

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-

Record Number PLN-2022-18047

Assessor's Parcel Numbers: 509-181-061, 509-191-031, 509-191-048, and 509-221-006.

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the We Are Up Conditional Use Permit and Special Permit.

WHEREAS, We Are Up, a 501(c)(3) non-profit, submitted an application and evidence in support of approving a Conditional Use Permit and a Special Permit for Record No, PLN-2022-18047.

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, a Mitigated Negative Declaration was prepared for the proposed Conditional Use Permit and circulated for public review pursuant to Section 15073 of the CEQA Guidelines; and

WHEREAS, Attachment 5 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed project (Record Number: PLN-2022-18047); and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on July 20, 2023, and reviewed, considered, and discussed the application for the Conditional Use Permit and Special Permit, and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

FINDING:

Project Description: A Conditional Use Permit for a Quasi-Public use would include 50 units of housing, a 45-foot high 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 Project creates functional and community spaces to be used by We Are Up residents and for classroom purposes and include garden space and shelters/pens for livestock to provide practical opportunities for resident enrichment and education. A Special Permit 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 fill, creation and enhancement of wetland and streamside habitat areas. Phase 1 includes construction of the greenhouse, access drive road, and related utilities. Phase 2 includes the balance of project features. Up to 24 special events will be held annually with up to 215 guests, outdoor and indoor, that may include amplified music. Smaller weekly events will be held with up to 50 guests.

EVIDENCE:

Project File: PLN-2022-18047

2. FINDING: **CEQA** : As required by the California Environmental Quality Act, the project was found subject to CEQA and a Mitigated Negative Declaration was prepared by the Planning and Building Department, Planning Division which evaluated the project for any adverse effects on the environment.

- EVIDENCE:**
- a) The CEQA document includes an analysis of the subject Conditional Use Permit and Special Permit. The Initial Study and Draft Mitigated Negative Declaration (IS/MND), State Clearinghouse No. 2023030707, was circulated from March 28, 2023 to April 26, 2023.
 - b) The IS/MND included fourteen mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as part of the project.

3. FINDING **ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT- NO MITIGATION REQUIRED.** The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Aesthetics, Agriculture and Forestry Resources, Energy, Hazards and Hazardous Materials, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Recreation, Utilities and Service Systems, and Wildfire.

- EVIDENCE**
- a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.
 - b) Initial Study/Mitigated Negative Declaration circulated for public review March 28, 2023 to April 26, 2023.

4. FINDING **ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT** – The Initial Study identified potentially significant impacts to Hydrology and Water Quality, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Transportation and Circulation, and Tribal Cultural Resources, which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

- EVIDENCE**
- a) **Hydrology and Water Quality:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for hydrology and water quality:

EPA 1 – Stormwater Pollution Prevention Plan (SWPPP)

The Project will obtain coverage under State Water Resources Control Board (Water Board), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activities (General Permit). The County will submit permit registration documents (notice of intent, risk assessment, site maps, SWPPP, annual fee, and certifications) to the Water Board. The SWPPP will address pollutant sources, best management practices, and other requirements specified in the Order. The SWPPP will include erosion and sediment control measures, and dust control practices to prevent wind erosion, sediment tracking, and dust generation by construction equipment. A Qualified SWPPP Practitioner will oversee

implementation of the Project SWPPP, including visual inspections, sampling and analysis, and ensuring overall compliance.

- b) **Air Quality:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for air quality:

MM AQ-1: BMPs to Reduce Air Pollution

The contractor shall implement the following BMPs during construction:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, active graded areas, excavations, and unpaved access roads) shall be watered two times per day in areas of active construction as necessary.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph, unless the unpaved road surface has been treated for dust suppression with water, rock, wood chip mulch, or other dust prevention measures.
- 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.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The NCUAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

- c) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for biological resources:

MM Bio-1 Avoidance and Minimization Measures to Protect Special Status Mammals

- Removal of confirmed or presumed-occupied bat roost habitat (the buildings planned for demolition) would occur only during seasonal periods of bat activity (when bats are volant, i.e., able to leave roosts) between March 1 and April 15 or September 1 and October 15, when evening temps rise above 45 F, and when no rainfall greater than ½ inches has occurred in the last 24 hours.
- If trees or structures cannot be removed during the volant period, i.e., Project activities occur during the bat maternity season which generally occur April 16th through August 30th, a qualified biologist shall conduct surveys within suitable habitat for special status bats. Survey methodology shall include visual examination with binoculars and may optionally utilize ultrasonic detectors to determine if special status bat

species utilize the vicinity.

