

File Number: CCUP-224-0001
Date Received: 2-5-2024

Receipt No.: 51554
Amount: \$450

APPEAL FORM

(For more information, see Section 130.52.090 of the Zoning Ordinance)

Appeals must be submitted to the Planning Department with appropriate appeal fee. Please see fee schedule or contact the Planning Department for appeal fee information.

APPELLANT Alice Clary et al (see additional appellants attached)
ADDRESS 6600 Perry Creek Road Somerset CA 95684
DAYTIME TELEPHONE 415-519-8185

A letter from the Appellant authorizing the Agent to act in his/her behalf must be submitted with this appeal.

AGENT Cammy Morreale
ADDRESS 6625 Perry Creek Road Somerset CA 95684
DAYTIME TELEPHONE 818-681-8552

APPEAL BEING MADE TO: Board of Supervisors Planning Commission

ACTION BEING APPEALED (Please specify the action being appealed, i.e., approval of an application, denial of an application, conditions of approval, etc., and specific reasons for appeal. If appealing conditions of approval, please attach copy of conditions and specify appeal.)

We are appealing the Planning Commission's approval of David Harde's Cannabis project CCUP21-0002 for the following reasons:

- 1) Critical Concern Regarding School Bus Stop Proximity
- 2) New Information Presented at Planning Commission meeting without Prior Public Review
- 3) Non-Compliance with Setback Requirements and 4) Inadequate and Inaccurate Information in violation of CEQA Requirements and Overall Compliance.

Please see additional appellant list attached as well as 3 documents with evidence supporting our appeal.

DATE OF ACTION BEING APPEALED Thursday, January 25, 2024

Alice Clary
Signature

Feb. 3, 2024
Date

RECEIVED
PLANNING DEPARTMENT
2024 FEB -5 PM 3:44

February 3, 2024

El Dorado County Planning Department

To Whom It May Concern,

I, Alice Clary, authorize Cammy Morreale to act as my agent regarding the appeal of CCUP21-0002. If you have any questions, please do not hesitate to contact me.
Thank you very much.

Sincerely,

Alice Clary

Feb. 3, 2024

Alice Clary

6600 Perry Creek Road

Somerset CA 95684

Appealing Approval of CCUP21-0002
to the Board of Supervisors

Complete Appeal Package

Submitted to the Planning Department
2/5/2024

From Alice Clary, et al

Appeal of CCUP21-0002

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Cash Register Receipt
County of El Dorado

Receipt Number
R51554

DESCRIPTION	ACCOUNT	QTY	PAID
ProjectTRAK			\$450.00
CCUP-A24-0001	Address: 6540 PERRY CREEK RD	APN: 093032071	\$450.00
COMMERCIAL CANNABIS OPERATING PERMIT			\$450.00
CULTIVATION APPLICATION	3760100 CA0240	0	\$450.00
TOTAL FEES PAID BY RECEIPT: R51554			\$450.00

Date Paid: Monday, February 05, 2024

Paid By: Alice K Clary

Cashier: ERM

Pay Method: CHK-PLACERVILLE 13470

You can check the status of your case/permit/project using our online portal etrakit <https://edc-trk.aspgov.com/etrakit/>

Your local Fire District may have its' own series of inspection requirements for your permit/project. Please contact them for further information. Fire District inspections (where required) must be approved prior to calling for a frame and final inspection through the building department.



We the undersigned are additional appellants in the appeal of the approval of CCUP21-0002 by the Planning Commission.

DocuSigned by:
Annie Bowers 2/3/2024
Annie Bowers Date
6140 Hawk Haven Lane, Somerset, CA 95684
530-391-0577

DocuSigned by:
Brace Bowers 2/4/2024
Brace Bowers Date
6140 Hawk Haven Lane, Somerset, CA 95684
916-214-2649

DocuSigned by:
Christie Clary 2/3/2024
Christie Clary Date
6600 Perry Creek Road, Somerset CA 95684
415-999-9262

DocuSigned by:
Carolyn Clary 2/3/2024
Carolyn Clary Date
6500 Klare Road Somerset CA 95684
415-640-0294

DocuSigned by:
Emily DeSousa 2/3/2024
Emily deSousa Date
Parcel# 093-032-85-100
Somerset CA 95684
760-672-3790

DocuSigned by:
Scott Karll 2/3/2024
Scott Karll Date
6481 Perry Creek Road, Somerset, CA 95684
630-880-1039

DocuSigned by:
Trish Karll 2/3/2024
Trish Karll Date
6481 Perry Creek Road, Somerset, CA 95684
630-544-0467

DocuSigned by:
Michael Morreale 2/4/2024
Michael Morreale Date
6625 Perry Creek Road Somerset CA 95684
818-645-5550

DocuSigned by:
Kathy Martinez 2/4/2024
Kathy Martinez Date
6515 Bertone Drive, Somerset, CA 95684
925-963-5078

DocuSigned by:
Michael Scully 2/5/2024
Michael Scully Date
7740 Fairplay Road, Somerset, CA 95684
530-620-3248

DocuSigned by:
Mike Sullivan 2/3/2024
Mike Sullivan Date
6721 Fairplay Road, Somerset, CA 95684
530-391-2337

DocuSigned by:
Shawn Sullivan 2/3/2024
Shawn Sullivan Date
6721 Fairplay Road, Somerset, CA 95684
916-296-3280

DocuSigned by:
Janet Telfer 2/4/2024
Janet Telfer Date
3032 Little Spur Road, Somerset, CA 95684
916-769-6456

