

**PLANNING COMMISSION HEARING – AUGUST 18, 2021
CONDITIONS OF APPROVAL**

**Burhenne Residence
Conservation Regulations Use Permit Exception
Application Number P20-00203-UP
1080 Greenfield Road, St. Helena, California
APN 025-390-006**

This Permit encompasses and shall be limited to the project commonly known as ***Burhenne Residence Use Permit Exception***, located at 1080 Greenfield Road, St. Helena. Part I encompasses the Project Scope and general conditions pertaining to statutory and local code references, project monitoring and the process for any future changes or activities. Part II encompasses the ongoing conditions relevant to the operation of the project. Part III encompasses the conditions relevant to construction and the prerequisites for a Final Certificate of Occupancy. It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and the general public to ensure compliance is achieved.

Where conditions are not applicable or relevant to this project, they shall be noted as “Reserved” and, therefore, have been removed.

When modifying a legally established entitlement related to this project, these conditions are not intended to be retroactive or to have any effect on existing vested rights except where specifically indicated.

PART I

1.0 PROJECT SCOPE

This Permit encompasses and shall be limited to:

- 1.1 The recognition, retention, and maintenance in their current configuration and use limitations the following existing site improvements, or portions thereof, that encroach into minimum stream setback of 55 feet from top of bank of an intermittent stream required pursuant to Napa County Code (NCC) Section 18.108.025(B),:
 - a. A 10x7-foot accessory structure (“cave”) built into the stream bank with concrete stairs and patio on the roof;
 - b. Three (3) storm drain outfalls in the stream bank; two (2) equipment sheds, each under 120 square feet;
 - c. Gravel parking space, subdrain pipe, retaining wall, fire protection tank, propane tank, and dry draft fire hydrant;
 - d. Well appurtenances, two (2) mechanical pads and sheds against the western exterior of the house and Barn;
 - e. Two (2) equipment sheds, backyard patio, pizza oven and firepit with gas line.

- 1.2 The Use Permit Exception request also includes the following proposed improvements within the stream setback:
- f. Development of a gravel fire truck turnout in the Greenfield Road right-of-way;
 - g. Relocation of the generator pad;
 - h. Reconfiguration of stormwater catchment and conveyance, and installation of erosion control measures to stabilize the stream bank.

The Project shall be designed in substantial conformance with the submitted site plan, elevation drawings, and other submittal materials and shall comply with all requirements of the Napa County Code (the County Code). It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and the general public to ensure compliance is achieved. Any expansion of or change in use or alternative locations for fire suppression or other types of water tanks shall be approved in accordance with the County Code and may be subject to the permit modification process.

2.0 STATUTORY AND CODE SECTION REFERENCES

All references to statutes and code sections shall refer to their successor as those sections or statutes may be subsequently amended from time to time.

3.0 MONITORING COSTS

All Staff costs associated with monitoring compliance with these conditions, previous permit conditions, and project revisions shall be borne by the permittee and/or property owner. Costs associated with conditions of approval and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged to the property owner or permittee. Costs shall be as established by resolution of the Board of Supervisors in accordance with the hourly consulting rate established at the time of the monitoring and shall include maintenance of a \$500 deposit for construction compliance monitoring that shall be retained until issuance of a Final Certificate of Occupancy. Violations of conditions of approval or mitigation measures caused by the permittee's contractors, employees, and/or guests are the responsibility of the permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of a compliance deficiency is found to exist by the Planning Commission at some time in the future, the Planning Commission may institute the program at the permittee's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if so warranted, to commence revocation proceedings in accordance with the County Code.

PART II

4.0 OPERATIONAL CHARACTERISTICS OF THE PROJECT

Permittee shall comply with the following during operation of the project:

- 4.1 GROUND WATER MANAGEMENT – WELLS **[RESERVED]**
- 4.2 AMPLIFIED MUSIC **[RESERVED]**
- 4.3 TRAFFIC **[RESERVED]**
- 4.4 PARKING **[RESERVED]**
- 4.5 BUILDING DIVISION – USE OR OCCUPANCY CHANGES **[RESERVED]**
- 4.6 FIRE DEPARTMENT – TEMPORARY STRUCTURES **[RESERVED]**
- 4.7 NAPA COUNTY MOSQUITO ABATEMENT PROGRAM **[RESERVED]**
- 4.8 GENERAL PROPERTY MAINTENANCE – LIGHTING, LANDSCAPING, PAINTING, OUTDOOR EQUIPMENT STORAGE, MECHANICAL EQUIPMENT, AND TRASH ENCLOSURE AREAS **[RESERVED]**
- 4.9 NO TEMPORARY SIGNS **[RESERVED]**
- 4.10 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES - OPERATIONAL CONDITIONS

The attached project conditions of approval include all of the following County Divisions, Departments and Agencies' requirements. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- a. Engineering Services Division operational conditions as stated in their Memorandum dated July 13, 2021.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those County Divisions, Departments or Agencies. The inability to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify this permit.

