the proposed maps, and the revised draft ordinance that developed out of the Title 49 Subcommittee and was further reviewed by the Commission’s COW and forwarded to the full Commission for approval (Attachment A). At the hearing,



the Commission heard concerns from the public, and voiced its own concerns. In the Notice of Recommendation, the Commission recommended the following:

*Do not adopt the director's analysis and findings, and do not adopt the proposed ordinance amending the code related to landslide and avalanche areas, and do not adopt the landslide and avalanche area maps. Consider a method of public notification based on the 2022 avalanche and landslide area maps for affected property owners.*

The Assembly should note that this recommendation is rather different than what was contemplated at the COW December 19, 2022. Staff reports, minutes, and contractor presentations are available on the CDD Special Projects website at [CDD – Project – Landslide and Avalanche Assessment – City and Borough of Juneau](#). Links to the Commission hearings for August 21, 2021, and May 23, 2023, are available on the city website at: <https://juneau-ak.municodemeetings.com>. Meeting packets, including agendas, staff reports, and public comments; and a link to watch the meeting via Zoom are available via Municode.

### **Discussion**

The Assembly has a difficult decision in determining how best to mitigate hazard areas in Juneau. Recognizing the difficulty in balancing the rights of property owners, the housing crisis, insurance challenges, and public health, safety, and welfare, staff has identified five potential options for the Assembly to consider. The Assembly should take time with this decision and strive to understand why the Commission made its recommendation and the abundant subtlety of the issues.

Option 1 maintains the status quo. Current, combined avalanche and landslide maps remain in effect, and the current land use code ordinance and regulations remain in effect. Insurance continues to be a challenge to property owners and interested buyers.

Option 2 is the adoption of the Planning Commission recommendation, stated above.

Option 3 repeals the current hazard maps and ordinance, and adopts the Tetra Tech maps and the CDD staff drafted ordinance that was presented to the Commission and not recommended by the Commission. The Commission and the public have voiced concern about this option.

Option 4 repeals the current hazard maps and ordinance, and adopts the Tetra Tech maps and studies as public information only (not adopted into the Land Use Code). No other requirements are included. (Note that this is a variant of the Commission's recommendation).

Option 5 adopts a path developed by staff in response to the concerns raised by the Commission and the public. This option repeals the current maps and current ordinance; and adopts the moderate and severe avalanche areas, and the moderate, severe and high landslide areas developed by Tetra Tech for public information purposes only. Additionally, the CBJ would annually notify the property owners in the moderate and severe avalanche areas and in the moderate, severe, and high landslide areas, and properties within 500 ft. of these mapped areas for awareness purposes; and requires property owners in the hazard areas to notify renters of the hazards (Attachment B). With the addition of a CUP requirement for development greater than a single dwelling unit, this option would be similar to the COW discussion from 12/2022.

**Recommendation**

The Committee should take steps towards selecting a path forward, including a recommendation that can be forwarded to the Committee of the Whole or the Assembly. If the LHEDC wants to hold this item in Committee for another meeting, it could do so. In closing, we strongly encourage interested parties to read [Tetra Tech Technical Memo No. 4](#).

**Attachments**

Attachment A: Draft Ordinance April 2023 Avalanche and Landslide Areas and Hazard Maps T49 Comm Revisions

Attachment B: Draft Ordinance June 2023 Avalanche Landslide Areas Staff Version

Attachment A

Presented by: The Manager  
Presented: 2023  
Drafted by:

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2023 XX

An Ordinance Amending the code related to avalanche and landslide areas and replacing the avalanche and landslide areas maps

WHEREAS, and...

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Classification.** This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

**Section 2. Amendment of Section.** CBJC49.70.300 Avalanche and landslide areas is amended to read:

- (a) *Generally.*
  - (1) Development in mapped moderate and severe avalanche and severe landslide areas shall minimize the risk of loss of life or property due to landslides and avalanches.
  - (2) Boundaries of severe avalanche areas will be as shown on the avalanche area maps dated April 27, 2022, as the same may be amended from time to time by the assembly by ordinance.
  - (3) Boundaries of severe landslide areas will be as shown on the landslide area maps dated April 27, 2022, as the same may be amended from time to time by the assembly by ordinance.

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(4) Owners and developers shall provide written notice to potential buyers or renters that the property is located in a moderate or severe avalanche area, or a severe landslide area, or both.

(b) *Moderate and Severe avalanche areas.*

(1) Notwithstanding any other provision, subdivision other than a lot line adjustment, or a lot consolidation, or development greater than a single-family dwelling within severe avalanche areas shall require a conditional use permit. Lots platted as Public Use Lot(s) must comply with 49.15.422.

(2) Notwithstanding any other provision, development greater than a single-family dwelling, within the moderate or severe avalanche areas shall require a conditional use permit with site specific engineering for the following: peak drainage, special foundation or high back wall engineering, and debris flow diversion mechanisms. For the purposes of this section, accessory dwelling units are considered development greater than a single-family dwelling.