DocuSigned by:
Theresa Valdez 2/3/2024
Theresa Valdez Date
6800 Mt Aukum Road, Somerset, CA 95684
530-318-8015

DocuSigned by:
Susie Vasquez 2/3/2024
Susie Vasquez Date
3021 Squirrel Hollow, Mt Aukum, CA 95656
775-721-7544

DocuSigned by:
Cammy Morreale 2/4/2024
Cammy Morreale Date
6625 Perry Creek Road Somerset CA 95684
818-681-8552

DocuSigned by:
Sandra Myron 2/3/2024
Sandra Myron Date
6800 Mt Aukum Road, Somerset, CA 95684
530-545-013

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cclary@razorgenomics.com
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cclary@razorgenomics.com

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Annie Bowers
abqcix@yahoo.com
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Bruce Bowers
brucebowers1@gmail.com
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Cammy Morreale
mcmorreale@sbcglobal.net
Security Level: Email, Account Authentication
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Carolyn Clary
cclary8786@gmail.com
Security Level: Email, Account Authentication
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page 4

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Christie Clary
caclary@pm.me
Security Level: Email, Account Authentication
(None)

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Emily DeSousa
mommyem@me.com
Security Level: Email, Account Authentication
(None)

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Janet Telfer
dsbtelfer@gmail.com
Security Level: Email, Account Authentication
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Kathy Martinez
martinezkathryn2@gmail.com
Security Level: Email, Account Authentication
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Electronic Record and Signature Disclosure:
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Michael Morreale
mmorreale522@gmail.com
Security Level: Email, Account Authentication
(None)

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Michael Scully
fppstudios@earthlink.net
Security Level: Email, Account Authentication
(None)

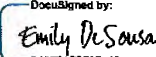
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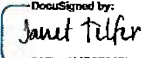
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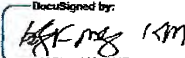
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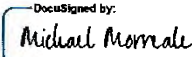
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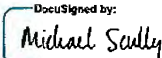
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Mike Sullivan
mikesul@yahoo.com
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Sandra Myron
sandrarmyron@yahoo.com
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(None)

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Scott Karl
sdkarl83@gmail.com
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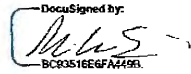
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mikesul@yahoo.com
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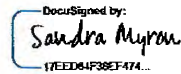
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mfpx48@gmail.com
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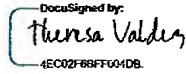
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Theresa Valdez
tahoe1958@yahoo.com
Security Level: Email, Account Authentication (None)

Signature



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In Person Signer Events

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Status

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Agent Delivery Events

Status

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Intermediary Delivery Events

Status

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Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Alice Klare Clary
paulalice.clary@gmail.com
Security Level: Email, Account Authentication (None)

Status



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Notary Events

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Timestamps

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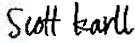
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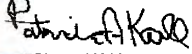
Electronic Record and Signature Disclosure

CORRECTION TO ADDITIONAL APPELLANTS SIGNATURE PAGE

February 3, 2024

We the undersigned are additional appellants in the appeal of the approval of CCUP21-0002 by the Planning Commission.

DocuSigned by:
 2/4/2024
3FCF0AE8B7C2465...
Scott Karl
6481 Perry Creek Road, Somerset, CA 95684
630-880-1039

DocuSigned by:
 2/4/2024
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Patricia Karl
6481 Perry Creek Road, Somerset, CA 95684
630-544-0467

page 8

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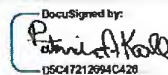
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Patricia Karl
 trish.karl@sbcglobal.net
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Signature



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 sdkarl83@gmail.com
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page 9

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Completed	Security Checked	2/4/2024 4:34:47 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

Appendix 1: Summary of Reasons for Appeal of CCUP21-0002

We, as concerned members of the El Dorado County community, urgently request your attention and action regarding the approval of a commercial cannabis cultivation project near our residences (CCUP21-0002). Our appeal rests on three critical issues: lack of public access to essential information, significant deviations from established setback requirements, and substantial inaccuracies and omissions in the project documentation.

1. Critical Concern Regarding School Bus Stop Proximity:

- a. A paramount issue that needs immediate attention is the location of a school bus stop right at the edge of the proposed cultivation site, at 6500 Perry Creek Road. Approval of this cannabis site directly violates the regulatory requirement outlined in Article 4, Title 130, Section 130.14.310.5.B, which mandates a minimum distance of 1500 feet between a cannabis grow site and the nearest school bus stop. The existence of a school bus stop at this exact location not only presents severe safety and health risks for children but also starkly contravenes established regulations designed to protect vulnerable community members. This glaring oversight alone provides substantial grounds for denying the proposed project as a whole.

2. New/ inaccurate Information Presented at Planning Commission meeting without Public Review

- a. **Late Disclosure of Revised Mitigation Proposal:** The revised mitigation proposal for odor control was not made available for public scrutiny prior to the 1/25/2024 Planning Commission meeting, and then it was only provided to those at the meeting. It was not posted to the registrar website until after the meeting. This last-minute submission deprived us of the opportunity for a thorough review, a fundamental aspect of public participation in the planning process.
- b. **Non-Disclosure of Critical Information:** Vital information regarding the specific odor neutralizers and their potential side effects remains undisclosed. This lack of transparency hinders our ability to assess the environmental and health impacts of these substances.
- c. **Unavailability of Revised Project Map:** Newly proposed map with reduction in size and location along with New Odor Control Analysis still unavailable to the public and was not provided to Planning Commission at the time of the hearing, yet they voted to approve without this detail.