- Surveys shall be conducted by a qualified biologist within seven days prior to construction in any areas where potential maternity roosts may be disturbed/removed. The preconstruction surveys for bats may coincide with pre- construction surveys for other animals. Surveys shall include a visual inspection of the impact area and any large trees/snags with cavities or loose bark or crevices within infrastructure. If the presence of a maternity roost is confirmed, an appropriate buffer distance would be established in consultation with CDFW to ensure that construction noise would remain below disturbance thresholds for bats. If no bat utilization or roosts are found, then no further study or action is required. If bats are found to utilize the BSA, or presence is assumed, a bat specialist should be engaged to advise the best method to prevent impact.
- Project-related construction lighting shall be minimized if any construction occurs at night, either contained within structures or limited by appropriate reflectors or shrouds and focused on areas needed for safety, security or other essential requirements.
- Potential locations for White-footed Vole nesting will be inspected within the BSA within a week of construction commencing. This includes under rocks and logs within the Project vicinity.
- All trees planned for removal will be marked and a qualified biologist will thoroughly inspect them for signs of the species' inhabitation within a week of removal.

d) MM BIO-2: Avoidance and Minimization Measures to Protect Special Status and Nesting Birds

- If feasible ground disturbance and vegetation clearing would be conducted during the fall and/or winter months and outside of the avian nesting season (which is generally assumed to occur between March 15 – August 15) to avoid any direct effects to special-status and protected birds.
- If ground disturbance or vegetation clearing cannot be confined to the fall and/or winter outside of the nesting season, a qualified biologist would conduct pre- construction surveys within the vicinity of the Project Area to check for nesting activity of native birds and to evaluate the site for presence of raptors and special status bird species. The biologist would conduct at minimum a one-day pre-construction survey within the seven-day period prior to vegetation removal and ground-disturbing activities. If ground disturbance and vegetation removal work lapses for seven days or longer during the nesting season, a qualified biologist would conduct a supplemental avian pre-construction survey before Project work is reinitiated.
- If active nests are detected within the construction footprint, or within 500 feet of construction activities (taking into account private property), the biologist would flag a buffer around each nest. Construction activities would avoid nest sites until the biologist determines that the young have fledged, or nesting activity has ceased. If nests are documented outside of the construction (disturbance) footprint, but within up to 500 feet of the construction area, buffers would be implemented as needed. In general, the buffer size for common species would be determined on a case-by-case basis

in consultation with the CDFW and, if applicable, with USFWS. Buffer sizes would consider factors such as (1) noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity; (2) distance and amount of vegetation or other screening between the construction site and the nest; and (3) sensitivity of individual nesting species and behaviors of the nesting birds.

- If active nests are detected during the survey, the qualified biologist would monitor all nests at least once per week to determine whether birds are being disturbed. Activities that might, in the opinion of the qualified biologist, disturb nesting activities (e.g., excessive noise), would be prohibited within the buffer zone until such a determination is made. If signs of disturbance or distress are observed, the qualified biologist would immediately implement adaptive measures to reduce disturbance. These measures may include, but are not limited to, increasing buffer size, halting disruptive construction activities in the vicinity of the nest until fledging is confirmed or nesting activity has ceased, placement of visual screens or sound dampening structures between the nest and construction activity, reducing speed limits, replacing and updating noisy equipment, queuing trucks to distribute idling noise, locating vehicle access points and loading and shipping facilities away from noise-sensitive receptors, reducing the number of noisy construction activities occurring simultaneously, and/or reorienting and/or relocating construction equipment to minimize noise at noise-sensitive receptors.
- A construction worker training on identification of special status birds and nests will occur within seven days of the start of construction.

e) MM BIO-3: Avoidance and Minimization Measures to Protect Special Status Amphibians

- A qualified biologist would perform a pre-construction survey for the amphibian species within seven days prior to commencement of ground disturbance. The survey shall be limited to the BSA. Suitable habitat would be determined by the qualified biologist. The biologist would relocate any specimens that occur within the work-impact zone to nearby suitable habitat.
- In the event that a special status amphibian is observed in an active construction zone, the contractor would halt construction activities in the area and the frog and/or salamander would be moved by a qualified biologist to a safe location in similar habitat outside of the construction zone.
- A construction worker training on identification of special status amphibians will occur within seven days of the start of construction.
- Work crews shall inspect open trenches, pits, and under construction equipment and material left onsite in the morning and evening to look for amphibians that may have become trapped or are seeking refuge.

f) MM BIO-4: Avoidance and Minimization Measures to Protect Special Status Fish and EFH

- Any Project-related construction materials or soil from grading and digging will be restricted from entering Mill Creek to reduce impacts of sedimentation or turbidity.

