

E. NEW BUSINESS

- 6. Conditional Use Permit; PC Resolution 2022-27**
Petitioner: Alaska Dept. of Transportation & Public Facilities
Location: Between MP 157-169 Sterling Hwy
Anchor Point Area



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Transportation
and Public Facilities

DESIGN & ENGINEERING SERVICES
PRELIMINARY DESIGN & ENVIRONMENTAL

PO Box 196900
Anchorage, Alaska 99519-6900
Main: 907.269.0542
Toll Free: 800.770.5263

May 5, 2022

Samantha Lopez
River Center Manager
Donald E. Gilman River Center
514 Funny River Road
Soldotna, AK 99669

**Subject: River Center Multi-Agency Permit Application
Sterling Highway MP 157 to 169 Rehabilitation, Anchor Point to Baycrest Hill**

Dear Ms. Lopez:

Alaska Department of Transportation and Public Facilities (DOT&PF) has assumed the responsibilities of the Federal Highway Administration under Section 327 of amended Chapter 3 of Title 23, United States Code (23 USC 327), and is submitting a Multi-Agency Permit Application for the Sterling Highway MP 157 to 169 Rehabilitation, Anchor Point to Baycrest Hill project. The proposed project is located between Anchor Point and Homer on U.S. Geological Survey Quad Maps Seldovia C-5 and D-5 (Attachment A; Figure 1).

Project Description

In addition to improving the structural integrity, reducing congestion, and improving the drivability and safety of the Sterling Highway, the proposed work would:

- Rehabilitate the roadway;
- Replace the existing culverts at North Fork Anchor River with a new bridge;
- Replace the Anchor River bridge with a new bridge;
- Realign vertical and horizontal curves and modify grades to improve sight distance and upgrade the roadway to current highway design standards in accordance with the DOT&PF Preconstruction Manual and AASHTO;
- Construct passing and climbing lanes;
- Improve turning movements and sight distance at intersections by construction of right/left turn lanes and realigning side roads, as needed;
- Widen shoulders;
- Install erosion control measures;
- Clear vegetation, as needed; and
- Repair, replace or improve as needed: existing culverts, including fish passage culverts; erosion protection; drainage facilities; utilities; guardrail and guardrail end treatments; approaches; signing; and striping.

"Keep Alaska Moving through service and infrastructure."

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by DOT&PF pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated November 3, 2017 and executed by FHWA and DOT&PF.

Purpose and Need

The purpose of the proposed project is to restore structural integrity, reduce congestion, and improve the drivability and safety of the Sterling Highway from MP 157 to 169, Anchor Point to Baycrest Hill. The Sterling Highway is the primary land surface transportation connection between the western coast of the Kenai Peninsula and the rest of Alaska's highway system. The highway provides a critical economic, recreational, and cultural link for central Alaska by providing access to the Kenai River and Cook Inlet, popular fisheries, and commercial interests. This twelve-mile section of the Sterling Highway has remained largely unimproved since 1966.

Segments within the project corridor are structurally deteriorating, in need of safety improvements for passing and turning movements, and do not meet current vertical and horizontal design standards. Bridge structures show visible signs of wear and have been damaged in flood events.

Most culverts and roadside ditches are in poor condition and do not provide sufficient drainage. Traffic operations are impacted due to the lack of passing lanes, climbing lanes, and dedicated turn lanes at intersections. These conditions contribute to traffic congestion, particularly in the summer months when traffic volumes increase due to construction, commercial fishing, and recreational activities on the Kenai Peninsula.

Required Permits

A River Center Multi-Agency Permit application is included as Attachment B. Floodplain (Zone AE) impacts are localized to the beginning of the project at the North Fork Anchor River bridge and along an approximately one-mile stretch of highway adjacent to the Anchor River (Attachment B; Figures 1 and 2). Impacts to 8.6 acres of floodplain consist of the placement of 23,776 cubic yards of substrate, embankment material and riprap.

Section 690-3.04: if trees are cut down within the KPB Habitat Protection District (within 50 feet of the ordinary high water mark of an anadromous river/stream), requires replacement of removed trees by planting two seedlings less than 5.5 feet tall. The project team anticipates removal of trees within the KPB Habitat Protection District can be met.

