



# COUNTY OF HUMBOLDT

## Legislation Text

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File #: 23-1035, Version: 1

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**To:** Planning Commission

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

**We Are Up, Conditional Use Permit and Special Permit**

Assessor Parcel Number (APN) 509-181-061 (formerly 509-191-030 and 509-181-057), and APNs 509-191-031, 509-191-048, and 509-221-006.

Record No.: PLN-2022-18047

McKinleyville area

A Conditional Use Permit to allow a Quasi-Public use including 50 units of housing, a community center with commercial kitchen, a greenhouse, barn, orchard and 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 would create 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 opportunities for resident enrichment and education. Special Permits are requested for an exception to the height standards, to allow the building height to be up to 45 feet, and for creation and enhancement of wetland and streamside habitat areas.

**RECOMMENDATION:**

That the Planning Commission:

1. Adopt the resolution (Resolution 23-\_\_). (Attachment 1) which does the following:
  - a. Adopt the Mitigated Negative Declaration prepared for the We Are Up Project; and
  - b. Find the proposed project complies with the General Plan and Zoning Ordinance; and
  - c. Approve the Conditional Use Permit and Special Permit subject to the recommended conditions of approval (Exhibit 1A); and

**DISCUSSION:**

Project Location: The project is in the McKinleyville area at the south end of Weirup Lane; 144 Weirup Lane.

General Plan Land Use Designation: McKinleyville Community Plan; Residential Low Density, 1-7

units per acre (RL1-7), approx. 13.5 acres; Residential Medium Density (RM), approx. 1.5 acres; and Commercial Services (CS), approx. 0.4 acres.

Zoning: Residential One-Family, with a Streamside Management Areas and Wetlands combining zone (R-1-WR), approx. 15 acres, and Community Commercial (C-2), approx. 0.4 acres.

Environmental Review: A CEQA Mitigated Negative Declaration.

Major concerns: Wetlands, access, parking, noise.

### Executive Summary:

Project construction would be limited to the western one-third of the project site. Development would take place over two phases: Phase 1 in 2023 with construction of the greenhouse, access drive and related utilities. Phase 2 would add the balance of project features beginning in 2024 over 20 to 30 months. Mitigation work, including wetland creation, habitat restoration, and riparian enhancement would be carried out on the balance of the property.

**The main project elements are summarized below.**

### Community Center

The Project would construct a three to four level community center for use by We Are Up residents, staff, and others. The community center would be used by residents for classes, projects related to onsite gardens, livestock, and greenhouse production, shared meals, meetings, and events. The first floor of the building would be approximately 13,000 SF and would consist of a large multifunctional meeting room including an approximately 1,800 SF commercial kitchen. The second-floor mezzanine would be approximately 8,200 SF of a mixed public use. The third and fourth floors would consist of approximately 11,800 SF each for residential use, for a total of 44,800 SF of floor area in the community center. The maximum height of the building would be 45' and possibly less since the first floor will be partially below grade.

The community center would serve the residents by providing a site for regular classes, a site for value added product production, income generation, and important socialization opportunities for residents. It would also serve the community at large as space available for rent for events such as rotary meetings, weddings, and other gatherings. Many of these uses would also provide income for the non-profit, thus decreasing its need for grants or other and ongoing public funding.

These classes may, in time be available to others from the community at large with about 50 guests the expected maximum. Events such as those listed above would be held in the community center, its outdoor areas, and in the greenhouse.

### Living Units, Occupants and Staffing

The project includes a residential complex consisting of 50 living units to accommodate approximately 69 occupants. Living units would include up to 24 one-bedroom units ranging in size from 580 to 640 square feet (SF) and up to 19 two- bedroom units ranging in size from 820 to 880 SF, including five

one-bedroom, single-story townhome-style bungalows. In addition, there would be seven studios, for a total residential floor area outside the community center of 10,264 SF.