- Removal of riparian habitat along Mill Creek shall be avoided if feasible. If riparian habitat removal cannot be avoided, riparian habitat would be replanted at ratios acceptable to jurisdictional resource agencies.

g) MM BIO-5: Avoidance and Minimization Measures to Protect Special Status Bees

- A qualified biologist will perform a pre-construction survey for the bee species within seven days prior to commencement of ground disturbance. The survey shall be limited to the BSA and may occur at the same time as surveys for other species. The biologist will search for bees and potential nesting sites.
- If possible, ground disturbance, mowing, and vegetation clearing will occur from October to February, which is outside of the flight season for bumble bees.
- If possible, the Project will not use pesticides. If necessary, the application will be direct and as local as possible to reduce drifting. The pesticide would ideally be applied when plants are not in bloom, in winter or fall, and/or at dusk or night when bees are not flying.
- If a bee or nest is observed, CDFW will be notified, and a no-work zone buffer may be established.

h) MM BIO-6: Avoidance and Minimization Measures to Protect Juxtaposed Wetlands

The project shall implement the following avoidance and protection measures for juxtaposed Waters of the United States and Waters of the State that would not be impacted (filled or excavated) during Project construction:

- The project shall attempt to avoid or minimize impacts to wetlands/waters to the greatest extent feasible in the final design plans.
- Juxtaposed wetlands (not proposed for filling) shall be clearly identified in the construction documents and reviewed by the County prior to issuing for bid to ensure they are clearly marked as equipment exclusion zones during construction.
- Suitable perimeter control measures, such as silt fences, or straw wattles shall be placed below all construction activities at the edge of surface water features to intercept sediment before it reaches the waterway. These measures shall be installed prior to any clearing or grading activities.

i) MM BIO-7: Compensate for Loss of Wetlands

The project shall avoid fill of wetlands to the extent feasible. If fill cannot be avoided, then the project shall compensate for the loss of seasonal wetland habitat so that there is no net loss in wetlands at a ratio of 1.8:1. The project shall compensate for impacts to identified wetlands through creation of wetland at a ratio of no less than 1.3:1 and restoration of riparian habitat (planting) at a ratio of no less than 0.5:1. A Mitigation and Monitoring Plan shall be prepared in coordination with the NCRWQB and the USACE. Compensation for wetlands shall occur so there is no net loss of wetland habitat at ratios to be determined in consultation with the NCRWQCB and USACE.

Mitigation would occur onsite. The Plan shall be acceptable to the regulatory agencies with jurisdiction over wetlands and waters and include

the following elements: proposed mitigation ratios; description and size of the restoration or compensatory area; site preparation and design; plant species; planting design and techniques; maintenance activities; plant storage; irrigation requirements; success criteria; monitoring schedule; and remedial measures.

- j) **Cultural and Tribal Cultural Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for cultural and tribal cultural resources:

MM CR-1: Inadvertent Discovery of Archaeological Material

A pre-construction meeting shall be held with field contractors, where the protocols for inadvertent discovery (described below) would be communicated. The following provides means of responding to the circumstance of a significant discovery implementation of the proposed undertaking. If cultural materials for example: chipped or ground stone, historic debris, building foundations, or bone are discovered during ground-disturbance activities, work shall be stopped within 66 feet of the discovery, per the requirements of CEQA (Revised Guidelines, Title 14 CCR 15064.5 (f)). Work near the archaeological finds shall not resume until a professional archaeologist, who meets the Secretary of the Interior's Standards and Guidelines, has evaluated the materials and offered recommendations for further action. Tribal representatives shall be notified.

- k) **MM CR-2: Inadvertent Discovery of Human Remains**

If human remains are discovered during project construction, work will stop at the discovery location, within 66 feet, and any nearby area reasonably suspected to overlie adjacent to human remains (PRC, Section 7050.5). The Humboldt County Coroner will be contacted to determine if the cause of death must be investigated. If the Coroner determines that the remains are of Native American origin, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the NAHC (PRC, Section 5097). The Coroner will contact the NAHC. The descendants or most likely descendants of the deceased will be contacted, and work will not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in PRC, Section 5097.98.

- l) **Geology and Soils:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for geology and soils:

MM GEO-1: Inadvertent Discovery of Paleontological Resources

In the event that fossils are encountered during construction (i.e., bones, teeth, or unusually abundant and well-preserved invertebrates or plants), construction activities shall be diverted away from the discovery within 50 feet of the find, and a professional paleontologist shall be notified to document the discovery as needed, to evaluate the potential resource, and to assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the paleontologist may record the find and

allow work to continue, or recommend salvage and recovery of the material, if it is determined that the find cannot be avoided. The paleontologist shall make recommendations for any necessary treatment that is consistent with currently accepted scientific practices. Any fossils collected from the area shall then be deposited in an accredited and permanent scientific institution where they will be properly curated and preserved.

