

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2026-36

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE CONSTRUCTION OF A ROAD AND BRIDGE WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF THE UNNAMED TRIBUTARY TO TWO MOOSE 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, July 20, 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

1. Placement of a 12 foot wide gravel road, of pit run material on either side of the water. The portion of the road up to the bridge will be sloped 1:2 to help with run off.
2. Placement of an 8 foot wide and about 30 foot long bridge with an ELP deck.
3. Placement of abutments on each end, about a foot wide and 12 feet long.

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)(5), construction of transportation and utility infrastructure 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. The span of the bridge will be light penetrating and will allow for natural vegetation to freely grow under the structure and provide riparian habitat.
7. Currently there is no way to cross the stream and historical trail users have either driven through or thrown wooden debris over- this structure will allow for safe passage and preservation of near shore habitat.
8. The distance of the abutments from the creek banks will preserve the existing vegetation.
9. This project has been reviewed by ADFG and meets their standard for an allowable use.
10. 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.
11. Pursuant to KPB 21.18.140, the proposed project meets the definition of water dependent.
12. The River Center found the application complete and scheduled a public hearing for Monday, July 20, 2026.
13. Agency review was distributed on 7/2/2026. No comments or objections have been received from resource agencies to date.
14. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on 7/2/2026. A total of 13 mailings were sent.
15. Pursuant to KPB 01.08.180 (B) (1) (3), public notice was posted.
16. 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 Unnamed Creek.
2. The road and bridge 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.

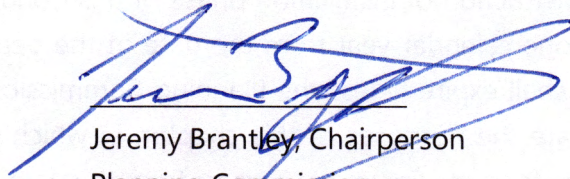
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
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 1-5 and Findings 4, 6, 7-8 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; **Condition 11 and Findings 1-5 appear to support this standard.**

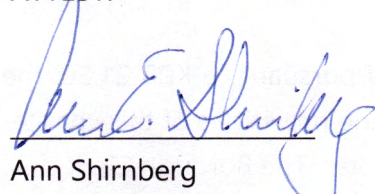
3. The development of the use or structure shall not physically damage the adjoining property; **Condition 2 and Finding 10 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 7, 11 appears to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Condition 11 and Finding 16 appear to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON 20TH DAY OF JULY, 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.