(3) If a developer disagrees with the boundaries shown on the severe avalanche map, the developer may seek departmental relocation of the boundaries by submitting a site specific study prepared and stamped by a civil engineer licensed in the State of Alaska. Such studies shall include detailed analyses of topography, vegetation, potential snow accumulation, and other factors. The results should indicate actual hazard area boundaries and potential debris flow direction, time, distance and mass. If, in the

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opinion of the Director of Engineering & Public Works, the studies clearly establish that the map boundaries are inaccurate and the proposed development is outside a moderate or severe avalanche area, the department shall proceed accordingly.

- (4) The commission may require mitigating measures certified as effective by a civil engineer licensed in the State of Alaska for development in moderate or severe avalanche areas. Such measures may include dissipating structures or dams, special structural engineering, or other techniques designed for the site. Mitigating measures may also include reduction in the proposed density, occupancy, or development.

(c) *Severe landslide areas.*

- (1) Notwithstanding any other provision, no subdivision other than a boundary line relocation, a lot line adjustment, or a lot consolidation, shall be approved in a severe landslide area. Applications for all other subdivision types shall not be accepted for filing or shall be rejected by the director.
- (2) Notwithstanding any other provision, no development, which is within a severe landslide area shall increase the density of the lot or increase the occupancy of the building; provided, that a single-family dwelling may be constructed on a vacant lot. Accessory dwelling units are not permissible on lots located in a severe landslide area.
- (3) Notwithstanding any other provision, development including a single-family dwelling within the severe landslide areas shall require a conditional use permit with site specific engineering for the following: peak drainage, special foundation or high back wall engineering, and debris flow diversion mechanisms. 

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(4) The commission may require mitigating measures certified as effective by a civil engineer licensed in the State of Alaska for development in severe landslide areas. Such measures may include dissipating structures or dams, special structural engineering, or other techniques designed for the site. Mitigating measures may also include reduction in the proposed density, occupancy, or development.

(5) If a developer disagrees with the boundaries shown on the severe landslide map, the developer may seek departmental relocation of the boundaries by submitting a site specific study prepared and stamped by a civil engineer licensed in the State of Alaska. Such studies shall include detailed analyses of topography, vegetation, potential snow accumulation, and other factors. The results should indicate actual hazard area boundaries and potential debris flow direction, time, distance and mass. If, in the opinion of the Director of Engineering & Public Works, the studies clearly establish that the map boundaries are inaccurate and the proposed development is outside a severe landslide area, the department shall proceed accordingly.

*(d) Warning and disclaimer of liability.* Avalanches and landslides may occur outside hazard areas in excess of engineering expectations. The location and severity of the event may be increased by manmade or natural causes. This article does not imply that land outside of designated hazard areas, or uses permitted within such areas, will be free from danger or damage. This article shall not create liability on the part of the City and Borough of Juneau or any officer or employee thereof for any damages that result from reliance of this article or any administrative decision lawfully made under this article.

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**Section 4. Amendment of Section.** CBJC 19.04.R301.9 Geophysical hazards is amended to read:

"*301.9 Geophysical hazards.* In Severe geophysical hazard zones as shown in "Downtown Juneau Landslide and Avalanche Hazard Assessment" dated April 27, 2022, and on the "Moderate and Severe Avalanche Maps and Severe Landslide Area Map", ~~both adopted by ordinance serial no. 87-49, adopted~~ 2023 or when the building official determines that development is proposed in an area similar in nature to those studied in the above referenced documents, and is located outside of the study area, an engineered structural analysis shall be submitted with the permit application. The building official may waive this requirement upon presentation of more specific studies prepared and stamped by a civil engineer licensed in the State of Alaska showing the proposed site is not likely to be affected by geophysical hazards."

**Section 5. Amendment of Section.** Hillside Development CBJ 49.70.210(a)(4) is amended to read:

Any hazard area identified on the avalanche and landslide area maps dated ~~September 9, 1987,~~ April 27, 2022 ~~consisting of sheets 1—8,~~ as the same may be amended from time to time by the assembly by ordinance or any other areas determined to be susceptible to geophysical hazards.

**Section 6. Amendment of Section.** Definitions CBJ 49.80.120 is amended to read:

Accessory dwelling unit (ADU) means a subordinate dwelling unit added to, created within, or detached from a single-family residence, which provides basic requirements for living, sleeping, cooking, and sanitation. The unit may have a separate exterior entrance or an



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entrance to an internal common area accessible to the outside. ADUs are not included in the density calculation for a site.

Density means the amount of development per acre permissible on a parcel under the applicable zoning, measured as dwelling units per acre (du/ac).

