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**From:** Nick Caston <nick@goldenstategr.com>  
**Sent:** Saturday, April 6, 2019 8:13 AM  
**To:** Crocker, Ashle; Hartman, Clare; Rose, William; Ursu, Emmanuel; Manis, Dina; Cisco, Patti  
**Subject:** Item 16.1  
**Attachments:** Attachment D - First 5.pdf; Appeal Response.pdf; Attachment C - Lease Add.pdf; Attachment B - Site Plan.pdf; Attachment A - Response to Comments on the Fox Den Dispensary.DRAFT.pdf

Attached is the response to the appeal of the Fox Den approval. It has been sent to each council-member. Please let me know if you have any questions.

Sincerely,

--

Nick W. Caston  
President and Chief Strategic Officer  
nick@GoldenStateGR.com  
(707) 291-3470 Cell  
(707) 595-7004, ext. 701  
(888) 465-3360 Toll-Free



Santa Rosa City Council  
100 Santa Rosa Ave  
Santa Rosa, CA 95404

RE: Fox Den, LLC Dispensary

To Mayor Schwedhelm and Santa Rosa City Council Members:

In the lead up to Tuesday night's City Council consideration of the appeal of the Fox Den, LLC Dispensary approval, the appellant has provided you with inaccurate information. This letter, and its attachments, are provided to clear up the record. Simply, Fox Den, LLC's proposal is a small cannabis dispensary seeking to serve the communities on the eastside of Santa Rosa.

The Santa Rosa General Plan, through many policies including EV-A-1, calls for the support of "entrepreneurial businesses, which create new products and business models." The Council, through the adoption of the Comprehensive Cannabis Ordinance and recent action to make support for this fledgling industry a priority during goal setting, turned this general plan policy into a reality. As a result, the cannabis industry is rehabilitating the city's formerly blighted facilities with vibrant manufacturing and cultivation centers, employing hundreds of residents and benefiting numerous supporting companies throughout the city and region.

It is vital that cannabis businesses bring new products to market. To this end, retail facilities spread throughout Santa Rosa are necessary to support the growing industry. General Plan Policy LUL-I-1 calls on the city to "provide a range of commercial services that are easily accessible and attractive, that satisfies the needs of people who live and work in Santa Rosa," an effort that can readily be accomplished through diverse retail cannabis operations located in all areas of the City.

Fundamentally, the Fox Den proposal is a project that meets the need for diversity in retail location and size, provides adequate parking per city code, and has no significant negative impact on the surrounding neighborhood. It is time that we reject the false premise that cannabis companies, solely through the fact that they handle cannabis, are in some way an inherent negative impact. This is simply untrue.

The appellant, Kiwi, has raised a number of concerns not supported by the facts. Kiwi insinuates that Fox Den will create an unsafe environment for children at their location and those visiting the neighboring pub, Trail house. This argument is based mostly on traffic and parking. In both cases, the Fox Den Project meets city requirements and requests no variance or reduction of Santa Rosa's standards. Specifically:

### *Traffic*

Attachment A to this letter is a point by point response to the appellant's out of town traffic consultant's "peer review" of the initial trip generation report completed by W-Trans. Simply put, this project is of such a small scale that the anticipated traffic, even in a worse case scenario from the ITE rates, falls below the level of 50 new trips (25 vehicle visits) at which the city requires a detailed traffic study. As shown in the attached response, the number of trips used in the standard rate are higher than the actual traffic at comparable dispensaries in Santa Rosa. Additionally, the appellant seems to suggest that by not including the impact of delivery services in the trip counts, this will somehow result in increased traffic. On face value, this argument is illogical as delivery services reduce traffic trips to a retail dispensary by taking multiple orders at a time and eliminate the need for those customers to travel to the dispensary. This is evidenced by the lower trip counts at Santa Rosa's existing delivery service dispensary compared to the non-delivery dispensary also studied as outlined in Attachment A.

### *Parking*

Despite the appellant's inflammatory language used to describe the current parking conditions for Trail House, this project is proposing parking which meets the needs of its employees and customers. This project does not request any parking variance or reduction. The City Code standards are met for parking supply through the proposed addition of five new parking spaces. The parking spaces, as evidenced in Attachment A, are usable by both regular and larger vehicles. Additionally, while the appellant suggests the parking spots in the exterior parking lot do not meet current width requirements, Attachment B, a conceptual site plan, clearly shows there's plenty of space available to accommodate the parking spaces through minor changes in the planter curb locations at the front of the lots.

Parking was discussed in depth with the City's building department both prior to submittal of the application and during the review process. The Chief Building Official in an email from January 4th, 2019 said the application "demonstrated-effectively that the parking configuration will work. We can proceed."

Also, great consideration was given to the integration with Trail House's parking situation. As evidenced in Attachment C, the property owner received explicit consent from Trail House to lease this space to a cannabis dispensary and made good faith agreements to make sure all parking spots would be properly signed for use. While the appellant asserts Fox Den's inability to use Trail House parking is a negative for the project, the reality is that Fox Den is providing for its own parking needs, fully meeting city code requirements. Additionally, Fox Den's business model does not encourage lounging, lingering or extended parking onsite. A customer of Fox Den will purchase their product and leave. This model will



also make efficient use of the parking through the delivery service, which customers will be encouraged to sign up for, reducing overall use of the parking spaces.

#### *Traffic Impact to Kiwi Child Care Center*

As further discussed in Attachment A, the presumption that Fox Den's facility will somehow impact the Kiwi Child Care facility's traffic and parking is a stretch. Kiwi's parcel exits onto Summerfield Road and requires traveling through an intersection and turning onto Montgomery Drive to reach Fox Den. The Kiwi parking spots are equally far from the Fox Den location and not a potential overflow area for any business on Montgomery Drive, let alone Fox Den.

Concerns about integration with Kiwi were raised at the initial neighborhood meeting. After the meeting, several attempts were made to discuss integration with Kiwi as a future neighbor. As the applicant's representative, I called Kiwi and after being informed the owner was not present and given the owners personal phone number, called the personal phone number as well. Receiving no response to this outreach, we requested the public records for the approval of the Kiwi child care center so we could insure compatible integration with the CUP conditions for Kiwi. Unfortunately, the city was not able to locate any records of approval for the facility to compare our plan against.

