



Thursday, March 7, 2024

Board of Supervisors

Attn: Board Chair Bruno Sabatier

255 N. Forbes St.

Lakeport, CA 95453

Via email: ClerkoftheBoard@lakecountyca.gov, bruno.sabatier@lakecountyca.gov.

RE: Higher Ground Farms appeal AB 24-01 of the Lake County Planning Commission's Jan. 11 denial of UP 20-40 and Initial Study (IS 20-50), 3545 Finley East Road, Kelseyville (APN: 008-026-07)

Dear Chairman Sabatier and members of the Board of Supervisors,

The Lucerne Area Revitalization respectfully asks that you uphold the Lake County Planning Commission's thorough, thoughtful and wise denial of Higher Ground Farms' deeply flawed and dangerous cannabis project at 3545 Finley East Road, Kelseyville, next door to the historic Kelsey Creek Schoolhouse.

What makes the Planning Commission's decision so remarkable is that it has a history of approving a majority of the cannabis projects that come before it. This is not an anti-cannabis body, but one that has green-lighted dozens of cannabis projects. Yet, in this case, it weighed the concerns with the Higher Ground Farms and found the project so deficient in its planning and conception that it rejected it out of hand.

"We don't do this very often," Commissioner Maile Field said after the vote to deny the project.

The Planning Commission concluded, rightly, that this project has no business being at that location, that it will cause irreparable and permanent harm to the character of the farming area and to the sacred viewshed that has at its heart Mount Konocti, and will negatively impact the historic Kelsey Creek Schoolhouse next door, among a host of other concerns.

"It is just not a prime location for this type of business," said District 4 Planning Commissioner Christina Price. "We need to really think strongly about the future of Kelseyville and Finley, and any type of industry that's going to grow in Kelseyville, there is limited amounts of land where it can grow."

Price indicated that it was nice to see the community come together to fight for the historic schoolhouse building, and she said she would love to see it become a community building — which is exactly LARA's plan. "I can't say with one side of me I would love to see the community utilize the schoolhouse and then on the other side say I would love to see a commercialized industry like this go on. So I'm pretty firm on where I stand with this project."

Higher Ground Farms' project history has been notable for its lack of due diligence, ignorance of county rules and values, refusal to work with neighboring property owners, intentional and egregious lack of transparency, and unrelenting efforts to mislead neighbors.

This project is a first in this specific area — and it must be a last. It simply should not be there. It is the perfect example of a poorly conceived and badly implemented project, based on flawed and dangerous conclusions.

That makes it all the more alarming that Community Development Department leadership is doubling down and advocating on behalf of the applicant in urging you to overturn the Planning Commission's right and careful decision. They have not been able to truly explain this, other than the very thin "justifications" they offer you in their 10-page report for the appeal.

Based on what happened at the Planning Commission meeting, and what is presented to you in this staff report for the appeal, we think planning staff must have been at another meeting than the one we attended Jan. 11.

Community Development has consistently downplayed this project's controversy, the concerns about its safety and impacts on the community, the project's certain negative environmental impacts and its lack of proper study, all issues the commission raised.

Like his colleagues, Commissioner Batsulwin Brown pointed to a host of key concerns. "There's too much history that's going to be impacted," he said, citing the nearby significant and historic Mostin archaeological site, which dates back more than 10,000 years. "So there's all of these connections to that location, including the schoolhouse."

We hope that you have taken the time to actually watch the Jan. 11 Planning Commission meeting video, as if you simply rely on the staff report and minutes, you will not have an accurate idea of what really occurred.

Additionally, we remain alarmed that this project's initial study ***was never updated nor corrected*** despite a 16-page letter we submitted to Community Development in June outlining the significant number of serious problems with it.

That report's flaws go from the incredibly serious — to its lack of serious analysis of impacts on the neighborhood, cultural and historical resources, water resources and the Clear Lake hitch, and on natural resources and viewshed — to the absurd, namely, that it actually argues that there are no mapped earthquake faults in the immediate vicinity, which is demonstrably false. We even provided them with a map to prove otherwise.

That's not to mention that it features site plans and maps provided to them by the appellant that are inaccurate and misrepresent property lines.

Yet that flawed report, *in its exact same original form*, is what is given to you by staff as evidence that this project has been properly studied and meets county requirements, and as a justification for overturning the Planning Commission's decision. **That is absurd.** The Planning Commission based its decision, in no small part, on the inadequacy of that initial study and other planning documents.

We have continued to bring the initial study's uncorrected errors and significant deficiencies to the attention of planning staff. Their response? Blank stares and no action.

That is important, because the staff report for the appeal continually refers back to the initial study as a foundation for staff's weirdly devised proposal that you grant an appeal in this case.

Just as the initial study is flawed to the point it must be rejected, so is the staff report for the appeal, scheduled for the March 12 Board of Supervisors meeting. That report is riddled with errors, omissions and flat-out misrepresentations, which we outline, in full, below.

The following is our analysis of, and responses to, the claims made by staff in the report on the appeal.

1. Location is not consistent with the neighborhood character.

Staff Response: *Cannabis cultivation is allowed in certain areas within Lake County upon issuance of a major or minor use permit depending on the project's size and characteristics of the site. In this case, the property is located on a property with base zoning of "A"-Agriculture, within a mapped Farmland Protection Zone (FPZ). The Board of Supervisors approved Ordinance No. 3103 on April 20, 2021, which allows cannabis cultivation to occur in FPZ land, provided the cultivation occurs inside greenhouses with air filtration systems, as is being proposed in this application. The property is not located within an Exclusion Area and is in an area that is characterized by traditional crop production, including a processing/packing facility immediately across the street. The project meets all setbacks and development standards related to compatible uses. Therefore, the project would not be considered a non-compatible use. As noted above, the project has also been modified to further reduce impacts to neighboring properties, specifically the property immediately west that is owned by the Kelseyville Unified School District and leased by LARA.*

LARA response to staff response: FALSE. The Higher Ground Farms project is absolutely and insurmountably noncompatible.

This is the first time such a project has sought to be located in this area of protected farmland, where it has no business being located. That was noted by the Planning Commission. Concerns about cannabis projects in that area is what led to increased requirements and protections. The appellant purchased this property in 2020 and clearly and repeatedly failed to conduct due diligence either about what he could do there or the potential issues with neighboring properties. That's evidenced by planning documents we received through a Public Records Act request that

showed the appellant was planning to put in a large outdoor grow at the site, which isn't allowed, and had sought early activation.

Further, the Planning Commission was clear in outlining its reasons for finding that the project is not consistent with the neighborhood character. Commissioner Price's comments, cited above, are an example.

There are no such operations in that area, which is characterized by homes, orchards and farms that do not produce cannabis. The Higher Ground Farms project absolutely has no business being there.

2. The project would alter the viewshed on Finley East Road and views of Mt. Konocti, which is considered sacred to culturally-affiliated tribes.

Staff Response: *Per the Lake County Zoning Code for Agricultural zoning (Article 5, section 5.15), accessory agricultural structures may be up to fifty (50) feet tall. The proposed greenhouses and accessory agricultural structures may be up to fifty (50) feet tall. The proposed greenhouses and processing facility would be below this limitation. Additionally, mitigation measures requiring blackout screening, fencing, and vegetative screening would be implemented to reduce impacts to the extent practical. Lastly, the applicant has agreed to relocate the cultivation site approximately 200 feet further south to be at least 500 feet away from the Kelsey Creek Schoolhouse building, and additional vegetative screening being placed between both the Kelsey Creek Schoolhouse building and the processing facility, as well as between the Kelsey Creek Schoolhouse building and the cultivation stie. (SIC)*

Related to tribal cultural resources, Staff sent Assembly Bill (AB) 52 notices to 11 tribes on April 8, 2022, informing tribes of the proposed project and offering consultation under AB-52. Of the 11 notified Tribes, the Yocha Dehe Tribe and the Upper Lake Habematolel Tribe replied, deferring to Big Valley and Middletown Rancheria Tribes. No other tribes responded to the AB 52 notice. Cultural and tribal cultural resources were also analyzed in the Initial Study and associated Cultural Resources evaluation, in compliance with the California Environmental Quality Act. These analyses found impacts to cultural resources to be less than significant with implementation of mitigation measures.

LARA response to staff response: FALSE. The first paragraph **completely misrepresents** the entirety of LARA's concerns, which included and **emphasized** the building pad located less than 200 feet to the east of the Kelsey Creek Schoolhouse, not just the greenhouses.

That processing building pad was allowed to be placed there under, as we were told by staff, a "ministerial exemption" because it was supposed to be used for hemp. Once placed, however, the appellant has decided it will be used for cannabis.

During public comment at the Jan. 11 Planning Commission meeting, community member and businesswoman Toni Scully — who was part of the county committee that created the local

cannabis rules — spoke about her concerns on the Higher Ground Farms Project. She is also a neighboring property owner, and she noted how neighbors received no notice until late in the planning process.

Further, in discussing the placement of the processing building pad, Scully raised concerns that Higher Ground Farms had first proposed to grow hemp and now is intending to be a cannabis operation. “And now we’re all guessing what that building’s going to be used for. I hope this isn’t going to be a procedural thing for future cannabis operations that apply for permits. Do you understand?” she asked.

