

## **E. NEW BUSINESS**

**5. Conditional Use Permit; PC Resolution 2026-28**

**Applicant: Alaska DNR**

**Request: Construction of a fence within the 50' HPD of the Kenai River & Soldotna Creek**

**KPB Parcel ID #06030012**

**City of Soldotna**

# Multi-Agency Permit Application

## Kenai Peninsula Borough

### River Center

514 Funny River Road  
 Soldotna, Alaska 99669  
 KenaiRivCenter@kpb.us

Phone: (907) 714-2460  
 Fax: (907) 260-5992

Fees Received: \$ _____ <input type="checkbox"/> Cash <input type="checkbox"/> Check # _____ <p style="text-align: center; font-size: small;">CREDIT CARDS NOT ACCEPTED FOR APPLN FEES</p>
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**PROPERTY OWNER:**

Name: \_\_\_\_\_  
 Mailing: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_

**AGENT:** (if applicable)

Name: \_\_\_\_\_  
 Mailing: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_

**PROJECT LOCATION:**

KPB Parcel ID: \_\_\_\_\_  
 Physical Address: \_\_\_\_\_  
 Subdivision: \_\_\_\_\_  
 Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Addition/No.: \_\_\_\_\_

**WATERBODY INFORMATION:**

Waterbody: \_\_\_\_\_  
 River Mile: \_\_\_\_\_  
 Riverbank:  Left  Right (looking downstream)

**PERMIT FEES:**     \$50 - Staff Permit    **OR**     \$300 - Conditional Use or Floodway Analysis  
**PROJECT:**         New Project                    **OR**         Extension/Amendment to **RC#** \_\_\_\_\_

*Please select all activities that apply to your project:*

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Bank Stabilization<br><input type="checkbox"/> Boat Launch<br><input type="checkbox"/> Bridge<br><input type="checkbox"/> Coir Logs<br><input type="checkbox"/> Culvert<br><input type="checkbox"/> ELP Structures<br><input type="checkbox"/> Equipment Stream Crossing<br><input type="checkbox"/> Excavation, Dredging, and/or Fill<br><input type="checkbox"/> Fence Installation | <input type="checkbox"/> Fish & Wildlife Management<br><input type="checkbox"/> Floating Dock<br><input type="checkbox"/> Fuel Storage Green Infrastructure<br><input type="checkbox"/> In-Stream Structures (Weir)<br><input type="checkbox"/> Oil & Gas<br><input type="checkbox"/> On-Site Utilities<br><input type="checkbox"/> Prior-Existing Structure<br><input type="checkbox"/> Revegetation<br><input type="checkbox"/> Root Wads | <input type="checkbox"/> Road Construction<br><input type="checkbox"/> Structure (Accessory)<br><input type="checkbox"/> Structure (Residential)<br><input type="checkbox"/> Spruce Tree Revetment<br><input type="checkbox"/> Stream Crossing<br><input type="checkbox"/> Utility Line/Easement<br><input type="checkbox"/> Veg Mat<br><input type="checkbox"/> Vegetation Removal<br><input type="checkbox"/> Water Withdrawal<br><input type="checkbox"/> Other: _____ |
|--|---|---|

**PROJECT DESCRIPTION:** *Provide a detailed description of your project, attach additional pages if necessary.*

**COST-SHARE:** Is this project funded by the ADFG-USFWS Cost-Share Program?  Yes  No

**KPB TAX CREDIT PROGRAM:** KPB provides a tax credit as partial reimbursement for new habitat protection and restoration projects within 150 feet of anadromous streams. If you would like to pre-qualify for this credit, please provide your estimated project cost(s) below. Do not include grants or other funding assistance:

Elevated Light-Penetrating Structures \$ _____	Other Activities \$ _____
Habitat Restoration & Protection \$ _____	Green Infrastructure \$ _____

**PROJECT QUESTIONS:**

1. Start date: \_\_\_\_\_ End date: \_\_\_\_\_ Estimated Days of Construction: \_\_\_\_\_
2. Is any portion of the work already complete? If yes, please describe: \_\_\_\_\_  Yes  No
3. Is your project located on land or waters of an Alaska State Park?  Yes  No

