

TRINITY COUNTY PLANNING COMMISSION STAFF REPORT

APPLICANT/APPELLANT: Jessica Smith / Pirate Farms LLC

APPEAL REQUEST: Appeal of Director's Decision to deny the renewal extension for CCL #397

LOCATION: 3738 Zenia Bluff Rd., Zenia (APN: 020-410-11-00)

APPROX. ACREAGE: 94+/- acres

ZONING DISTRICT: Unclassified (UNC)

ZONING DISTRICT OVERLAYS: None

GENERAL PLAN DESIGNATION: Agriculture (A)

STAFF RECOMMENDATION: Deny the appeal.

ADJACENT LAND USE AND ZONING INFORMATION:

Direction	Land Use	Zoning	General Plan Designation
North	Vacant/Residential	Unclassified	Resource/Agriculture
South	Vacant/Agriculture	Unclassified	Agriculture
East	Residential/Agriculture	TPZ/Unclassified Production Zone	Resource
West	Residential/Agriculture	Unclassified	Resource

SUMMARY: Jessica Smith submitted an appeal of the Director's decision to deny an extension letter under Urgency Ordinance 1355 for Cannabis cultivation license (CCL) #397. The initial extension denial letter (dated January 5, 2021) was issued because renewal fees had not been submitted prior to December 9, 2020 which is the date that Urgency Ordinance 1355 was approved.

License renewal fees were paid on April 12, 2021 during the 30-day period provided by the Board of Supervisors. The file was again screened for an extension when it was determined that the cultivation license was last issued on November 5, 2018. Unfortunately, since the license was not issued on or after January 1, 2019, it still does not qualify for an extension.

Section II A(1) of Urgency Ordinance 1355 states that:

"The term of any cannabis cultivation license issued on or after January 1, 2019, and for which an application to renew such license has been submitted to the County on the

effective date of this Urgency Ordinance, shall be deemed to be extended for the term of this Urgency Ordinance as provided in Paragraph C of this Section.

Section II A(3) states:

“Applicants for licenses under Sub-Paragraph (1) and (2) of this Paragraph **must pay the applicable application renewal fees and submit a renewal application as a condition of receiving the extension of their licenses** for the term of this Urgency Ordinance.”

(Note: ***Emphasis added***)

ATTACHMENTS:

- 1) Appeal application dated March 4, 2021
- 2) Appeal letter with letter dated February 10, 2021
- 3) Email from Jessica Smith dated February 5, 2021
- 4) Extension denial letter and checklist dated January 6, 2021
- 5) Urgency Ordinance 1355 (Pages 4-5 only)



COUNTY OF TRINITY

APPEAL OF PLANNING DIRECTOR'S
DECISION TO PLANNING COMMISSION

RECEIVED

MAR 04 2021

TRINITY COUNTY
PLANNING DEPARTMENT

Received Stamp

Name: Jessica Smith / Pirate Farms LLC

Phone: 707-382-2274

Email: s.jessica15@yahoo.com

Physical Address or APN: 020-410-11-00

Mailing Address: PO Box 548, Garberville, CA 95542

Decision of Planning Director rendered on (date): 2/2/21

Planning Director's Decision was to: ☐ Approve ☒ Deny ☐ Continue

Request for: Reversal of Planning Director's decision denying the renewal extension for CCL 397.

Reason for Appeal:

See attached document.

Signature: Jessica Smith

Date: January 30, 2021

Clerk's Use Only

Date Filed: _____

Fee Collected: _____

Hearing Date: _____

Receipt No.: _____

Notice Published: _____

Notice Mailed: _____

Clear

397
P-21-12

February 10, 2021

Re: Appeal to the Denial of Renewal Extension for CCL 397

Planning Commissioners,

This appeal is filed towards the Planning Director's decision to deny this license extension pursuant to the December 9th Urgency Ordinance based on no application fee being tendered before that date. The letter dated January 5, 2021 was received on February 2, 2021.