That is our concern as well.

Of even greater concern is that the staff report misstates Commissioner Brown’s concerns about the sacred viewshed of which Mount Konocti is the center.

The AB 52 consultation process has focused mostly on “cultural resources,” and while it refers to landscapes, it has not meaningfully spoken about “viewsheds.”

The fact that tribes did not respond to this specific concern does not mean it does not exist. Quite the contrary. What matters is, as the process has continued, Commissioner Brown, a member of the Elem Colony of Pomo — a culturally affiliated tribe that we believe was among the 11 tribes noticed according to the staff report, although that report does not name all of them — reviewed and analyzed the project and found that the viewshed had not been taken into consideration. Commissioner Brown raising the issue means *it does exist*. That is his job as a planning commissioner, and the other commissioners joined him in that concern.

Commissioner Brown explained that he understood that the tribes had their opportunity to comment. “Whether they chose to or not, whatever their position is, is their position,” he said. For him, however, the viewshed alone was an important issue.

“Going back historically, to the tribal community, the mountain is sacred and is respected as sacred. So those viewsheds are sacred,” he said. As such, that was enough to require taking another look at the project, and so he was not willing to support the project at that point.

Commissioner Brown is correct. It is a sacred viewshed. That reverence unites the first peoples of this county and others who now live here, as well as Lake County’s visitors and friends.

Mount Konocti, it can be argued, unites Lake County residents as few other things do.

The fact that the appellant has always downplayed the viewshed’s significance throughout the planning process — which is proved in documents we received through our Public Records Act request — is more evidence that he has failed to study and understand this community and its landscapes and the inevitable impacts his project will have on them. More seriously, when those concerns have been raised, he has denied and deflected them.

It should also be noted that, based on county documents, the tribes noticed according to AB 52 did not raise issue with the project's close proximity to the "Mostin site," but that makes protecting that significant archaeological site *no less important* than protecting the viewshed. If the Planning Department wouldn't discount the importance of the Mostin site, which wasn't directly addressed by the tribes, why is it doing so with the viewshed and landscape and using the excuse that the tribes didn't raise the issue? How is that consistent?

Besides the incongruity of the greenhouses this project will have, the processing building will be taller than the schoolhouse next door by 10 feet, so it cannot do anything but damage and block the viewshed of Mount Konocti, which those who use and love the schoolhouse have enjoyed for 142 years.

Commissioner Field concluded that while she appreciated staff's attempts to work with people, "I don't want to see staff spending more time on this. I don't see how the aesthetic issues can be addressed, with conditions. And the other things I mentioned, I don't think they can be mitigated." That led her to making the motion to deny the project, which Commissioner Price seconded and the commission approved 3-1.

We believe this project will be as damaging to the landscape and viewshed in this area as the "We Grow" project would have been for the Hidden Valley Lake and Middletown areas. Like this project, We Grow had staff approval before it was finally defeated thanks to community advocacy.

FURTHER, THIS IS AN ATTEMPT TO SET PRECEDENT. *Cannabis is not agriculture.* The Community Development Department continues to wedge cannabis into agricultural zoning and use ag rules to justify it. Cannabis is not considered ag in local and state law, as it does not meet the "food and fiber" requirement. This appears to be part of a larger effort to set precedent by treating cannabis as agriculture, which, again, it is not. That raises the specter of eventually putting cannabis under the "right to farm" ordinance, which will be devastating for agriculture and the broader Lake County community alike.

Finally, like Commissioner Field, we don't think staff should be spending any more time on this project. It has wasted enough time, resources and energy of community members and county staff alike to try to make this bad project passable.

4. Impacts to Kelsey Creek.

Staff Response: The County Code requires a 100-foot setback from all water courses. The cultivation site and associated buildings are a minimum of 475 feet away from Kelsey Creek and Finely East Road provides further separation between the site and the creek. The applicant has also submitted a sediment and erosion control plan (sheet 4 of Site Plans) that show stormwater mitigation measures that adequately address slope and erosion control, in accordance with Lake County Grading Regulations, the State Water Resources Control Board Order No. WQ

2019-001-DWQ and Construction General Permit 2009-009-DWQ. Lastly, the Initial Study (And associated Biological Report) found impacts to Kelsey Creek to be less than significant.

LARA response to staff response: FALSE. Yet again, the staff report points to the initial study, which is thoroughly flawed and completely inaccurate and cannot be used as the basis of project approval.

The initial study report gave little serious consideration to Kelsey Creek, which, thanks to the Board of Supervisors' declared hitch emergency in February 2023, is now being studied by the State Water Quality Control Board to understand how water use, including groundwater, impacts the creeks in which the hitch spawn.

The initial study mentioned the Clear Lake hitch by name only once, made no reference to the Board of Supervisors' February 2023 emergency declaration for the fish and concluded that the project "would not result in direct impacts to sensitive fish and wildlife species." It made recommendations to prevent erosion and sedimentation as a way to mitigate impact on these "sensitive species."

Yet, the initial study's conclusion that the project will not harm the hitch cannot be supported by evidence, and considering current actions by the state, it is likely to be completely and thoroughly disproved.

Once again pointing to how this initial study has not been updated or changed since the original public comment period, that document includes no new information or considerations in response to the State Water Board's recent action in issuing the Clear Lake Information Order.

During the Board of Supervisors' March 5 meeting, there was a discussion on the Clear Lake hitch's status. At that time, California Department of Fish and Wildlife senior environmental scientist Felipe La Luz specifically stated that the hitch use the entire watershed. As such, the impact of water uses — including groundwater — need to be closely studied in all situations. Yet, projects like this continue to be pushed through the planning process and approved before these questions have been answered. That illustrates an astonishing amount of hypocrisy on the part of the county — to raise issues with the hitch and yet not take meaningful action on proposed projects that could harm the fish.

Just as concerning is how that initial report rules that this project will have a "less than significant" impact on water uses. How does it arrive at that conclusion? Here's how: By using an 18-year-old groundwater management plan as the basis of determining current agricultural water demand within the Big Valley Groundwater Basin.

That conclusion also cannot be justified based on the fact that cannabis has been proved to use more water than commodity crops, on which that 2006 study would have been primarily based.

Additionally, based on our experience with them, we have no confidence that the applicant and property owner are competent or to be trusted with actually ensuring sediment and erosion controls are implemented beyond what is placed on paper. As such, **county staff can anticipate spending considerable time and resources** to ensure that permitting conditions are met and adhered to, ***if that's even possible***, which we seriously doubt.

5. Proximity to a 'school'.

Staff Response: The "Hells Bend Schoolhouse", also referred to as the Kelsey Creek Schoolhouse is located on the parcel (APN 008-026-06) immediately west of the proposed cultivation site. According to Dr. John Parker, the Schoolhouse was built in 1869 and relocated to its present location in 1882. Classes were held in the schoolhouse until 1920, when the use of the building as a school discontinued. Please refer to the January 11 Planning Commission Staff Report for more information.

Article 68 (Definitions) of the Lake County Code defines a 'school' as follows,

School: "For the purpose of cannabis regulation, school means any public or private school providing instruction in kindergarten or any grades K to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes. (Ord. No. 3709, 12/11/2018)".

Staff must analyze the project for compliance with required setbacks from existing uses. The building has not been utilized as a school since 1920 and does not meet the definition of a school per the County Code. Although LARA has been in contact with Community Development Department (CDD) Staff related to their intentions to restore and utilize the building as a community gathering space and event center in the future, no such permits have been submitted to CDD to date for review. Additionally, the County Code does not allow school uses within the "A" zoning district. As noted above, the applicant proposes to use the secondary driveway further east from the building and would plant vegetative screening between the building and cultivation area, and processing building to reduce potential impacts to the adjacent site. The proposed project would not prohibit the School District and LARA from future rehabilitation of the building or other plans for the site.

LARA response to staff report: FALSE. There are so many false and misleading statements in this section of the report that it's hard to know where to begin.

So let's start with the semantics argument of whether this is a "school." On this site's function as a school, we have this to say: It is a 19th century school, the last of its kind in Lake County. It has always been a schoolhouse. It will always be a schoolhouse. That is its traditional and enduring form and function. The county's actions over the years to rezone it away from that historic use raises all manner of questions that will have to be addressed another day.

The schoolhouse will always have an educational function, which both LARA and the Kelseyville Unified School District — which owns the property on which the schoolhouse is located — have committed to in our work together in a public-private partnership. That is why we have a 50-year agreement that requires the schoolhouse remain where it has been since 1882 and be used for community benefit, with educational purposes key among its intended uses.

Staff continues to try to do linguistic gymnastics to argue otherwise when it comes to the school's status and use. It's a semantic argument and nothing more. **Repeating a falsehood continually does nothing to make it true.** It does, however, appear to be a way to try to push through this horrendous cannabis project.