### Special Events

Special event hosting, such as weddings, community gatherings such as fundraising in support of the project, rotary, or similar events would occur onsite, with approximately 24 per year ranging from 51 to 215 people expected for each. A weekly dinner, breakfast, or similar event would also be held with up to 112 guests. The events would be an integral component of the project, proving both funding, and opportunity for residents to interact with the broader community. Events would be hosted year-round; however, during winter the larger special events would primarily be held indoors. In the event that amplified music might be utilized at gatherings, it would cease by 10 PM. The Community Center would have enough restrooms that portable toilets are not expected to be utilized. Canopies or similar temporary structures may be used. Special events, and all aspects of the Project, would adhere to relevant sections of the County Code. This includes, but is not limited to, public order, noise, and safety.

### Greenhouse, Garden, Barn and Orchard

A greenhouse is proposed in Phase 1 to be used primarily for hydroponic growing of plants, as an educational/teaching venue for residents, community members, and an occasional gathering place for community events. The greenhouse would be 2,880 SF and located at the SW corner of the project site, and will include a restroom and equipment shed. A garden would be maintained and utilized by We Are Up residents, volunteers, or staff. The garden would consist of raised plant beds, in-ground beds, walkways, and a storage shed/barn.

An approximately 30'x40' barn would be established along the southern portion of the site and would house chickens, sheep, goats, cattle, and/or other domestic animals, as permitted by the County Code. Animals would graze in the upland area year-round and may have access to wetland areas seasonally from May through November. The animals housed onsite may include animals from local youth agriculture programs such as FFA. Mill Creek riparian and sensitive natural areas would be fenced off from livestock animals. Fruit trees would be planted near the garden, livestock pens, structures, and/or greenhouse. Produce from the trees would be harvested and used by We Are Up residents.

### Walking Trails

Simple mowed walking paths would be created and maintained to be used by We Are Up residents, resident visitors, and maintenance staff walking between homes, the community center, greenhouse, garden, and throughout the project site. The trails may use wood chips or similar materials placed on the path to help identify the trail and to minimize maintenance needed. Ancillary trail features may include benches, bike racks, waste receptacles, dog waste facilities, picnic facilities, hitching posts, and other features. Ancillary trail features, such as nature viewing areas, may be constructed in select locations adjacent to the path alignment.

### Wetland Impacts, Creation, and Riparian Enhancement

There are 8.68 acres of three-parameter wetlands within the project boundary. Construction would require filling approximately one-quarter acre of wetlands. Wetland fill would be mitigated at a 1.3:1

ratio. Additionally, impacts to riparian buffers around wetlands would be mitigated with riparian plantings at a 0.5:1 ratio. for a total wetland and buffer mitigation ratio of 1.8:1. The new wetlands would be installed within the existing upland areas located in the south-central area of the project site. Riparian plantings would be installed along the southeastern corner and eastern portions of the project site adjacent to existing riparian vegetation associated with Mill Creek. This area would be enhanced by planting native riparian vegetation and removing nonnative invasives. Up to three non-native Eucalyptus trees are expected to be removed.

### Lighting

The project would include lighting to improve safety in key locations. Lighting would be installed at the exterior of buildings and throughout the parking area in association with the project and would comply with County and ADA requirements. Approximately 14 luminaires at driveway and parking areas would be mounted on poles approximately 16 feet above the ground. Luminaries would be downcast, and fixtures would be equipped with hoods. Lighting at the eastern side of the buildings would be minimized to mitigate light encroachment into the undeveloped areas to the east. Outside light fixtures would be cut-off fixtures and would be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent properties.

Exterior lighting is proposed to be designed to protect wildlife and night-time views, including views of the night sky. The project would be designed to be consistent the recommendations of the International Dark-Sky Association, which includes standards for fixtures, shielding, placement, height, and illumination levels. To comply with these requirements, lighting for the Project would be the minimum lumens necessary, directed downward, shielded, and pedestrian level when feasible. This would ensure lighting is contained within the site and does not cause significant lighting and glare impacts for surrounding land uses and sensitive habitat areas.

### **Analysis**

#### General Plan and Zoning Consistency

The project site is within the McKinleyville Community Plan area and designated Residential Low Density, 1-7 units per acre (RL1-7), approx. 13.5 acres; Residential Medium Density (RM), approx. 1.5 acres; and Commercial Services (CS), approx. 0.4 acres.

The project uses are consistent with the General Plan Land Use designations and conform to relevant policies of the McKinleyville Community Plan, as enumerated in the Findings of Fact contained in the draft resolution for the Planning Commission's consideration. The project site is zoned Residential One-Family (R-1), with a Streamside Management Areas and Wetlands combining zone (WR), approx. 15 acres, and Community Commercial (C-2), approx. 0.4 acres.