- m) **Greenhouse Gas Emissions:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for greenhouse gas emissions:

MM GHG-1: Design for Conversion to All Electric Appliances

The Project's commercial kitchen and laundry facilities shall be designed and constructed to allow for future conversion to all electric appliances. Design shall include, at a minimum, the appropriate electrical wiring to convert the laundry facilities, commercial kitchen range, stove, and other gas-fueled appliances to all-electric options as they become feasible and available.

- n) **Transportation and Circulation:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for transportation and circulation:

MM TR-1: Traffic Congestion

If the Humboldt County Department of Public Works determines that there is a congestion problem associated with the periodic events hosted at the project site, We Are Up shall complete one or more of the following measures to reduce congestion to acceptable levels:

- Apply for and obtain an Annual Encroachment permit from the Humboldt County Department of Public Works that authorizes the use of temporary traffic control measures (including, but not limited to, flaggers) at the Sutter/Weirup intersection. All temporary traffic control shall be installed and staffed by qualified traffic control personnel. All temporary traffic control measures are to be put in place by the applicant at We Are Up's expense.
- Reduce the size of events held onsite to reduce congestion to acceptable levels.
- Manage events to prevent all event visitors from attempting to exit the site simultaneously or within a short period of time.

5. FINDING

CEQA Public Comments: There have been a significant number of comments from the public on the project and the Mitigated Negative Declaration and no comments from public agencies. These comments have been considered and none of these comments change the conclusions of the Mitigated Negative Declaration.

EVIDENCE

- a) Comments that are opinions on the project, requests that the project be eliminated from consideration, possible effects on property values, and

questions on the planning process outside of CEQA, are not germane to CEQA or the Initial Study/Mitigated Negative Declaration.

- b) Comments stating that the analysis was insufficient or did not identify impacts as significant. Per CEQA Guidelines Section 15064, the decision whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. An effect on the environment shall not be considered significant in the absence of substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts (CEQA Statute Section 21082.2(c), Guidelines Section 15384(b) and 15604 (f)(5)). Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence (CEQA Statute Section 21082.2(c), Guidelines Section 15384(a) and 15604 (f)(5)).
- c) Comments regarding visual impacts and air quality. The project site is not located near a designated scenic highway or scenic vista. Project buildings are proposed to be architecturally pleasing, and the majority of the project site is being retained in its natural condition. The project operation will not expose nearby sensitive receptors to substantial air pollutant concentrations and will be less than significant.
- d) Comments regarding light pollution. The project is conditioned to follow International Dark Sky Association Standards that exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries.
- e) Comments regarding noise pollution. Project activities are not expected to generate significant noise levels that will exceed the Humboldt County General Plan Noise Element standards. All special events are conditioned to conclude by 10 PM. The project is conditioned to require ongoing reporting to the Planning Director so that potential nuisance issues can be addressed.
- f) Comments regarding drainage. The project is conditioned to remain in compliance with the requirements of the State Water Resources Control Board (SWRCB). SWRCB Order WQ 2019-0001-DWQ prescribes Best Practicable Treatment or Control measures to control runoff and erosion, including monitoring of erosion control measures during and after design storm events, and repair or replacement, as needed, of ineffective erosion control measures immediately.
- g) Comments that the project is incompatible with the neighborhood, and with persons with ASD and I/DD because of Equity/Noise/Safety due to varying age groups in residence, that future residents will not have ASD or I/DD, and that public access to the new trails and outdoor areas will increase vagrancy, crime and drug use.
The proposal would create a community ecosystem that brings together diverse people and activities to create a functioning whole where everyone can thrive. The housing, agricultural activities, community center, and preservation of the open space are all integral to the success of the project, each with a part in the success of the whole. The mix of residents has been designed with 1/3 people with ASD and I/DD, 1/3 seniors, 1/3 a mix of students in related fields of study who can support and gain valuable

insights, and visiting medical professionals who are presently lacking in the region and often cannot find housing. All of this is intended to create a vibrant community of support. Many people with and without autism do not like unexpected loud noises, most enjoy music. The project does not intend to have intermittent loud noise, rather music so children, grandchildren, and guests can dance, sing, and enjoy a full life. The project trails and outdoor areas are for for We Are Up residents, resident visitors, invited guests, limited community members and staff. Camping, sleeping rough, vagrancy or illegal drugs are not permitted.