The proposed project will also require the following permits, which are included as attachments.

Section 404 Department of the Army Permit (wetlands)

DOT&PF is submitting an individual permit application to the U.S. Army Corps of Engineers (USACE) as Attachment C. The project would permanently place approximately 145,500 cubic yards (cy) of fill (rip rap, stream substrate, class A/C fill, and structures) into 14.50 acres of wetlands and 35,704 (1.67 acres) linear feet of waters of the U.S. to accommodate roadway improvement. A wetland delineation report was prepared for the project in April 2015 with an addendum in 2019; an electronic copy is provided. According to the Alaska Department of Natural Resources' Navigable Waters Mapper (reviewed January 20, 2022), the Anchor River is the only traditionally navigable water near the project area and is considered navigable downstream of the confluence with North Fork Anchor River. The Anchor River has a direct surface connection to Cook Inlet which is a traditionally navigable water according to the US Army Corps of Engineers.

Title 16 Fish Habitat Permit

DOT&PF is submitting eight separate Title 16 permit application packets for work to replace five culverts, two bridges, and improve embankments along the Anchor River. Table 1 summarizes the Title 16 permit applications by waterway, proposed action, and provides anadromous stream identification number and project stationing. The eight Title 16 permit applications are included in Attachment D.

Table 1: Title 16 Fish Habitat Permit Applications

Waterway	Proposed Action	Anadromous Stream ID	DOT&PF Stationing	
Two Moose Creek	Replace Culvert	244-10-10010-2021	"STH" 149+97	
Beaver Creek	Replace Culvert	244-10-10010-2025	"STH" 189+74	
Ruby Creek #1	Replace Culvert	244-10-10010-2088	"STH" 371+47	
Ruby Creek #2	Replace Culvert	244-10-10010-2088	"STH" 382+76	
Diamond Creek	Replace Culvert	N/A - Resident Fish Only	"STH" 550+99	
Anchor River	Replace Bridge	244-10-10010	"STH" 216+285	
North Fork Anchor River	Replace Culvert with Bridge	244-10-10010-2011	"STH" 19+50	
Anchor River	Improve Embankments	244-10-10010	Varies	