3. Non-Compliance with Setback Requirements:

- a. The approved variances allowing significant reductions in the required setbacks fail to adhere to the stipulations outlined in Article 4, Title 130, Section 130.41.200.5.C of the Code. These deviations undermine the purpose of these setbacks, which are crucial for safeguarding neighboring properties and sensitive ecological areas.

4. Inadequate and Inaccurate Information in violation of CEQA Requirements and Overall Compliance

- a. Discrepancies persist regarding the size and scope of Phase I of the project. The applicant's verbal assurances and the documentation presented to the Planning Commission do not align, raising serious concerns about the reliability of the information provided.
- b. The "Less than Significant" impact assessment across numerous areas of the project appears inadequately substantiated and a generalized way the Planning Department avoids requiring a Full EIR for every cannabis project we have been able to review. **This is in direct violation of CEQA 15064 b 1 which states "The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data."** This application lacks critical details about the chemicals, including odor neutralizers, pest management products, water supplies, a

Appendix 1 continued

soil assessment, and overall impact on the wildlife and overall environment which are essential for a comprehensive evaluation of the project's environmental impact. A Full EIR should be required for these projects.

In light of these significant issues, we appeal to the Board to uphold the integrity of the application process and the well-being of our community. We insist on adherence to regulations and transparency in the approval process, especially in this new area of permitting and given the level of public concern which has been voiced.

We request the Board carefully review the details in our appeal, and urge that you deny this permit.

Alternatively, we request that at a minimum you:

1. **Uphold Setback Requirements:** Deny any variances to the mandated 800-foot setbacks to protect the rights and well-being of neighboring property owners and the community at large.
2. **Require a Re-submission of the Application:** Ensure that the applicant provides a complete, accurate, and transparent application, including detailed information on all chemicals, fertilizers, odor neutralizers and pest management strategies, a noise study, detailed lighting information, an accurate assessment of water requirements in order to be in compliance with CEQA 15064 b 1.
3. **Facilitate Adequate Public Review:** Allow sufficient time for public review and input on the revised application, ensuring community concerns are addressed and incorporated.

We emphasize the importance of balanced government oversight in the context of the proposed commercial cannabis cultivation project in El Dorado County. We rely on our elected officials to enforce established regulations fairly, ensuring that no single group's interests override the public good. We advocate for integrity in the application process, representing all community members, including those without lobbying power. We urge the Board of Supervisors to require a truthful and complete re-application from Mr. Harde, full disclosure of the many aspects which are clearly missing, and adherence to setback requirements, reflecting a balanced approach to cannabis cultivation that respects the interests of the entire community.

Your decisive action in this matter is crucial for maintaining the balance between development and community welfare in El Dorado County. We trust that the Board will consider this appeal with the seriousness it deserves and act in the best interest of all constituents.

Appendix 1 - Letter



EL DORADO UNION HIGH SCHOOL DISTRICT

To Whom It May Concern:

2/3/24

It has been brought to my attention that the Commercial Cannabis Program in El Dorado County and the Application process contains verification on School Bus Stops at a 1500-foot distance from the commercial location is part of the applicant approval process.

With that, as Director of Transportation for El Dorado Union School District along with several elementary school sites, I have not been contacted to verify stop locations that would affect any of the addresses in the Applicant Process. This process is put in place for the safety of our students and community.

The high school district transports students all over El Dorado County. Elementary school sites transport students home-to-school, and school-to-home as well, but only within the District boundaries of that school. We have many bus stops that are inactive in the elementary schools due to no students being present at this time, but could be in the future. At the same time, the stops are active at the High School level, located on our district website at www.eduhsd.k12.ca.us. Please refer to the Transportation website for all active bus stops in El Dorado County.

Below is a list of inactive stops in South County for elementary but current for High School. These are just on Perry Creek Rd as an example of why we need to be involved in this process.

7160 Perry Creek Rd
Hunters Path
7071 Perry Creek Rd
7070 Perry Creek Rd
7001 Perry Creek Rd
Ant Hill Rd
Shakedown St
Klare Rd
Perry Creek & Fairplay Rd (at stop sign)
Iversons Winery
Slug Gulch & Perry Creek Rd

If you have any questions about current bus stops or inactive bus stops please contact me at 530.344.8538. Or email slemke@eduhsd.net. Our goal will always be the safety of our students.

Thank you for your support.

Sarah E Lemke

Director of Transportation

*El Dorado Union High School District
Pioneer Union School District
Letrobe Union School District
Gold Oak Union School District
Gold Trail Union School District
Cemino Union School District
4475 Macauli Flat Rd, Placerville, CA 95667*

Appendix 2: Detailed Reasons for Appeal of Approval for CCUP21-0002

A. School Bus Stop within 0 feet of CCUP21-0001: A paramount issue that needs immediate attention is the location of a school bus stop directly at the edge of Mr. Harde's property line, at 6500 Perry Creek Road. Approval of this cannabis site directly violates the regulatory requirement outlined in Article 4, Title 130, Section 130.14.310.5.B, which mandates a minimum distance of 1500 feet between a cannabis grow site and the nearest school bus stop.