**Section 7. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Beth A. Weldon, Mayor

Attest:

\_\_\_\_\_  
Elizabeth J. McEwen, Municipal Clerk



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**49.70.300 Avalanche and Landslide areas.**

**(a) Warning and disclaimer of liability.** Avalanches and landslides may occur outside mapped hazard areas. The location and severity of the event may be increased by manmade or natural causes. This article does not imply that land outside of mapped hazard areas will be free from danger or damage. This article shall not create liability on the part of the City and Borough of Juneau or any officer or employee thereof for damages that result from reliance on this article or any administrative decision lawfully made under this article.

**(b) Generally.**

- (1) Boundaries of potential landslide areas are shown on maps dated April 27, 2022.
- (2) Boundaries of potential avalanche areas are shown on maps dated April 27, 2022.
- (3) For the purposes of this article, “hazard” refers to avalanche or landslide.

**(c) Public Notice.** The purpose of public notice is to reasonably inform interested parties that resources are available for review.

- (1) A link to hazard maps and reports will be clearly posted on the City and Borough of Juneau’s Community Development Department web site, and remain posted year-round.
- (2) In (insert month) of each year, notice of the maps and their links will be:
  - (A) Mailed to properties within:
    - (i) Moderate and severe mapped avalanche zones,
    - (ii) Moderate, high and severe mapped landslide zones,
    - (iii) Properties within 500 feet of these zones, AND
    - (iv) Post office boxes hosted by the Federal Station post office, located in the Federal Building at 709 West 9<sup>th</sup> Street as of this regulation.

Failure to mail notice to a person as provided in this section does not invalidate an action taken by an agency under this chapter.

- (B) Published in a newspaper of general circulation.
- (C) Distributed to the municipal clerk and each municipal library.

**(d) Recorded documents.** The City and Borough of Juneau will record a notice that a property is in a hazard zone with the Alaska Department of Natural Resources Recorder’s Office. The notice will include:

- (1) The nature of the hazard (avalanche or landslide)
- (2) The designation of the hazard
  - (A) Moderate and severe for avalanche
  - (B) Moderate, high and severe for landslide

(3) A copy of the hazard map, legible in black and white print.

(4) Notice that owners are obligated to notify renters of the hazard, and a form for doing so.

**(e) Owner obligation.** Owners of properties in the hazard zone must:

(1) Notify tenants of the hazard in writing on a form acceptable to the City and Borough of Juneau.

# MEMORANDUM

## CITY/BOROUGH OF JUNEAU

Lands and Resources Office  
 155 S. Seward St., Juneau, Alaska 99801  
[Dan.Bleidorn@juneau.gov](mailto:Dan.Bleidorn@juneau.gov)  
 (907) 586-5252

**TO:** Alicia Hughes-Skandijs, Chair of the Assembly LHED Committee  
**FROM:** Dan Bleidorn, Lands and Resources Manager *Daniel Bleidorn*  
**SUBJECT:** Staff Report  
**DATE:** July 14, 2023

Telephone Hill: Engineering hosted a kickoff meeting with the consultants for the initial planning and design services for Pederson Hill. Meetings have included discussion on community and stakeholder engagement, goals and objectives, and project milestones. Engineering, Lands, and CDD will continue to have regular meetings with the consultants as they begin to provide results. The survey and section 106 review are underway, and staff and consultants are now preparing for stakeholder meetings and a public open house on the **July 26<sup>th</sup>** which will be at the **Juneau Arts and Cultures Center** from **5-7 pm**.

Pederson Hill- Moline: According to the applicant the value of tax credits has decreased since the assembly first reviewed this, and this project is delayed. Staff are working with Moline Investment to bring an update and likely a request for direction from this Committee in August. Moline completed a rezone which is expected to have increased the value of the City property. The ~10 acres included in this application has not been subdivided from the large ~101-acre parcel and this is a critical next step towards development.

Pederson Hill - THRHA: After LHED Committee reviewed this, the Assembly adopted an Ordinance authorizing the sale of Pederson Hill to THRHA. Staff will continue to provide updates on the progress of development of this property through the 10-year term of the agreement.

Second Street & Franklin: The Lands Division has been in communication with DNR staff and also working on the application for CBJ to acquire the state parking garage which is adjacent to the CBJ property located at the corner of Second Street and Gold Street. If the City can acquire the State property, there would be enhanced potential by consolidating the lots and develop the site as one large property. Land transfers from the SOA can take many years.

Fiscal Year 2024: July began the new fiscal year. For this new fiscal year, the Land Fund has been used as a funding source of a total of \$1,200,000 for a number of activities. \$700,000 will be utilized for pits and quarries management, infrastructure maintenance and expansion. \$50,000 is allocated for the Zero Waste Subdivision Plan. The first step in this subdivision will be to close out the existing mineral extraction permits for the south Lemon Creek gravel pit, which is the future location of this subdivision. The remaining \$450,000 is allocated towards perusing development of City property in Auke Bay. The Lands Division will be working with the Engineering Department to determine when there will be staff resources to begin to work on this CIP. No Land Fund money was included for maintenance of the Douglas Pioneer Road, but this is an expenditure for FY25-29 and is on the 6-year CIP plan.