

TRINITY COUNTY PLANNING COMMISSION STAFF REPORT
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PLANNER: Kim Hunter, Director of Building and Planning

APPLICANT/APPELLANT: Monika Henschke

AGENT: James M. Underwood (Underwood Law Offices P.C.)

REQUEST: An appeal of Planning Director's Decision to revoke Commercial Cannabis Cultivation License (CCL-2020-331)

LOCATION: 10410 FS Road 4N09, Hyampom (APN: 011-100-02-00)

APPROX. ACREAGE: 77.69

ZONING DISTRICT: Timber Production Zone (TPZ)

ZONING DISTRICT OVERLAYS: None

GENERAL PLAN DESIGNATION: Resource (RE)

STAFF RECOMMENDATION: Uphold the Planning Director's decision to revoke CCL #331 on the basis of ongoing non-compliance with the provisions of Ordinance 315-843 (Trinity County Code Chapter 17.43 Commercial Cannabis Cultivation) as outline in Attachment A.

ADJACENT LAND USE AND ZONING INFORMATION:

Direction	Land Use	Zoning	General Plan Designation
North	Federal, Timber Operation	UNC, TPZ	RE
South	Residential	AP	RE
East	Federal	UNC	RE
West	Federal	UNC	RE

SUMMARY: CCL-2020-331 was revoked by the Planning Director on May 27, 2020 after an inspection on May 7, 2020 identified four violations of subsections ii and iii of section 7 of Trinity County Ordinance 315-843. Ms. Henschke filed an appeal on June 9, 2020 arguing that her

past compliance with the County Code and willingness to mitigate the identified violations are grounds for granting the appeal and reversing the Planning Director's decision.

ATTACHMENTS:

- A. Copy of Cultivation License Revocation letter dated May 27, 2020.
- B. Copy of Notice of Appeal Letter dated June 9, 2020.

COUNTY OF TRINITY
COMMERCIAL CANNABIS

CULTIVATION LICENSE REVOCATION

APPLICATION NUMBER:	CCL-2020-331
PARCEL NUMBER:	011-100-02
APPLICANT:	Monika Henschke

May 27, 2020

Monika Henschke
1205 4th Ave. Unit B
San Francisco, CA 94122

Re: 10410 FS Rd. 4N09, Hyampom CA

The Trinity County Planning Department has determined that there is a violation of Trinity County Ordinance 315-843 associated with Trinity County Commercial Cannabis License CCL-2020-331. The violation(s) are listed below:

7) Denial/Revocation of License

- (a) Applicant shall be denied a license or the approval of a license shall be revoked if the County becomes aware that:
- i. The applicant has provided materially false documents or testimony; or
 - ii. The applicant has not complied fully with the provisions of this Ordinance, including any of the requirements of NCRWQCB Order #2015-0023, SWRCB, or CDFW; or
 - iii. The operation as proposed by the applicant, if permitted, would not have complied with all applicable County and State laws, including, but not limited to; the Building, Planning, Housing, Fire and Health Codes of the County, including the provisions of this Ordinance and with all applicable laws including Zoning and County Ordinances.

Specifically, the County finds that you are in violation of the following:

6) Performance Standards for Commercial Cultivation of Cannabis

- (a) It is declared to be unlawful for any person owning, leasing, occupying or having charge or possession of any parcel of land within any unincorporated area of the County to cause or allow such parcel of land to be used for the

outdoor or indoor cultivation of Cannabis plants in excess of the limitations imposed by this section or personal grow section (Zoning Ordinance No. 315-797) and/or AUMA.

The County has determined that your license will be revoked immediately, May 27, 2020, due to violations of subsections ii. and iii. of Section 7, as outlined above, by cultivating in an unlawful manner as restricted by Section 6(a) without a State license on parcel 011-100-02 10410 FS Rd. 4N09 Hyampom CA.

You have the right to appeal this decision, any time within ten (10) working days from the date of this notice as prescribed in Chapter 8.90-130 of Trinity County Code.

If any questions, comments or concerns arise please contact the Trinity County Planning Department at (530) 623-1351 ext. 6 or by email at planning.cannabis@trinitycounty.org

The following was observed during a site inspection conducted by Jeff Dickey and Jeff Maze on 5/7/20.