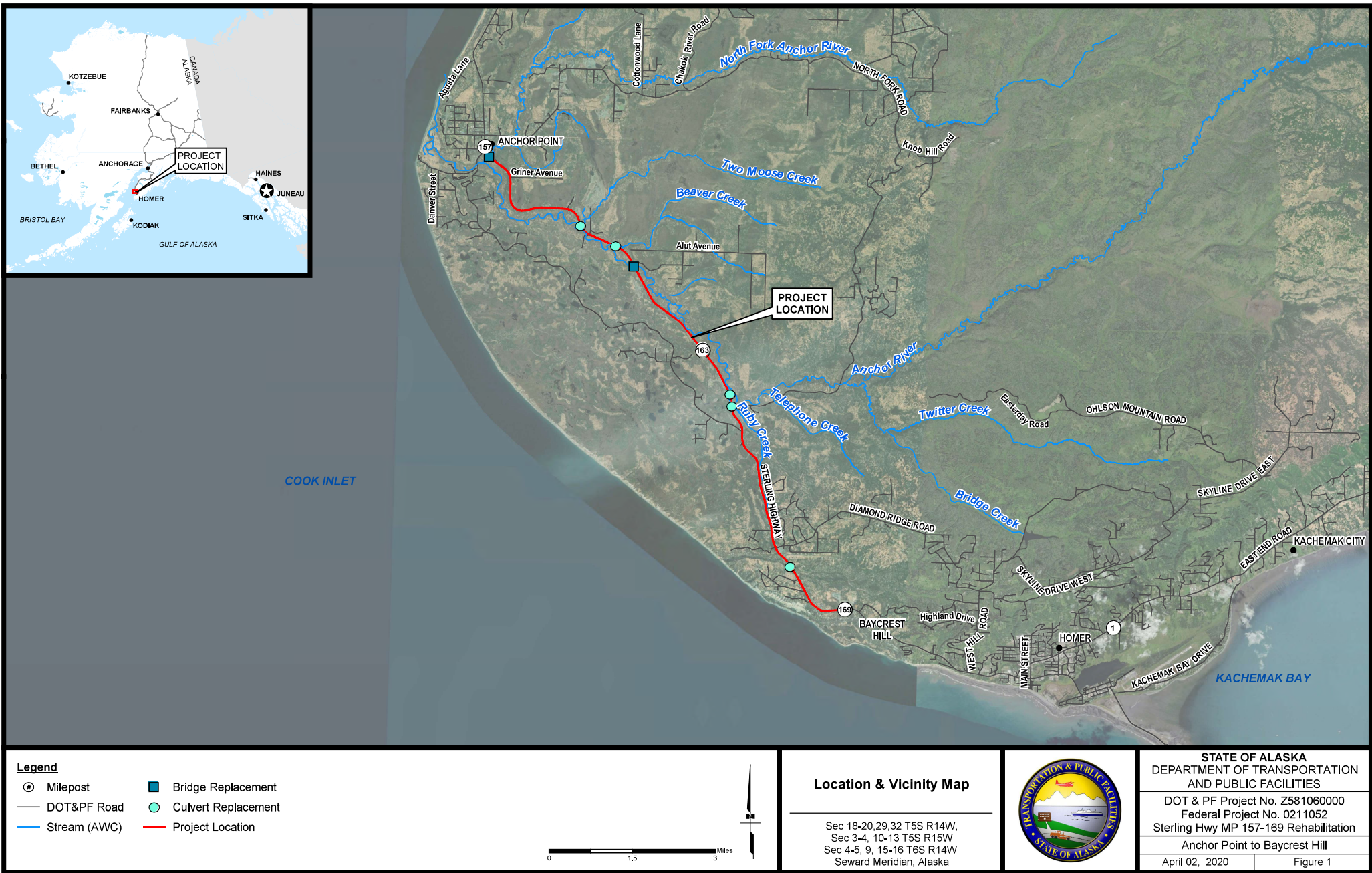
If you have any questions regarding this application or need more information, please contact me at (907) 269-0529 or at heidi.zimmer@alaska.gov.

Sincerely,

Heidi Zimmer
Environmental Impact Analyst
DOT&PF Central Region

Attachments:

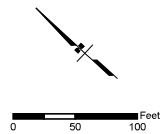
- A. Location and Vicinity Map
- B. Multi-Agency Permit Application
 - 1. Floodplains (Location Hydraulic Study and Figures)
- C. Section 404 Permit Application: USACE Cover Letter
 - 1. Plan Sheets and Cross-Section Sheets
 - 2. Pre-Construction Notification Form
 - 3. Supplemental Information
 - 4. 2015 Wetland Delineation
 - 5. 2019 Wetland Delineation Addendum
- D. Title 16 Fish Habitat Permit Application: ADF&G Cover Letter
 - 1. Location and Vicinity Map
 - 2. Two Moose Creek Application Culvert Replacement Packet
 - 3. Beaver Creek Application Culvert Replacement Packet
 - 4. Ruby Creek #1 Application Culvert Replacement Packet
 - 5. Ruby Creek #2 Application Culvert Replacement Packet
 - 6. Diamond Creek Application Culvert Replacement Packet
 - 7. Anchor River Bridge Replacement Application Packet
 - 8. North Fork Anchor River Bridge Application Packet
 - 9. Anchor River Embankment Improvements Application Packet





Legend

— Stream (AWC) Proposed Culvert



**Project Habitat Map:
Two Moose Creek**

Sec 18-20, 29, 32 T5S R14W,
Sec 3-4, 10-13 T5S R15W
Sec 4-5, 9, 15-16 T6S R14W
Seward Meridian, Alaska