B. Insufficiency in Public Review Process

1. **Late Availability of Revised Mitigation Proposal for Odor Control and Revised Map of Phase I**
 - The new mitigation proposal was introduced at the January 25th meeting without prior public availability, denying the community the necessary time for a thorough review.
 - The amended proposal, which included a change in the application of odor neutralizers, was not included in the Negative Mitigation Declaration or the Initial Study, and was absent from the Registrar website prior to the meeting.
 - Map of the revised project was not included in any information presented to the Planning Commission nor the public.
2. **Lack of Detailed Information on Odor Neutralizers**
 - Comprehensive details about the specific odor neutralizers, including their names and potential side effects, have not been made publicly available.
 - Evan Mattes discussed the topic at the Planning Commission meeting without providing documented information for public review.
 - There is strong scientific evidence for the need for detailed Environmental Impact Reports."Cultivation methods have an unavoidable influence on the environment in different degrees. Outdoor cultivation is the traditional and original method of cannabis cultivation. Although with low costs, it is subject to weather and natural resources. Improper soil and water resources management and pest control may induce critical environmental issues. On the contrary, indoor cultivation (including greenhouse cultivation) enables full control over all aspects of the plants, such as light and temperature, but is constrained by higher costs, energy demand, and associated environmental implications. Reducing the global environmental impact of agriculture is vital to maintain environmental sustainability. However, there is a lack of systemic principles towards the sustainable farming of cannabis because its environmental impacts remain unclear. In the wake of the unprecedented legalization of cannabis, there is a pressing need for a complete review of its environmental assessment."(<https://dx.doi.org/10.1021/acs.estlett.0c00844> Cannabis and the Environment: What Science Tells Us and What We Still Need to Know Environ. Sci. Technol. Lett. 2021, 8, 98–107)
3. **Absence of Information on Pest Management Products**
 - No information regarding the names and side effects of pest management products was available before or during the Planning Commission meeting.
 - Current Cannabis Application Requirements mandate the disclosure of such information, which remains undisclosed.
4. **Changes in Project Size and Location**
 - Significant discrepancies were noted in the size and location of Phase I of the project, as stated in the application and by the applicant, Mr. Harde.
 - An email from Mr. Harde and subsequent communications indicated a reduction in the project size, which was not officially updated in the application.

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Appendix: Detailed Reasons for Appeal of Approval for CCUP21-0002

C. Non-Compliance with Setback Requirements

1. Variances Granted Contrary to Code Specifications

- The variances approved by the Planning Commission do not align with the requirements of Article 4, Title 130, Section 130.41.200.5.C and Section 130.41.100.54.C of the Code.
- The purpose of the setback requirements, especially the purpose of respecting neighboring properties, is not fulfilled by these variances.

D. Inadequate and Inaccurate Information related to CEQA Requirements and Overall Compliance

1. Misrepresentation of Project Size in Phase I

- The actual size of Phase I as verbally communicated by Mr. Harde differs from the size described in the official documentation.

2. Odor Concerns

- There are unresolved issues regarding the effectiveness and impact of the proposed odor control measures.
- There is evidence which highlight the potential adverse effects of cannabis cultivation odors on communities such as Denver, CO (<https://www.westword.com/marijuana/denver-wants-marijuana-growers-less-stinky-17408357>)

3. Harvest Frequency Misrepresentation

- The project documentation fails to accurately represent the frequency of harvests, impacting the duration and intensity of odors, and estimation of water usage.

4. Lack of Chemical and Odor Neutralizer Details and Erroneous Estimation of Water Requirements

- Absence of required details about the chemicals and substances planned for use, which is critical for assessing environmental and health impacts.

5. Water Usage Concerns

- Inconsistencies in water usage estimates raise questions about the project's environmental sustainability and the possible issues with neighboring water supplies.

6. Noise

- There is no specific noise information (such as noise related to proposed fans as recommended by the Planning Department) in the Neg Mit Decl, and no noise study was obtained by Mr. Harde.

6. Common Theme of Inaccuracies, Project Discrepancies and More Details needed

- Mike and Jenni Mahoney(neighbors of CCUP21-0001) pointed out numerous errors, inaccuracies and project discrepancies as well, many which are similar issues with this project. See page 65-75 Exhibit I for CCUP21-0001. Ms. Mahoney also pointed out the need for a Full EIR which we completely agree with.

7. Disregard for Feedback From Agencies on CCUP21-0001 apparently ignored by the Planning Department in preparing CCUP21-0002

- Letter from the Dept of Toxic Substances Control written on 1/29/2021 stated "If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the MND."
(<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/Ag-Guidance-Rev-3-August-7-2008-2.pdf>). Mr. Harde has admitted he has been actively using his property for agriculture for many years and that the last couple of years he has not been organic, yet the Planning Department failed to follow this guidance in the Mitigated Negative Declaration for CCUP21-0002.
- Letter from the CA Dept of Food and Agriculture written 2/17/21 re: CCUP21-0001 stating "In general, more detailed information related to Proposed Project operations and routine maintenance would be helpful to CDFA."This was in relation to a project far more detailed than

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Appendix: Detailed Reasons for Appeal of Approval for CCUP21-0002

Mr. Harde's, again illustrating the lack of detail in nearly every section of the Neg Mit Decl for CCUP21-0002.

- Why didn't the Planning Department elicit this level of feedback on Mr. Harde's project, and why did they ignore the associated recommendations?

E. Concluding Remarks

This appendix underscores our concerns regarding the lack of transparency, non-compliance with regulatory requirements, inaccuracies and false information contained in the project description and Planning Department's assessment, and the potential adverse impacts of the proposed commercial cannabis cultivation project on our community. These inaccuracies put this project in direct violation of CEQA 15064 b 1 which states "The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data." It seems the Planning Commission is rushing through these projects without ensuring accuracy and completeness. We urge the Board of Supervisors to consider these detailed reasons in our appeal and take appropriate action to safeguard the interests and well-being of El Dorado County residents, and our natural resources and environment.