There is no valid basis for the denial of this extension. This licensee had attempted to pay this fee two times before the December 9th date. The Planning Department had been shut down to in person submissions and appointments the month leading up to the December 9th Urgency Ordinance. The first payment attempt was returned in an unopened packet that contained other building permit fees and maps. The second attempt by mailing in payment was returned from the Post Office for a bad address posted on the website. The third attempt was made via drop box on December 10th, 2020. Additionally, this licensee has been in good standing since their first license in 2017. A renewal application was filed in November of 2020 but returned for needing blue signatures (Exhibit A).

Also attached is email correspondence from Jeff Dickey in his capacity as a Cannabis Program Compliance specialist (Exhibit B). In an email dated August of 2020, Jeff relayed information to Flowra staff that the renewal be ready to be issued ASAP. Not only has this licensee shown good faith in completing their payment requirement before December 9, 2020 and had good reason via Mr. Dickey's email that the renewal was to be issued, this licensee also holds a valid CDFA state license and has had one since 2018.

The Urgency Ordinance (UO) passed by the Board of Supervisors on December 9, 2020, has the intention of granting *both* the Planning Department and licensees' relief from the 2020 pandemics that arose. Specifically, the UO states on page 1, "WHEREAS, in order to obtain a renewal license in 2020, an applicant for a cultivation license had to have received a license for 2018 and/or 2019 cultivation years", and on page 2:

"WHEREAS, the County's delay in processing and issuing 2020 cannabis-cultivation renewal licenses places applicants whose licenses have not been processed for this calendar year in jeopardy of losing, or not obtaining, their required state cultivation licenses;

"WHEREAS, the loss of the ability to lawfully supply cultivated cannabis within the regulated, legal state system would, through no fault of their own, expose applicants for 2020 cannabis cultivation renewal applications to significant losses on the considerable investments they have made to maintain lawful cultivation operations in a still-developing and highly competitive market";

"WHEREAS, it would be inequitable to expose applicants for cannabis cultivation licenses to these consequences due to circumstances beyond their control, including the effect of the COVID-19 pandemic and shortages in County staffing;"

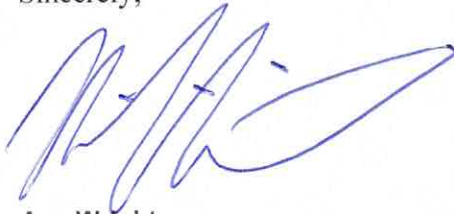
"WHEREAS, in addition to the need to relieve 2020 cannabis cultivation license applicants from these potential inequities, the Program will shortly be undergoing a significant change in nature and scope due to the potential and imminent certification of a programmatic Environmental Impact Report."

Evidently the Board of Supervisors' intentions were for **all** renewal licenses to be granted the same relief as the Planning Department. Additionally, there are no restrictions against reinstating renewals in the UO or in any other valid commercial cannabis ordinance. In fact, the historical practice of the Planning Department up until November of 2020 was to **accept** expired renewals. Just one day prior to the passing of the UO, Director Hunter issued a memo restricting renewal applications from being submitted as of that date. To halt this historical practice immediately, with no timely notice, is unauthorized authority exercised by the Planning Director. Furthermore,

the UO only states a prohibition against **new** cannabis licenses and stays silent on reinstatement of renewals (Urgency Ordinance Section II(A)(5)).

The denial of this renewal extension is clearly misplaced. Director Hunter cannot exercise authority greater than what is given to her by the Board of Supervisors; meaning she cannot go against the UO and its intentions to give licensees relief from the 2020 pandemics. The denial of this renewal extension must be reversed, and license extension issued immediately.

Sincerely,



Ana Wright

Executive Vice President

Flowra

www.theflowraplatform.com

M: (530) 739-9908

O: (800) 811-4356, ext 502



EXHIBIT A



TRINITY COUNTY PLANNING DEPARTMENT

Kim Hunter, Director 530-623-1351

61 AIRPORT ROAD • 530-623-1351
P.O. BOX 2819 WEAVERVILLE, CA 96093

TRINITY COUNTY
PLANNING DEPARTMENT

Commercial Cannabis Division
Phone: 530-623-1351
FAX: 530-623-1353
Info.Planning@trinitycounty.org