And lastly, after the planning commission approval, we eagerly agreed to meet with Kiwi at a meeting coordinated by a representative of the Community Child Care Council of Sonoma County (4Cs). Unfortunately, the owner of Kiwi cancelled this meeting. Absent direct communication or information about Kiwi's operation, Fox Den has made every effort to anticipate the needs of Kiwi as a neighbor including committing to have the onsite security personnel patrol the adjacent alley to discourage existing loitering and littering activities identified at the neighborhood meeting. Fox Den is eager and willing to work with Kiwi, along with all its neighbors, as the dispensary opens and throughout its continued operations.

#### *Public Transit*

The appellant has also raised a concern about the anticipated use of public transit by patrons and employees. None of the traffic or parking considerations have relied on public transit or alternative modes of transportation such as cycling and walking. It is hoped that people will use these methods of transportation. To this end, Fox Den will provide its employees with pre-tax benefits for employees who use public transit or take alternative means of transportation. This is designed as a direct financial "promotion of transit services" as called for in General Plan Policy T-A-1 and will further the City's goal of T-A-2 to

“Work with employers and business associations to meet employee transportation needs that will lead to reduction of the use of single occupancy vehicles.” However, even without these incentives, Fox Den, as evidenced in the original trip generation report and further supported by Attachment A, will have a less than significant impact on traffic in the area and can be anticipated, through its eastern location, to reduce overall Vehicle Miles Traveled (VMT) in Santa Rosa.

#### *Amount of Traffic and Community Neighborhood Zoning*

The appellant has falsely suggested that the use is not consistent with the Neighborhood Commercial Zoning District. This is on face value untrue as established in the Comprehensive Cannabis Ordinance. Additionally, we would refer to the staff report and analysis for this item which clearly shows this use and size meets the standards for the zoning. Specifically, the staff analysis says:

“A primary defining characteristic of neighborhood serving uses is their size. General retail uses with up to 50,000 square feet are allowed in the Neighborhood Commercial zoning district, subject to a Minor Conditional Use Permit and up to 20,000 square feet without a Conditional Use Permit (e.g. by right). In contrast, the retail sales floor area of the proposed dispensary is 918 square feet and the entire cannabis business, including lobby, bathrooms, hallways, storage and office uses will occupy 1,773 square feet.”

Clearly the Fox Den facility meets both the letter and intent of this zoning district.

In addition to the traffic and parking arguments, Kiwi asserts some type of implicit harm will be caused by the existence of Fox Den. While the appellant acknowledges that Fox Den will be a compliant operation, they assert that a cannabis dispensary will cause harm to them through its proximity. The facts do not support this either locally or nationally. Studies show no impact or improved conditions in areas with licensed cannabis businesses are located. Locally, Santa Rosa’s Cannabis Sub-Committee received a report from a Santa Rosa Police Representative saying there was “nothing remarkable” about police calls to existing businesses.

(<https://www.pressdemocrat.com/business/9228688-181/report-new-cannabis-businesses-in>)

Fox Den, LLC is committed to families and support for child care throughout Santa Rosa. This is why Fox Den has entered into a funding partnership (Attachment D) with First 5 Sonoma County to both support subsidized child care for those who need it most and provide education to its customers and employees about First 5 and the important initiatives the organization leads related to children. This partnership speaks directly to General Plan Policy YF-B-5 which call for the City to “Foster partnerships between the business community and the child care community...”



Additionally, YF-B-1 calls for the city to support child care facilities in all areas of the city including near employment centers like commercial areas. Child care, as a use, is meant to be near all other uses, including cannabis, wine, beer, and pharmaceutical businesses. Infact, Kiwi currently shares a parcel and parking lot with multiple alcohol consumption establishments. Child care facilities, because of the desirability to locate them near all other uses, are permitted in all zoning districts. The proximity to Fox Den, and the other retail and restaurant uses, is an asset to the city as a future location for employees to use for their child care needs. Were we to separate child care facilities from employment and business centers, the impact would hurt parents and families and make it even harder to create accessible child care in Santa Rosa.

In conclusion, the arguments presented by the appellant do not constitute a reason to overturn the unanimous decision of the Planning Commission or require a traffic study. Fox Den is an entrepreneurial business seeking to provide diversity to East Santa Rosa's retail environment, preventing the need for cross town trips by local residents and employees. The project supports a healthy economic and neighborhood climate. It meets city standards, requires no variance or reduction in requirements as a part of its approval, and advances key elements of the General Plan.

I respectfully ask for you to uphold the Planning Commission and staff recommendation and reject the appeal. Should you have any additional questions, please contact me at 707-595-7004 ext. 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Caston", with a long horizontal flourish extending to the right.

Nick Caston  
President and CSO



April 4, 2019

Mr. Nick Caston  
Representative for Fox Den, LLC.  
4036 Montgomery Drive Unit B  
Santa Rosa, CA 95405

## **Response to Comments on the "Focused Traffic Study for the Fox Den Dispensary"**

Dear Mr. Caston;

This letter serves as a response to the comments contained in "Transportation Peer Review of Proposed Cannabis Dispensary and Delivery Business at 4036 Montgomery Drive," prepared by TJKM and dated March 25, 2019, that was included as Exhibit B of the Kiwi Preschool and Childcare appeal packet, as well as information contained the "Facts and Law in Support" section of the appeal packet.

### **Response to Peer Review Comments**

The following responses are organized to correlate to each of the numbered comments contained in the technical memorandum, which are shown in *italics* for ease of reference.

1. *The forecast of vehicle trip generation provided in the April 17, 2018 Focused Traffic Study was based on standalone Marijuana Dispensaries that do not include delivery operations – therefore underestimating the volume of traffic that would be generated.*

Trip generation data collected at an existing comparable dispensary in the City of Santa Rosa with a delivery service indicates that the standard rates presented in the Institute of Transportation Engineers (ITE) *Trip General Manual* adequately reflect the presence of a delivery option as such a service may reasonably be expected to reduce the trip generation potential of a dispensary, not increase it. Deliveries are intended to serve multiple customers in one trip, so the trips associated with several customers that would otherwise visit the site are replaced by a single round trip made by the delivery vehicle. The trip generation data collected at a comparable dispensary in Santa Rosa with a delivery service indicated that the site generates 14.79 trips per 1,000 square feet during the weekday p.m. peak hour, compared to the standard ITE rate of 21.89 trips per 1,000 square feet. Standard ITE rates were used in the focused traffic study for Fox Den as we had not yet collected data specific to the City of Santa Rosa, so the trip generation estimates presented in the traffic study are likely higher than what would actually occur based on the data collected.