Appendix 3

Appeal of CCUP21-0002: Overall Summary with Supporting Details

In CCUP21-0002, Mr. Harde's project description is critically deficient in several key areas necessary to evaluate the project's impact adequately. There is a conspicuous absence of detailed information necessary to determine this project's environmental impact, no evidence of a noise study, nor a robust security plan, etc. **This significant omission and the consistent use of a "Less than Significant Impact" assessments throughout all the applications we have seen thus far appear to be not compliant with CEQA regulations.** Presenting this project in its current, incomplete form to the Planning Commission, let alone its subsequent approval, reflects poorly on the County's adherence to established rules and regulations and puts the environment at risk. This oversight could potentially lead to future legal action and unnecessary risk to the County.

We initially requested a continuance to gain a more comprehensive understanding of the proposed project, hoping for the inclusion of additional essential details for an accurate impact assessment. However, Mr. Harde's refusal to permit modifications to his application, driven by an urgency to commence his cultivation, demonstrates a concerning disregard for the numerous unresolved aspects of his project. The Planning Department also bears responsibility for allowing these known inaccuracies to persist in the proposal.

In its current state, assessing compliance with the project is unfeasible. A detailed and specific plan, clearly outlining the size and location of each project phase, is imperative. This plan should address the numerous concerns, erroneous, and missing details highlighted in our appeal. Only with such a comprehensive plan in place can the Planning Department conduct a responsible and precise evaluation of the potential impacts of this project.

El Dorado County's approach to cannabis cultivation must be methodical and transparent, ensuring systematic and thorough application processes. Proper regulations and meticulous attention to detail are essential to prevent potential adverse effects on our community and environment. The community was given less than two weeks to review this disorganized and incomplete plan before it was presented to the Planning Commission. We urge the Planning Department to mandate more thorough and well-structured proposals, and to provide fact-based reviews that go beyond verbal promises and informal assurances.

In light of these significant issues, we strongly request the Board of Supervisor's to reverse The Planning Commission's approval of this project, ensuring that our community's interests and public health are protected and upheld, and to preserve the area's natural resources.

Critical Concern Regarding School Bus Stop Proximity

Item	Additional Details and Context
1. School Bus Stop at 6500 Perry Creek Road, directly at the edge of the Mr. Harde's property line.	A. This provides substantial grounds for denying the proposed project as a whole. B. Approval of this cannabis site directly violates the regulatory requirement outlined in Article 4, Title 130, Section 130.14.310.5.B, which mandates a minimum distance of 1500 feet between a cannabis grow site and the nearest school bus stop. The existence of a school bus stop at this exact location not only presents severe safety and health risks for children but also starkly contravenes established regulations designed to protect vulnerable community members.