- h) Comments that the proponent has not worked the local community and neighbors. Public Outreach was conducted by the applicant. The applicant states that they replied to each letter written, and a community Meet and Greet was held in the summer of 2022 that was open to the public to explain the project to the community. A number of seniors and parents with adult children with special needs have approached We Are Up asking if residential space wondering if single-family homes might be available so they could access supports in the planned community center, suggesting that demand will increase. The Applicant states they have given much thought and redesigned several times to make many concessions in the design, making less impact on the neighbors and the property as a whole, including the wetlands. The most significant include: Extensive and costly wetland studies. The natural appearance of the site is valued as part of the project, with over 80% of the site being kept as open space as a community benefit and also decreasing impacts to wetlands.
- i) Comments that the project and particularly the community center is too big and/or project features should be reconfigured to be further away from existing residences. The Applicant's architects and developers advise that a minimum of 50 units of housing is required when building a vibrant community, a scale that allows a nonprofit to function sustainably over many years while providing needed services to residents. This site is unique in its proximity to essential services for residents who may not drive. Because of the substantial wetlands on site, the project has been designed as infill to existing large infrastructure bordering the property such as Grocery Outlet and Auto Zone. Because of these limitations and the design work to preserve as much of the open space as possible, over 80% will remain open as a community benefit. Many iterations of the plans were developed and rejected with the current plan the most likely for success and least impactful for wetlands and for impacting neighbors.
- j) Comments that Sensitive Natural Communities (SNCs), special status species, grasses, wetlands and buffers were incorrectly mapped, identified, and/or mitigated and the plan is not compliant with the SMA polices of the McKinleyville Community Plan.

Per the IS/MND Appendix D – Aquatic Resource Delineation and Sensitive Habitat Report Rev2, Section 3.3, Vegetation Mapping and Assessment – the vegetation community onsite was assessed in the field and classified at the alliance level according to the Manual of California Vegetation (Sawyer et al. 2009) using the Rapid Assessment method on September 14, 2021. CDFW considers alliances with a NatureServe State Rank of S1 to S3 to be Sensitive Natural Communities. Vegetation Rapid Assessment forms were used to characterize the dominant vegetation and evaluate habitat quality, and this assessment provided the basis for designating vegetation

as SNCs per CDFW. Two SNCs were identified using the methodology: Sitka Spruce Alliance and Coastal Willow Alliance.

Appendix D (Botanical Memorandum Rev1) of the IS/MND includes Attachment B (Plant Species Observed). This list includes all species observed within the Project Area during the site visit surveys conducted April 12, June 2, and September 15, 2022. Of the 120 species identified, 37, or 30.8%, were native. The characterization of non-native grasses is consistent within the wetland mapped onsite as well, as the vegetation was primarily characterized by redtop (*Agrostis stolonifera*, invasive non-native), reed fescue (*Festuca arundinacea*, invasive non-native), common velvetgrass (*Holcus lanatus*, invasive non-native), Italian rye grass (*Festuca perennis*, invasive non-native), slough sedge (*Carex obnupta*, native), and mountain bog sedge (*Scirpus microcarpus*, native).

The Aquatic Resources Delineation occurred between September 2021 to February of 2023. over an 18-month period. The site was visited numerous times during dry periods and wet periods. Plant communities were observed in the fall, winter, spring and summer. Dozens of soil pits were dug in both uplands and wetlands observing both hydric soil indicator and wetlands hydrologic indicators or lack thereof. All work associated with plant data collection occurred during the growing season. Groundwater monitoring wells were installed in January of 2022 and were monitored in the 2022/2023 rain year (1/17/2023 through 2/21/2023). Nine paired transect plot were conducted, upland plots were documented, and the pits were examined for soil and hydrological conditions in both wetland and uplands. The Aquatic Resources Delineation followed required protocol set by the RWQCB and the USACE. The biological studies, wetland delineation, and mitigation plan have been reviewed by CDFW who have responded positively.

As a conditionally permitted quasi-public use, the project and wetlands restoration plan is compliant with the McKinleyville Community Plan (MCP) wetlands policies and with the special use permit (HCC §314-61.1.5) may be undertaken within wetland buffer areas as there is no other alternative and, while most wetlands and buffers will be unaffected, any impacts to wetlands and buffers will be fully mitigated to the satisfaction of responsible resource agencies which may exceed the requirements of the MCP.

- k) Comments that traffic impacts and parking are not adequately addressed or mitigated.