Commissioner Field addressed the building's status as a school during the Jan. 11 Planning Commission meeting. "It was a school originally," she said. "That's a place where children gather. Maybe it hasn't been used as a classroom, specifically, for 100 years but it's a school. So I'm trying to think outside the way we bureaucratically evaluate the rules and I think it's fair to say, I mean in my opinion, that should trigger the thousand-foot setback requirement. I mean, I look at it, it's a school. It's a historic attraction and it should remain that."

During the discussion, she corrected the planning staff's continued inaccurate statements in which they insisted that the school building had not been used, for anything, since 1920. That was despite the fact that we had informed them that was untrue — as recently as the day before that meeting — but which they continued to repeat even at the meeting.

Commissioner Field also raised issues with the project's property management plan. "You need to apply it to the project," she said. "What I'm seeing is a cut and paste document that doesn't apply to this particular situation. So to me that's inadequate."

She questioned planning documents that claimed the project is situated in "a relatively remote area."

"I don't think so," she said.

She also read from the Jan. 11 staff report that stated that the project "does not have the potential to create substantial public controversy."

Field pointed out that they had 96 pages of public comment on the item. Substantially more public comment has been submitted since then.

Later in the meeting, Field raised legislative concerns that don't address whether the Higher Ground Farms project fits into the neighborhood. "And I just really feel that it doesn't."

Similarly, Bobby Dutcher, a Realtor who in recent years has specialized in cannabis projects and been a part of establishing local cannabis rules, also has weighed in on the Higher Ground Farms proposal. "Since it is public property and plans are being made to have the public use

this again I would think a 1,000 foot setback would be appropriate. I don't think this owner got very good advice when he bought it," he said in an email included in the public comment packet.

We believe that the project violates both the spirit and intent of rules regarding siting of cannabis operations.

This leads us to ask: How can the location of a cannabis grow be justified next to a historic school site? The answer: It can't. That is truly the issue. It looks terrible. Yes, that is what you are being asked to allow.

Next, we will address this statement: *"Although LARA has been in contact with Community Development Department (CDD) Staff related to their intentions to restore and utilize the building as a community gathering space and event center in the future, no such permits have been submitted to CDD to date for review."*

That **seriously and intentionally misrepresents** what LARA has attempted to do thus far. Being "in contact" does not relay the actual reality. This report is suggesting we either aren't doing anything or aren't following county planning rules, both of which are incorrect.

LARA began notifying the county in June of 2019 about its plans for the building, long before it took the keys to the building in May of 2022, and well before these appellants purchased the property next door, in order to head off the very situation we are facing today. Our Public Records Act request shows that all along county staff failed to give us complete and accurate information in response to our information requests about what was happening with the Higher Ground Farms project leading up to the release of the flawed initial study last year.

We met with planning staff on Jan. 9 and on Jan. 24 to voice our concerns about this project specifically and to discuss our project. During the Jan. 24 meeting, we were told that even if we had our event center project under way and in the use permit process, it wouldn't matter, since the general plan doesn't have setbacks for cannabis projects from event centers.

We met, in person, with Community Development Department staff Mireya Turner, Michelle Irace and Bill Collins on Feb. 16 with a list of our project's aspects in order to confirm what requires permitting and what does not. The work we have done so far — including lead paint remediation — doesn't involve any permitting from planning, which is why permits haven't been submitted. CDD staff appear to be under the impression that the school requires an absolute rebuild, which it does not. Most of its issues are cosmetic and do not require permits. We have told them we will pull the permits for aspects when we are ready to do them later this year. Again, they are attempting to suggest that our project isn't active, and that is false.

Perhaps the larger issue is, this statement by staff about our project is a red herring. Our project isn't at issue here. It's Higher Ground Farms' project. And their project doesn't fit at this site, in this specific ag-based neighborhood or in this community.

MAJOR USE PERMIT FINDING REQUIREMENTS CANNOT BE MET

Next, we turn to section four of the staff report, “MAJOR USE PERMIT FINDINGS FOR APPROVAL.” It states that the major use permit can only be permitted if nine requirements are met. The staff report claims those requirements can be met; we will tell you why they cannot.

1. That the establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental to property and improvements in the neighborhood or the general welfare of the County.

The only way that you can find that it will not be “detrimental to the health, safety, morals, comfort, and general welfare” of the community is if you ignore all of the information and evidence supplied by LARA and other community members. That information has largely been ignored or downplayed by staff, which is how they have arrived at this conclusion. That includes not paying attention to air quality, water resources, the Clear Lake hitch, impact on cultural resources and damage to the landscape, which we have outlined in this letter and in our June letter raising issues with the initial study. That letter is in evidence in the public comment packet.

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.

The setbacks are not adequate, and the appellant purposefully has tried to take the use of adjacent properties by bunching his project close to property lines, and by misrepresenting property lines on the maps he provided to planners. LARA questions all distances and measurements for how close the building pad for the processing building and grow site are said to be from the property lines and the buildings on the school-owned property, as they clearly are not consistent with the written plans.

3. That the streets, highways, and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.

The California Highway Patrol raised issues with the safety of the ingress-egress for this site and for the potential conflict between a cannabis operation and the schoolhouse’s intended community and educational use. It points to the inadequate condition of the Higher Ground Farms driveway to be suitable for commercial use. The staff report did not even refer to those concerns.

Additionally, the staff report states, “The applicant has agreed to use the secondary driveway as the primary access to the cultivation site in order to keep cannabis-related traffic further from the Kelsey Creek Schoolhouse site’s access.” This is represented as a concession, **when in fact it is a key correction**, as the appellant provided maps to the county that variously showed the driveway next to the schoolhouse as either being on the school’s property or divided by a

property line. It simply cannot be used, period, because of its proximity to the property line and lack of setbacks.

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

In the case that the appellant and his employees misuse or mishandle dangerous chemicals or otherwise are responsible for an explosion or fire, we have concerns that the fire department could not be on scene quickly enough to stop a disastrous and deadly conflagration.

In addition, with the sheriff's office reporting ongoing challenges with recruitment and retention, the statement that there is "police protection to serve the project" appears to be unsupported.

Once again, we challenge water supply based on an old report that used commodity crops to determine water usage, not water-intensive cannabis.

Regarding sewage disposal, we also have grave concerns about the appellant's leach field. Following the Jan. 11 Planning Commission hearing, Leo Cortina, the property owner, accosted LARA President John Jensen to tell him that LARA would not be able to use the property due to his leach field. This has required an investigation by Lake County Environmental Health, and testing of the school property's water source is pending. While Environmental Health provided information that their staff believes shows the leach field is not likely to cause damage as Mr. Cortina alleged, we remain concerned that he has misrepresented the sewage system either to us or Environmental Health, or both. We believe more investigation is required.



Above, Leo Cortina (blue shirt) accosts John Jensen after the Lake County Planning Commission denied the Higher Ground Farms use permit and initial study on Jan. 11, 2024. Zoom screen capture.

1. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.

This project does not conform with the General Plan or Kelseyville Area Plan, not just because they don't include commercial cannabis but because it is damaging to the landscape and environment, its water use calculations are unsupported and it violates historic preservation requirements.

Staff says this: "The General Plan and Kelseyville Area Plan do not have any provisions specifically for commercial cannabis, but both plans have provisions for economic development and land use compatibility."

Yet, this project is completely incompatible with historic or neighboring uses.

Further, the idea that this project would be good for economic development begs belief. With the cannabis industry crashing in spectacular fashion, and when one considers the amount of monitoring that will be necessary to ensure that this appellant follows through with adhering to laws and regulations, there is no economic development to be expected. That is a fantasy.

2. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.

LARA believes that this property has violations of Chapter 5: Building Regulations of the Lake County Code for a residence built within the setback of the property line, unpermitted agricultural structures, open and outdoor storage of materials, and large amounts of trash.

3. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.

Staff claims that the proposed use permit is consistent with Article 27, section 1.i., as well as other portions of the Zoning Ordinance, General Plan and Kelseyville Area Plan. The Planning Commission did not agree. That is evidence that the use falls short of compliance.

4. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii. (g).

The appellant has yet to pass a background check and we question how thorough the county's background check process is considering the many issues we have seen with that process. He has a long history of failed businesses and former employees accused him of unethical business practices, including not paying wages as required under state law, which led to a

lawsuit and significant state fines and penalties. All of that disqualifies him for making an application to conduct business in Lake County.

5. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii. (i).

The Planning Commission rejected this permit and so it does not comply with the qualifications of Chapter 21, Article 27, Section 1.ii. (i).

INCONSISTENCY WITH VISION 2028

At the end of the 10-page staff report, right before staff recommends the board overturn the Planning Commission's excellent decision, there is a list of items consistent with the county's "Vision 2028."

"Check all that apply," it says.

Is "well-being" checked? No.

Public safety? No.

Disaster prevention, preparedness and recovery? No.

Infrastructure? No.

County workforce? No.

Community collaboration? No. ***Definitely not.***

Business process efficiency? No.

Clear Lake? No.

What is checked? "Economic development."

To claim that the Higher Ground Farms project is good for economic development without having actually researched the appellant's failed record of business is highly prejudicial, and in our view amounts to activism on the part of county staff. ***It is based on zero evidence. Absolutely none.***

Even if the appellant didn't have a history of dissolved businesses, shell LLCs, lawsuits, nearly \$60,000 in state labor department fines and Chapter 7 bankruptcy, claiming such projects are good for Lake County's economy begs belief considering the disastrous arc of the failing cannabis industry.