- 4.11 OPERATIONAL MITIGATION MEASURES **[RESERVED]**
- 4.12 OTHER CONDITIONS APPLICABLE TO THE OPERATIONAL ASPECTS OF THE PROJECT **[RESERVED]**

PART III

5.0 PREREQUISITE FOR ISSUANCE OF PERMITS

- 5.1 PAYMENT OF FEES
No building, grading or sewage disposal permits shall be issued or other permits authorized until all accrued planning permit processing fees have been paid in full. This includes all fees associated with plan check and building inspections,

associated development impact fees established by County Ordinance or Resolution, and the Napa County Affordable Housing Mitigation Fee in accordance with County Code.

6.0 GRADING/DEMOLITION/ENVIRONMENTAL/BUILDING PERMIT/OTHER PERMIT PREREQUISITES

Permittee shall comply with the following with the submittal of a grading, demolition environmental, building and/or other applicable permit applications:

6.1 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES - PLAN REVIEW, CONSTRUCTION AND PREOCCUPANCY CONDITIONS

The attached project conditions of approval include all of the following County Divisions, Departments and Agencies' requirements. The permittee shall comply with all applicable building codes, zoning standards, and requirements of County Divisions, Departments and Agencies at the time of submittal and may be subject to change. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- a. Engineering Services Division plan review/construction/preoccupancy conditions as stated in their Memorandum dated July 13, 2021.
- b. Environmental Health Division plan review/construction/preoccupancy conditions as stated in their Memorandum dated May 19, 2019.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those County Divisions, Departments or Agencies. The inability to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify the permit.

6.2 BUILDING DIVISION – GENERAL CONDITIONS

Please contact the Building Division with any questions regarding the following:

- a. A building permit shall be obtained for all construction occurring on the site not otherwise exempt by the CBC or any State or local amendment adopted thereto;
- b. If there are any existing structures and/or buildings on the property that will need to be removed to accommodate construction activities, a separate demolition permit shall be required from the Building Division prior to removal. The permittee shall provide a "J" number from the Bay Area Air Quality Management District (BAAQMD) at the time the permittee applies for a demolition permit if applicable.
- c. **[RESERVED]**

6.3 LIGHTING – PLAN SUBMITTAL [RESERVED]

6.4 LANDSCAPING – PLAN SUBMITTAL [RESERVED]

- a. **[RESERVED]**

- b. Plant materials shall be purchased locally when practical, and, to the greatest extent possible, the plant materials shall be the same native plants found in Napa County. The Agricultural Commissioner's office shall be notified of all impending deliveries of live plants with points of origin outside of Napa County.
 - c. No trees greater than 6" diameter at breast height shall be removed.
 - d. **[RESERVED]**
- 6.5 **COLORS [RESERVED]**
- 6.6 **OUTDOOR STORAGE/SCREENING/UTILITIES [RESERVED]**
- 6.7 **MECHANICAL EQUIPMENT [RESERVED]**
- 6.8 **TRASH ENCLOSURES [RESERVED]**
- 6.9 **ADDRESSING [RESERVED]**
- 6.10 **HISTORIC RESOURCES [RESERVED]**
- 6.11 **DEMOLITION ACTIVITIES**
 - a. Final demolition plans of the accessory structure ("cave") with stairs and patio shall be submitted for building permit issuance. A site plan prepared by a qualified professional shall denote streams, stream setbacks, existing and proposed improvements and slopes. No new construction or earthmoving activities are allowed within established stream setbacks unless specifically approved as part of this permit in COA No.1.0 (Scope) above. As determined by the PBES Director or designee, temporary construction fencing shall be placed at the stream setback line to prevent unauthorized encroachments.
 - b. Removal of the cave, stairs and patio shall be performed in advance of the restoration plan implementation in a manner that minimizes impacts to the bank and setback, including use of hand tools exclusively within the bank and within the setback to the extent possible, and shall be performed under the authorization of the California Department of Fish and Wildlife under Section 1602 LSAA.
- 6.12 **VIEWSHED – EXECUTION OF USE RESTRICTION [RESERVED]**
- 6.13 **PERMIT PREREQUISITE MITIGATION MEASURES [RESERVED]**
- 6.14 **PARCEL CHANGE REQUIREMENTS [RESERVED]**
- 6.15 **FINAL MAPS [RESERVED]**
- 6.16 **OTHER CONDITIONS APPLICABLE TO THE PROJECT PERMITTING PROCESS**

- a. Submittal of a final Stormwater Control Plan site plan prepared by a qualified professional shall denote streams, stream setbacks, existing and proposed improvements and slopes. No new construction or earthmoving activities are allowed within established stream setbacks unless specifically approved as part of this permit in COA No.1 (Scope) above. As determined by the PBES Director or designee, temporary construction fencing shall be placed at the stream setback line and project boundaries to prevent unauthorized encroachments.
- b. Installation of erosion control improvements within the bank of the stream shall be performed in the dry season when no water is present and using hand tools instead of machinery, and shall be subject to authorization by California Department of Fish and Wildlife. Measures shall utilize biodegradable materials.
- c. Submittal of a riparian vegetation restoration plan, pursuant to NCC 18.108.025(D) (Revegetation Within Required Setbacks), prepared by a qualified biologist/ecologist or other qualified professional, for review by approval by PBES Director or designee, for all areas subject to this Permit within the bank and top of bank. The restoration plan shall also include an implementation and monitoring schedule with dates and timeframes, planting details, and maintenance or management specifications that includes an overall 100% success rate for plantings, and a maximum 5% coverage of invasive plants at all times during the entirety of Plan implementation, establishment, and monitoring periods to ensure the success of restoration efforts. The final restoration plan shall be implemented and completely installed by September 15, 2022 to the PBES Director's satisfaction.