The OPR Technical Advisory sets a significance threshold of 110 average daily trips whereby anything less is presumed to be a less than significant impact on Vehicle Miles Traveled. Because this project would result in less than 110 average daily trips the analysis was focused on daily trips. However, this project will also reduce vehicle miles traveled. When looking at vehicle miles travelled three several facts are important to consider. One is that this facility will house 50 percent or more low-income residents, second the proposed Project is within a Housing Opportunity Zone (and in an infill area and will be within a quarter mile (about 5 minutes walking time) of a variety of urban services, including a grocery store, health care

facilities, a hardware store, several restaurants, several pharmacies, convenience stores, a bank, a fitness club, a nature trail, a movie theater, and a bus stop.) and lastly only 21 of the 69 residents will drive since most seniors and I/DD tenants will depend on public transit. The site will connect to existing pedestrian and bicycle facilities. Based on these facts the Project will have low vehicle miles travelled due to its location in McKinleyville and surrounding mixed existing uses

Under normal operating use, the project and its residents would not contribute to significant use on Weirup Lane, or the roads that feed into it. Classes held on-site will be for residents only and will not generate additional traffic. During a special event, this may potentially be significant due to queuing at the Weirup/Sutter intersection, which could also affect Hideaway Court and Sandpiper Lane. The Mitigation Measure TR-1 addresses this potential with a series of measures that could be utilized depending on the Department of Public Works determination. The mitigation measure itself would not result in a significant impact.

A commenter suggests that the analysis of daily trips for the project does not account for the special events and that accounting for the trips associated with special events would likely put the total daily trips over the OPR Technical Advisory significance threshold of 110 trips. With regard to special events, it is assumed that weddings will occur 10 approximately times out of the 24 yearly events. With regard to vehicle trips, these events will not generate additional trips regionally because even though these events would happen at We Are Up, they are not uniquely generated by We Are Up, meaning they would have taken place at other locations and thus new (County wide) trips are not generated by weddings at We Are Up. In addition, there are few facilities in McKinleyville that have wedding venues. It is likely that residents of McKinleyville would use We Are Up for their wedding venue rather than going to a more distance locations, which could actually reduce regional VMTs.

With regard to the remaining 14 events (over 50 nonresidents/visitor) those would be specific to We Are Up's mission or the facility rented by a user and would be considered trip generating. It is assumed that these 14 events would be an average of 120 people each, resulting in 16,800 new one-way trips per year, or 4.6 one-way trips per day on average (this is conservative as a vehicle occupancy was not considered). Adding 49.5 to 4.6 is a sum of 54.1 one-way trips per day, or 108.2 total trips per day, which is below the threshold of 110 total trips.

A commenter suggests that a stop sign should be placed at the intersection of Weirup Lane (a private road) at Hideaway Court for vehicles leaving the project. While not related to a significant impact, the Applicant accepts this recommendation and agrees for it to be made a condition of approval. The project provides adequate on-site parking with 132 dedicated spaces per HCC §314-109.1.2.9. Off-site parking that has been proposed are not

necessary to support the project but help alleviate neighbor concerns relative to traffic on Weirup Lane.

- l) Comment requesting clarification on Tribal Cultural Resources. A Cultural Resources Survey was prepared in consultation with local tribes, reviewed by the tribes, and summarized in the IS/MND. Neither the site nor any finds are eligible for California Register of Historic Resources or other register, and there will be no substantial change to a significant tribal cultural resource.

FINDINGS FOR CONFORMANCE WITH THE GENERAL PLAN

5. FINDING

EVIDENCE

The proposed development is in conformance with the County General Plan.

- a) In the Residential Medium Density (RM) land use category at the westerly end of the project site, where the community building and 45 of the 50 residential units are proposed, multi-family residential units, common-walled units, apartments, group residential, transitional housing, and community care facilities are allowable uses. In the Residential Low Density (RL 1-7) land use category on the balance of the project site, where the five townhomes are proposed, single family residential and townhouses are allowable uses (Part 2, Chapter 4, Land Use Element, Table 4-B). The northwest corner of the project parcel is designated Commercial Service (CS) and will be used for parking. The proposed uses conform to the General Plan Land Use designations.

- b) The proposed project is consistent with the Conservation and Open Space Element - Biological Resources as evidenced by compliance with the following polices and standards:

Streamside Management Areas (BR-P5, P6) and Wetland Identification (BR-P7): A Project-specific wetland delineation was prepared that identified wetlands and formed the basis on an avoidance and mitigation plan. 8.68 acres of 3-parameter wetlands were identified, and one-quarter acre will be filled. All impacted wetlands and buffer areas will be mitigated at ratios acceptable to the responsible resource agencies.