For Office Use Only

Accepted By: _____
Date: _____
Receipt number: _____
CCL number: _____

CANNABIS CULTIVATION ANNUAL LICENSE RENEWAL APPLICATION

(Rev. 3/16/2020)

Current Trinity County Cannabis Cultivation Number (CCL-XXXX-XXX):	CCL-2018-397
Cultivation Site Address:	Street: 3738 Zenia Bluff Rd City: Zenia State: CA Zip: 96041
Parcel Number(s):	020-410-11-00
Applicant Name (must match existing permit):	Jessica Smith
Mailing Address:	Street: PO Box 548 City: Garberville State: Zip: 95542
Phone Number:	707-382-2274
Email:	s.jessica15@yahoo.com

RENEWAL APPLICATION INFORMATION

Please read each option and check the box most applicable.

1. Premise Map/Site Plan:

- ☒ There are changes to my Cultivation Site Plan. I have attached a new Cultivation & Operation Plan.
☐ There are no changes to my Cultivation Site Plan. A new Premise Map is not needed.

2. Necessary Documents:

- ☐ I have applied for renewal of my annual variance and/or Director's Use Permit.
☐ I have updated my Agent's Authorization form.

3. **REQUIRED** – Applicant, Owner, State Licensee and Employee List:

- ☐ Categorical Exemption Checklist for sites that are eligible. (CE 1,2,3,4,11)
☒ Project Description for sites that are ineligible for a Categorical Exemption.

For a summary of how to demonstrate compliance with CEQA with a Categorical Exemption or to demonstrate that compliance with CEQA is underway with the preparation of an Initial Study, refer to the table below. For a more extensive explanation, Frequently Asked Questions, and additional guidance material, go to our commercial cannabis website where you will find helpful material posted on the upper right hand side of the webpage under the heading "Trinity County 2020 New Application and Renewal Guidance" <https://www.trinitycounty.org/Commercial-Cannabis>.

lil does
12/21/2020



Ana Wright <ana@theflowraplatform.com>

Fwd: Jessica Smith Site visit Zenia 8/14/20

Linnea Kneaper <linnea@theflowraplatform.com>

Tue, Feb 2, 2021 at 10:12 AM

To: Ana Wright <ana@theflowraplatform.com>, Lisa Wright <lisa@theflowraplatform.com>

Here is the forward from Jeff Dickey from August. Says he told Mary L. to have the renewal ready to issue. But looking back, could he have been talking about the building permits?

Linnea Kneaper

Account Manager

Flowra

www.theflowraplatform.com

M: (530) 739-5188

O: (800) 811-4356 ext. 510

Schedule a meeting with me!<https://calendly.com/linnea-7/30min>

----- Forwarded message -----

From: **Jeff Dickey** <jdickey@trinitycounty.org>

Date: Tue, Aug 18, 2020 at 9:08 AM

Subject: RE: Jessica Smith Site visit Zenia 8/14/20

To: Linnea Kneaper <linnea@theflowraplatform.com>

Yes, and I have already talked to Mary L. and asked her to have the renewal ready to be issued.

From: Linnea Kneaper [mailto:linnea@theflowraplatform.com]**Sent:** Tuesday, August 18, 2020 8:23 AM**To:** Kristalynne Anderson <kanderson@trinitycounty.org>**Cc:** Jeff Dickey <jdickey@trinitycounty.org>**Subject:** Re: Jessica Smith Site visit Zenia 8/14/20

Thank you both for the update. Kristy, can you please forward me the final paperwork when it is complete?

Jeff, I assume I would reach out to Mary L. once those permits are paid for the final on the building?

Have a great day!

Linnea Kneaper
Account Manager
Flowra
www.theflowraplatform.com
M: (530) 739-5188
O: (800) 811-4356 ext. 510

Schedule a meeting with me!
<https://calendly.com/linnea-7/30min>

On Tue, Aug 18, 2020 at 8:01 AM Kristalynne Anderson <kanderson@trinitycounty.org> wrote:

The septic near the residence had a final inspection, I just haven't completed the paperwork yet.