#### Type of Use

- The proposed project is not among the list of uses permitted in the R-1 Zone (HCC § 314-6.2).
- § 314-85, Quasi-Public Structures and Uses - Quasi-public uses shall be permitted in the R-1 Zone subject to a Use Permit.

- § 314-152, Quasi-Public Use defined - A use operated by a private non-profit organization.
- The project proponent is an Internal Revenue Code 501(c)(3) Non-Profit entity.

Regarding events, staff consulted with Humboldt County Sheriff's Office regarding the number of guests in attendance that constitute an "event," as the zone code does not provide direction here. The Sheriff's Office does not have a standard either, but looks to the permit if there is one (per Lt. J. Taylor, 7/12/2023). For the purposes of this project and based on past experience, staff concludes that more than 50 guests shall constitute an event.

#### Streamside Management Areas and Wetlands Combining Zone (WR)

The WR combining designation (HCC §314-38.1) applies to areas subject to the Streamside Management Areas and Wetlands Ordinance (SMAWO) and governs the project's proposed impacts to wetlands, riparian areas, and Streamside Management Areas (SMAs) through acquisition of a special permit (HCC §314-61.1.5). One-quarter acre of wetlands and riparian areas were mapped by the project biologist, and the delineation and report provided to CDFW. County staff walked the site with CDFW biologists and the project biologist to observe wetlands. CDFW staff accepted the findings of the wetland and biological assessments and proposed mitigation. The mitigation measures were included in the biological resources section of the IS/MND. CDFW provided an informal follow-up requesting mitigation for special status bees which was incorporated into the IS/MND (**MM BIO-5**) but made no further comment. The report and proposed mitigation are consistent with the requirements of the SMAWO. Based on this, Planning staff concludes the project is eligible for a Special Permit under the SMAWO.

#### Building Height

- The community center, at 4 stories, is proposed to be 45 feet in height.
- Under HCC §314-6.2 the max building height in the R-1 Zone is 35 feet.
- § 314-102.1.3, Height and Size Limitations and Modifications - Any building may be erected to a height greater than the maximum height of the zone in which it is located provided that a Special Permit is obtained.
- §. 314-99.1.1, Exceptions to Height Standards - Max bldg height in the R-1 Zone may be exceeded with a Special Use Permit with a condition ensuring long term housing affordability.
- The project as proposed would be inherently affordable as it is non-profit and would have ASD and I/DD residents.

The community center is envisioned as an architecturally attractive building in a rustic barn-style seen in rural areas of the County. The building is shown with a gable roof to resemble the character of the existing barn presently located within the proposed building's footprint, and would capture the pastoral aesthetic that will be retained across most of the site. Preliminary designs are shown on the Massing Study, Attachment 3. The proposed building, located in the line of sight between the homes on Hideaway Court and Grocery Outlet, may also remove some or all of the present view of the back of Grocery Outlet from the Hideaway Court homes.

Staff concludes that the 10-foot exception to the height limitation is acceptable.

### Site Access

The project site is accessed from Sutter Road, then Weirup Lane, a private road. Traffic during events may cause congestion at the Sutter Road/Weirup Lane intersection, and along Weirup Lane. County Department of Public Works (DPW) recommended a mitigation measure (**MM TR-1**) that has been included in the IS/MND and MMRP (Attachment 1E) that give DPW discretion to determine whether there is a congestion problem associated with periodic events, and to:

1. Require an Annual Encroachment Permit for temporary traffic control measures at the Sutter/Weirup intersection at Permittee's expense;
2. Reduce the size of events held onsite to reduce congestion to acceptable levels; and
3. Manage events to prevent all event visitors from attempting to exist the site simultaneously or within a short period of time.

Based on this, DPW staff determined that the potential for significant impact related to traffic congestion is reduced to a less than significant level.