Appendix 3 continued

Insufficient Public Review of Late-Breaking Items

Item	Additional Details and Context
<p>1. Newly proposed <u>alternate Mitigation proposal regarding Odor</u> was not available for public review prior to the 01/25/2024 meeting.</p>	<p>A. Newly proposed Amended Mitigation proposal for odor control from Planning Department was handed out at the meeting, leaving insufficient time for appropriate public review. It was NOT available for review prior to the meeting, was NOT included in Neg Mit Decl, was NOT included in Initial Study, and was NOT on registrar website prior to the meeting.</p> <p>B. Amended proposal directs neutralizer over canopy rather than at property line.</p>
<p>2. Detailed information regarding <u>proposed odor neutralizers and associated side effects</u> has not been provided for public review. These details were not provided prior to the meeting and were not provided at the meeting. They remain unavailable for review.</p>	<p>A. To date, no documentation regarding neutralizers (names, side effects) has been made available for public review.</p> <p>B. Nothing was available for review prior to the Planning Commission meeting on 01/25/2024, nor was it provided in person at the meeting.</p> <p>C. Evan Mattes read a vague list of "possible neutralizers" during the Planning Commission meeting, but did not provide documented information for review or consideration by the public.</p> <p>D. Without detailed information regarding specific agents to be used for odor neutralization, how can a "Less than Significant Impact" determination be made by the Planning Department in regards to Toxicities/Sensitive Receptors?</p> <p>E. Previous odor neutralizer described in Application under the "Odor Control study" was Zep Odor Control, but, despite it being classified as a pesticide with an Associated MSDS Sheet showing eye irritation, respiratory issues, etc., NO toxicity information was included in the Impact assessment nor available for review.</p> <p>F. Despite Mr. Harde's unsubstantiated claim that there "should not be any effect" on the orchard 640 feet from the proposed cultivation site, no specific or factual information regarding chemicals, drift or any details related to chemical use, other have been provided in any part of the application or County review, leaving the public unable to verify this information. (At the Ag Commission on 9/8/21, Mr. Harde stated: "In regards to Policy 8.1.4.1: no zoning or parcel size changes are proposed. The PA zoned parcel to the east has a walnut orchard approximately 640 feet from the proposed cultivation site. There should not be any effect on the orchard".)</p> <p>G. When Carolyn Clary spoke with Ag Commissioner Lee Anne Mila on Tuesday January 23rd, Ms. Mila said, "don't worry, he is certified organic. He won't use anything which is going to harm your trees. They are very strict in this regard." Yet on 1/25/2024, at the Planning Commission hearing, Mr. Harde admitted to the commissioners that he has "not been organic for the last couple of years."</p> <p>H. Regardless of whether he is certified organic or not, and regardless of whether he adheres to the conditions of being organic, the current Cannabis Application Requirements include listing exactly what chemicals, fertilizers, pesticides, etc. will be used and details about each of these. Even Commissioner Payne had to ask specifically about the agents used as neutralizers because, despite the stated requirement that they be included in the application, they were not.</p>
<p>3. Detailed information regarding <u>proposed pest management products and associated side effects</u> has not been provided for public review. These details were not provided prior to the meeting and were not provided at the meeting. They remain unavailable for review.</p>	<p>A. Current Cannabis Application Requirements state, "The Pest management plans must include, but is not limited to, the requirements listed below: Product name and active ingredients of all pesticides to be applied to cannabis during any stage of plant growth (for example, rooting hormones, pesticides, rodenticides, fungicides, etc.), Integrated pest management protocols, including the following control methods: Cultural, Biological, Chemical"</p> <p>B. No documentation regarding pest management products (names, side effects) has been made available for public review. Nothing was available for review prior to the Planning Commission meeting on 01/25/2024, nor was it provided in person at the meeting.</p> <p>C. No Pest Management Plan is available for review.</p> <p>D. Again, this project has a serious lack of adequate data and documentation to properly assess this project's impact on the wildlife which live nearby. A "Less Than Significant" impact was again assigned; illustrating a total lack of regard for scientifically-based assessments of the effect of this project on the environment.</p>
<p>4. New <u>size and location</u> of Phase I of Project, not reflected in proposal reviewed at Planning Commission meeting</p>	<p>A. The application put before the Planning Commission has Phase I has a 43,000 square foot outdoor cannabis operation, but per statements from Mr. Harde (applicant), that is not accurate.</p> <p>B. On 1/22/2024 (three days before Planning Commission hearing) Mr Harde emailed concerned neighbors of a significant reduction ("Please be aware that this proposed project has currently been scaled back in size by 77 percent. The intention is to cultivate a licensed area of 10,000square feet, far less than original one acre. Therefore the current proposed project is now only 23 percent of the initial proposal; this redefined cultivation area represents a considerably smaller footprint."). Yet Mr. Harde refused to allow the Planning Dept staff to modify the Application to reflect this change.</p> <p>C. On 1/22/24, Carolyn Clary emailed Kathy Garner, the Director of the Planning Department, requesting that the application be pulled from the Planning Commission meeting as there were innumerable errors and inaccuracies. She never heard back from Ms. Garner but did receive confirmation of receipt of the email from Ms. Garner's assistant.</p> <p>D. On 1/24/2024 in the evening, Mr. Harde provided a new map of the project to Alice Clary and Carolyn Clary the evening before the Planning Commission Meeting and it was sent to Mr. Mattes. This map was missing from the Planning Commission handout and from the Registrar website.</p>

Appendix 3 continued

Item	Additional Details and Context
	<p>E. At the 01/25/2024 Planning Commission meeting, Commissioner Payne pointed it's out very difficult to understand the current plan and suggested a continuance to get a more accurate picture of what is actually planned. The Planning Commission ended up declining a continuance in part "because Mr Harde needs to order his plants". (Note: Mr. Payne ultimately recused himself without prejudice, and the project was passed with the newly modified (but unavailable for prior public review) Odor Control Plan and an adjusted 10,000 square foot Phase I despite it not being in the application and despite the many inaccuracies in the Negative Mitigated Declaration/Initial Study.)</p>