Is this the county's idea of job creation? Why would anyone want to work for someone with a history of not paying their employees and having to be taken to task by the state in order to enforce labor law?

Vision 2028's webpage is headed by this statement: "Reimagining Lake County - 10 Years, 10 Key Priorities."

Vision 2028's first point is, "Consider and promote the well-being and economic resilience of every Lake County resident."

The Higher Ground Farms project does nothing to further that goal — quite the opposite. It trades away a beautiful landscape and sacred viewshed for a project based on a product that more studies are finding has harmful health effects, in particular, raising the incidence of heart disease in users. As evidence, please see the attached study from the University of California, San Francisco published in February, titled, "Think Smoking Cannabis Won't Damage Your Health? Think Again. When it comes to cardiac risks, UCSF study finds smoking pot is like smoking tobacco."

Lake County has some of the worst health outcomes in the state, particularly when it comes to heart disease, its highest cause of mortality, according to the California Department of Public Health. In fact, heart disease rates in Lake County are nearly twice the state average. In light of that, to claim this project has some kind of merit that benefits the well-being of Lake County's populace is ***insulting, absurd and flat-out dangerous***.

Beyond that, Lake County's economic development is not enhanced by welcoming out-of-county self-styled marijuana "activists" with track records of bad business practices — or their business partners who threaten neighbors — to operate here.

Rather, county officials should hold such individuals and the promises they make to a higher level of performance, and act accordingly — and swiftly — when those promises evaporate. Too much is at stake in Lake County to lower the bar so much that projects like Higher Ground Farms can get in and get county staff to advocate for them through misrepresentations and reports that fail miserably in their required analysis.

Projects like Higher Ground Farms don't support Vision 2028. They directly contradict its stated aims. Rather than prosperity, they create poverty, distrust, the potential for criminal activity such as theft and robbery, and pressure on precious resources that should not be traded away on such thin justifications as offered by the appellant but, more so, by staff.

Once you uncheck that "economic development" box, there is nothing that makes this project qualify for adherence to Vision 2028. Nothing. Not one thing.

Vision 2028 also speaks to maintaining "a transparent County government that is responsive, efficient, effective and fair." We're still waiting to see if that one is borne out, as our attempts to seek information and resolutions over the course of this situation have not shown us a local government that is transparent or that meets those other goals. Rather, we have seen one that has consistently created obstacles in the path of community members seeking to protect their neighborhoods and historic sites.

When considering this appeal, maybe the biggest questions are, when is enough enough? How much more must community members give up in their quality of life, safety and comfort to support an industry that has fallen far short of expectations, is cutting deeply into our resources and is now economically crashing, while also dealing with threats from bad actors who appear to mean genuine harm to those around them?

These are not rhetorical questions. They are deadly serious. They demand answers.

Now it's up to you to decide what the answers will be. Choose wisely, because if you decide to overturn the Planning Commission's ruling, it will have a long and vastly detrimental effect on an area with great historical, cultural and farming significance. Once lost, those values and resources cannot be recovered.

We urge you to reject the "gold rush" mentality that is behind the Higher Ground Farms project. We continue to deal with the impacts of California's Gold Rush era that ended 170 years ago with the harm it did to the landscape. Let's not repeat that here.

And, please — stop incentivizing bad behavior in Lake County. Protect this county's amazing people and resources for the long-term, not short-term goals based on a false economic narrative. That should be among your highest goals.

Sincerely,



John Jensen
President/Co-founder
Lucerne Area Revitalization Association



Elizabeth Larson
Secretary/Cofounder

ATTACHMENTS (IN ORDER):

- Pomo Bulletin, article on Kelsey Creek Schoolhouse
- CHP letter on Higher Ground Farms
- “Think Smoking Cannabis Won’t Damage Your Health? Think Again. When it comes to cardiac risks, UCSF study finds smoking pot is like smoking tobacco.” Feb. 28, 2024.
- “Funny Business Alleged at Pot Shop,” Courthouse News Service, June 5, 2012.
- “Lawsuit filed over control of Hopland pot dispensary,” Santa Rosa Press Democrat, July 31, 2012.
- Review of Collective Conscious Apothecary (one of Oliver’s failed businesses)

POMO BULLETIN

FEBRUARY TWO THOUSAND AND TWO

PUBLISHED BY

LAKE COUNTY HISTORICAL SOCIETY

POST OFFICE BOX 1011 * LAKEPORT, CA 95453

(Organized In 1955)

Presenting

EXCERPTS OF LAKE COUNTY HISTORY



KELSEY CREEK SCHOOL
"HELL'S BEND SCHOOL"

Kelsey Creek School, "Hell's Bend"

By Ray Mostin

In 1856 the Napa Board of Supervisors established the Big Valley School District in the area now called Kelseyville. The first school was known as the Arnold Knoll School, located 3/4 mile west of the present school known as the Kelsey Creek School on Finley East Road. In 1860 there were too many children for one school and the school district was divided. One district was called "Big Valley District" and served the area west of Big Valley. The other district to the east was called "Kelsey Creek School District".

Al our records burned in the court house fire of 1867. For their records, the Board of Supervisors then re-established the lines of the Kelsey Creek School District. It started at Clear Lake and took in most of Big Valley. It included the Buckingham area as well. The first Kelsey Creek School building was built one mile north of Kelseyville on land that was donated by the Boyd brothers. This land is now owned by Herb Rogers and is now a pear orchard.

In 1871 this building was torn down and the useable building material was transported to a site on the Quercus Ranch that was then owned by Seth Rickabaugh. He donated the land and rebuilt the Kelsey Creek School building.

Later a small portion of the land belonged to Al Brundige. Was the school on his property, which is alongside the present Quercus Ranch? For whatever reasons, later in time, citizens called it the Brundige Ranch School. When water was high, pupils could attend classes at the Henderson home in Kelseyville School was taught for only a few years at the Brundige Ranch site.

Here is the story of how the Kelsey Creek School building got its name of Hell's Bend School: An old Kelseyville druggist Mr. Maxwell, is credited with giving an area within the bend of Kelsey Creek, two miles north of Kelseyville, the name Hell's Bend. The reason seems to have been that when several of the men living in that area went to town and got liquored-up there would be "hell to pay when they returned home."

Kelsey Creek School moved several times and at one time was located within the above territory; many old-timers referred to it as Hell's Bend School. The school was finally moved to a location one mile east from Finley, but the school had been branded Hell's Bend.

In 1882 Rickabaugh sold the Quercus Ranch to Captain Floyd. Rickabaugh relocated to a large parcel of land southwest of the present Quercus Ranch. Rickabaugh donated another parcel of land and neighbors moved the schoolhouse to its present location. On Finley East Road. Some of the building material used to construct this school house came from the original Kelsey Creek School building that was built in 1860 and rebuilt in 1871 , finally relocated to its present site in 1882.

The present school was used until 1920 when the consolidation of the smaller one-room schools was made on March 9, 1920. School was taught in this school until July 1, 1920.

An agreement was made with the new school district in Kelseyville and the families of the Kelsey Creek School District that the building would be maintained by the school district and would be used for a social center for the community. This use has continued to the present time.

A lease agreement between the Kelseyville School District and the Kelsey Creek Community Club to use this school as a community center. This agreement was signed on February 16, 1947 for a term of twenty-five years. Floyd Fultz, President and Herb Rogers, clerk of the Kelseyville School District, signed this agreement. Board and by Nin Stedman, president and Julian Mostin, secretary of the Kelsey Creek Community Club.

In 1958 an attempt was made to move the school building to the Lake County Fairgrounds in Lakeport and the land at the present location was to have been sold. The community rose up in opposition to the idea of moving a historical building from its historical site. Renovation was begun to make the building useable as a community center once again. A working committee was formed and fifteen to twenty thousand dollars was donated in labor and materials. Maintenance was carried on by the Restoration Committee on the grounds and the building and continues to the present.

A front fence was rebuilt with the help of the Early Lake Lions Club. The state historical marker (marker #2) has been put back in place with a sign designating the site of the community center. The schoolhouse and the location of the building are a part of the area's history and the residents in the area and in the county do not want to see it destroyed. It is one of the last one-room schoolhouses to survive. The committee has collected desks and schoolbooks used in the building during the time classes were held there. We hope that the

Hell's Bend schoolhouse will be used for field trips for today's school children so that they may enjoy our heritage.

Over the years we (the community) have provided the maintenance for the grounds and materials and maintenance for the building in order to make Hell's Bend school an attractive historical site that can be enjoyed by visitors and as a community center by our neighbors.

This is where we are now:

The Hell's Bend Restoration and Community Center Committee is made up of descendants of local pioneer families who attended school in this building and interested taxpayers who have committed their time and money to this project.

We have met with the Kelseyville School District board and presented an agenda outlining a complete restoration of the school. We also met with friends of the museum, Lake County Historical Society and other interested community groups who are willing to help with this project.

