



COUNTY OF HUMBOLDT

For the meeting of: 9/12/2023

File #: 23-1192

To: The Humboldt County Board of Supervisors

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Appeal by Daniel Escajeda of the Planning Commission Approval of a Conditional Use Permit and a Special Permit for a Quasi-Public Use consisting of 50 units of housing, a community center with commercial kitchen, a greenhouse, barn, associated site improvements, including an access road, walking trails, wetland creation, riparian planting, and community access, and indoor and outdoor events with associated parking. The Special Permit is to allow a building exceeding the 35-foot height limit (45 feet) for the zone, and for the creation and enhancement of wetland and streamside habitat areas.

RECOMMENDATION:

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by the appellant (applicant), and testimony from the public on any of the additionally submitted information; and
2. Close the public hearing; and
3. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Upholds the Appeal submitted by Daniel Escajeda; and
 - b. Directs the Planning and Building Department to conduct additional technical studies and revise the CEQA analysis and recirculate for public review;
 - c. Remands the Conditional Use Permit and Special Permit back to the Planning Commission for reconsideration based upon updated CEQA information.
4. Direct the Clerk of the Board to give notice of the decision to the appellant, the Planning and Building Department, and any other interested party.

SOURCE OF FUNDING:

The appellant has paid the fee associated with filing this appeal.

DISCUSSION:

Executive Summary

This is an appeal of the Humboldt County Planning Commission's July 20, 2023 approval of the We Are Up Conditional Use Permit and Special Permit. Daniel Escajeda, representing a collection of neighboring residents and landowners is appealing the decision, citing incomplete CEQA analysis pertaining primarily to traffic, noise and visual impacts associated with the proposed project. The Planning and Building Department recommends the Board of Supervisors uphold the appeal and remand the Conditional Use Permit and Special permit back to the Planning Commission with direction that additional technical studies be conducted and the CEQA analysis be updated based upon this technical information.

Project Information

On Dec. 23, 2022, We Are Up, a 501(c)(3) organization, applied for a Conditional Use Permit and Special Permit for a Quasi-Public use consisting of 50 units of housing, a community center with commercial kitchen, a greenhouse, barn, orchard and install associated site improvements, including an access road, walking trails, wetland creation, riparian planting, and community access, and indoor and outdoor events with associated parking. The facilities will primarily serve seniors and people with Autism and other intellectual disabilities. The Special Permit is requested for an exception to the height standards, pursuant to Section 314-99 of the Humboldt County Code to allow for the building height to be up to 45 feet in height, and for the creation and enhancement of wetland and streamside habitat areas. An Initial Study and Draft Mitigated Negative Declaration was prepared and circulated for public and agency review from March 28, 2023 to April 26, 2023. The project was heard before the Planning Commission on July 20, 2023 and the Mitigated Negative Declaration was adopted and the project approved by unanimous vote (YES: Levy, Mulder, Mitchell, Landry, West). Commissioner O'Neill was absent, and Commissioner Skavdal recused.

Appeal

An appeal was timely filed on Aug. 3, 2023, by Daniel Escajeda (appellant) based on inadequate environmental review under the California Environmental Quality Act. The Appellant's objections are summarized in the sections below, with staff responses *italicized*.

Disclosure of Information: The appellant contends that not enough information was provided in the Initial Study for the public to fully assess impacts because no architectural renderings or dimensions were provided in the document, and no information was provided on what noise exceptions were being provided.

Response: The Initial Study does not include modeling of the potential noise impacts from the proposed special events. This information would provide the public and decision makers with a better quantified understanding of the actual noise impacts. The building is large, but this is not within a scenic viewshed or other scenic location. Additional information would help the public understand the actual visual impact of the proposed buildings. The traffic and trips associated with the special events was not sufficiently disclosed in the Initial Study.

Traffic/Parking: The appellant states there are only 35 spaces for over 200 people, and that the project will generate significant amounts of traffic and mitigation measures are not sufficient.