Appendix 3 continued

Non-Compliance with Setback Requirements

Item	Additional Details and Context
<p>1. The 3 setback variances approved by the Planning Commission do not meet the requirements as outlined in the Code</p>	<p>A. Section 3.9 of the Findings document for this project states: "The project cultivation area is 125 feet from the eastern property line, 320 feet from the western property line, 298 feet from the northern property line and 1,438 feet from the southern property line."</p> <p>B. Article 4, Title 130, Section 130.41.200.5.C States: "Setbacks. Outdoor or mixed-light cultivation of commercial cannabis shall be setback a minimum of 800 feet from the property line of the site or public right-of-way and shall be located at least 300 feet from the upland extent of the riparian vegetation of any watercourse."</p> <p>C. Article 4, Title 130, Section 130.41.100.54.C States: "Any setback for a commercial cannabis activity may be reduced in a Commercial Cannabis Use Permit so long as the applicant demonstrates that the actual setback will substantially achieve the purpose of the required setback and that the parcel was owned or leased by the applicant before voter approval of the ordinance from which this Section is derived on November 6, 2018."</p> <p>D. Allowing a variance of the setback requirement between the operation and the property lines does not "substantially achieve the purpose of the required setback" and should not be permitted.</p> <p>E. As seen above, there are <u>two setbacks</u> specified in the Code, with distinct purposes.</p> <ol style="list-style-type: none"> The purpose of the setback "...at least 300 feet from the upland extent of the riparian vegetation of any watercourse" can reasonably be understood to be that it ensures sufficient distance to protect sensitive ecological areas from the impact of the commercial cannabis activity. The purpose of the setback "... a minimum of 800 feet from the property line of the site or public right-of-way" can be reasonably understood to be that it ensures <u>at least</u> an 800 foot distance between the commercial cannabis activity and <u>property owned by others</u>, and that it ensures a <u>minimum</u> an 800 foot distance between the commercial cannabis activity and <u>space within the public right-of-way</u>. This also implies that other property owners and members of the public have a reasonable expectation that they will be able to stay at least 800 feet away from these commercial activities. <p>F. Additional considerations: Mr. Harde stated at the Planning Commission hearing that Bureau of Land Management owns property adjacent to his. There is no feedback reported in the project nor the Staff report from the Federal BLM regarding the variance he is seeking.</p> <p>G. Precedent. In its response to Letter #5, Comment #2 on application CCUP21-001 (the first commercial Cannabis operation in El Dorado County, which was referred to often during the Planning Commission meeting on 01/25/2024), the Planning Department set clear precedent of <u>acceptance</u> and <u>agreement</u> with the 800 foot setback indicated in the Code.</p> <ol style="list-style-type: none"> In the Planning Department's response, they stated (emphasis added): "Cannabis cultivation <u>is required</u> to be setback a minimum of 800 feet from the property line of the site or public right-of-way." <ol style="list-style-type: none"> Given this, why was the "800 foot setback" accepted agreed to and referred to as a "requirement" in CCUP21-0001, but flatly disregarded, and <u>granted 3 separate variances</u>, in review of Mr. Harde's application? Further, in the same response the Planning Department states: "There are no residences or habitable structures within 2,000 feet of the project area, and some, and potentially all, of the cannabis cultivation under Phase II would be contained within greenhouse structures which would further suppress any long-term odors associated with cannabis." <ol style="list-style-type: none"> Given this, why was the 2,000 foot metric important when considering the long term odor impact of CCUP21-0001, but flatly disregarded in review of Mr. Harde's application, where the nearest residential structure is only 950 feet away, and the nearest other crop is a walnut orchard only 650 feet from the grow site. <p>H. Acknowledging the 800 foot setback as a "requirement" in the previously reviewed and approved Cannabis application (CCUP21-001), but then disregarding that requirement and allowing multiple variances by falsely claiming that the variance continues to meet the purpose of the setback is duplicitous and a disservice to the public that the Planning Commission is meant to serve.</p> <p>I. Combined with the lack of information regarding the substances to be used for odor and pest management, as well as the lack of any data on drift possibilities to the nearby walnut orchard nor humans so close by, <u>there is no reason whatsoever that Mr. Harde should be granted ANY variances as related to the minimum distance to property lines or public right-of-way.</u></p>

Appendix 3 continued

Inadequate and Inaccurate Information related to CEQA Requirements and Overall Compliance

Item	Additional Details and Context
1. Size of "Phase I" Portion of Project Application	<p>A. According to verbal assurances from the applicant, the currently proposed Phase I area is significantly less than Neg Mit Decl and initial Study, yet nothing was modified in the proposed project description. Despite this, he explicitly <u>refused</u> to allow the Planning Dept staff to modify the Application to reflect this change.</p> <p>B. Mr. Harde provided a <u>new map</u> of the project to neighbors the evening before the Planning Commission Meeting, but did not provide this updated map to the Commission, and the updated map is not part of the documentation available for public review.</p> <p>C. Of note on the new map, it reflects a crop area directly in the middle of a fire break created by CalFire during the Caldor Fire. Is the Fire Department aware of this?</p>
2. Odor	<p>A. As pointed out by a neighbor concerned with the Cybele project, news stories report of complaints and lawsuits due to the offensive odors put off by cultivation sites (Philadelphia Inquirer 2019). Deodorizing systems have yet to be proven effective and the odor travels great distances (greater than 0.5 mile).</p> <p>B. Denver Environmental Health In Denver, Colorado reports that impacts from cannabis odors include headaches, eye and throat irritation, nausea, discomfort being outside (e.g., exercising, gardening, socializing), mental stress, and lack of desire to entertain due to strong odors (Denver Environmental Health 2016).</p> <p>C. As a rural community with strong agricultural ties, we practically spend all of our time working outdoors, and such issues with odor will substantially affect our quality of life and that of our neighbors.</p>
3. Frequency of harvest	<p>A. Page 39 of Mr. Harde's Neg Mit Decl. and Initial Study states "The odor from the project operation would be temporary and limited to harvest season, approximately two months."</p> <p>B. However, Mr. Harde has already admitted he plans on doing two harvests per year so this would actually be FOUR months.</p> <p>C. When we informed the Planning Department, we were told that they are only concerned with square footage, not frequency of the plantings, despite it changing the odor duration, increased water requirements, etc.</p> <p>D. Mr. Harde's project does not include the process required to fit two harvests into one growing season/year. What chemicals or method will he use to promote fast growing plants? The justification/documentation detailing this method is missing.</p>
4. Chemicals, Odor Neutralizers	<p>A. No details regarding any chemical or substances planned for use are listed anywhere in the project, despite being clearly stated as Submission Requirements for the application.</p> <p>B. In addition, documentation of these chemicals is even more critical due to Mr. Harde's history of being factually unreliable and stating opinion as fact: <ul style="list-style-type: none"> a. Example 1: He stated to the Ag Commission via his powerpoint presentation on 9/8/2021: "In regards to Policy 8.1.4.1: no zoning or parcel size changes are proposed. The PA zoned parcel to the east has a walnut orchard approximately 640 feet from the proposed cultivation site. There should not be any affect on the orchard." This claim does not reference studies or official assessments, and instead appears to rely solely on Mr. Harde's opinion and word. b. Example 2: When convenient, he brands himself as Certified Organic, but on 1/25/2024 at the Planning Commission hearing, Mr. Harde himself admitted to the commissioners that he has "not been organic for the last couple of years". </p>
5. Water	<p>A. Mr. Harde's project has exactly the same estimated water usage (1.2 million gallons per year) in the Neg Mit Decl and Initial study as the estimated water usage listed in CCUP21-0001 (Cybele holdings) report, despite the size differences of their crops (68,000 for Harde's project vs. 87,000 sq ft for Cybele's).</p> <p>B. No details are provided to validate or support estimated water usage, leaving the impression that staff are using boilerplate templates rather than performing actual analysis.</p> <p>C. Regardless of the amount listed in the current, admittedly incomplete and inaccurate application, it only accounts for 1 harvest per year, not the 2 that Mr. Harde has stated he plans.</p> <p>D. In the Neg Mit. Declaration and Initial study, only one of Mr. Harde's three wells are stated as known with an estimated to have a 25 gallon per minute output. But at the Planning Commission meeting, Mr. Harde said his total well output amongst the 3 wells is 25 gallons per minute.</p>
6. Noise	<p>A. There is no specific noise information (such as noise related to proposed fans as recommended by the Planning Department) in the Neg Mit Decl, and no noise study was obtained by Mr. Harde.</p> <p>B. Why wasn't a noise study required, like the one in Cybele Holding's application (CCUP21-0001), which included detail regarding expected noise impacts related to greenhouses, etc. and without one, the process that the Planning Dept uses to determine "Less than significant" impact again comes into question. What are the criteria used to assess level of impact?</p>
7. Safety/Security	<p>A. The security plan in this project is very limited, vague, self-focused and makes no acknowledgement of potential security hazards created by the cannabis operation itself which Cybele's admitted exists</p> <p>B. Focus on Protecting Plants and Property: Mr. Harde's security plan is primarily aimed at protecting his cannabis plants and his property, not extending to broader security measures.</p> <p>C. Neglect of Adjacent Property Lines: The plan does not address securing adjacent property lines, some of which are accessible by the River or creek, potentially leaving these areas vulnerable.</p> <p>D. Contrast with Cybele Holdings' Plan: There is a stark contrast between Mr. Harde's plan and Cybele Holdings' comprehensive 100-page safety plan, which includes a security patrol.</p> <p>E. Planting in Fire Break Area: Mr. Harde proposes to plant in the middle of the Fire Break created by CalFire during the Caldor Fire, a decision that raises concerns about accessibility for emergency services.</p>