With a modest amount of money in our restoration account and pledges and commitment from the Kelseyville School District we will:

1. Rebuild the brick foundation supports of the schoolhouse.
2. Replace and repair the siding on the building.
3. Upgrade the siding on the bell tower to match the building.
4. Repair and/or replace window frames and glass.
5. Hang the inside doors and repaint original doors.
6. Repair roof where it is needed.
7. Replace the outhouse with a modern flushing toilet and wash basin.
8. Run a water system to the schoolhouse.
9. Replace the carriage house.
10. 10. Install a heater in the schoolhouse.

This is the last remaining one room schoolhouse in Lake County that remains in its original form.

The schoolhouse and the location of the building are part of the area's history and the residents of the area and in the county want to see that it is preserved and utilized.

We need your help!

Donations can be sent to:

Hell's Bend Schoolhouse Restoration

c/o Ray Mostin

3580 Finley E Road

Lakeport CA 95453

Alexandra Owens

From: CHP-EIR <EIR@chp.ca.gov>
Sent: Friday, June 9, 2023 9:36 AM
To: eric.porter@lakecountyca.gov; OPR State Clearinghouse
Cc: Fansler, Daniel@CHP; Abrahams, Kristen@CHP
Subject: SCH# 2023050164

Categories: Comments



Good morning,

Please see the response below from Lieutenant Commander Dan Fansler of the California Highway Patrol, Clear Lake Area, for SCH# 2023050164 .

Thank you,

Kristen Abrahams (Lange), AGPA
Special Projects Section, Transportation Planning Unit
CHP Headquarters
601 N. 7th Street
Sacramento, CA 95811
Office: (916) 843-3370
Direct: (916) 843-3386

From: Fansler, Daniel@CHP <DFansler@chp.ca.gov>
Sent: Friday, June 9, 2023 8:37 AM
To: CHP-EIR <EIR@chp.ca.gov>
Cc: CHP-10AAdesk <10AAdesk@chp.ca.gov>; Abrahams, Kristen@CHP <Kristen.Abrahams@chp.ca.gov>
Subject: RE: Environmental Document Review – SCH # 2023050164 – Due to Lead Agency by 6/7/2023

It has been brought to my attention the Kelsey Creek Schoolhouse historical site is located at 3505 Finley Road East, directly next door to the proposed Higher Ground Farm commercial cannabis project.

There are many unknowns about how traffic volumes at High Ground Farm — both for workers and for shipping operations — could impact the schoolhouse, which I am told is intended to be utilized for school and community events on a regular basis.

From a traffic safety perspective, I do recognize that there could be a conflict if the two projects are not thoroughly studied. The two sites sit beside each other, with their proposed driveways a short distance apart on a narrow, county-maintained roadway that already sees steady traffic volume, with drivers typically traveling at the speed limit or above in many cases.

The condition of Higher Ground's driveway off of Finley Road East suggests that it will require grading and asphalt to make it suitable for commercial use. How those roadway improvements might impact traffic and the schoolhouse may need to be considered. Respectfully,

Dan Fansler, Lieutenant
Commander
CHP Clear Lake
(707) 279-0103

(707) 279-2863 Fax
dfansler@chp.ca.gov



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From: Eric Porter <Eric.Porter@lakecountyca.gov>
Sent: Thursday, June 8, 2023 7:58 AM
To: Fansler, Daniel@CHP <DFansler@chp.ca.gov>
Subject: RE: Environmental Document Review – SCH # 2023050164 – Due to Lead Agency by 6/7/2023

[Warning: This email originated outside of CHP. Do not click links or attachments unless you recognize the sender and know the content is safe.]

Good morning Daniel,

Sure, take whatever time you need. The June deadline isn't a hard deadline, and I'm not rushing this one through – there are too many concerns being raised about the proximity of the historic Kelseyville School House, which is listed as a historic structure on the State and Local historic registries.

Thanks for checking,
Eric Porter

From: Fansler, Daniel@CHP <DFansler@chp.ca.gov>
Sent: Wednesday, June 7, 2023 4:39 PM
To: Eric Porter <Eric.Porter@lakecountyca.gov>
Cc: CHP-EIR <EIR@chp.ca.gov>
Subject: [EXTERNAL] FW: Environmental Document Review – SCH # 2023050164 – Due to Lead Agency by 6/7/2023

Eric,

Due to recent concerns brought to my attention by community members, can I please request an extension so that I can adequately review this project and possibly offer my input? Respectfully,

Dan Fansler, Lieutenant
Commander

CHP Clear Lake
(707) 279-0103
(707) 279-2863 Fax
dfansler@chp.ca.gov



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From: CHP-EIR <EIR@chp.ca.gov>
Sent: Thursday, May 25, 2023 4:57 PM
To: Dye, Arthur J@CHP <ADye@chp.ca.gov>; Fansler, Daniel@CHP <DFansler@chp.ca.gov>
Cc: CHP-10AAdesk <10AAdesk@chp.ca.gov>; Abrahams, Kristen@CHP <Kristen.Abrahams@chp.ca.gov>
Subject: Environmental Document Review – SCH # 2023050164 – Due to Lead Agency by 6/7/2023

Good afternoon,

Special Projects Section (SPS) recently received the referenced Notice of Environmental Impact document from the State Clearinghouse (SCH) outlined in the following Web site:

[Higher Ground Farms, UP 20-40, Commercial Cannabis Project](#)

Due to the project's geographical proximity, please use the attached checklist to assess its potential impact to local operations and public safety. **If impact is determined**, responses should be e-mailed directly to the Lead Agency with cc to SCH and myself. **If there is no impact**, please do not include SCH or the Lead Agency in your response.

For more information on the EIR review process, please check out: [Power Point Commanders EIR Training.pptx \(sharepoint.com\)](#).

Please feel free to e-mail me if you have any questions.

Thank you,

Kristen Abrahams (Lange), Staff Services Analyst
Special Projects Section, Transportation Planning Unit
CHP Headquarters
601 N. 7th Street
Sacramento, CA 95811

Office: (916) 843-3370

Direct: (916) 843-3386



Think Smoking Cannabis Won't Damage Your Heart? Think Again

When it comes to cardiac risks, UCSF study finds smoking pot is like smoking tobacco.

By Victoria Colliver

The cardiac risks of smoking marijuana are comparable to those of smoking tobacco, according to researchers at UC San Francisco, who warn that the increasing use of cannabis across the country could lead to growing heart health problems.



BY THE NUMBERS

Daily cannabis smokers had a:

- **25%** increased risk of heart attack.
- **42%** increased risk of stroke.

The study found that people who used cannabis daily had a 25% increased risk of heart

Cannabis has become more popular with legalization. Recreational use is now permitted in 24 states, and as of 2019, nearly 4% said they used it daily and 18% used it annually. That is a significant increase since 2002, when 1.3% said they used it daily and 10.4% used it annually.

“Cannabis use is increasing in both prevalence and frequency, while conventional tobacco smoking is declining,” said [Salomeh Keyhani](#), MD, MPH, professor of medicine at UCSF and senior author of the study, which appears Feb. 28, 2024, in the [*Journal of the American Heart Association*](#). “Cannabis use by itself might, over time, become the more important risk factor.”

Cardiac risks for those who never used tobacco

The researchers used data from the [Behavioral Risk Factor Surveillance System](#), a national cross-sectional survey conducted by the [Centers for Disease Control and Prevention](#) to examine the association between cannabis use and adverse cardiovascular outcomes including coronary heart disease, heart attack and stroke.

Cannabis use was independently associated with adverse cardiovascular outcomes, and the odds rose with the number of days per month that a person used it.

They examined whether cannabis use was associated with coronary heart disease, acute myocardial infarction and stroke among the general adult population and among people who had never smoked tobacco.

Among the 434,104 respondents, about 4% were daily users, 7.1% were non-daily (about five days in the month) and 88.9% had not used any marijuana in the past 30 days. Among current users, about three-fourths said they mostly smoked it.

The study found that cannabis use was independently associated with adverse cardiovascular outcomes, and the odds rose with the number of days per month that a person used it.

The study also examined the effects for those who had never smoked or vaped tobacco, finding that just smoking cannabis was associated both with stroke, and with the combination of coronary heart disease, heart attack and stroke.

“This is an important public health finding, particularly given our ongoing efforts to reduce the burden of heart disease in this country,” said David C. Goff, M.D., Ph.D., director of the Division of Cardiovascular Sciences at the [National Heart, Lung, and Blood Institute \(NHLBI\)](#), which is part of the [National Institutes of Health](#).

The perception of risk needs to change

People who smoke cannabis often hesitate to disclose it to their physicians, in part because they don’t consider it as harmful as smoking tobacco, and many states, like California, first approved it for medical uses. The researchers noted it will be an uphill battle to change these attitudes.

“There is a multibillion-dollar cannabis industry that markets cannabis use as not only

with patients because there is evidence that cannabis has some therapeutic properties. However, as suggested by this study, cannabis use also has significant cardiovascular risks.”

Co-authors: Additional UCSF co-authors include Stanton Glantz, PhD, and Amy L. Byers, PhD, MPH.

Funding: NHLBI 1R01HL130484-01A1 and National Cancer Institute (grant T32 CA113710).