### Parking

- A total of 132 parking spaces are proposed on-site. The applicant has arrangements with off-site properties to utilize their parking spaces during off-peak hours if necessary, but these spaces are not needed and planning staff is recommending that they not be included in the project approval.
- Two-thirds of residents will not drive cars. Spaces set-aside for residents are 24. Up to 12 employees, including part-time, may be on-site at a given time. There may be up to 10 daily visitors and deliveries, for a total of 46 spaces.
- A maximum of 215 persons are proposed to attend events. Assuming an average of two guests per vehicle, which is the standard used in the past for event venues of a similar scale in the County, 108 spaces would be needed for special events.
- Smaller weekly events with up to 112 guests would need 56 spaces. If all residents, visitors, deliveries, and large and small event guests were to be on-site at one time, 164 spaces would be needed, representing a shortfall of 32 spaces. A condition of approval is proposed to prohibit simultaneous events which will ensure that the parking needs of the facility are met at all times.
- Parking standards for uses such as theaters and stadiums call for one space or every four seats, plus one space for every two employees (HCC §314-109.1.3.3.4). This standard, plus residents, visitors and deliveries, (large events = 54 spaces, employees = 6 spaces, and 24 residents and 10 visitors/deliveries) would yield a need for 94 spaces, which is below the number proposed by the applicant.
- The Zoning Code does not specify a number of parking spaces required for this type of use and

leaves the determination to the discretion of the Director of Planning (HCC §314-109.1.2.9). Staff concludes adequate provisions for daily and event parking are proposed for the project.

### Offsite Parking

The applicant made arrangements with adjacent and nearby property owners for a total 68 off-site spaces on three separate nearby properties, which are:

1. McKinleyville Community Services District, APN 509-191-031 - 22 spaces approx. 150 feet away.
2. State Farm Insurance, APN 509-221-006 - 11 spaces approx. 650 feet away.
3. Jackson & Eklund CPA, APN 509-191-048 - 35 spaces approx. 430 feet away.

These off-site parking areas are not necessary to support the parking needs of the project but could be utilized to help address neighborhood concerns relative to traffic on Weirup Lane. The parking plan is shown as Attachment 1D.

### Noise

According to the General Plan Noise Element, Table 13-A, the prominent noise sources in McKinleyville are U.S. 101 and Central Avenue traffic noise, Eureka/Arcata Airport (and aircraft overflight), and the gun club at the airport.

Proposed events with amplified speaking and music, up to 24 per year, can be expected to generate noise above ambient level till 10 PM at which time all events are proposed and conditioned to have concluded. Outdoor events, up to 24 per year, if they include amplified music would likely be more audible to nearby residential receptors.

The General Plan sets performance standards for Short-term Noise, per Noise Element Standard N-S7, which is 65 dBA from 6:AM to 10 PM in the R-1 Zone. The General Plan allows an exception to this standard however, for temporary events in conformance with an approved Conditional Use Permit. Staff believes the exception can be justified due to the relative infrequency of the proposed outdoor events, most of which would be hosted south of the community center. Moreso, the nearest residential receptors will be on-site, which include special needs persons and seniors, for whom the overall project is intended to serve. This particular population is likely to be more sensitive to noise than the general population. The project owners intend to conduct the project in a way that cares for and enriches the residents, as described in the Plan of Operations. Further, this facility would be located immediately adjacent to existing commercial uses such as a grocery store, gas station, and a bar that offers live music until late at night. The noise associated with special events is unlikely to contribute to noise impacts to the residential community that are above the existing baseline environment.

Additionally, a condition of approval is recommended consistent with similar event projects approved by the Planning Commission that requires the Permittee to report to the Planning Director annually for three years to discuss effectiveness of conditions of approval, the parking plan, mitigation measures, and any complaints, and address any neighborhood issues that may have arisen.

### Biological Resources

As discussed in the wetlands section of the IS/MND a wetland delineation with biological resources assessment (Sensitive Habitat Report and Botanical Memorandum) was prepared for the project. Wetlands were mapped and special status surveys were conducted in consultation with CDFW, RWQCB, and COE staff. Under the McKinleyville Community Plan Section 3422(7), 8.68 acres of 3-parameter wetlands were identified, one-quarter acre of which would be impacted by the project. Mitigation measures are proposed to compensate for loss of wetlands and for potential impacts to special status species (Mitigation Measures BIO-1 through 7) and are included in the MMRP. CDFW comments on the habitat enhancement plan in response to referrals and following the site visit (Attachment 6B) were incorporated into the Site Plan and the mitigation measures.