Response: *A total of 132 parking spaces are proposed on site, which is more than required by Humboldt County Code. Traffic associated with the special events was analyzed and considered by the Planning Commission who found that no additional mitigation measures were needed. This is not an issue as the special events have been scaled to match the parking available on site.*

Noise: The appellant contends that the CEQA document does not assess noise impacts and specifically that it does not disclose how loud special events would be and how long they would last.

Response: *The Initial Study indicated that noise from the special events would be consistent with the Humboldt County General Plan, which allows for noise standards to be exceeded on a temporary basis for special events. Staff agrees with the appellant that the Initial study did not disclose how loud special events would be nor how long they would last.*

Visual Impact: The appellant believes that the 4-story building would be out of character with the area and with McKinleyville, and that visual impacts were not adequately assessed. The appellant also states that the homes along the property line have amazing views that would be impacted and believes that the Initial Study does not have enough information to support the conclusion that private views would be only partially blocked.

Response: *While taller than most other buildings in the vicinity, the 4-story building would be located adjacent to intensive commercial development and would be less visible from public viewpoints than the commercial development in the vicinity. There is no requirement in CEQA to analyze or disclose impacts to private views. Views from public vantage points must be considered under CEQA and these are not ruled out. Massing information should be included in the Initial Study in order to properly disclose and review visual impacts.*

Environmental: The appellant states that several sensitive natural communities were not mapped which would be impacted, and that potential wetland and streamside areas were not properly assessed

Response: *Botanical surveys were conducted on April 12, June 2 and Sept. 15, 2022 and all vegetation was assessed according to protocol developed by the California Department of Fish and Wildlife including utilizing the Manual of California Vegetation. Aquatic resources were delineated based on site visits conducted during an 18-month period from September 2021 to February of 2023 according to protocol established by the Regional Water Quality Control Board and the US Army Corp of Engineers. The studies were reviewed by CDFW, who also visited the site, and were found to be adequate. The appellant has not indicated what sensitive natural communities have been omitted.*

Inconsistencies: The appellant contends that there are inconsistencies between what the CEQA document discloses and what the applicant has stated publicly.

Response: *Staff is not aware of everything that the applicant may have stated publicly, however if approved the project will be required to adhere to the project description.*

Requests: The appellant asks that the event center be removed from the project, or in the event that it cannot, that a full traffic study be completed, parking be prevented on neighboring streets, and events limited to address noise.

Response: *The Initial Study would benefit from additional transportation analysis and to look at additional methods of limiting traffic and noise associated with the proposed special events.*

Conclusion and Recommendations

After careful consideration of the issues raised by the appellant, additional transportation and noise information should be prepared, disclosed and analyzed in the environmental analysis prior to an action being taken on the project. Given that the Mitigated Negative Declaration has been adopted by the Planning Commission, the proper avenue to revisit the CEQA analysis is to uphold the appeal and remand the project back to the Planning Commission for consideration after additional study and CEQA analysis is completed.

FINANCIAL IMPACT:

There cost to process this appeal has exceeded the appeal fee filed by the appellant. This is an impact to the department's General Fund Contribution.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework through its core roles to enforce laws and regulations to protect residents, encourage new private enterprise, and protect vulnerable populations.

OTHER AGENCY INVOLVEMENT:

California Department of Fish and Wildlife

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose to approve the appeal and deny the application or could choose to deny the appeal and approve the project. If one of these options is chosen it is recommended that the item be continued to allow preparation of appropriate documentation of the Board's action.

ATTACHMENTS:

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

1. Draft Board Resolution and Findings
2. Appeal filed by Daniel Escajeda
3. Planning Commission Staff Report
4. Resolution of the Planning Commission, Resolution No. 23-_____
5. Public Comments submitted to the Planning Commission
6. Draft Initial Study and Mitigated Negative Declaration
7. Additional Public Comments submitted after appeal filed.

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PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: 7.20.23 Planning Commission

File No.: 23-1035