Disclaimer: The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health.

TOPICS [Consumer Health](#) [Heart and Vascular](#) [Marijuana and Cannabis](#)
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Funny Business Alleged at Pot Shop

[NICK MCCANN](#) / June 5, 2012

UKIAH, Calif. (CN) - The director of a medical marijuana collective embezzled payroll, dodged taxes and sold large amounts of pot to nonmembers for resale, two member-employees claim in Mendocino County Court.

Django Broomfield and Shara Stamler sued John Oliver, the "de facto controlling member" of the co-op, and California Wide Patient Group Inc. dba Collective Conscious Apothecary.

The Collective Conscious Apothecary (CCA) is a member-owned nonprofit that connects medical marijuana patients to caregivers, according to the complaint. Its dispensary is in Hopland. The plaintiffs accuse Oliver of "conversion and embezzlement of the nonprofit's assets, to wit: unlawful conversion of marijuana, selling the marijuana to nonmembers, and embezzling the nonprofit's payroll and payroll takes."

They add: "As owners and customers, the members have a right to know what the performance of the offices and directors has been, and the true economic situation of the CCA."

Broomfield, also a CCA director, claims that in December 2011 he confronted Oliver after seeing him take money from the group and discovering that a check written to the local fire department had bounced.

"Upon being confronted about these missing funds Oliver alienated Broomfield from the collective and refused to account for his taking of the collective funds intended for charitable distribution," the complaint states.

The plaintiffs say they began seeing Oliver let nonmembers into the group's dispensary on a weekly basis starting in February.

In April, Oliver told Broomfield "that he had some buyers that were not members of the collective that wanted to purchase a large amount of marijuana to resell," according to the complaint.

It continues: "Broomfield told Oliver that he would not participate in any back-door marijuana deals and that it was a bad idea. Oliver then demanded an answer from Broomfield as to whether he was in or he was out of the diversion scheme. Broomfield told Oliver that he would not participate in the diversion scheme and that he was out."

Broomfield also claims that beginning in December 2011, he "witnessed John Oliver repeatedly retain one-half of employees' pay, claiming that the deducted pay was a

'loan' to CCA." He claims he demanded an accounting on Jan. 1, and that Oliver has refused to provide it.

Stamler claims Oliver promised to pay her \$5,000 a month to work at CCA, beginning in November 2011. She claims he did not pay her at all for November or December, and after she called him on it, he told her he would pay only half of what she was owed, "and the remaining balance owed would have to be loaned to CCA."

Stamler claims the defendants owe her \$15,000, and that Oliver "told her to sue him if she ever wanted any of her back pay."

Both plaintiffs say they "believe that defendant John Oliver embezzled these funds for his own personal gain."

They also claim that Oliver paid the collective's payroll in cash and gave employees written pay stubs showing tax withholdings, but kept the tax withholdings for himself.

Stamler claims Broomfield fired her after Broomfield refused Oliver's request "to sell pounds of marijuana to unqualified nonmembers out the back door of CCA."

The plaintiffs seek an accounting and an order restraining Oliver from managing the group. Broomfield wants to be appointed as a receiver to take over the collective pending the outcome of the lawsuit.

The plaintiffs are represented by Rebecca Mendribill in Santa Rosa.

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March 1, 2024

Lawsuit filed over control of Hopland pot dispensary

GLENDA ANDERSON
THE PRESS DEMOCRAT
July 31, 2012



Two members of a Hopland-based medical marijuana dispensary are suing for control of the organization, a sign of marijuana's march toward the mainstream.

"I think that cases like these in state court may become more frequent as the industry becomes more legitimized and entrenched in the routine machinations of society," said Kris Hermes, spokesman for the medical marijuana advocacy group Americans for Safe Access.

The civil lawsuit was filed in Mendocino County Superior Court by Sonoma County residents Django Broomfield and Shara Stamler, members and former employees of Collective Conscious Apothecary, located in a recently renovated building on Hopland's historic main street, Highway 101. The dispensary is part of California Wide Patient Group, a mutual benefit corporation that provides medicinal marijuana to about 2,560 patients, according to court records.

Broomfield and Stamler allege the organization's founder and chief executive officer, John Oliver, has failed to follow laws regulating medicinal marijuana and mutual benefit corporations. He's engaged in illegal activities, including selling large amounts of marijuana to non-members of the organization, they claim in the lawsuit.

"As a result of defendant John Oliver's illegal acts, unsuspecting members of the organization may all be placed in harm's way, which may render them unknowingly liable or subject to criminal sanctions," according to the civil lawsuit, filed in late May.

They also allege Oliver refused them access to the corporation's documents and embezzled payroll and payroll taxes. Stamler, who managed the dispensary for five months, claims Oliver withheld half of her \$5,000 monthly paycheck, calling it a loan to the corporation.

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The plaintiffs are seeking control and dissolution of the corporation so they can form a new nonprofit "which has not been tainted by the director's unlawful activities," according to the lawsuit.

Oliver did not return phone calls seeking comment, but his attorney, Philip DeJong, said there's no merit to the case. I "sure haven't seen the beef," he said.

Neither Broomfield nor Stamler nor their attorney could be reached to elaborate on the allegations and their plans for the corporation should they succeed in wresting its control from Oliver and his wife, the only two corporate board members.

You can reach Staff Writer Glenda Anderson at 462-6472 or Glenda.anderson@pressdemocrat.com.

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Collective Conscious Apothecary

13325 US-101, Hopland, CA

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 7 years ago

CCA closed down in 2014 due to the incompetence of the owner and terrible quality of products.

The new club which has opened in its place is called Mendo Organics.

It has absolutely no affiliation with the owner of CCA and is a much higher quality experience and business. It is owned by Oragnicann.



Like

1 Lisa L. Gygax, SB# 176029
2 6490 Front Street #203
3 Forestville, CA 95436
4 telephone: (707) 540-1864
email: guitargygax@yahoo.com

5 Rebecca Mendribil SB# 262840
6 50 Old Court Square, Suite 205
7 Santa Rosa, CA 95404
telephone: (707) 468-4300
email: rebecca.mendribil@gmail.com

8 Attorney for the Plaintiffs,
9 Shara Stemler, Django Broomfield,
10 Tasha Harrison, Arthur Dupraw, and Monic Mora

11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 IN RE:

14 JOHN CHARLES OLIVER,
15 DEBTOR

CHAPTER 7
CASE NO. 15-10575

16 SHARA STEMLER, DJANGO BROOMFIELD,
17 TASHA HARRISON, ARTHUR DUPRAW,
18 AND MONIC MORA

19 Plaintiffs,

20 Vs.

21 JOHN CHARLES OLIVER,

22 Defendant.

COMPLAINT FOR
DETERMINATION THAT THE
INDEBTEDNESS OF JOHN
CHARLES OLIVER TO SHARA
STEMMLER, TASHA HARRISON,
ARTHUR DUPRAW & MONIC
MORA AS NONDISCHARGABLE
AND AN OBJECTION TO THE
ENTIRE PETITION OF JOHN
CHARLES OLIVER
{11 U.S.C. §523(a)(4) AND 11 U.S.C.
§523(a)(6)}
JURY TRIAL REQUESTED

23 / JUDGE: Hon. Alan Jaroslovsky

24
25
26
27
28
COMPLAINT FOR DETERMINATION THAT DEBTS ARE NONDISCHARGEABLE

1
2 Plaintiffs Shara Stemler, Django Broomfield, Tasha Harrison, Arthur Dupraw, and
3 Monic Mora (collectively "Plaintiffs"), respectfully represent that this Adversarial
4 Proceeding Complaint and Objection to Petition is one arising in Debtor, John Charles
5 Oliver, Case No. 15-10575 under chapter 7 now pending before this court.

6 Plaintiffs allege as follows:

7 **JURISDICTION**

8 1. The court has jurisdiction in this adversarial proceeding pursuant to 28 U.S.C.
9 Section 157(b), 28 U.S.C. Section 1334 and 11 U.S.C. Section 523. This adversarial
10 proceeding is objecting to the discharge of the debt which debtor owes to Plaintiffs related
11 to the special verdicts and Judgments the obtained in the Sonoma County Branch
12 California of the Labor Board that both include wage claims during the debtors role as a
13 fiduciary. The objection is based on the fraud and perjury of Oliver and his unclean hands
14 that prevent him from using this forum as a petitioner.
15

16 The alter ego claims are not core proceedings and a jury trial is requested as to that
17 portion of the causes and claims. Plaintiffs make no waivers of any right by filing this
18 complaint.
19

20 **FACTUAL BACKGROUND AND PROCEDURAL HISTORY**

21 2. In early 2011 John Oliver hired the plaintiffs to work at his medical marijuana
22 dispensary in Hopland, California as statutory employees.
23

24 3. Oliver represented that he had started the mutual benefit corporation and it was run
25 properly under the law and that he and his wife Megan Oliver were on the corporation
26 board of the mutual benefit corporation California Wide Patient Group, Inc.
27

1 4. Despite California and Federal law that a manager who holds payroll taxes and
2 withhoold income taxes and owes wages must promptly and property pay payroll when
3 owed as to employees and amount withheld from employee wages, John Charles Oliver
4 embezzled the waged of the plaiintffs.
5

6 5. When the workers complained about not being paid thier complete wages and
7 other labor violations complaints, John Charles Oliver fired the employees in bad faith.
8

9 6. John Charles Oliver falsely filed documents under the pentaly of perjury in the
10 State of Califiornai that he had noticed all credtiors before he filed to dissolve his
11 corporation when in truth, he had not noticed all the creditors that he was dissolving the
12 corporation California Wide Patient Group, Inc..
13

14 7. John Charles Oliver filed articles of in corporation for Blanant Corporation, Inc. in
15 California and simply operated the exact same dispensary with the same address, phone
16 number, inventory, Post Office Box, equipment, email and even some of the same
17 employees.
18

19 8. John Charles Oliver controlled the corporation as a personal bank account to pay
20 debts in his own name and for things and services for family members.