CDFW recommendations (1/24/2023) were:

1. To be consistent with the theme of concentrating development and associated impacts, consider moving the barn westward toward the apple orchard and greenhouse. If crossing the swale is still necessary, consider installing an open-bottom culvert, bridge, or similar feature that maintains habitat connectivity (rather than storm drain piping).

Response: The Applicant modified the Site Plan and moved the barn 100 to 150 feet to the west. The Applicant considered installing a bridge but found this cost-prohibitive.

2. CDFW would like to review design plans for wetland creation and LID bioswales to ensure features provide good habitat for northern red-legged frog (*Rana aurora*; California Species of Special Concern) and other amphibians.

Response: The Applicant's biologist modified the wetland restoration plan with a design with altered depths to facilitate conditions for northern red-legged frog and other native species, and to reduce habitat for non-native bullfrogs.

3. In similar situations, some project proponents have proposed a conservation easement for a portion of their parcel, which provides long-term protection of the resources while reassuring the public of that intent.

Response: The Applicant considered this but sees the Conditional Use Permit and associated Site Plan approval as sufficient and does not foresee any changes.

4. In addition to the eucalyptus tree near the proposed barn site, we noticed Scotch broom (*Cytissus scoparius*) along the southern edge of the parcel, as well as another mature eucalyptus that may be on the adjoining parcel. It would be nice to incorporate Scotch broom removal into the invasive species management component of the project and explore the possibility of removing that second eucalyptus tree.

Response: The request has been incorporated into the mitigation measures for removal of three non-native shrubs and grasses, including Scotch broom.



5. Several bumble bee species are currently candidates for listing pursuant to CESA and are therefore afforded the full consideration of listed species under CEQA. While we wait for the Fish and Game Commission's decision, we would like to proceed with caution. Not all projects warrant targeted surveys or even habitat assessments, but CDFW encourages a thorough evaluation of the presence and potential impacts to sensitive bumble bees, with reference to CNDDDB occurrences, range maps, survey data (e.g., Bumble Bee Watch). I had caught a couple of minor inconsistencies in table 3.4-1, which I pointed out to GHD.

Response: The requested evaluation has been incorporated into the biological mitigation measures.

All changes to the biological mitigation measures were made after referral comments were received from CDFW and prior to circulation of the IS/MND. CDFW made no comment on the IS/MND.

#### Cultural and Tribal Resources

A Cultural Resources Survey (CRS) was conducted in November 2021, and an addendum covering the added parking area followed in October 2022. The CRS identified the wooden barn with the gable roof, but concluded that it had been significantly modified from its original design, is in an advanced state of disrepair, and does not meet additional criteria for listing as a historical resource.

Invitations to consult under AB52 were sent to local tribes in December 2022. No tribes requested consultation under AB52.

Standard project referrals to all agencies were sent 2/8/2023 and the Blue Lake Rancheria, the Bear River Band, and Wiyot Tribe requested the standard inadvertent discovery protocol. This has been included among the CEQA mitigation measures (**MM CR-1**) and among the conditions of approval Notes (**#2**). Additionally, the Blue Lake Rancheria and the Wiyot Tribe requested that the selection of native plants for the wetland and riparian area creation and enhancement areas provide for the protection and enhancement of ethnobotanical resources. These measures were incorporated into the restoration plan.

#### California Environmental Quality Act (CEQA)

A CEQA Initial Study/Mitigated Negative Declaration (IS/MND) was prepared and circulated that identified 14 potentially significant impacts with recommended mitigation. The mitigation measures relate to stormwater management, temporary construction-related air pollution, biological resources (wetlands and special status species), cultural and paleontological resources, greenhouse gas emissions, and traffic congestion. There were no significant impacts identified in other areas, and no impacts that could not be fully mitigated. The IS/MND was circulated for the requisite 30-day public review period. No agencies commented on the IS/MND.