2. *In addition to not including delivery trips (as stated in #1 above): the use of the ITE trip generation rates for "Marijuana Dispensaries" should be carefully considered, given the limited number of data sources available to ITE.*

In December 2018, W-Trans collected trip generation data at two existing dispensaries in the City of Santa Rosa with similar operational parameters to that of the proposed project, in terms of serving a relatively balanced percentage of recreational and medical users. One of the dispensaries had a delivery service and the other did not. We found that the average trip generation rates of the two dispensaries were approximately 74 percent lower than the ITE rate during the morning peak hour and 16 percent lower during the p.m. peak hour. The substantial disparity in rates during the a.m. peak hour is mostly attributable to the fact that the ITE data was collected at sites that open for business at 8:00 a.m. and dispensaries in the City are not allowed to open until 9:00 a.m., meaning that they generate few trips during the morning peak period between 7:00 and 9:00 a.m.

Rates developed based on the data collected at the single location with a delivery service are lower than the average of the two facilities and, further lower than ITE rates. The location with a delivery service generated trips at a rate of 1.15 trips per 1,000 square feet during the morning peak hour and 14.79 trips per 1,000 square feet

during the p.m. peak hour, which are about 89 and 32 percent lower than ITE rates applied in the analysis during each peak hour, respectively. A spreadsheet summarizing the derivation of the rates is enclosed.

It should be noted that the data was collected in December, which is the busiest time of the year for retail businesses so the rates are likely higher than would be experienced in other months. Further, at the time the data was collected, there were only three dispensaries operating within the City of Santa Rosa. As more dispensaries are approved and open for business, customers will have more options and there will be fewer trips made to any one dispensary. The estimated trip generation potential for the proposed project as developed using standard ITE rates as well as the rates specific to the City of Santa Rosa are shown in Table 1. If rates for the dispensary with a delivery service were applied instead of ITE rates, the proposed project would be expected to generate 17 fewer trips during the morning peak hour and 13 fewer trips during the p.m. peak hour.

**Table 1 – Trip Generation Summary**

Land Use	Units	AM Peak Hour				PM Peak Hour			
		Rate	Trips	In	Out	Rate	Trips	In	Out
Standard ITE Rates	1.773 ksf	10.44	19	10	9	21.83	39	19	20
Average of Two Similar Dispensaries	1.773 ksf	2.74	5	4	1	18.32	32	16	16
One Dispensary with Delivery Service	1.773 ksf	1.15	2	2	0	14.79	26	14	12

Notes: ksf = 1,000 square feet

The peer review states that based on ITE rates, the busiest hours of operation for a dispensary are between 12:45 and 1:45 p.m. and between 5:45 and 6:45 p.m. For compliance with City traffic guidelines, the analysis need only address conditions when peak volumes exist on the surrounding street network. If the peak hour for the use is offset from commute peak hours this would be considered in a positive light as there is more capacity for those trips during off-peak hours. Further, the peak hours for drop-off at Kiwi Preschool are between 7:30 and 9:30 a.m. and pick-up is between 4:00 and 6:00 p.m. so the proposed project and the preschool would experience their busiest hours for traffic at times of the day that are generally offset from one another.

3. *The proposed supply of just seven motor vehicle parking spaces does not appear adequate to serve the number of vehicles associated with the proposed dispensary and delivery option, taking into account both the volume of predicted traffic and ITE parking demand data.*

Based on City code, a total of 22 parking spaces would need to be provided on-site, including 12 for Trail House, three for the warehouse space, and seven for the proposed project. As proposed, the project would provide 22 spaces on-site, which would satisfy City requirements. It is noted that the commenter indicated the need to serve 19 customers that would arrive in an hour, assuming a 15-minute stay. This would translate to a demand for approximately five spaces, not ten as indicated by the peer reviewer. Since the 20 outbound trips during an hour are the same 19 vehicles that entered, the parking demand should be based on either inbound or outbound trips, but not the sum of the two. Similarly, 50 trips during the peak hour of the generator, if split evenly between inbound and outbound and still assuming a 15-minute stay by each customer, would translate to the need for six to seven parking spaces, not 13.

While not included as part of the project supply, it is noted that there is street parking available on Montgomery Drive consisting of once space to the north, one space between driveways (assuming implementation of our recommendation to restrict parking for 20 feet to the south of the northern driveway), and four parking spaces to the south of the site.



4. *The turning movement analysis provided in the Focused Traffic Study is based on typical passenger car sizes (not trucks, SUVs or delivery vehicles), and therefore does not provided a full analysis of the potential range of vehicle movements that would be required to access the seven parking spaces to be provided.*

On-site circulation was modeled in the focused traffic study for Fox Den using a standard passenger vehicle as deliveries would be made by a Toyota Prius, or another similar vehicle. To show that larger vehicles such as SUVs, trucks, or vans would be able to navigate the site as intended, circulation was also modeled for a 20-foot shuttle van. As shown in the enclosed AutoTURN exhibits, on-site circulation would operate acceptably for standard passenger vehicles as well as shuttle vans. One of the parking stalls would be signed for "15-minute" parking and would be used by the delivery vehicle when loading products between deliveries. The delivery vehicle would be off-site most of the day and loading between runs would take approximately 5 to 15 minutes so the delivery vehicle would only occupy a parking space for a short period of time when it is on-site.

## Response to Facts and Law in Support

Some of the comments contained in the appeal packet were relevant to traffic. These are shown below in *italics* and our responses follow.

- *Per the traffic study these trips represent the increase associated with the Proposed Project compared to the existing volumes which are estimated 41 trips per day, including six trips during the morning peak hour and seven trips during the evening peak hour. This equates to an increase of 992.68% in an already inadequate parking scenario!*

It is important to note that the nearly 993 percent increase in daily trips indicated in the comment refers to the space that the project would occupy, not to the entire site, including the Trail House. A review of standard ITE rates indicates that the most similar land use available for application to Trail House is "Fast Casual Restaurant" (ITE LU #930). Application of these rates to the total 3,008 square foot floor area of Trail House results in 948 existing daily trips on average. When considering the site as a whole, the proposed project would increase the daily trip generation by approximately 41 percent over current levels, from 989 trips (Trail House and the existing construction and office uses) to 1,396 trips (Trail House and the dispensary).