21 9. John Charles Oliver controlled the business while using both corporate enitities
22 as a front for liability protection through private contracts including but not limited to the
23 lease for the Hopland at the 13325 South Highway 101, Hopland, CA 95449.
24

25 10. John Charles Oliver controlled both corporations solely making all decisions
26 for his own personal advanatge.
27

1 11. While operating the dispensary through both corporations he had corporation
2 employees work at a marijuana cultivation location wherein he controlled the land in his
3 own name but paid the bills using the corporate business checking account and funds.
4

5 12. John Charles Oliver still rents the 35 acres he had corporate employees work at
6 for cultivation.

7 13. John Charles Oliver before, at the time of and after the filing of his Chapter 7
8 petition still rented the same 35 acres and cultivates marijuana for money, selling to
9 Harborside Collective in Oakland.

10 14. John Charles Oliver comingled corporate and personal funds.

11 15. John Charles Oliver withheld payroll wages from employees against their will
12 taking the funds and converting them for his own use.
13

14 16. John Charles Oliver continued to take wages from the employees and threatened
15 to fire them if they continued to complain.
16

17 17. John Charles Oliver told the employees that he had the power to force them to
18 lend wages to the corporation.

19 18. John Charles Oliver never set up a mutual benefit corporation properly in the
20 State of California as set out in the Attorney General's Guidelines.
21

22 19. John Charles Oliver never kept proper corporate books failing to pay taxes, sales
23 taxes, and other debts while in sole control of the funds and bank accounts during the
24 operation of both corporations.

25 20. Neither John Charles Oliver nor any board member caused to be performed a
26

proper inventory before the dissolution of either corporation he created and dissolved.

21. John Charles Oliver still has assets and property belonging to the corporation in his possession in storage but failed to list the corporation's stored property in his possession in his bankruptcy petition.

22 John Charles Oliver has stored marijuana that he failed to list in his bankruptcy but admitted to at the meeting of the creditors.

23. The corporate books and all property have only been in the possession of John Charles Oliver and his wife such that the failure to list is concealment to hide the assets from creditors.

24. John Charles Oliver's home has been paid for by the proceeds of marijuana sales through both of the corporations listed above founded by and dissolved by him.

25. John Charles Oliver's wife has never been employed as a statutory employee and has no independent income.

26. The wife of John Charles Oliver has been fully informed of her husband's occupation as a marijuana grower and distributor through the dispensary.

27. None of the down payment or payments for the home that John Charles Oliver owns with his wife are from funds other than marijuana businesses.

28 All the John Charles Oliver marijuana business are all illegal under Federal law and John Charles Oliver filed a Chapter 7 bankruptcy to avoid sales tax, income tax, and business debts all from his marijuana businesses while still participating in cultivation and distribution of marijuana.

1 29. Plaintiffs are informed and believe and therein allege that John Charles Oliver
2 has transferred funds and property to others including his minor child.

3 30. Creditors filed their objection to discharge complaint, arising from the State
4 Court Action, and under the fiduciary and fraud exceptions of 11U.S.C. 523(a)(2).
5

6 31. The creditor objects to the petition in its entirety due to fraud deceit, defalcation
7 of both employee wages and taxes, and a lack of standing since John Charles Oliver seeks
8 to use bankruptcy to complete his theft from employees, to protect and continue in his
9 violation of US law by selling and trafficking in marijuana.
10

11 **FIRST CAUSE OF ACTION**

12 (A finding that the debtor is the alter ego of the two corporations he operated and sued to
13 take employee wages and a Determination that indebtedness of debtor John Charles Oliver
14 is nondischargable pursuant to sections of 11 U.S.C. 523(a) 2 & (a) 6))

15 32. Plaintiffs refer to the allegations contained in paragraphs 1-31, inclusive and
16 incorporate those allegations as though fully set forth.

17 33. The plaintiffs each filed labor petitions to recover wages Oliver took and failed
18 to pay in violation of both State and Federal labor codes.

19 34. As sole controller of the funds, Oliver was a fiduciary and the wages he
20 converted were held in trust with him and taken improperly such that he is not entitled to
21 discharge of that debt.
22

23 35. The labor violations include failure to pay payroll taxes in violation of his role as
24 trustee such that the taking of the wages and failure to follow the labor code were a civil
25 defalcation and in many instances criminal acts of defalcation.
26

1 36. Pursuant to §523(a)(4) of the United States Bankruptcy Code, a debt incurred
2 by a debtor who perpetrates fraud or defalcation while acting as a fiduciary shall be
3 nondischargeable.
4

5 37. Pursuant to §523(a)(6) of the United States Bankruptcy Code, a debt incurred
6 by a debtor who engages in willful and malicious conduct which results in damages shall
7 be nondischargeable in willful and malicious conduct as well as in the conversion of
8 Plaintiffs' funds.
9

10 38. As a direct result of the improper, bad faith conduct, including but not limited
11 to, of Oliver's alter ego control over the corporations, using them as his own property and
12 the wages of the employees as his own funds, his comingling all done while stealing under
13 false pretenses from his employees, the plaintiffs have suffered special, compensatory,
14 general and punitive statutory punitive damages in the amount of the labor code violation
15 judgments and other losses in an amount not less than \$200,000.00 and are entitled to
16 prejudgment interest.
17

18 **WHEREFORE PLAINTIFFS PRAY FOR JUDGMENT AS FOLLOWS:**
19

20 1. For a determination that John Charles Oliver has lied in his petition, has unclean
21 hands that prevent him from using the bankruptcy process and dismissal of the entire
22 Chapter 7 petition with prejudice; or in the alternative;
23

24 2. A finding after the jury determines the facts, that John Charles Oliver operated the
25 two corporations mentioned above in such a manner that they were in fact alter ego
26 entities that were extensions of himself subject to pierce the corporate veil as to personal
27

1 liability, that his marijuana assets, funds and operations are not entitled to bankruptcy
2 protections and in fact make his hands unclean hands, and as a past continuing marijuana
3 grower may not use bankruptcy court to discharge debts created criminal conduct under
4 Federal Law; or

5
6 3. For a determination that Debtor's liability to plaintiffs in the State Court Labor
7 Board Judgments plaintiffs obtained are nondischargeable nor may the stay apply to the
8 State case claims pending before the State Court in the Mendocino County be avoided if
9 liability is found;

10
11 4. For damages of not less than \$200,000.00 according to proof at trial,

12 5. For determination that no asset paid for by in whole or part by marijuana cost
13 recovery or sales can be exempted from collections from these plaintiffs;

14
15 5. For interest on said debt, attorneys fees and costs and,

16 6. For such other and further relief that this Court deems just and proper.

17
18 Dated: September 8, 2015

19 /s/
20 Lisa L. Gygax, Esq.,
21 Attorney For the Plaintiffs

To: Lake County Board of Supervisors

From: Mary Borjon Kelseyville Resident

Date: 3/4/2024

Re: UP 20-40 Higher Ground Farms Permit Public Hearing

Dear Supervisors,

Prior to the last hearing for this permit, I wrote a letter to the board to voice my strong opinion against granting this permit. I attended the last hearing and publicly voiced my concerns about this permit.

I remain convinced that granting this permit is not in the best interest of Kelseyville and Lake County residents and businesses. We have a sufficient number of cannabis farms in Lake County, We do not need another source of foul smelling air despite best efforts to install fans and filters. We do not need to block the view of Mt. Konocti by installing tall buildings for the purpose of storing and harvesting cannabis. We do not need this enterprise sitting next to and overshadowing an historic landmark, the old schoolhouse. We do not need to impose this industry on persons who reside nearby.

I sincerely encourage the Lake County Board of Supervisor members to not approve this permit.

Regards,

Mary Borjon

Mary Borjon, Kelseyville resident for 58 years.

707-279-1050

Paul J and Sausha B Racine

Park View Drive, Lakeport CA 95453

February 28, 2024

To Whom It May Concern,

I am writing in support of the Planning Commission's decision to reject the Higher Grounds Farms project at 3545 Finley East Road which is located adjacent to the historic Kelsey Creek School House. Approving this project would be contradictory to the extensive community opposition this project received and the planning commission's decision to reject this project after hearing the community's concerns.

