

E. NEW BUSINESS

1. Conditional Use Permit; PC Resolution 2023-27

Petitioner: Alaska Rail Road Corporation

**Request: Place rip rap on the Alaska Rail Road ROW within the
50-foot Habitat Protection District of the Snow River**

**Location: T03N R01E SEC01 S.M. SW That Portion of Chugach
National Forest Lying within T03NR01E Excluding Kenai
Lake & All US Surveys**

Moose Pass Area

Multi Agency Permit Application



514 Funny River Road, Soldotna, AK 99669 • (907) 714-2460 • KenaiRivCenter@kpb.us

Applicant Information:

Name: Brian Lindamood (ARRC)
Owner? ☒ **Yes** ☐ **No**
Mailing: P.O. Box 107500
Anchorage, AK 99510
Phone: 907-265-3095
Email: LindamoodB@akrr.com

Agent Information: (if applicable)

Name: Nicholas Havelock (ARRC)
Mailing: P.O. Box 107500
Anchorage, AK 99510
Phone: 907-265-2313
Email: HavelockN@akrr.com

Project Location:

KPB Parcel ID: NA
Physical Address: 60.3319, -149.3405
Waterbody Name: Snow River
River Mile: N/A Riverbank: ☐ Right
looking downstream ☐ Left

Subdivision: NA
Lot: N/A Block: N/A Addn/No.: N/A
Directions to site: From Seward, drive north on the
Seward Highway to approx. highway mile 14, then
set on tracks and ride north approx. 3.3 miles.

Permit Fees: (please select the applicable permit fees)

- ☐ \$100 - ADNR State Parks Permit ☐ \$300 - KPB Conditional Use Permit
☒ \$50 - KPB Habitat/Floodplain Permit ☐ \$300 - KPB Floodway Development Permit

Project Description:

☒ New Project **OR** ☐ Extension to RC# _____
☐ Amendment

Provide a detailed description of your project and all related activities, use additional pages if needed. Include the following information for all existing and proposed structures:

- | | | |
|------------------------------------------------|-----------------------------------------|---------------------------------------------|
| ▪ Project location & dimensions | ▪ Construction methods/equipment | ▪ Fuel Storage: location, quantities |
| ▪ Waterbody description & proximity | ▪ Filling/dredging/excavation: | ▪ Vegetation Removal: location, |
| ▪ Proximity to OHW and/or HTL | ○ type, volume, area, location | amount, type |

The Alaska Railroad Corporation (ARRC) plans to place riprap for embankment stabilization at rail milepost 17.9, Snow River. The embankment is actively being eroded by Snow River and threatens the integrity of the tracks. ARRC plans to place a portion of the total riprap this spring and the rest as needed to prevent a possible emergency stabilization and track outage. A total of approx. 1,500 cubic yards would be placed along an approx. 400ft stretch where Snow River actively erodes the embankment. All work will be performed from the tracks within the ARRC right-of-way.

KPB Tax Credit: (skip this section if your project is prior existing, only applicable to NEW projects)

Please provide your estimated project cost(s) below. Do not include grants or other funding assistance:

Elevated Light Penetrating Structure(s)	\$ _____
Bank or Habitat Restoration & Protection	\$ _____
Other Activities	\$ _____

Project Questions:

Note: Use Ordinary High Water (OHW) for non-tidal waters, and Mean High Tide (MHT) for tidal waters.

1. Start date: June 1, 2023 End date: Oct 31, 2024 Estimated Days of Construction: 1-3
2. Is the project located within 50 feet of OHW or HTL a waterbody? ☒ Yes ☐ No
3. Does any portion of the project extend **below** the OHW or HTL of the stream or waterbody? ☒ Yes ☐ No
4. Does any portion of the project cantilever or extend **over** the OHW of the waterbody? ☐ Yes ☒ No
5. Will anything be placed below OHW or HTL of the waterbody? ☒ Yes ☐ No
6. Will material be extracted or dredged from the site? ☐ Yes ☒ No
7. Including areas below OHW or HTL, what is the total area (in acres) that will be excavated or dredged?
Total Area: N/A Type of Material: N/A
Location you will depositing fill: N/A
8. Will any material (including soils, debris, and/or overburden) be used as fill? ☒ Yes ☐ No
Type of material: Riprap Amount: Approx. 1,500cy Permanent ☒ or Temporary ☐
Will fill be placed below OHW or HTL: ☒ Yes ☐ No
9. List all motorized equipment to be used in this project, including access route to site, any stream or waterbody crossings, and (if applicable) how long equipment will be used below OHW or HTL: Work train with airdumps will place riprap along embankment, heavy equipment will push rock into place, if needed.
10. Is any portion of the work already complete? ☐ Yes ☒ No
If yes, describe: N/A

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.