However, it is noted that the zoning district for the site is Neighborhood Commercial (CN) and the General Plan land uses indicated for the zoning district are mixed use and neighborhood shopping center, so, for example, a drug store/pharmacy is a permitted use that could occupy the site without a Conditional Use Permit (CUP). Application of standard ITE rates for a drug store to the space that the proposed dispensary would occupy indicates that, for planning purposes, the space could reasonably have been expected to generate an average of 360 trips per day. Again, when considering the entire site and assuming a permitted use such as a drug store, the project would result in only seven percent more daily trips than would have been expected based on the site's zoning and permitted uses.

- *The additional traffic will spill over into Kiwi's parking area which is already extremely busy due to children drop-offs and pick-ups. The risk to the children's safety will increase with higher intensity traffic. More cars, more risk.*

While the two sites are adjacent, their access and parking supplies are completely separated. The project site is accessed from Montgomery Drive and Kiwi Pre-school is accessed from Summerfield Road so there is no reason for project traffic to impact drop-off and pick-up activities at the pre-school. Dispensary customers parking in the pre-school's supply would have to walk approximately 600 feet to the north and west around the building at 440 Montgomery Drive and then southwest down the sidewalk to get to the project site. If the project's parking supply is full, it is far more likely that customers would use the street parking on Montgomery Drive, or even the parking stalls of the businesses that are located closer to the dispensary than those for the Kiwi Pre-school. The potential for the project to impact operation of the pre-school in any way is therefore extremely limited, and would certainly not affect the safety of children in the parking lot. The only possible impact is that the project could result in a

slight increase in delay to drivers exiting the pre-school site to Summerfield Road if any of the patrons of the Fox Den project travel along that roadway.

Please feel free to contact us if there are any questions regarding this information. Thank you for giving us the opportunity to provide these services.

Sincerely,

Cameron Nye, EIT  
Assistant Engineer III

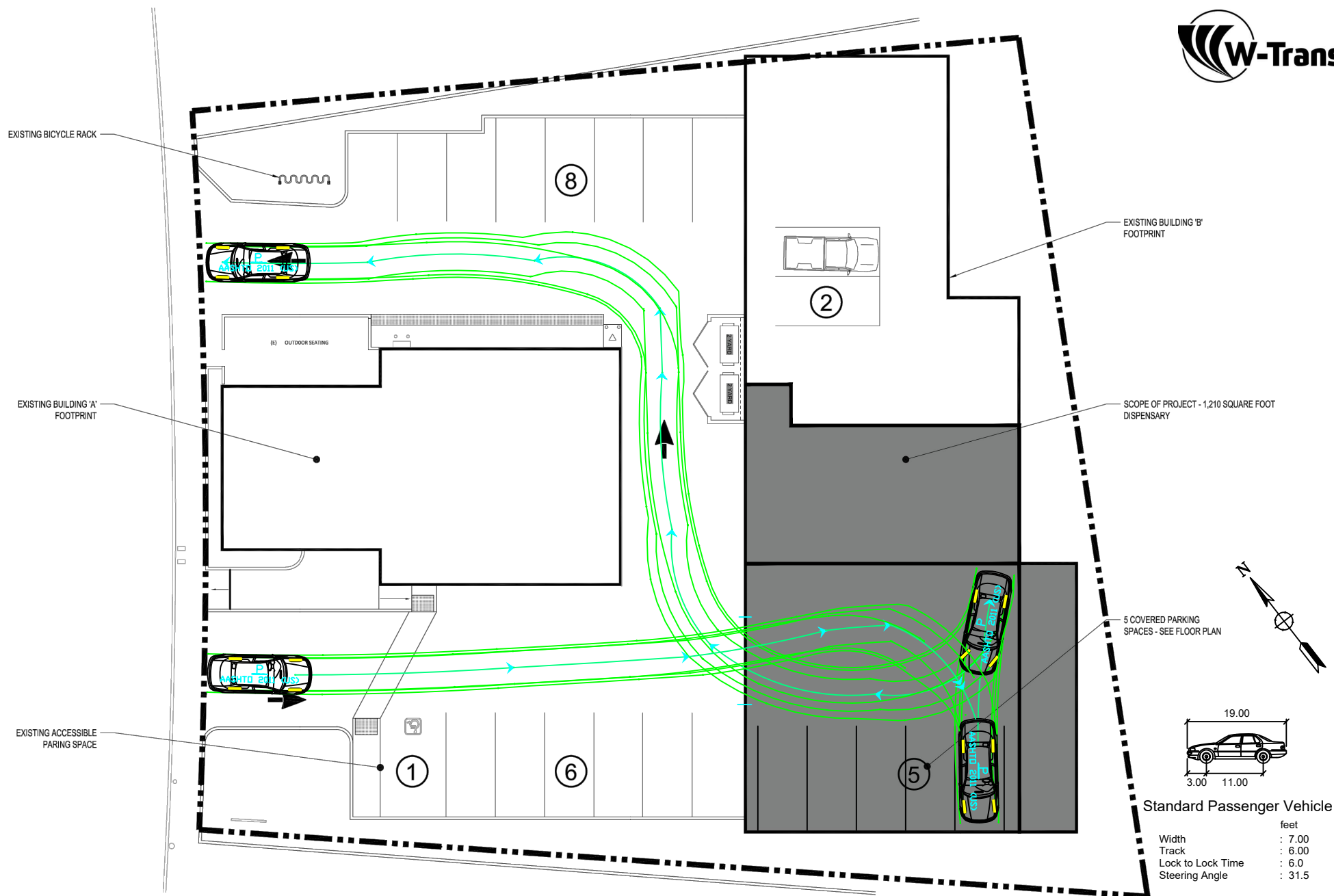
Dalene J. Whitlock, PE, PTOE  
Senior Principal