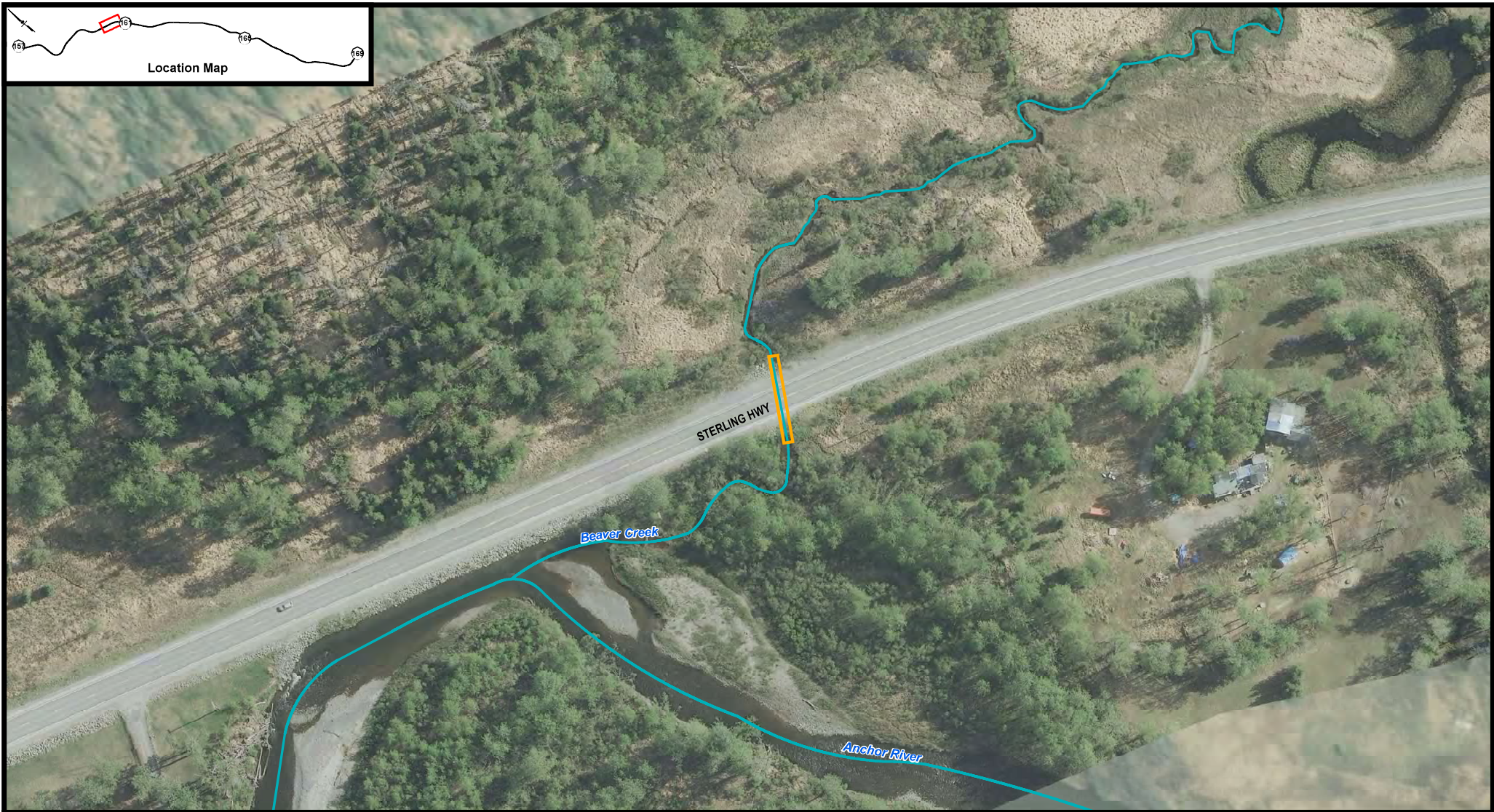


STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

DOT & PF Project No. Z581060000
Federal Project No. 0211052
Sterling Hwy MP 157 to 169 Rehabilitation

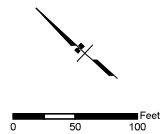
Anchor Point to Baycrest Hill

April 02, 2020



Legend

— Stream (AWC) Proposed Culvert



**Project Habitat Map:
Beaver Creek**

Sec 18-20, 29, 32 T5S R14W,
Sec 3-4, 10-13 T5S R15W
Sec 4-5, 9, 15-16 T6S R14W
Seward Meridian, Alaska



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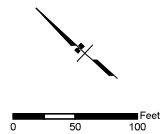
Anchor Point to Baycrest Hill