From: Jeff Dickey
Sent: Tuesday, August 18, 2020 7:03 AM
To: 'Linnea Kneaper' <linnea@theflowraplatform.com>; Kristalynne Anderson <kanderson@trinitycounty.org>
Subject: RE: Jessica Smith Site visit Zenia 8/14/20

The dwelling and garage are finalized. Kristy can confirm the septic which I believe she approved.

Jeff

From: Linnea Kneaper [<mailto:linnea@theflowraplatform.com>]
Sent: Monday, August 17, 2020 12:12 PM
To: Kristalynne Anderson <kanderson@trinitycounty.org>; Jeff Dickey <jdickey@trinitycounty.org>
Subject: Jessica Smith Site visit Zenia 8/14/20

Hello,

I just talked with Jessica and John regarding the site visit from last week. They are under the assumption that both the building and the septic will now be finalized? Can you confirm please? I know there has been some past confusion on this one and I just want to make sure everyone is on the same page.

I believe her CCL renewal from last year is still outstanding due to these items and I would like to get them cleared ASAP.

Thanks for your help!

Best,

Linnea Kneaper
Account Manager

Flowra
www.theflowraplatform.com
M: (530) 739-5188
O: (800) 811-4356 ext. 510

Schedule a meeting with me!
<https://calendly.com/linnea-7/30min>

From: [Jessica Smith](#)
To: [Kim Hunter](#)
Cc: [Richard Kuhns](#); [Margie DeRose](#)
Subject: Jessica Smith/ Pirate Farms Renewal RE: Ccl-397
Date: Friday, February 5, 2021 9:27:51 AM

To whom it may concern:

I am writing on behalf of a letter that I received that was dated 1/5/2021 with a postmark on the envelope 1/29/2021. I would have resolved this matter much sooner if I had known about it.

The letter states that no renewal fee was received by 12/9/2020. And my license was suspended.

I wrote a check to my consultant and mailed it out on October 23, 2020 to pay my renewal fee for me. I was told on December 3 2020 that my checks had been mailed back to my consultant but was postmarked 11/18/2020 with a forwarding stamp.

On December 3 at 9:14 AM I received a text that my consultant had an appointment to meet with Cody the very next day which would be December 4 to turn in my checks.

I am trying to draw you a timeline so that you are aware that I had every intent to pay my renewal fee on time and honestly thought that it had been handled when my consultant told me that she had walked the checks into the county.

When I received this letter on February 1, 2021 I immediately called my consultant to find out what happened? I was not aware that my renewal check was returned without a date on it thus then missing my dead line.

I am pleading to please understand my situation and that I had every intent on making sure my renewal was paid on time. I really hope you take this into consideration when my appeal is being heard. I have been trying to be compliant for the last four years and really want to do everything right.. Thank you for listening to me. If coming into your office to discuss this further would be beneficial please let me know and I will drive there. My phone number is 707-223-1964 if you have any questions. Thank you for your time.

Jessica Smith
Pirate Farms, LLC

Sent from my iPhone



TRINITY COUNTY

COMMUNITY DEVELOPMENT SERVICES

BUILDING ♦ PLANNING ♦ ENVIRONMENTAL HEALTH
CANNABIS DIVISION

P.O. BOX 2819, WEAVERVILLE, CALIFORNIA 96093
PHONE (530) 623-1351 ♦ FAX (530) 623-1353

Kim Hunter, Director

1/5/2021

Jessica Smith
Pirate Farms, LLC
PO Box 546
Garberville, CA 95542

Re: CCL-397
3738 Zenia Bluff Rd.

Dear Jessica,

The Board of Supervisors passed an Urgency Ordinance (No. 1355) on December 9, 2020 to extend previously issued Cannabis Cultivation Licenses if a licensee meets all requirements under the Urgency Ordinance. After a review of your file, it was determined that your expired License CCL-397 on Parcel Number 020-410-11-00, does not qualify for an extension under Trinity County Ordinance No. 1355 for the following reason(s) as indicated by an "X":

- | | |
|---|-------------------------------------------------------------------------------------------------------|
| | 1) After a State records search, there is no record of a current or pending State Cultivation License |
| | 2) No renewal application was received by 12/9/2020 |
| X | 3) No renewal fee was received by 12/9/2020 |