DJW/cn/SRO464.R2C

Enclosures: City of Santa Rosa Dispensary Rates  
AutoTURN Exhibits

City of Santa Rosa Dispensary Rates							AM PEAK HOUR (8-9)								PM PEAK HOUR (4-6)							
LOCATION	No. of Units	Units	Land Use Number	Land Use No./Type	DATE	Setting/Location	Trip Rate per Unit	Number of Trips	In (%)	In (Rate)	In (Trips)	Out (%)	Out (Rate)	Out (Trips)	Trip Rate per Unit	Number of Trips	In (%)	In (Rate)	In (Trips)	Out (%)	Out (Rate)	Out (Trips)
LOCATION 1	3.8	ksf	882	Marijuana Dispensary	12/18/2018	General Urban/Suburban	4.47	17	88%	3.95	15	12%	0.53	2	20.00	76	42%	8.42	32	58%	11.58	44
	3.8	ksf	882	Marijuana Dispensary	12/19/2018	General Urban/Suburban	4.21	16	94%	3.95	15	6%	0.26	1	23.68	90	44%	10.53	40	56%	13.16	50
	AVERAGE						4.34		91%	3.95		9%	0.39		21.84		43%	9.47		57%	12.37	
LOCATION 2 (has delivery service)	4.8	ksf	882	Marijuana Dispensary	12/18/2018	General Urban/Suburban	1.46	7	86%	1.25	6	14%	0.21	1	14.58	70	54%	7.92	38	46%	6.67	32
	4.8	ksf	882	Marijuana Dispensary	12/19/2018	General Urban/Suburban	0.83	4	100%	0.83	4	0%	0.00	0	15.00	72	56%	8.33	40	44%	6.67	32
	AVERAGE						1.15		93%	1.04		7%	0.10		14.79		55%	8.13		45%	6.67	
SANTA ROSA AVERAGE							2.74		92%	2.49		8%	0.25		18.32		49%	8.80		51%	9.52	
ITE RATES							10.44		56%	5.85		44%	4.59		21.83		50%	10.92		50%	10.92	