April 02, 2020



Legend

— Stream (AWC) Proposed Culvert



**Project Habitat Map:
Ruby Creek #1**

Sec 18-20, 29, 32 T5S R14W,
Sec 3-4, 10-13 T5S R15W
Sec 4-5, 9, 15-16 T6S R14W
Seward Meridian, Alaska



STATE OF ALASKA
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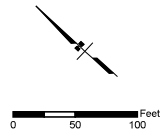
Anchor Point to Baycrest Hill

April 02, 2020



Legend

Stream (AWC) Proposed Culvert



**Project Habitat Map:
Ruby Creek #2**

Sec 18-20, 29, 32 T5S R14W,
Sec 3-4, 10-13 T5S R15W
Sec 4-5, 9, 15-16 T6S R14W
Seward Meridian, Alaska

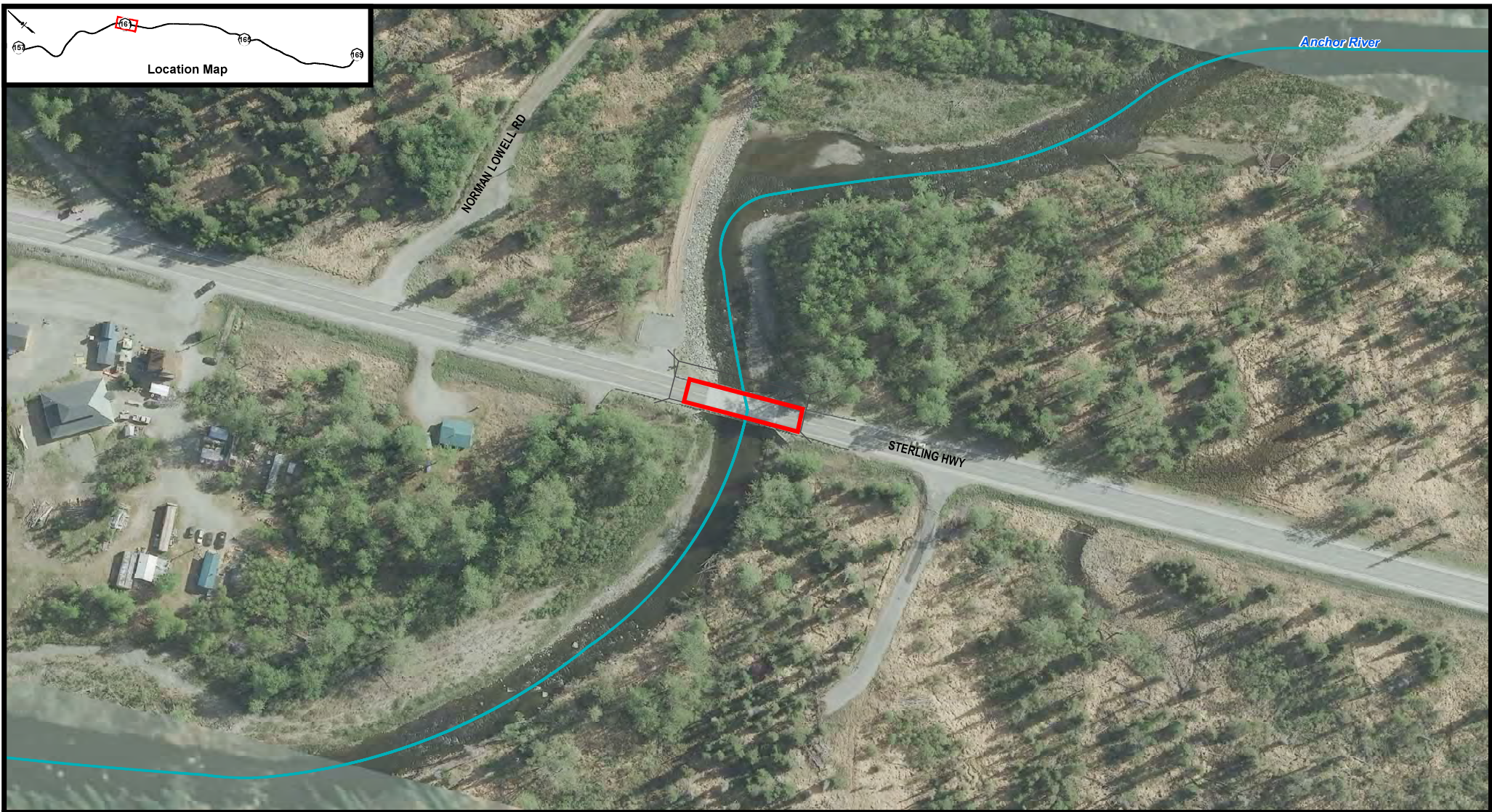


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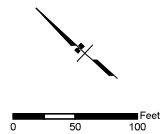
Anchor Point to Baycrest Hill