*If yes, you must fill out an Alaska State Parks application at: [dnr.alaska.gov/parks/permit](http://dnr.alaska.gov/parks/permit)*

**Ordinary High Water (OHW) and Mean High Water (MHW):**

4. Is the project located within 50 feet of OHW or MHW a waterbody?  Yes  No
5. Does any portion of the project extend below the OHW or MHW of the waterbody?  Yes  No
6. Does any portion of the project cantilever or extend over the MHW of the waterbody?  Yes  No
7. Will anything be placed below OHW or MHW of the waterbody?  Yes  No

**Regulatory Floodplains:**

8. Is the property where the project is taking place near or within a regulatory floodplain?  Yes  No
- a. Is this project within or adjacent to a regulatory floodway?  Yes  No
- b. Is this project within or adjacent to a coastal high hazard zone?  Yes  No
- c. For new buildings and/or additions, list all project costs (labor, materials, etc.): \$ \_\_\_\_\_

**Excavation, Dredging, and Fill:**

9. Will material be excavated or dredged from the site?  Yes  No
- a. Type of material(s): \_\_\_\_\_
- b. Area to be dredged below OHW or MHW:  
Length: \_\_\_\_\_ (ft) Width: \_\_\_\_\_ (ft) Depth: \_\_\_\_\_ (ft) Total Cubic Yards: \_\_\_\_\_
- c. Area to be excavated above OHW or MHW:  
Length: \_\_\_\_\_ (ft) Width: \_\_\_\_\_ (ft) Depth: \_\_\_\_\_ (ft) Total Cubic Yards: \_\_\_\_\_
- d. Location materials will be deposited: \_\_\_\_\_

10. Will any material (including soils, debris, and/or overburden) be used as fill?  Yes  No
- a. Type of material(s): \_\_\_\_\_
- b. Is this fill permanent or temporary?  Permanent  Temporary
- c. Area to be filled above OHW or MHW:  
Length: \_\_\_\_\_ (ft) Width: \_\_\_\_\_ (ft) Depth: \_\_\_\_\_ (ft) Total Cubic Yards: \_\_\_\_\_
- d. Area to be filled below OHW or MHW:  
Length: \_\_\_\_\_ (ft) Width: \_\_\_\_\_ (ft) Depth: \_\_\_\_\_ (ft) Total Cubic Yards: \_\_\_\_\_