Notes: Both locations service adult and medical users

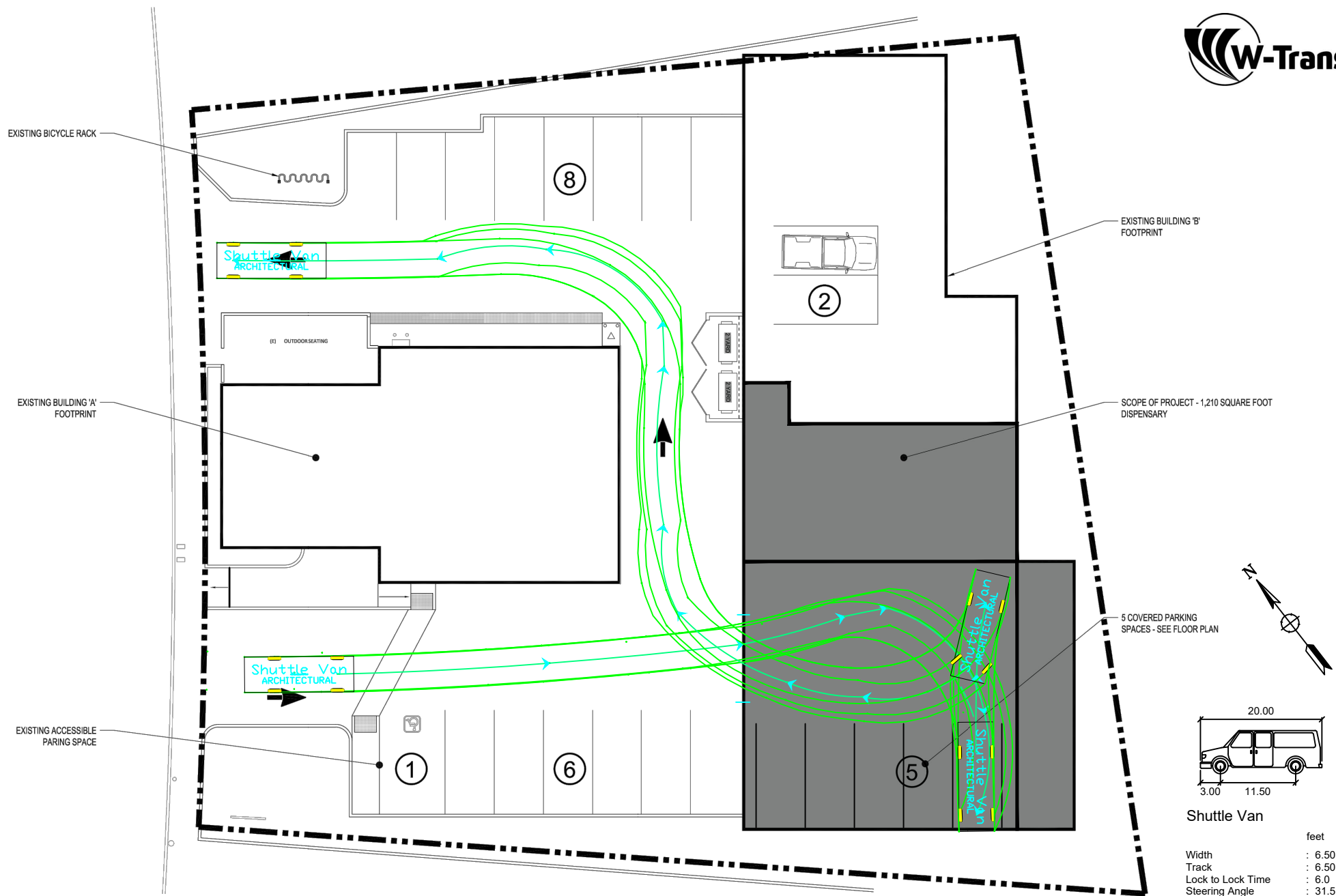


# FOX DEN DISPENSARY

4036 Montgomery Drive

## AutoTurn Exhibit

Standard Passenger Vehicle

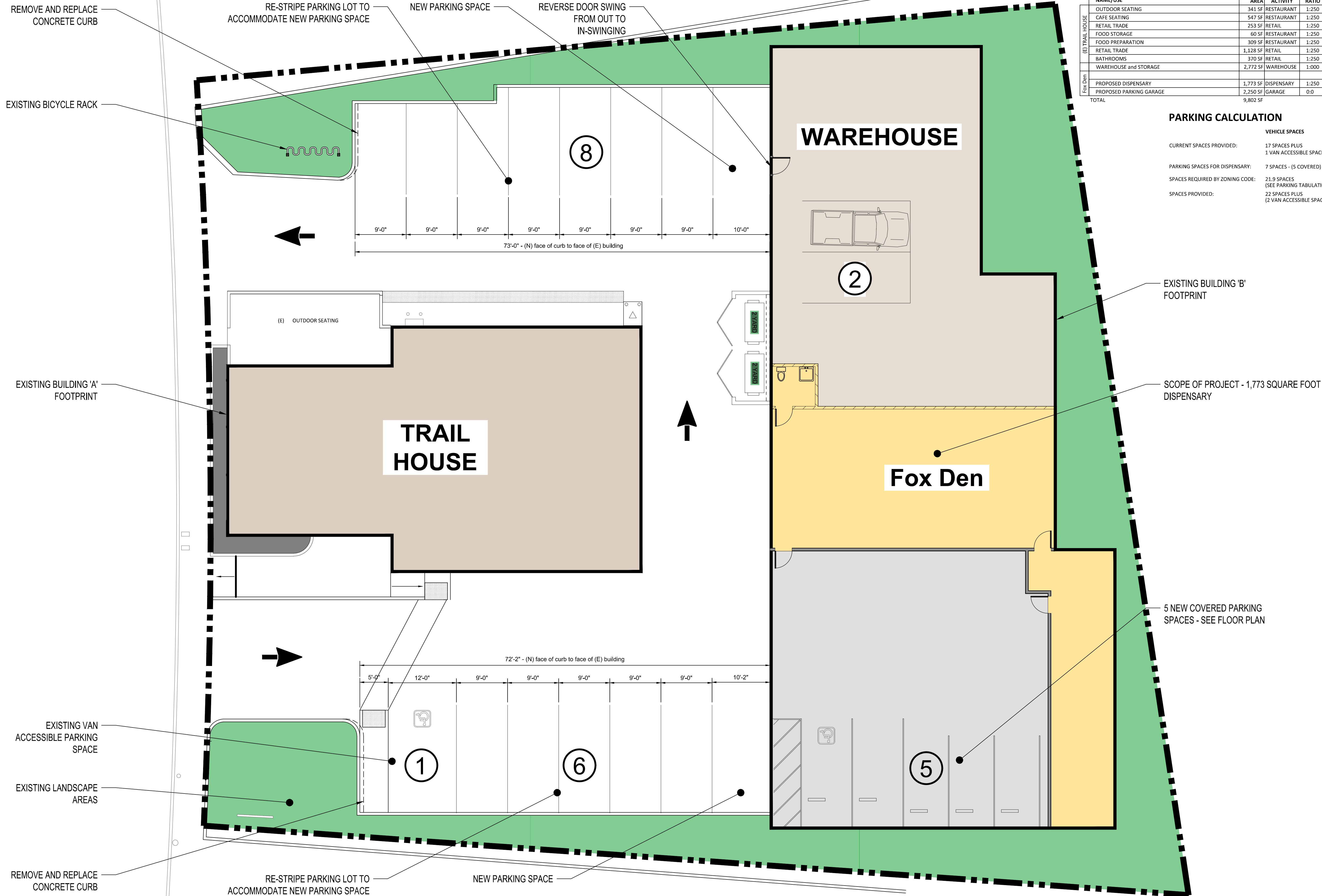


FOX DEN DISPENSARY  
4036 Montgomery Drive

AutoTurn Exhibit  
Shuttle Van

PARKING TABULATION						
NAME/USE	AREA	BUSINESS ACTIVITY	PARKING RATIO	PARKING SPACES	BIKE RATIO	BIKE SPACES
OUTDOOR SEATING	341 SF	RESTAURANT	1:250	1.4	1:5000	0.1
CAFE SEATING	547 SF	RESTAURANT	1:250	2.2	1:5000	0.1
RETAIL TRADE	253 SF	RETAIL	1:250	1	1:5000	0.1
FOOD STORAGE	60 SF	RESTAURANT	1:250	0.2	1:5000	0
FOOD PREPARATION	309 SF	RESTAURANT	1:250	1.2	1:5000	0.1
RETAIL TRADE	1,128 SF	RETAIL	1:250	4.5	1:5000	0.2
BATHROOMS	370 SF	RETAIL	1:250	1.5	1:5000	0.1
WAREHOUSE and STORAGE	2,772 SF	WAREHOUSE	1:000	2.8	1:140000	0.2
PROPOSED DISPENSARY	1,773 SF	DISPENSARY	1:250	7.1	1:5000	0.4
PROPOSED PARKING GARAGE	2,250 SF	GARAGE	0:0	0	0:0	0.0
TOTAL	9,802 SF			21.9		1.4

PARKING CALCULATION		
	VEHICLE SPACES	BIKE RACKS
CURRENT SPACES PROVIDED:	17 SPACES PLUS 1 VAN ACCESSIBLE SPACE	5 SPACES + INDOOR
PARKING SPACES FOR DISPENSARY:	7 SPACES - (5 COVERED)	1 SPACE
SPACES REQUIRED BY ZONING CODE: (SEE PARKING TABULATION ABOVE)	21.9 SPACES	2 SPACE
SPACES PROVIDED:	22 SPACES PLUS (2 VAN ACCESSIBLE SPACE)	5 SPACES + INDOOR



1 SITE PLAN  
A1.2 1/8" = 1'-0"



**SECOND ADDENDUM  
TO  
COMMERCIAL LEASE AGREEMENT**

**LANDLORD:** 4036 Montgomery Drive, LLC, a California limited liability company.  
**TENANT:** SoCoBikes.Inc, a California corporation.  
**PREMISES:** Front Retail building at 4036 Montgomery Drive, Santa Rosa, California.

**DATE OF ADDENDUM:** May 7, 2018.

THIS SECOND ADDENDUM TO COMMERCIAL LEASE AGREEMENT (this "**Addendum**") is attached to and made a part of that certain Commercial Lease Agreement, dated March 17, 2016, by and between Landlord and Tenant, as amended by that certain Addendum to Commercial Lease Agreement, dated March 17, 2016 (the "**First Addendum**"), concerning the Premises (collectively, the "**Agreement**"), as of the Date of Addendum set forth above.