1. Cultivating without a State Cannabis license within 90 days of receiving County CCL.
2. The use of 5 hoop houses without Building permits.
3. The use of a recreational vehicle without first obtaining a Directors Use Permit.
4. The use of a recreational vehicle for ongoing human habitation without first installing a permitted septic system.



Kim Hunter, Director
Trinity County Planning Department

UNDERWOOD LAW OFFICES P.C.

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P.O. Box 2428
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Telephone: (530) 623-2200

James M. Underwood

Redding Office:
1274 Court Street
Redding, CA 96001
Telephone (530) 276-8246

HAND-DELIVERED

RECEIVED

Tuesday, June 9, 2020

JUN 09 2020

Kim Hunter, Director
Trinity County Planning Department
61 Airport Road, Weaverville, California 96093

**TRINITY COUNTY
PLANNING DEPARTMENT**

**Re: Notice of Appeal - Application No. CCL- 2020-331 (APN 011-100-02);
Monika Henschke**

Dear Ms. Hunter:

My office represents Monika Henschke, the owner of the above-referenced Trinity County property. This letter is submitted for the purpose of appealing from the "Cannabis License Revocation" notice given by you to my client dated May 27, 2020.

BACKGROUND:

Ms. Henschke, the appellant, has a history of commercial cannabis license compliance for her above-referenced property. This has made clear her interest in and commitment to legally cultivating commercial cannabis on her property.

For health reasons that have required her to primarily be out of Trinity County, and sometimes out of state for treatment in recent months, Ms. Henschke determined to lease her property to third parties this year, all while working with consultants and contractors to complete prerequisites to prior issued license renewal for the current year.

Is my understanding the County approved Henschke's application for commercial cannabis cultivation on or about April 10th, 2020, subject to her completion of a few prerequisites to use permit issuance. These included septic tank installation and the need for recreational vehicle hook-up to that system so that a Director's use permit. Those requirements have since been completed.

My client was also advised by the County that there are unpermitted hoop houses on the subject property, requiring that she either remove those structures or pay the required fee for

Letter to Kim Hunter

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June 9, 2020

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their proper permitting. She is prepared to meet that requirement as well.

As you know, the County's notice of cultivation license revocation also states that there exists on Ms. Henschke's property plants in a number in excess of the limits imposed by the Trinity County commercial cannabis ordinance. In fact, the plants to be permitted upon final County issuance of my client's renewal license, upon County confirmation that the above stated use permit prerequisites have been satisfied, were inadvertently planted by my client's lessees based on their misunderstanding that all license requirements had been met.

GROUND FOR APPEAL:

The appellant seeks to have the proposed license revocation reversed based on her good faith effort and willingness to continue to fully comply with the Trinity County commercial cannabis ordinance, and based on the fact that she has already substantially done so subject to Trinity County Planning Department confirmation of meeting all prerequisites to obtaining her license to again and enable the proposed commercial cannabis grow on her property. But for her illness and resulting distractions from getting those prerequisites satisfied with the help of her consultant and contractors, this would not have become an issue. But, in any event, these requirements have been rectified, excepting the hoop structure compliance matter that can and will be promptly remedied.

Additionally, Trinity County Ordinance 315-843 (Trinity County Code section 17.43.070) requires that an "[A]pplicant shall be given up to seven business days after date of written notification to correct deficiencies prior to denying or revoking the license..." No such notice of my client's opportunity to "cure" the identified deficiencies has been given to Ms. Henschke.

In summary, the primary prerequisites to final license compliance, as identified by the County in April, have been rectified and simply need to be confirmed by the Planning Department. The only remaining prerequisite to full compliance will be hoop structure removal or required fees payment, which the appellant agrees to promptly achieve.

Based on the foregoing, Ms. Henschke respectfully appeals from your cultivation license revocation decision dated May 27th, 2020, and requests reversal of that decision for the reasons above stated. She continues to fully support The County's efforts to promote legal commercial cannabis cultivation, and related licensing process, and simply asks to be given the opportunity to continue to be a responsible license holder in this new industry and

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regulatory field.

Thanks, in advance, for your consideration of this appeal.

Sincerely,



James M. Underwood

cc: Monika Henschke

Enclosure: Appeal Fee