7.0 PROJECT CONSTRUCTION

Permittee shall comply with the following during project construction:

7.1 SITE IMPROVEMENT

Please contact Engineering Services with any questions regarding the following:

- a. **GRADING & SPOILS**
All grading and spoils generated by construction of the project facilities shall be managed per Engineering Services direction. Alternative locations for spoils are permitted, subject to review and approval by the PBES Director, when such alternative locations do not change the overall concept, and do not conflict with any environmental mitigation measures or conditions of approval.
- b. **DUST CONTROL**
Water and/or dust palliatives shall be applied in sufficient quantities during grading and other ground disturbing activities on-site to minimize the amount of dust produced. Outdoor construction activities shall not occur when average wind speeds exceed 20 mph.
- c. **AIR QUALITY**

During all construction activities the permittee shall comply with the most current version of BAAQMD Basic Construction Best Management Practices including but not limited to the following, as applicable:

1. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. The BAAQMD's phone number shall also be visible.
2. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, grading areas, and unpaved access roads) two times per day.
3. Cover all haul trucks transporting soil, sand, or other loose material off-site.
4. Remove all visible mud or dirt tracked onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
5. All vehicle speeds on unpaved roads shall be limited to 15 mph.
6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
7. Idling times shall be minimized either by shutting off equipment when not in use or reducing the maximum idling time to five (5) minutes (as required State Regulations). Clear signage shall be provided for construction workers at all access points.
8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. Any portable engines greater than 50 horsepower or associated equipment operated within the BAAQMD's jurisdiction shall have either a California Air Resources Board (ARB) registration Portable Equipment Registration Program (PERP) or a BAAQMD permit. For general information regarding the certified visible emissions evaluator or the registration program, visit the ARB FAQ http://www.arb.ca.gov/portable/perp/perpfaq_04-16-15.pdf or the PERP website <http://www.arb.ca.gov/portable/portable.htm>.

d. STORM WATER CONTROL

The permittee shall comply with all construction and post-construction storm water pollution prevention protocols as required by the County Engineering Services Division, and the State Regional Water Quality Control Board.

7.2 ARCHEOLOGICAL FINDING

In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required.

If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

7.3 CONSTRUCTION NOISE

Construction noise shall be minimized to the greatest extent practical and feasible under State and local safety laws, consistent with construction noise levels permitted by the General Plan Community Character Element and the County Noise Ordinance. Construction equipment muffling and hours of operation shall be in compliance with the County Code. Equipment shall be shut down when not in use. Construction equipment shall be staged, loaded, and unloaded on the project site, if at all practicable. If project terrain or access road conditions require construction equipment to be staged, loaded, or unloaded off the project site (such as on a neighboring road or at the base of a hill), such activities only shall occur daily between the hours of 8:00 AM to 5:00 PM.

7.4 CONSTRUCTION MITIGATION MEASURES [RESERVED]

7.5 (INSERT IF APPLICABLE) OTHER CONSTRUCTION CONDITIONS APPLICABLE TO THE PROJECT PROPOSAL [RESERVED]

8.0 TEMPORARY CERTIFICATE OF OCCUPANCY – PREREQUISITES [RESERVED]

8.1 TEMPORARY OCCUPANCY [RESERVED]

9.0 FINAL CERTIFICATE OF OCCUPANCY – PREREQUISITES [RESERVED]

9.1 FINAL OCCUPANCY [RESERVED]

9.2 SIGNS [RESERVED]

9.3 GATE/ENTRY STRUCTURES [RESERVED]

9.4 LANDSCAPING [RESERVED]

9.5 ROAD OR TRAFFIC IMPROVEMENT REQUIREMENTS [RESERVED]

9.6 DEMOLITION ACTIVITIES

All demolition activities associated with the removal of the accessory structure shall be completed, landscaping installed, and debris cleared from the subject parcel.

9.7 GRADING SPOILS

All spoils piles shall be removed in accordance with the approved grading permit and/or building permit.

9.8 MITIGATION MEASURES APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY **[RESERVED]**

9.9 OTHER CONDITIONS APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY **[RESERVED]**

- a. Permittee shall comply with each of the Conditions 9.6 and 9.7 in this Section 9.0, before a Final Inspection of the Building or Grading Permit is conducted by the County Building Official. All project improvements, including compliance with applicable codes, conditions, and requirements of all Departments and Agencies with jurisdiction over the project, shall be completed prior to the Final Inspection.