Before drafting this letter, I drove by the site and pulled over to observe the school house, the proposed site for the Higher Grounds project and the majestic view of Mt. Konocti. There are two views that impress me the most in our community. The view of Clear Lake from the top of the Hopland grade and the awe I feel when I look at Mt. Konocti. A cannabis facility of this size and nature will certainly affect the visual landscape of the Big Valley Basin. Furthermore, this project and the Kelsey Creek School House seem very incompatible to exist side by side.

As elected officials, I respectfully request you listen to the community members that will be affected by this project. You are the elected officials of Lake County residents while the mailing address for the property tax bill of the proposed site goes to a residence in Ukiah, CA. We are the ones who will be forced to live with it, should you approve this project, not the Ukiah community.

Sincerely,



Sausha Racine

To whom it may concern

I understand that the cannabis industry in Lake County has contributed income to our county. However, cannabis is a very new industry. We don't fully understand the socio-economic & environmental impacts. We do know from recent research that there are several issues:

- Environmental consequences of cannabis e.g., cannabis emits potent VOCs called terpenes that when mixed with nitrogen oxide and sunlight, form ozone degrading aerosols that contribute to air pollution. Other industries are required to capture VOCs before they enter the atmosphere – cannabis industry is so new we haven't got the needed regulations yet, though we now know many diseases like Alzheimer's may have air pollution as one of its possible engenders.
- We also know that very likely the federal government will legalize, and at that time the largest companies in the industry will take over cultivation. With the consolidation of cannabis production the "small" companies" will be pushed out leaving their "greenhouses" etc. to degredate (left to the County to clean up) and there monetary support of local areas removed.
- Many communities are harmed by the embedding of cannabis farms in places that impact the nature of rural communities still struggling with the changes the economy has wrought in the last several years e.g., if they are looking for *rural tourism*, the "grows" may be unattractive within historic, health (we have great air quality) or natural beauty areas. Also understanding many people still feel it is a "dangerous drug" and are put off by the grows.

We need to ensure our county's investment in the cannabis industry is positioned to ensure that future problems are mitigated - including law suits for the county. We also need to factor into the decisions the overall economic plan of the County rather than see it in isolation/immediate cash returns.

One of the ways to be careful is position the "grows" physically where they can cause the least of these issues (including social impact).

It is also critical to engage the cannabis companies in more strict regulations as well as putting in place legal/economic protections if the many (still being uncovered) issues impact the Lake County in the future.

Martha Mincer

10368 Edgewater Drive
Kelseyville CA
570 903 5011

To the members of the Lake County Board of Supervisors: I have reviewed the reasons that the Kelsey Creek Schoolhouse members, as well as the Lake County Planning Commission, are against the Higher Ground Farms Cannabis Project going forward. I am in agreement that this project should not be approved.

Lorene McGuire Lakeport CA

Dear Clerk and Supervisors,

Please include this comment in the board packet for the Higher Ground Farms / John Oliver appeal.

This comes to provide support for the Planning Commission decision denying the Higher Ground Farms / John Oliver permit, to strongly urge the Supervisors to honor the work of the Planning Commission and to preserve an iconic cultural asset for the future. Your planning commissioners, acting on your behalf, offered a well reasoned analysis of tangible and intangible costs of this development and concluded that it was a non-starter.

The commission correctly understands the highly controversial nature of this project as illustrated by Commissioner Field during the Planning Commission meeting.

The iconic setting of the schoolhouse against the backdrop of Mt. Konocti has been recognized as a cross cultural sacred site worthy of protection by Commissioner Brown, from the Dais.

The Commissioners majority decision seemed to have its foundation in protecting a beloved cultural asset which has a bright future only if protected from inappropriate development and unscrupulous developers.

Unfortunately one Commissioner failed to grasp that moving the building eliminates the historic value, along with the setting, and is not an available preservation option.

The cost to the future far outweighs the benefit of a badly sited pot grow which would serve only to enrage the public, and besmirch your own legacy.

Thank you for upholding the will of the people and your Planning Commissioners decision to at once honor both the past and future by denying this appeal.

Best,

John Jensen

Publisher

Lake County Board of Supervisors,

Please deny the appeal of Higher Grounds for the cannabis operation next to the Kelsey Creek School House at 3534 Finley Road East in Kelseyville. The Planning Commission's decision was sound and should not be overturned.

Sincerely,

Trena Moore Pauly

Kelseyville, CA

Dear Board Member,

We would like to register our strong opposition for Higher Ground's appeal to UP 20-40, which the Lake County Planning Commission has already denied.

This project's initial study is filled with errors, and despite these errors being brought to the attention of planning staff repeatedly, the document does not appear to have been updated or corrected.

In addition, the County's analysis of the project is faulty, particularly as it relates to water and the potential impacts on the Clear Lake hitch, which is important due to the presence of Kelsey Creek, a tributary where the hitch live. As you are well aware, the California State Water Resources Board is currently conducting a large scale analysis of the viability of the Clear Lake Hitch. This is an endangered species which our county needs to protect.

The Planning Commission felt strongly that the cannabis project doesn't belong in the proposed location. It would impact the viewshed — particularly of Mount Konocti — and would be the first cannabis project to be located in an area that is typified by traditional agriculture and rural homes.

Despite what county staff claims, this project doesn't work on paper or in reality. In fact, county staff have provided no new evidence or sound reasoning for overturning the Planning Commission's excellent conclusion that this project should not move forward.

Claims that this project will be good for "economic development" are not supported with evidence. In fact, the appellant's track record shows he has no history of successful business.

Perhaps the biggest question for Lake County is, when is enough enough? How much more must community members give up in their quality of life, safety and comfort to support an industry that has fallen far short of expectations and is now economically crashing?

Thank you in advance for your careful consideration of our opposition.

Clare & Eric Enseñat

8260 Old Dirt Road

Kelseyville, Ca

Lake County Supervisors,

I support the Planning Commissioners denial of "Higher Grounds" cannabis cultivation business at the proposed property in Kelseyville, adjacent to this beautiful gem of history that LARA is working to restore and resurrect.

Perhaps County of Lake is hoping to avoid the fate of Garberville, a casualty of recreational cannabis legalization?

I believe that rolling the dice on this form of economic development is unwise, based on the applicants' histories and that fees and taxes may never be collected.

Our county is already plagued by numerous tax defaulted properties. As you know, cannabis (thc) is a Schedule 1 drug and is federally illegal. It could be shut down at any time.

Let's come up with better economic development plans that are more fiscally and ethically sound, while respecting one of our few and cherished historic sites.

(Please retain these comments if a continuance is granted)

Thank you.

Sincerely, Eileen McSorley



Good morning. I am a retired school teacher(36 years!) and long time resident(56 years!) of Big Valley. I love Lake County! Thank you for taking time to read my message.

I agree with the denial from The Planning Commission on this subject. I hope that you will look closely at the reasons for the denial and see that The Planning Commission made the correct decision. In deed, the location is not consistent with the neighborhood character. In deed, the project would alter the viewshed on Finley East Road and views of Mt. Konocti, which is considered sacred to culturally-affiliated tribes. In deed, the proximity to adjacent farm labor quarters required a denial of the project. In deed, the proximity to both Kelsey Creek and Hells Bend Schoolhouse requires a denial of the project. The Planning Commission made the correct decision. Please show that you support The Planning Commission's denial of the project.

Thank You,
Toni T. Brown

Hi there! Please include this email and attachment in the response record.

This comes in opposition to the Higher Ground Farms / John Oliver appeal to be heard Tuesday. The Planning Commission didn't want to despoil a sacred viewshed and voted no. But there's more to it than simply a terrible project in this sensitive location.

At its outset, the project relies upon a demonstrably flawed and uncorrected initial study which should have disqualified this project from consideration until the falsehoods, inaccuracies and misrepresentations in the initial study are corrected.

You are being asked to draw a conclusion based upon false premises presented as evidence.

Examples of this are numerous in the initial study and it should be rejected.

We have commented in our nonprofit capacity. Now allow me to let you know that as seasoned journalists, the more we research this project and applicant, the more our investigative instincts are triggered, because we keep finding more red flags.

Let's give one thread a tiny tug.

The solitary justification for this project is the entirely unsupported promise of 'economic development'.

As that is the case, it would probably be good to find out how the bankruptcy referenced in the attached pdf factored into economic development over in neighboring Mendo where his assets were ordered liquidated in Chapter 7 bankruptcy.

Not reorganized, liquidated. The attached court filing is an attempt to force him to pay his workers.

Did his pot workers ever get paid? How many folks took a bath that time? Are there currently open judgements on this applicant in his home county? What is his Las Vegas relationship? Why can't he grow in Mendo? Where is the money coming from? Has our county planning department conferred with their Mendo counterparts about the viability of this applicant?

These are among the initial questions that bubble up and demand answers on that single issue and there are many more yet to be answered.

Please see attached court filing, let's not repeat the mistakes of the past, devalue our shared cultural heritage and deny the future what we have enjoyed to double down on an industry undergoing significant dilution.

At the end of the day, you've got lots of pot grows but only one iconic schoolhouse framed by Mt. Konocti.

Choose wisely.

Best,
John Jensen
Publisher