Biological Resource Maps (BR-P11): a Biological Resources Assessment to assess the potential presence of any candidate, sensitive, or special status species within the Project area was prepared and mitigation measures identified that ensure all potential impacts will be reduced to a less than significant level.

The Project as conditioned and mitigated does not conflict with local policies or ordinances protecting biological resources. The Project will not permanently impact riparian or wetlands habitats, and all impacts will be mitigated to a less than significant level. As a result, the Project will not conflict with any local policies or ordinances protecting biological resources.

Agency Review (BR-P12): Consistent with this policy, the county has consulted with the California Department of Fish and Wildlife. The initial consultation was in January 2023 and recommendations were received and incorporated into the project. CDFW subsequently did not comment on the IS/MND.

- c) The Goals and Policies of the Conservation and Open Space Element pertaining to Cultural Resources have been complied with based on the referral of the project to the Northwest Information Center (NWIC), the Bear River Band of Rohnerville Rancheria, the Blue Lake Rancheria, and the Wiyot Tribe. A Cultural Resources Survey was prepared for the Project. The cultural resources study concludes that the Project is not expected to impact significant historic or prehistoric archaeological. To address the unlikely event that buried cultural resource deposits are discovered during Project activities, the inadvertent discovery protocol is included among the mitigation measures and as an ongoing condition of project approval.
- d) The project is consistent with the Conservation and Open Space Scenic Resources policies as the only applicable policy is related to restricting light and glare. The project is proposed and conditioned to follow International Dark Sky Association Standards that exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries.

The project site is not located near any designated scenic highway or scenic vista.

- e) The project is consistent with the Water Resources Element through compliance with the following goals and policies:
- Project Design (WR-P12). The project will not detract from the function of rivers, streams, ponds, wetlands or their setback areas.
 - Storm Drainage (WR-G10). The project is required to design and maintain stormwater at pre-development levels including stormwater detention if and as required under McKinleyville Community Plan Policy 3310(5) and MS4 requirements to effectively manage surface runoff.
- f) The project is in compliance with the Noise Element as project special events outdoors will generally take place near the southwest corner of the site, approximately 500 feet away from residents who have expressed concern about noise. This is a similar distance that the nearest neighbor on Hideaway Court is from Central Avenue. Outdoor events will be relatively infrequent, not more than 12 times per year, are proposed and conditioned to end by 10 PM, and are not expected to generate significant noise levels that will exceed the Humboldt County General Plan Noise Element standards.
- g) The project complies with the Safety Element of the General Plan as follows:
The subject property is within a mapped Moderate Fire Hazard severity area and within the Arcata Fire Protection District, approximately $\frac{3}{4}$ of a mile from the McKinleyville Station, and within the State Responsibility Area. According to the Humboldt County Geographic Information System (GIS) the southeast one-third of the project location is within the 100-year floodplain of Mill Creek. No structures are proposed in this low-lying area of the site.

FINDINGS FOR CONFORMANCE WITH THE MCKINLEYVILLE COMMUNITY PLAN

6. FINDING The We Are Up project is in conformance with the McKinleyville Community Plan.

- EVIDENCE**
- a) The project site is designated and zoned for residential use and is presently under-utilized infill. The site is constrained by 8.68 acres of 3-parameter wetlands spread across the site. The proposed project utilizes available upland areas while protecting and enhancing most of the property as wetlands and riparian habitat and retaining these areas as part of the outdoor experience for residents. The proposed project balances the planned urban use of the land while supporting the natural environment.
 - b) Section 2400 of the McKinleyville Community Plan includes a goal of providing sites for all types of residential development, specially including special needs group residences such as the proposed We Are Up project. Additionally, the Plan seeks to promote *“simplification, flexibility, and diversity of housing and zoning regulations to allow for the construction... of varying types of housing developments to meet the needs of all socio-economic sectors in the community.”*

FINDINGS FOR CONSISTENCY WITH ZONING

7. FINDING The proposed development is consistent with the purposes of the existing R-1-WR and C-2 Zones in which the site is located.

- EVIDENCE**
- a) The Residential One-Family (R-1) Zone District is intended to apply to areas devoted to single family residences.
 - b) The Streamside Management Areas and Wetlands “WR” combining zone applies to areas defined as such by the Streamside Management Areas Ordinance (HCC §314-38) under which wetlands, wet areas, buffers and riparian areas may be modified with a special permit (HCC §314-61.1.5) subject to the appropriate Findings as enumerated in the Findings for a Special Permit Related to the Fill or Modification of Wetlands and Riparian Areas.
 - c) The Community Commercial (C-2) Zone District provides for retail and professional businesses as principally permitted, as well as social halls, fraternal and social organizations, and clubs. These uses all have paved parking for patrons, and parking lots are a primary component. Project parking is a use consistent with the C-2 zoned area of the property.
 - d) The location and height of all project elements meet the setback and building height requirements for the R-1 and CS zones, with the exception of the height of the community center building, which may be permitted consistent with the Findings for a special permit for an exception to the maximum height.
 - e) The proposal allows for offsite parking on APNs 509-191-031, 509-191-048, and 509-221-006 though not needed to meet parking standards as adequate parking is proposed on-site.