If applying for a tax credit: I certify that I have not begun construction of the project on this the property and that the proposed project will be constructed in a manner consistent with KPB 5.12 Real Property and Personal Property Taxes, KPB 5.14 Habitat Protection Tax Credit, and other applicable ordinances.

<u>MHC Sherry (For Brian Linanuel)</u>	<u>5/12/2023</u>
Applicant Signature (required)	Date
<u>Nick Amela</u>	<u>5/12/2023</u>
Agent Signature (if applicable)	Date



Project Overview and Vicinity Map

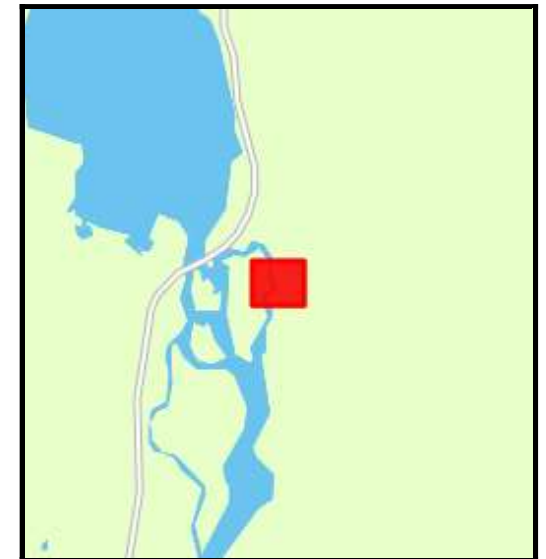


ARRC

 **Project Area**

rip rap along the Snow River HPD

Vicinity



Map created by Aldridge, Morgan

0 450 900 ft



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.



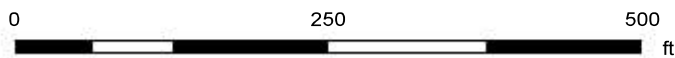
 **Project Area**

Parcels by Use / Ownership

Parcel Ownership Type

-  Borough
-  Federal
-  Native
-  Native Allotment
-  Municipal
-  Private
-  State

Map created by Aldridge, Morga
Monday, July 24, 2023





 **Project Area**

Tax Parcels

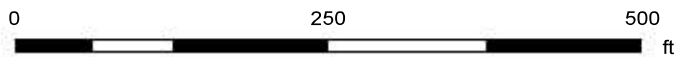


Landcover Features

KWF Wetlands Assessment

-  DISTURB
-  Depression
-  Discharge Slope
-  Drainageway
-  Floating Island
-  Headwater Fen
-  Kettle
-  LAKE
-  Lakebed
-  Late Snow Plateau
-  Riverine
-  Tidal
-  Wetland / Upland Complex