April 02, 2020



Legend

— Stream (AWC) Proposed Bridge



**Project Habitat Map:
Anchor River**

Sec 18-20, 29, 32 T5S R14W,
Sec 3-4, 10-13 T5S R15W
Sec 4-5, 9, 15-16 T6S R14W
Seward Meridian, Alaska



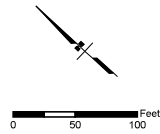
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Federal Project No. 0211052
Sterling Hwy MP 157 to 169 Rehabilitation
Anchor Point to Baycrest Hill

April 02, 2020



Legend

— Stream (AWC) Proposed Bridge



**Project Habitat Map:
North Fork Anchor River**

Sec 18-20, 29, 32 T5S R14W,
Sec 3-4, 10-13 T5S R15W
Sec 4-5, 9, 15-16 T6S R14W
Seward Meridian, Alaska



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

DOT & PF Project No. Z581060000
Federal Project No. 0211052
Sterling Hwy MP 157 to 169 Rehabilitation

Anchor Point to Baycrest Hill

April 02, 2020

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

KPB File No. 2022-27
Planning Commission Meeting: July 18, 2022
Applicant Alaska Department of Transportation and Public Facilities
Mailing Address PO Box 196900
Anchorage, AK 99519
Location Between MP 157 and 169 of the Sterling Highway
Anchor Point, AK
Waterway Two Moose Creek, Beaver Creek, Ruby Creek, Anchor River and North Fork Anchor River

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of highway rehabilitation activities within the 50-foot Habitat Protection District of: Two Moose Creek, Beaver Creek, Ruby Creek, Anchor River and North Fork Anchor River, as established in KPB 21.18.040.

Background Information

ADOT is rehabilitating a portion of the Sterling Highway, between Mile Posts 157 and 169 in the Anchor Point area. Five Anadromous Streams will be impacted by this work, as outlined in the table below.

<u>Waterway</u>	<u>Crossing Installation</u>	<u>Lineal Feet of Revegetation</u>	<u>Cubic Yards Placed (+) Removed (-)</u>	<u>Fill Type Cobble (C) Gravel (G) Rip Rap (RR)</u>
Two Moose Creek	Culvert	157	+2,400	RR, C, G
Beaver Creek	Culvert	285	+940	RR, C
Ruby Creek 1	Culvert	119	+705	RR, C
Ruby Creek 2	Culvert	219	+870	RR, C, G
Anchor River	Replace culvert with 150x43-foot bridge		+2,521	Class III RR
			+12,123	Class I RR
			-1,284	HPD Material
North Fork Anchor River	Replace culvert with 306x100-foot bridge	583	+3,273	Class II RR
			+68,783	Class I RR
			-40,000	HPD Material

Project Details within the 50-foot Habitat Protection District

1. Replacement of 2 bridges: along the Anchor River and North Fork Anchor River
2. Replacement of 4 culverts: along Two Moose Creek, Ruby Creek and Beaver Creek
3. Placement of fill: consisting of cobble, gravel and rip rap in each location above

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;
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;
3. The development of the use or structure shall not physically damage the adjoining property;
4. The proposed use or structure is water-dependent;
5. Applicant's or owner's compliance with other borough permits and ordinance requirements.

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 conditional structures 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. Culverts are intended to improve drainage across the corridor for critical infrastructure.
7. All dredged and excavated material will be re-used to the greatest extent practicable in the area immediately adjacent to the excavation site; material not re-used will be disposed of at an offsite approved facility.
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 July 18, 2022.
11. Agency review was distributed on July 1, 2022. 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 July 1, 2022. A total of 24 mailings were sent.
13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on July 7, 2022 and July 14, 2022.
14. 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: Two Moose Creek, Beaver Creek, Ruby Creek, Anchor River and North Fork Anchor River.
2. The highway rehabilitation projects 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)).