Landlord and Tenant hereby agree that this Addendum shall amend and modify the Agreement as set forth below. Except as expressly amended hereby, the Agreement shall remain unchanged and after the date of this Addendum, hereafter references to the Agreement shall be deemed to refer to the Agreement as amended hereby; provided, however, in the event of a conflict between the terms and conditions of this Addendum and the Agreement, this Addendum shall control. All terms used but not defined in this Addendum shall have the meanings ascribed to such terms in the Agreement. All section references used in this Addendum, unless specified otherwise, shall refer to such sections in the Agreement. The Agreement, as modified by this Addendum, is sometimes referred to herein as the "Lease." All exhibits, if any, to this Addendum are hereby incorporated into the Agreement by this reference. This Addendum may be executed in counterparts.

1. Waiver of Section 8 of the First Addendum.

(a) Subject to the terms and conditions set forth herein and the lease restrictions set forth in Section 1(c) below, Tenant hereby waives its right of first offer set forth in Section 8(a) of the First Addendum in regard to the space located at the Property occupied, as of the date of this Addendum, by Tech Savvy Inc., a California corporation (the "**Waived Space**"), in regard to Landlord's intent to utilize such space for the Agreed Usage (as defined herein). The term "**Agreed Usage**" means the use of the Waived Space as a recreational cannabis dispensary either operated by a third party pursuant to the terms and conditions of an arms-length commercially reasonable lease by and between Landlord and such third party consistent with related industry practices, or by Landlord. For avoidance of doubt, Landlord hereby agrees that the Waived Space only includes the space occupied by Tech Savvy Inc., a California corporation, as of the date of this Addendum and does not include any expansion thereof or any other space or spaces on the Property.

(b) Notwithstanding the Waiver, Landlord hereby acknowledges and agrees that (i) Section 8 of the Lease Addendum remains in full force and effect and applies to any and all space or spaces that become available for use located on the Property; and (ii) the Waiver shall not, under any circumstance, be deemed to be a waiver of Tenants rights pursuant to Section 8(a) of the First Addendum in regard any Available Space that becomes available after



the date hereof. Additionally, Landlord hereby agrees that the term Available Space shall include any and all space or spaces located on the Property, including without limitation the Waived Space, that become available after the date hereof, regardless if such availability is based on the expiration of a lease, an opportunity to sublease or license such space or spaces, or otherwise.

(c) Landlord hereby agrees that under no circumstance shall any business be conducted in the Waived Space that, directly or indirectly, competes with Tenant's Business Operations (as defined herein). The term "**Tenant's Business Operations**" include bicycle sales, repairs, and rentals, sales of equipment and other products related to cycling and other recreational and athletic activities, on and off premises sales of beer and wine, operation of a coffee shop, café, and restaurant, sales of recreational and athletic apparel and personal items, and sales of soft drinks, foods, food products, and energy drinks and supplements, for on and off premises consumption. Notwithstanding the foregoing, THC-infused food products shall not be deemed to be "food" for purposes of this Section 1(c) or Section 5 below.

## 2. Parking Spaces.

(a) Landlord acknowledges and agrees that except for the two contiguous parking spaces located on the south west corner of the Property and directly adjacent to the Waived Space, all parking spaces located on the east and west side of the Property are for the exclusive use of Tenant (collectively, the "**Tenant Spaces**"). Landlord hereby agrees that, at its sole cost and expense and prior to the commencement of the New Operations (as defined in Section 3 below), Landlord shall clearly mark, in a commercially reasonable fashion, all of the Tenant Spaces "RESERVED FOR TRAIL HOUSE CUSTOMERS," and such marking shall be maintained in accordance with Section 6(b) of the First Addendum.

(b) Landlord hereby agrees that it will use its best efforts and take all actions necessary and required to enforce Tenant's right to exclusive use of the Tenant Spaces.

3. Use of Waived Space. Upon the commencement of any activities in, on, or about the Waived Space, the Property, or any portion thereof related, directly or indirectly, to the Agreed Usage, including without limitation construction or improvements thereon (collective, the "**New Operations**"), Landlord hereby agrees as follows:

(a) to use is best efforts and take all actions necessary and required to enforce and maintain Tenant's right to quite enjoyment of the Premises and that the New Operations are conducted in compliance with all applicable local and state laws, codes, rules, and regulations;

(b) except as set forth in Section 4 below, that no personal property, or other supplies, materials, or equipment related to the New Operations shall be located or placed on any of the Tenant Spaces or any portion thereof or shall interfere with the usage thereof;

(c) except as set forth in Section 4 below, that any and all improvements or construction on or to the Property or the Waived Space related to the New Operations shall not interfere with Tenant's business operations, or Tenant's or Tenant's customers' ingress and egress to and from the Property;



(d) Landlord shall repair, at its sole cost and expense and in a timely manner, all damage to the Property and the Premises, including with limitation any damage to the parking areas, landscaping, or signage cause by or related to any construction on or improvements made to the Waived Space or the Property related to New Operations; and

(e) Landlord shall indemnify, defend (by counsel reasonably satisfactory to Tenant) and hold harmless Tenant, and its directors, officers, shareholders, managers, members, agents, successors and assigns, and their respective heirs, successors, and assigns from and against any and all claims, actions, causes of action, demands, assessments, losses, damages, liabilities, judgments, settlements, penalties, costs, and expenses (including reasonable attorneys' fees and expenses), of any nature whatsoever, whether actual or consequential, contingent or otherwise, asserted against, resulting to, imposed upon, or incurred by Tenant, directly or indirectly, by reason of or resulting from any breach by Landlord of any covenants, or agreements contained in this Lease as amended hereby.

4. Sprinkler Installation to Waived Space. Subject to the restrictions set forth herein, Tenant hereby agrees that the parking spaces located on the west side of the Property may be used by Landlord for a period of 5 business days to facilitate the installation of a fire protection sprinkler system in the Waived Space (the "**Sprinkler Installation Period**"); provided, however, (i) Landlord shall, by written notice thereof, schedule the Sprinkler Installation Period at least fourteen (14) days in advance, and (ii) the Sprinkler Installation Period shall be not be scheduled to occur on a Friday, Saturday, Sunday, or any holiday.