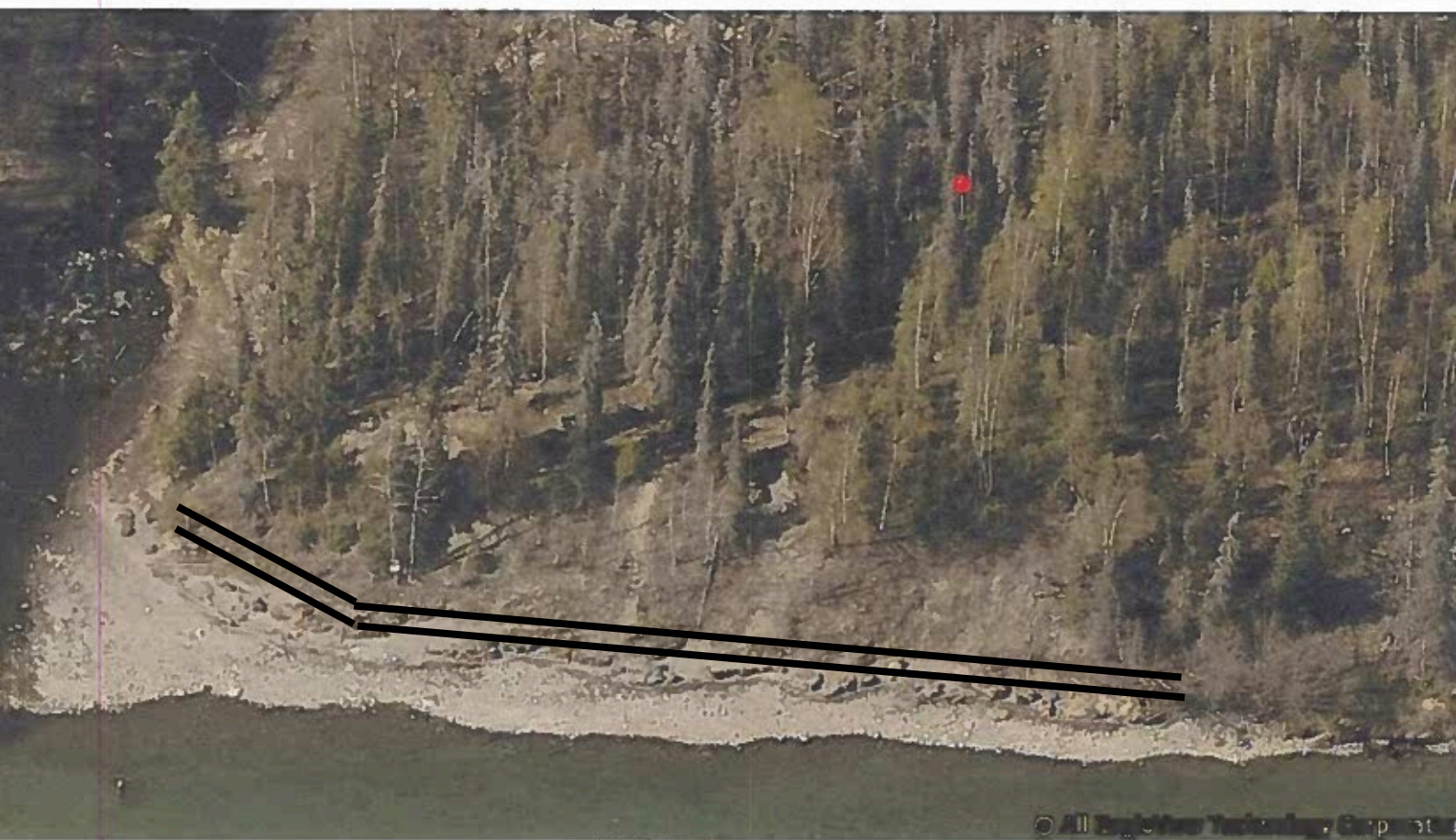
**Motorized Equipment:**

11. Will you be using motorized equipment for this project? If yes, please list all equipment:  Yes  No
- a. Will you be crossing a stream or waterbody?  Yes  No
- b. How long will equipment be used below OHW or MHW? \_\_\_\_\_

**SIGNATURE & CERTIFICATION:**

This application is hereby made requesting permit(s) to authorize the work described in this application form. I certify the information in this application is complete and accurate to the best of my knowledge and that my site plans or drawings are attached. If applying for a tax credit, I certify that I have not begun construction of the project and that the project will be constructed to the standards in KPB 5.12 Real Property and Personal Property Taxes, KPB 5.14 Habitat Protection Tax Credit, and other applicable federal, state, and local regulations.

\_\_\_\_\_  
**Owner Signature (required)**                      \_\_\_\_\_ **Date**                      *Christopher Haberbusch*  
**Agent Signature (if applicable)**                      \_\_\_\_\_ **Date**



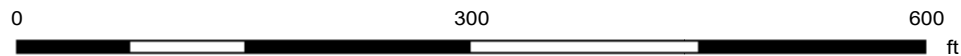
== Indicates Fence



— Indicates Fence

Example of proposed fence





**Fence**

Project Area

KPB Parcel(s):

Project Description:

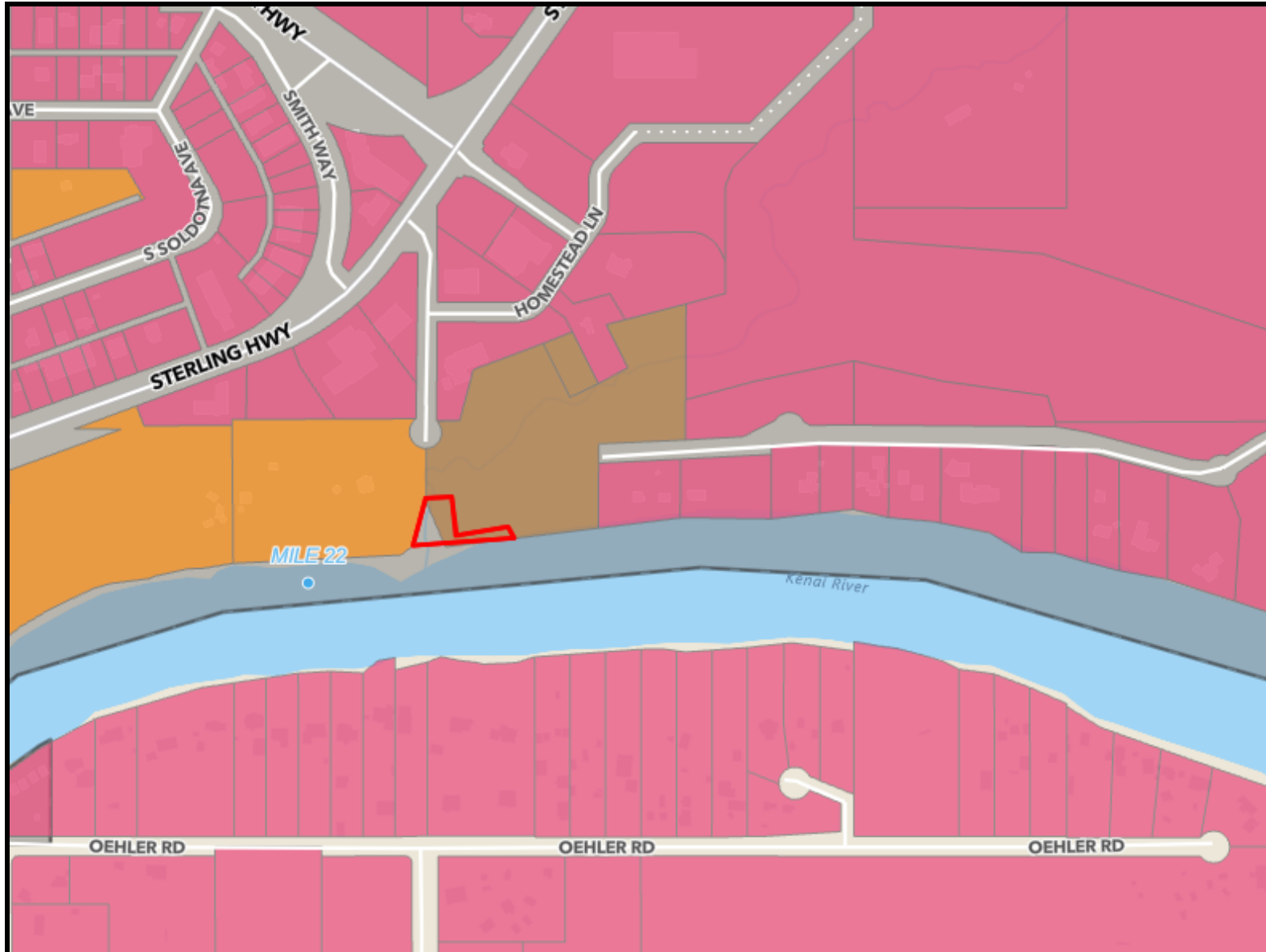
Vicinity: Soldotna



Map created by Aldridge, Morgan  
Tuesday, April 28, 2026



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Project Area

KPB Parcel(s):

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Parcel and PLSS

Parcel Ownership Type

Borough

Federal

Native

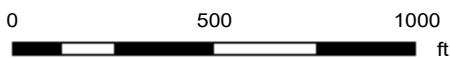
Native Allotment

Municipal

Private

State

Map created by Aldridge, Morga  
Tuesday, April 28, 2026



**Conditional Use Permit  
Anadromous Waters Habitat Protection District  
Staff Report**

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**PC Res No.** 2026-28  
**Planning Commission Meeting:** Monday, May 11, 2026  
**Applicant** State of Alaska Parks and Recreation & Kenai Watershed Forum  
**Mailing Address** 550 W 7th Ave #1360  
Anchorage, AK 99501  
**Legal Description** T 5N R 10W SEC 33 SM KN 0970089 MULLEN  
HOMESTEAD RIVER ADN PHSE 1 LOT 6-B  
**KPB Parcel Number** 06030012

**Project Description**

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of fence within the 50-foot Habitat Protection District of the Kenai River and Kenai River and Soldotna Creek, as established in KPB 21.18.040.