#### Public Comments on the CEQA IS/MND

Ten letters/emails of comment on the IS/MND were submitted during the public review period; one letter was received shortly after close of the public review. Ten of the letters/emails are from residents

or property owners on Hideaway Court, adjacent to the north side of the project. These letters/emails are attached to the staff report with individual comments separately numbered for a total of 218 comments (Attachment 7). The CEQA document preparer addressed each of the 218 comments individually, with responses contained in an 83-page supplemental document titled Final IS/MND (Attachment 9). Several comments were either repeated in subsequent letters or were of related concerns. The subject matter of comments may be grouped and are summarized in eight categories below with staff responses.

1. **Comment:** Opinions on the project, questions about the planning process, and requests that the project be eliminated from consideration.

**Response:** Such comments are not comments on the IS/MND and are not responded to further here. Such comments may provide input to the Commission's consideration of the merits of a project, and the comment letters are attached to the staff report for Planning Commission review and consideration in relation to a decision on the request for project entitlements (Attachment 7). A summary of each comment, and a response, is provided by the CEQA document preparer and contained in Attachment 9.

2. **Comment:** Insufficient analysis was conducted.

**Response:** 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)).

No further analysis is necessary and no revisions to the ISMND are required to be made.

3. **Comment:** 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, and that future residents will not have ASD or I/DD.

**Response:** The proposal would create a community ecosystem that weaves 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.

More than half of young adults with autism have not interacted with a friend in over a year. Eight percent of adults with developmental disabilities in California are living with aging

parents who, in coming decades, will no longer be able to care for their adult children. The estimated unemployment rate for adults with autism is 90% including among those with a college degree. The project seeks to change these statistics by creating a community of supports. Seniors also suffer loneliness and long for meaningful engagement, they have much wisdom to offer their communities. The project has received broad support across political, socioeconomic, and age barriers. Over 300 local people have volunteered or donated at some level.

Goals of the community center are:

A space to bring people together in a variety of ways to foster inclusion.

Group homes are no longer supported by the regional center and are deemed isolating.

Stating that people with autism do not like loud noises is not correct. While 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.

A place to help each other, learn job skills, and contribute.

A space for activities such as life skills, job training, classes such as computer, art, or other interests of the residents.

These skills allow residents to learn job and life skills.

A commercial kitchen to provide some of these skills.

A space to provide an income stream for the organization so that We Are Up can eventually move toward self-sufficiency for itself and its residents without relying on as much public support.

Events that are open to community not only provide financial support but give residents job opportunities, social interactions, in a safe supervised location.

No further analysis is necessary and no revisions to the ISMND are required to be made.

**4. Comment:** The proponent has not worked the local community and neighbors.

**Response:** 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.

Reducing to 50 instead of the 70 units the County said they would allow even though that larger number of units is much needed and would help the project financially.

Purchasing land from a supportive neighbor to the north and completing a lot line adjustment at a cost of \$130,000 to provide improved ingress and egress and additional onsite parking,

reducing potential impacts to Weirup Lane and reducing wetland impacts.

Enlarging the community center. While the Hideaway neighbors object to this, it allows much of the housing to be above the center, lessening the need to have housing dispersed across the site. Limiting the number of guests allowed to attend events to a smaller number. Willingness to include a stop sign before the Weirup Lane and Hideaway Court intersection. No further analysis is necessary and no revisions to the ISMND are required to be made.

**5. Comment:** The project is too big for the site and the neighborhood.

**Response:** The Applicant states that 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.

The Applicant states there are no unnecessary components to the project. Housing alone will not solve the need for care that is experienced by adults with ASD and I/DD. This is a vulnerable group that is often left out of equity discussions and community involvement. By making an inclusive community with the amenities of agricultural activities, and a community center designed and built in, many will benefit. The greater community will have lower long-term costs of support, and parents would have peace of mind and residents will have better lives. The Applicant states that this is a replicable model, demonstrated elsewhere, that lowers cost for society at large and provides a lifetime of care. No further analysis is necessary and no revisions to the ISMND are required to be made.

**6. Comment:** Sensitive Natural Communities (SNCs), special status species, grasses, and wetlands were incorrectly mapped and/or identified.

**Response:** 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 redbtop (*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.

No further analysis is necessary and no revisions to the ISMND are required to be made.

7. **Comment:** Traffic impacts are not adequately addressed or mitigated.

**Response:** 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. 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 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. No further analysis is necessary and no revisions to the IS/MND are required to be made.