FINDINGS FOR THE CONDITIONAL USE PERMIT

- 8. FINDING** The proposed project may be permitted in the R-1 Zone with a conditional use permit.
- EVIDENCE**
- a) The project is located in the Residential One-Family (R-1) Zone.
 - b) The proposed project is not a principally permitted use in the R-1 Zone, but may be permitted as a Quasi-Public Use (HCC § 314-6.2), which is defined as a use operated by a private non-profit organization (HCC § 314-152).
 - c) The Applicant, We Are Up, is an Internal Revenue Code §501(c)(3) non-profit organization.
 - d) The project application was referred to County departments, to local, state, and federal agencies, and to property owners within 300 feet. Based on comments received, on requirements of the County Code, and upon precedence of similar projects approved by the County, conditions of approval have been recommended to enhance the project's land use compatibility and health, safety and welfare, and mitigation measures have been recommended to ensure that all impacts will be reduced to a less-than-significant level.

FINDINGS FOR THE SPECIAL PERMIT FOR AN EXCEPTION TO THE MAXIMUM BUILDING HEIGHT

- 9. FINDING** The proposal for the community center building to exceed the maximum building height limit in the R-1 Zone by ten feet is permissible.
- EVIDENCE**
- The community center building is proposed to be 45 feet in height, which exceeds the maximum allowable height in the Residential One-Family Zone (R-1 Zone) of 35 feet. An exception to the height standard may be granted with the Special Permit that is requested per Section 314-99.1.1.1 of Humboldt County Code.
- The Applicant requests a special permit for an exception to the maximum height limit in order to consolidate major components of the project within the Residential Medium Density (RM) land use designation, which allows for higher densities and community care facilities, and to achieve a minimum efficient economy of scale while maximizing retention of wetlands and natural features of the site.
- The proposed community building is at the western edge of the project site thereby lessening to the extent feasible views of the building from neighboring residential properties.
- The proposed community building is proposed to be an architecturally attractive structure, and would be approximately 100 feet from the back of the existing Grocery Outlet. Grocery Outlet and AutoZone are within a line of sight from the neighboring residences; the proposed community center building location is between Grocery Outlet and the neighboring

residences, and would likely partially obscure the view of Grocery Outlet from neighboring residences with a more attractive structure.

FINDINGS FOR THE SPECIAL USE PERMIT RELATED TO THE FILL OR MODIFICATION OF WETLANDS AND RIPARIAN HABITAT

- 10. FINDING** The proposal to fill or modify wetlands, wetland buffers, and riparian areas is permissible.
- EVIDENCE**
- a) The project will fill and/or modify approximately one-quarter acre of wetlands and impact additional area of wetland buffers.
 - b) Development affecting wetlands, other wet areas and buffers may be permitted with a special permit (HCC §314-61.1.5).
 - c) A wetland delineation and biological assessments were prepared in consultation with CDFW, and were incorporated into the CEQA IS/MND with mitigation to ensure replacement and restoration of wetlands and any affected buffer and riparian areas.
 - d) County staff visited the project site with CDFW staff on the project biologist on January 11, 2023, after which the Site Plan and draft mitigation measures were modified to address CDFW recommendations.
 - e) The project will be fully compliant with the County Streamside Management and Wetlands Ordinance (HCC §314-61) and with the policies of the McKinleyville Community Plan relating to Sensitive and Critical Habitats (Policies 3422 and 3423).
- 11. FINDING** The project and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
- EVIDENCE**
- a) The site is located on paved privately-maintained road that can safely accommodate the level of traffic.
 - b) Water and sewer service will be provided by the McKinleyville Community Services District.
- 12. FINDING** The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.
- EVIDENCE** The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element and is zoned heavy industrial.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopts the Mitigated Negative Declaration, SCH No. 2023030707, for the We Are Up Conditional Use Permit and Special Permit; and
- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permit and Special Permit for an exception to the R-1 Zone height limit and for fill or modification of wetlands, for the We Are Up Project, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on July 20, 2023.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following ROLL CALL vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

John Ford, Director
Planning and Building Department