Map created by Aldridge, Morga
Monday, July 24, 2023





 **Project Area**





Tax Parcels



Habitat





KPB 2118 - KPB 2118

Anadromous Streams

-  Exempt
-  Managed
-  Unregulated
-  others

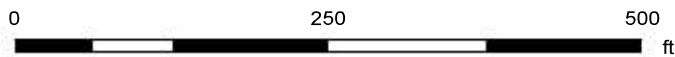
KPB 2118 - KPB 2118

Anadromous Lakes and Areas

-  Exempt
-  Managed
-  Unregulated
-  n/a

Map created by Aldridge, Morga

Monday, July 24, 2023



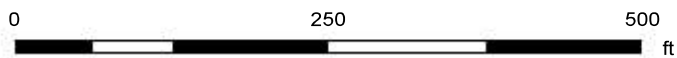


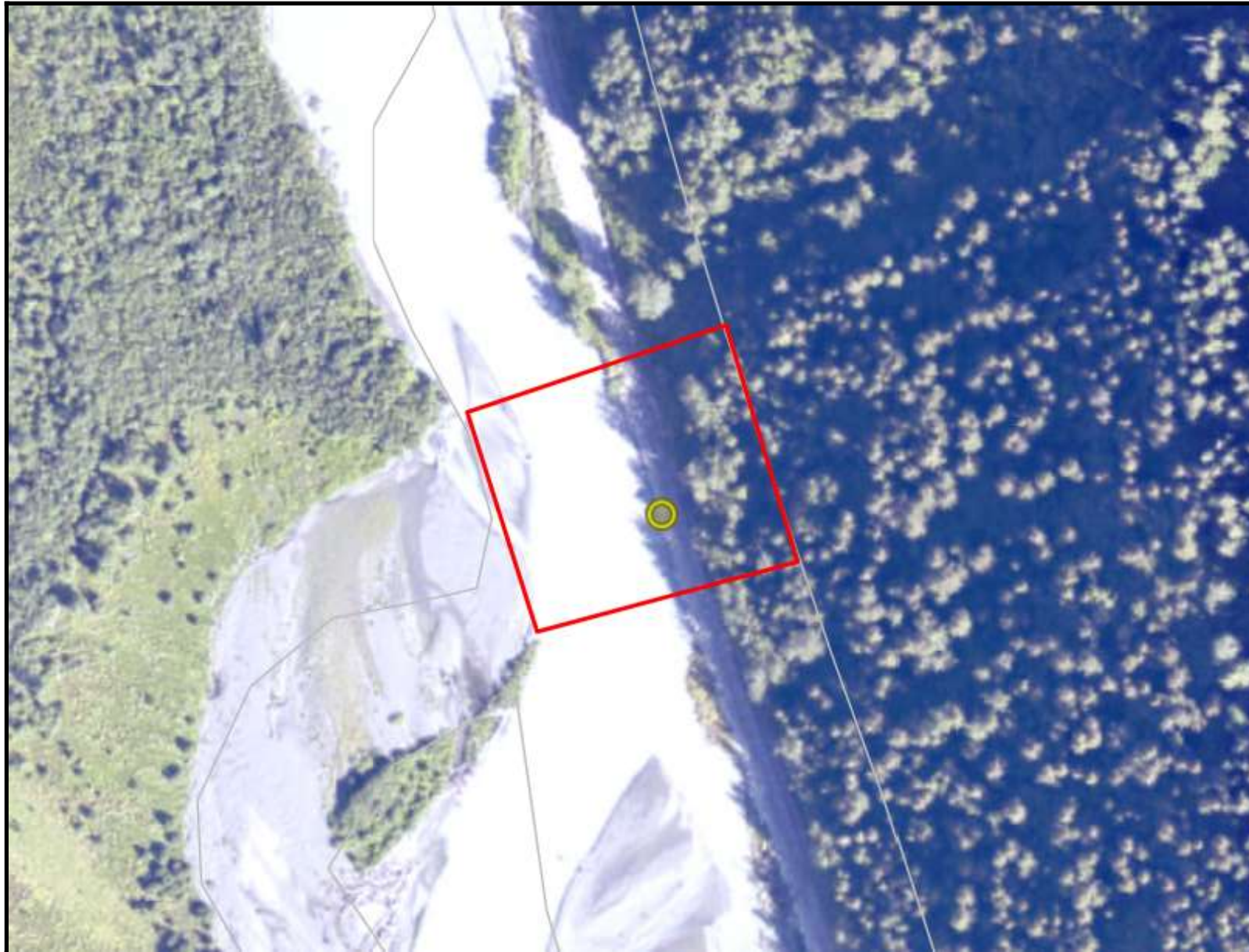
 **Project Area**

Tax Parcels



Map created by Aldridge, Morga
Monday, July 24, 2023



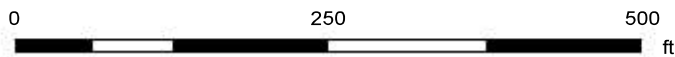


 **Project Area**

Tax Parcels



Map created by Aldridge, Morgia
Monday, July 24, 2023







E140



FISH HABITAT PERMIT FH23-V-0114

ISSUED: May 17, 2023
EXPIRES: Lifetime of Structure

Alaska Railroad Corporation (ARRC)
Brian Lindamood
PO Box 107500
Anchorage, AK 99510