**Background Information**

Public use of the area has trampled the bank and removed all vegetation. Foot traffic from Soldotna Creek Park crosses Soldotna Creek to fish and the area has been heavily used. A fence is needed to prevent foot traffic and allow for vegetation to regrow.

**Project Details within the 50-foot Habitat Protection District**

An 80 foot wooden slat fence will be installed along the upland area. Approximately 14 fence posts will be installed.

**Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit**

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(2), construction of a fence may be approved as a conditional structure/use within the habitat protection district.

3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. Foot traffic in the area will continue to cause erosion along the water if it is not redirected and controlled in this area.
7. The fence will be made of narrow wooden slats to allow for the flow of water during any high water events.
8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
9. Pursuant to KPB 21.18.140, the proposed project meets the definition of water dependent
10. Pursuant to KPB 21.06.081(B)(2), the proposed fence meets the standards of being along public property and does not enclose the entire parcel, as to allow for free movement of wildlife.
11. The River Center found the application complete and scheduled a public hearing for Monday, May 11, 2026.
12. Agency review was distributed on 4/24/2026. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on 4/24/2026. A total of 15 mailings were sent.
14. Pursuant to KPB 01.08.180 (B) (1) (3), public notice was posted.
15. The applicant is currently in compliance with Borough permits and ordinances.

### **Permit Conditions**

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River and Soldotna Creek.
2. The fence must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.

8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

### **General Standards**

#### **Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:**

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1, 3 and Finding 4 support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Conditions 6, 11 and Findings 1-5 support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Findings 5 and 8 support this standard.**
4. The proposed use or structure is water-dependent; **Finding 9 supports this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements; **Conditions 11, 12 and Finding 15 support this standard.**

### **Attachments**

**Recommendation**

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2026-28.

**Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.**

**END OF STAFF REPORT**

**KENAI PENINSULA BOROUGH PLANNING COMMISSION**

**RESOLUTION 2026-28**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE CONSTRUCTION OF A FENCE WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF THE KENAI RIVER & SOLDOTNA CREEK.**

**WHEREAS,** Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and

**WHEREAS,** KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and

**WHEREAS,** KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and

**WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and

**WHEREAS,** public notice was posted as provided in Section 01.08.180 (B) (1) (3); and

**WHEREAS,** public testimony was received at the Monday, May 11, 2026 meeting of the Kenai Peninsula Borough Planning Commission;

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:**

That the Planning Commission makes the following findings of fact pursuant to KPB 21.18:

**Section 1. Project Details Within the 50-foot Habitat Protection District**

An 80 foot wooden slat fence will be installed along the upland area. Approximately 14 fence posts will be installed.

**Section 2. Findings of fact pursuant to KPB 21.18.081**

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.

2. Pursuant to KPB 21.18.081(B)(2), construction of a fence may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. Foot traffic in the area will continue to cause erosion along the water if it is not redirected and controlled in this area.
7. The fence will be made of narrow wooden slats to allow for the flow of water during any high water events.
8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
9. Pursuant to KPB 21.18.14, the proposed project meets the definition of water dependent.
10. Pursuant to KPB 21.18.081(B)(2), the proposed fence meets the standards of being along public property and does not enclose the entire parcel, as to allow for the free movement of wildlife.
11. The River Center found the application complete and scheduled a public hearing for Monday, May 11, 2026.
12. Agency review was distributed on 4/24/2026. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on 4/24/2026. A total of 15 mailings were sent.
14. Pursuant to KPB 01.08.180 (B) (1) (3), public notice was posted.
15. The applicant is currently in compliance with Borough permits and ordinances.

### **Section 3. Permit Conditions**

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River and Soldotna Creek.
2. The fence must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.

5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

**Section 4. Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:**

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1, 3 and Finding 4 appear to support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Conditions 6, 11 and Findings 1-5 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Findings 5 and 8 appear to support this standard.**

4. The proposed use or structure is water-dependent; **Finding 9 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Conditions 11, 12 and Finding 15 appear to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 2026.

\_\_\_\_\_  
Jeremy Brantley, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg  
Administrative Assistant

**Note: An appeal of a decision of the Planning Commission may be filed to the hearing officer, in accordance with the requirements of the KPB Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.**