- 8. Comment:** Tribal Cultural Resources - Is there a site that is eligible for California Register of Historical Resources (CRHR) or other register, and will there be a substantial change to a significant tribal cultural resource?

**Response:** A Cultural Resources Survey was prepared in consultation with local tribes, reviewed by the tribes, and summarized in the IS/MND. The site nor any finds are eligible for CRHR or other register, and there will be no substantial change to a significant tribal cultural resource. No further analysis is necessary and no revisions to the IS/MND are required to be made.

#### Comments Received after Publication of the Hearing Notice

One comment letter was received from a neighbor following publication of the hearing notice and before the close of the staff report deadline:

**Kellie Eldridge, 6/23/2023** (Attachment 10, Comments Following Publication Hearing Notice). The commenter, who also provided 119 of the 218 comments on the IS/MND, restates a number of concerns, asks if the IS/MND will be recirculated, and also complained that an event was recently held, apparently without permit. The commenter also asked if the townhome units near

Hideaway Court will be two-story, and if the owner is permitted to install a garden and fencing at this time, and states that one or more trees may have been removed.

**Response:** Staff advised Ms. Eldridge that staff believes the IS/MND is legally adequate and will not be recirculated, and that her comment letter would be provided to the Planning commission.

Staff was unaware of a recent event and asked the Applicant to explain. The Applicant states that supporters and donors were invited to the site to thank them and to answer questions as a matter of continued public outreach. Neighbors were welcome to attend and some did. Staff does not see this as something subject to County approval, and does consider the effort to be beneficial. Staff advised the Applicant not to do further physical work on the property, even though a garden and fence are allowed by right in the R-1 Zone, other than standard maintenance, until the We Are Up application has been taken to decision-makers for action. Staff confirmed with the Applicant that the townhome units are proposed to be single-story, as they are described in the IS/MND.

### Comments in Support of the Project

Eight seven (87) letters in support of the project and of grants to support the project (Attachment 8) were submitted to the Planning & Building Department, written by: members of the larger community, State Assemblymember Jim Wood, local non-profit organizations, several local environmental advocacy groups, Cal Poly Humboldt, the Wiyot and Yurok Tribes and other local tribe entities, College of the Redwoods, Congressman Jared Huffman, Life Plan Humboldt, the Redwood Coast Regional Center, the Far Northern Regional Center, local attorneys, Humboldt County Office of Education, CASA, Open Door Community Health Center, and many other business leaders and owners, teachers, and parents and grandparents of individuals with special needs.

### OTHER AGENCY INVOLVEMENT:

CalFire responded to the early referral that should the project involve commercial timber operations, or conversion of timberlands to non-timber growing, a CalFire harvest plan or permit is required. While there are native trees on the property, most will be left in place as part of the natural habitat community that is being maintained. Willow associated with a non-jurisdictional drainage pond, and up to three non-native Eucalyptus will be removed as part of the habitat enhancement. CalFire subsequently provided another comment stating that no permit or plan or plan is anticipated to be required; the CalFire comment is included in the Conditions Informational Notes to assure long-term compliance should a question arise (Note # 7).

County staff walked the site with CDFW staff and the project biologist on January 11, 2023 to view the wetlands and habitat values and receive an overview of the mitigation plan. CDFW staff expressed satisfaction with the plan.

The project was referred to responsible agencies and all responding agencies have either not

responded, responded with no comment, or recommended approval or conditional approval.  
(Attachment 6A)

RECOMMENDATIONS:

Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit and Special Permits.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Planning Commission could elect to add or delete conditions of approval. The Planning Commission could deny approval if unable to make all the required findings. Staff has concluded the required findings in support of the proposal can be made. Consequently, staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Resolution
  - A. Conditions of Approval
  - B. Operations Plan
  - C. Site Plans
  - D. Parking Plan
  - E. Mitigation Monitoring and Reporting Program
2. Location Maps
3. Massing Study - 3D Concepts
4. CEQA Initial Study and Mitigated Negative Declaration
5. Applicant's Evidence in Support of the Required Findings
6. Referral Agency Comments and Recommendations
7. Public Comments on the CEQA IS/MND
8. Letters in Support of the Project
9. Final Mitigated Negative Declaration
10. Comments following Publication of the Hearing Notice

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