Attachments

Multi-Agency Application
Draft Resolution 2022-27

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 2022-27.

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



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

Charlie Pierce
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 rehabilitate a portion of the Sterling Highway Corridor between MP 157 and 169, in the Anchor Point area of the Kenai Peninsula. Portions of this project fall within the Borough's 50-foot Habitat Protection District (HPD), the proposed actions are as follows:

<u>Waterway</u>	<u>Crossing Installation</u>	<u>Lineal Feet of Revegetation</u>	<u>Cubic Yards Placed (+) Removed (-)</u>	<u>Fill Type Cobble (C) Gravel (G) Rip Rap (RR)</u>
Two Moose Creek	Culvert	157	+2,400	RR, C, G
Beaver Creek	Culvert	285	+940	RR, C
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Anchor River	Replace culvert with 150x43-foot bridge		+2,521	Class III RR
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			-1,284	HPD Material
North Fork Anchor River	Replace culvert with 306x100-foot bridge	583	+3,273	Class II RR
			+68,783 -40,000	Class I RR HPD Material

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 between MP 157 and 169 of the Sterling Highway, near Anchor Point, Alaska.

Petitioner: Alaska Department of Transportation and Public Facilities
PO Box 196900
Anchorage, AK 99519

Public Hearing: The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on July 18, 2022 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 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, Meeting ID 907 714 2200.

Public Comment: Anyone wishing to testify may attend the above meeting to give testimony. They may also submit written comment **by 1:00 pm Friday, July 15, 2022 via:**

Mail comments to:

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

Fax comments to:

(907) 260-5992

Email comments to:

KenaiRivCenter@kpb.us

For additional information, contact Morgan Aldridge at maldridge@kpb.us or (907) 714-2465.

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2022-27

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE CONSTRUCTION OF HIGHWAY REHABILITATION ACTIVITIES WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF THE TWO MOOSE CREEK, BEAVER CREEK, RUBY CREEK, ANCHOR RIVER AND NORTH FORK ANCHOR 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 July 7, 2022 and July 14, 2022 as provided in Section 21.11.020; and

WHEREAS, public testimony was received at the July 18, 2022 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. Replacement of two bridges: along the Anchor River and North Fork Anchor River.
2. Replacement of four culverts: along Two Moose Creek, Ruby Creek and Beaver Creek.
3. Placement of fill consisting of cobble, gravel and rip rap in each above location.
4. See Table 1 below.

<u>Waterway</u>	<u>Crossing Installation</u>	<u>Lineal Feet of Revegetation</u>	<u>Cubic Yards Placed (+) Removed (-)</u>	<u>Fill Type Cobble (C) Gravel (G) Rip Rap (RR)</u>
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			+68,783	Class I RR
			-40,000	HPD Material

Table 1.

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 conditional structures 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. Culverts are intended to improve drainage across the corridor for critical infrastructure.
7. All dredged and excavated material will be re-used to the greatest extent practicable in the area immediately adjacent to the excavation site; material not re-used will be disposed of at an offsite approved facility.
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."

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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 July 1, 2022. A total of 24 mailings were sent.
13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on July 7, 2022 and July 14, 2022.
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 Two Moose Creek, Beaver Creek, Ruby Creek, Anchor River and North Fork Anchor River.
2. A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Construction techniques and best management practices (BMP's) shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to all streams.
4. All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
5. Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway and will not affect neighboring parcels.
6. The highway rehabilitation project must be designed and installed to meet KPB floodplain requirements.
7. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
8. 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.
9. Storage or use of fuel is prohibited within 50-feet of any open water.
10. The River Center shall be notified at least 3 days prior to the start of the project.
11. 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.
12. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
13. The construction or installation phase of this Conditional Use Permit must be completed within three calendar years 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)).

14. 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).
15. 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.
16. 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 1-8 and Finding 5 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 1-5 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Conditions 2, 5 and Finding 5 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. **Findings 15, 16 appears to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2022.

Blair Martin, 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.