Detailed Appeal of CCUP21-0002 Reasons 5 of 6 2/3/2024

Appendix 3 continued/end

Item	Additional Details and Context
	<p>F. Lack of Fire Safety Plan, Lack of Communication with Fire Department & Potential Impact on Assessment: A fire plan is glaringly absent from this project description. It is unclear whether the Fire Department was accurately informed of the planting location details or the updated map, and it's abundantly clear that they were NOT informed of this last-minute changes, which could significantly affect the project's impact assessment. No evidence of a fire permit being required by Mr. Harde. Is this actually the case?</p>
8. Soil	<p>1. <u>No specific information is included in Mr. Harde's project regarding erosion control</u> despite the California Food and Ag Department's feedback that it should be included in Section 7.VII, Geology and Soils; Section 7.X Hydrology and Water Quality "BMPs shall be in place at the termination of grading operations and shall be in place permanently between October 15 and May 1. Erosion control shall conform to the "Combined El Dorado County Resource Conservation District and El Dorado County Department of Transportation Erosion Control Requirements and Specifications, February 2005" and the Western El Dorado County Storm Water Management Plan. BMPs shall include, but not be limited to, covering exposed areas with hydroseed or approved mulch; installing straw wattles; and minimizing the slope of ditches and drainage channels. This would serve to limit the amount of exposed soil and slow water movement, reducing the amount of soil particles and other contaminants potentially mobilized by stormwater. Further, wattles and vegetation would help filter out contaminants before stormwater reaches any watercourses."</p> <p>2. Letter from the Dept of Toxic Substances Control written on 1/29/2021 stated <u>"If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the MND."</u> https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/Ag-Guidance-Rev-3-August-7-2008-2.pdf, Mr. Harde has admitted he has been actively using his property for agriculture for many years and that the last couple of years he has not been organic, yet the Planning Department failed to follow this guidance in the Mitigated Negative Declaration for CCUP21-0002. <u>No soil analysis was documented as being done for this project.</u></p>
9. Oak Woodlands	<p>"The project states that Sixty-five (65) oak trees would be impacted by the proposed project, but no commercial tree species are proposed for removal (14 CCR Section 895.1). Impacts to non-commercial oak resources (which are protected by the County Code) are addressed in Section 7.IV, Biological Resources, and in the Oak Resource Technical Report included as Appendix G." <u>There is no Oak Resource Technical Report provided for this project.</u></p>
9. Missing Appendices/Documentation	<p>The Neg Mit Decl and Initial Study is missing many of the listed Appendices. This project is very disorganized and lacks the required detail. The following were listed on page 5 of the project were not included: A. Figures, B. Figures, C. On-Site Transportation Report, D. Vehicles Miles Traveled Memorandum, E. Pest Management Plan, G. Biological Resources Assessment, H. Oak Resources Technical Report (referred to in project on page 30 yet not provided in application presented to Planning Commission nor to the Public-a required assessment as per CEQA 21083.4, I. Cultural Resources Study, J. Fire Safe Plan, K. Acoustics Analysis, L. AB 52 Consultation Record. He was missing Forms B Cannabis Cultivation License, and Form E. Cannabis Distribution License.</p>