RE: Bank Stabilization

Snow River – Stream No. 244-30-10010-2250
Section 19, T 3N, R 1E, S.M.
Railroad Milepost 17.0
Location: 60.3319° N, 149.3405° W
River Center Tracking No. 13294

Dear Brian Lindamood:

Pursuant to the Anadromous Fish Act at AS 16.05.871(b), the Alaska Department of Fish and Game (ADF&G), Habitat Section, has reviewed your proposal to place riprap in the Snow River to stabilize and protect the railroad track at milepost 17.9. This project is adjacent and adjoining to a previous bank stabilization project authorized by Fish Habitat Permit FH15-V-0324.

Project Description

Approximately 500 cubic yards of riprap will be placed below ordinary high water (OHW) along the railroad embankment to enhance the stability of the track infrastructure. Outside the authority of this permit and above OHW, approximately 1000 cubic yards of riprap will be placed landward along the railroad embankment. Heavy equipment

working from the railroad track and rail embankment will place riprap along the embankment.

Anadromous Fish Act

The Snow River has been specified as being important for the migration, spawning and rearing of anadromous fish pursuant to AS 16.05.871(a). The Snow River provides spawning, rearing, and migration habitat for sockeye, coho salmon, and other species of resident fish.

In accordance with AS 16.05.871(d), project approval is hereby given subject to the project description, the following stipulation, and the permit terms:

1. Riprap shall be installed and maintained to accommodate the efficient passage and movement of fish, both upstream and downstream. You must restore any obstruction to free fish passage to the satisfaction of ADF&G.

Permit Terms

This letter constitutes a permit issued under the authority of AS 16.05.871 and must be retained on site during project activities. Please be advised that this determination applies only to Habitat Section regulated activities; other agencies also may have jurisdiction under their respective authorities. This determination does not relieve you of your responsibility to secure other state, federal, or local permits. You are still required to comply with all other applicable laws.

You are responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved project. For any activity that significantly deviates from the approved plan, you shall notify the Habitat Section and obtain written approval in the form of a permit amendment before beginning the activity. Any action that increases the project's overall scope or that negates, alters, or minimizes the intent or effectiveness of any stipulation contained in this permit will be deemed a significant deviation from the approved plan. The final determination as to the significance of any deviation and the need for a permit amendment is a Habitat Section responsibility. Therefore, it is recommended you consult the Habitat Section immediately when a deviation from the approved plan is being considered.

For the purpose of inspecting or monitoring compliance with any condition of this permit, you shall give an authorized representative of the state free and unobstructed

access, at safe and reasonable times, to the project site. You shall furnish whatever assistance and information as the authorized representative reasonably requires for monitoring and inspection purposes.

In addition to the penalties provided by law, this permit may be terminated or revoked for failure to comply with its provisions or failure to comply with applicable statutes and regulations. You shall mitigate any adverse effect upon fish or wildlife, their habitats, or any restriction or interference with public use that the commissioner determines was a direct result of your failure to comply with this permit or any applicable law.

You shall indemnify, save harmless, and defend the department, its agents, and its employees from any and all claims, actions, or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or your performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

You may appeal this permit decision relating to AS 16.05.871 in accordance with the provisions of AS 44.62.330-630.

Please direct questions about this permit to Habitat Biologist Kaitlynn Cafferty at (907) 714-2481 or e-mail at kaitlynn.cafferty@alaska.gov.

Sincerely,

Doug Vincent-Lang
Commissioner

Tony Munter

By: Tony Munter
Kenai Peninsula Area Manager
Habitat Section

cc: KRC File

By email only:

AWT Seward
ADF&G Anchorage

AI Ott, ADF&G Fairbanks
COE – KFO



Donald E. Gilman River Center

514 Funny River Road, Soldotna, Alaska 99669 • (907) 714-2460 • (907) 260-5992 Fax

A Division of the Planning Department

Peter A. Micciche
Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application for a Conditional Use Permit has been received to place Rip Rap on the Alaska Rail Road right of way within the 50-foot Habitat Protection District of the Snow River near Moose Pass, Alaska. ***You have been sent this notice because you are a property owner within 300 feet of the described property.***

Pursuant to KPB 21.18.081(B)(5) Transportation and utility infrastructure and KPB 21.18.091 Mitigation measures, projects within the 50-foot Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission. This project is located at ARRC MP 17.9, along the Snow River, near Moose Pass, Alaska.