5. Non-Competition. Landlord hereby agrees that it shall not enter into a lease, sublease, license or any other form tenancy agreement, for any space on the Property, including the Waived Space, with any Person (as defined herein) that, directly or indirectly, competes with or intends to compete with Tenant's Business Operations (the "**Non-Competition Covenant**"). Landlord further agrees the Non-Competition Clause shall apply, without change, in the event that Tenant either waives its right of first offer set forth in Section 8(a) of the First Addendum, or otherwise elects to not lease any Available Space that becomes available after the date hereof. The term "**Person**" means an individual, partnership, limited partnership, limited liability company, corporation, trust, estate, association, or any other foreign or domestic entity.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Second Addendum to Commercial Lease Agreement as of the Date of Addendum.

**LANDLORD:**

4036 Montgomery Drive, LLC  
a California limited liability company

By: \_\_\_\_\_

  
Scott Bagala, Manager

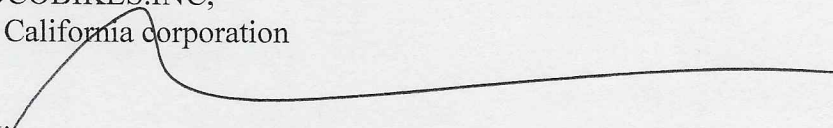
Landlord Address for Notice:

4036 Montgomery Drive, LLC  
2768 Canterbury Drive  
Santa Rosa, CA 95405  
Attn: Scott Bagala

**TENANT:**

SOCOBIKES.INC,  
a California corporation

By: \_\_\_\_\_

  
Glenn Fant, President

Tenant Address for Notice:

Socobikes  
425 College Avenue  
Santa Rosa, CA 95404  
Attn: Glenn Fant





January 4, 2019

**KELLY BASS SEIBEL**

CHAIR  
Petaluma Health Center

**MICHELE ROGERS, PhD**

VICE CHAIR  
Early Learning Institute

**SOCORRO SHIELS**

Sonoma Valley Unified School  
District

**CYNTHIA MURRAY**

North Bay Leadership Council

**LYNDA HOPKINS**

Board of Supervisors

**BARBIE ROBINSON**

Sonoma County Department of  
Health Services

**KAREN FIES**

Sonoma County Human Services  
Department

**JENNIELYNN HOLMES**

Catholic Charities

**JEFF MILLER, MD**

Pediatrician

**ANGIE DILLON-SHORE**

Executive Director

5340 Skylane Blvd.  
Santa Rosa, CA 95403

Ph: 707.565.6686  
first5sonomacounty.org

City of Santa Rosa  
Planning Commission  
City Hall, 100 Santa Rosa Ave.  
Santa Rosa, CA, 95403

Dear Members of the City of Santa Rosa Planning Commission,

As a partner in the project's community benefit program, I am writing this letter in support of the Fox Den Dispensary located at 4036 Montgomery Drive. Dennis Hunter and Scarlet Ravin have demonstrated through previous actions and their stated commitment that they will be an active and engaged contributor to a much-needed sustainable local funding stream for early childhood development services in Santa Rosa.

**A Natural Alliance**

Community benefit partnerships between the cannabis industry leaders and First 5 Sonoma County have great potential to make a critical contribution to our community, specifically by supporting the needs of young children and their parents and caregivers. Advocates for children and cannabis industry leaders are natural allies, as our goals are mutually supportive:

- Equitable and inclusive economic opportunities for workers, business owners and parents
- Safe and healthy places for Sonoma County residents to live, work, play and learn
- Opportunities to sustainably maximize the potential for cannabis commerce to make Sonoma County a better place to live for everyone.

In addition to our mutual aspirations for our community, this alliance makes sense because Prop. 64 states a clear mandate that a portion of revenues are used to protect children and prevent youth substance abuse and misuse. **The proven greatest promise for preventing youth substance abuse and related risk behaviors is by investing in early childhood. Research has revealed that 90% of brain development happens before a child turns five years old, a uniquely foundational window of opportunity.** Thus, early childhood requires the "first dollar" of a community benefit contribution from our new cannabis industry. Fox Den is ready to contribute that "first" dollar to the families in Sonoma County.



Perhaps most important is our shared commitment to equity. For decades, Latinx, black and immigrant communities suffered disproportionate incarceration for marijuana-related crimes, policies that exacerbated inter-generational poverty, incarcerated parents of young children, and created barriers for parents to employment, housing and education due to felony convictions. The legal cannabis industry across California has embraced the principle of equity by ensuring that the economic opportunities and benefits of cannabis commerce are intentionally shared with impacted communities. First 5 invests locally with a strong equity lens by increasing access to early learning and health services for low income children, English learners and immigrant families. Scarlet and Dennis are overtly committed to this principle.

### **First 5 Fridays**

Fox Den has committed to be the first cannabis company to partner with First 5 Sonoma County with regard to promoting and educating their clientele on the importance of early childhood and the benefit for the whole community of investing in very young children and their families.

They have proposed implementing *First 5 Fridays* at Fox Den, generating proceeds that would benefit specific programs in our community that promote family resiliency. Specific programs would be spotlighted as a featured beneficiary. First 5 would provide materials and partner with Fox Den staff to share information with dispensary clientele about optimal child development and family resiliency. Customers will also be engaged at point-of-sale to donate to the highlighted First 5 program. All *First 5 Fridays* will showcase a supply chain vendor booth – featured vendors will be asked to match all donations made by clients on that day. Fox Den has also proposed options such as “Round-up Fridays” where each client's sale is rounded up to the next dollar and product discounts where the discounted amount is contributed to the First 5. Fox Den is not only committed to generating funds for early childhood programs, but equally interested in the opportunity to educate and interface with their clientele on the importance of the first five years of life and the role of the parent and caregiver.

While First 5 Sonoma County is pleased to partner with Fox Den on community benefit, I want to be clear on behalf of the First 5 Commission that our support does not imply endorsement of Fox Den’s products, land use or compliance with any aspect of the City of Santa Rosa’s cannabis ordinance other than community benefit.

Thank you for considering the critical and foundational nature of early childhood and the potential for our cannabis economy can help to address the needs of children and families in our community. The earlier the investment, the greater the return in terms of improving the life of the family, the child, and our community. I look forward to working closely with the Dennis Hunter and Scarlet Ravin on our community benefit partnership supported by a successful and thriving local cannabis economy

Warm regards,

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

Angie Dillon-Shore  
Executive Director