- 1) If your County License did not qualify for an extension due to no record of a pending or valid State License, and you have proof that you applied or hold a State License on or before 12/9/2020, please provide this documentation in electronic form along with your County CCL number to planning.cannabis@trinitycounty.org. Your County License may be considered for an extension under the Urgency Ordinance.
- 2) If your expired County License did not qualify for an extension due to lack of a renewal application on or before 12/9/2020; or
- 3) If your expired County License did not qualify for an extension due to lack of a renewal payment on or before 12/9/2020, please do not submit these items at this time. Check the Commercial Cannabis website regularly at <https://www.trinitycounty.org/Commercial-Cannabis>. Your license may be considered for inclusion in the Transition Plan for the Amended Cannabis Program. Information will be posted on the website soon regarding the Transition Plan.

As a reminder, without a valid Trinity County Commercial Cannabis Cultivation License, or an extension of a previously issued License, you are not authorized to conduct Commercial Cannabis operations including but not limited to cultivation, processing, wholesale, etc. You must also maintain the existing site conditions as agreed to in the "Acknowledgement if Maintaining Existing Site Conditions" form you signed and submitted to the County.

A handwritten signature in black ink, appearing to read "Kim Hunter", is written over a horizontal line.

KIM HUNTER
Trinity County Planning Director

Reviewed by: Mary L Date: 12/15/20 File Number: 397

Search in: Smart.gov, Master Data Sheet, License Doc's, and Physical File

☐ Did they have an Issued license and a Renewal Application submitted **after January 1, 2019**

Yes: ✓

No: ✓ DA (Do not pass go)

INCOMPLETE RENEWAL
APP, RENEWAL FEES
NOT PAID.

☐ Any NOV's, Non-Comp, Violations the have not been resolved (CDFA, CDFW, County, and State)

No: ✓

Yes: _____ (Do not pass go)

☐ State License

Yes: ✓

No: _____

License #: CCL19-0003798

WHEREAS, in addition to the pending applications for renewal cannabis cultivation licenses, the County received 69 applications in 2019 and 2020 for new cannabis cultivation licenses.

WHEREAS, in March 2020, the Planning Director issued a directive advising that the County would not accept applications for new cannabis cultivation licenses due to the impact of the existing Program's need to process applications for renewal cannabis cultivation licenses.

WHEREAS, the Board of Supervisors finds that the basis for the Planning Director's directive continues to exist; and more specifically, the Board of Supervisors finds that to ensure proper implementation of the Amended Program Ordinance, it is continues to be necessary to preclude issuance of licenses for new cannabis cultivation licenses as provided in Section II of this Urgency Ordinance.

WHEREAS, this suspension of review of new license applications is necessary because it would be infeasible to meaningfully and properly consider the approval of such applications under the standards of the Amended Program Ordinance until the forthcoming transition program is developed, adopted by the Board of Supervisors, and fully implemented.

WHEREAS, for all of the above reasons, the Board of Supervisors finds that the adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety in that enactment of the provisions within will ensure that licensed cultivation operations may remain in the regulated, legal cannabis market, achieving the objectives of the Program and MAUCRSA.

WHEREAS, the Board of Supervisors further finds that the adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety in that the provisions within will ensure that the County may as promptly as possible implement the new requirements of the Amended Program Ordinance, thereby ensuring that the Program implements recommended environmental mitigation measures as expeditiously as possible.

WHEREAS, the adoption of this ordinance as a non-urgency ordinance would not allow the provisions stated in Section II to take effect until late January at the earliest, resulting in many of the adverse consequences described above—which are already occurring and having detrimental effects—being continued for several more weeks.

WHEREAS, nothing in this urgency ordinance is intended to address, or shall address, the license for any Type 3/Medium Cultivation Licenses.

SECTION II: Based on the above findings, the Board of Supervisors ordains the following measures be immediately implemented:

A. Extension of Previously Issued Cannabis Cultivation Licenses.

1. The term of any cannabis cultivation license issued on or after January 1, 2019, and for which an application to renew such license had been submitted to the County on the effective date of this Urgency Ordinance,