Petitioner: Alaska Rail Road Corporation
PO Box 107500
Anchorage, AK 99510

Public Hearing: The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on August 14, 2023 commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting is to be held in the Borough Administrative Building, 144 N. Binkley St., Soldotna, Alaska. The public may also attend the meeting electronically/telephonically via Zoom. To join the meeting from a computer visit <https://us06web.zoom.us/j/9077142200>. To attend the Zoom meeting by telephone call toll free **1-888-788-0099** or **1-877-853-5247**. When calling in you will need the Meeting ID **907 714 2200**.

Public Comment: Anyone wishing to testify may attend the above meeting to give testimony, or may submit written comment via the methods below. **Written comments must be submitted by 1:00 pm Friday, August 11, 2023.**

Mail comments to:

Donald E. Gilman River Center
514 Funny River Road
Soldotna, Alaska 99669

Fax comments to:

(907) 260-5992

Email comments to:

planning@kpb.us
KenaiRivCenter@kpb.us

For additional information contact Morgan Aldridge, maldridge@kpb.us, Donald E. Gilman River Center, (907) 714-2465.

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

KPB File No.	2023-27
Planning Commission Meeting:	August 14, 2023
Applicant	Alaska Railroad Corporation
Mailing Address	PO Box 107500
	Anchorage, AK 99510
Physical Address	ARRC MP 17.9
	60.3319, -149.3405

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 for the placement of Rip Rap within the 50-foot Habitat Protection District of the Snow River as established in KPB 21.18.040.

Background Information

This project is to place Rip Rap along approximately 400 feet of the Alaska Rail Road line along the Snow River outside of Moose Pass. The embankment is being actively eroded by the Snow River and is threatening the integrity of the tracks. All work will be performed from the tracks within the ARRC right of way.

Project Details within the 50-foot Habitat Protection District

1. Placement of 1500 cubic yards of Rip Rap below the rail road tracks for support

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)(5), construction of critical 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. Rip Rap will support the Rail Road track and create safer passage for train cars.
7. All work will be done from the ARRC Right of Way and will not infringe on neighboring land.
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. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:

“...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways.”

10. The River Center found the application complete and scheduled a public hearing for August 14, 2023.
11. Agency review was distributed on August 1, 2023. No comments or objections have been received from resource agencies to date.
12. Notice of this project was sent to the Moose Pass Advisory Planning Commission at their May 2023 general meeting. The APC recommended approval.
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 August 1, 2023. A total of 1 mailing was sent.
14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on August 3, 2023 and August 10, 2023.
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 Snow River.
2. The Rip Rap placement 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 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; **Findings 1-4, 8-15 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 8 appears to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 4 and 9 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements; **Finding 15 appears to support this standard.**

Attachments

Multi-Agency Application
ADFG Fish Habitat Permit FH23-V-0114
Draft Resolution 2023-27

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 2023-27.

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 2023-27

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE PLACEMENT OF RIP RAP WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF THE SNOW RIVER.

- 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 published in the Peninsula Clarion on August 3, 2023 and August 10, 2023 as provided in Section 21.11.020; and
- WHEREAS,** public testimony was received at the August 14, 2023 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 1500 cubic yards of Rip Rap below the rail road tracks for support

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 critical 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. Rip Rap will support the Rail Road track and create safer passage for train cars.
7. All work will be done from the ARRC Right of Way and will not infringe on neighboring land.
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. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
10. The River Center found the application complete and scheduled a public hearing for August 14, 2023.
11. Agency review was distributed on August 1, 2023. No comments or objections have been received from resource agencies to date.
12. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on August 1, 2023. A total of 1 mailing was sent.
13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on August 3, 2023 and August 10, 2023.
14. 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 Snow River.
2. The Rip Rap placement 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 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; **Findings 1-4, 8-15 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 8 appears to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 4 and 9 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 15 appears to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2023.

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.