

Appeal of Fox Den, Inc. Cannabis Dispensary & Delivery

4036 Montgomery Rd., Unit B

April 9, 2019

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- **Cannabis Ordinance**
 - State & Local Regulations
 - Conditional Use Permit Criteria
- **Project Description**
 - Context
 - Site and Floor Plans
 - Operations
- **Public Comment**
- **Environmental Review**
- **Staff Recommendation**

Cannabis Ordinance Overview

- **Personal Use**
 - 6 plants per residence
- **Commercial Cannabis Businesses**
 - Medical & Adult Use
 - Cultivation
 - Manufacturing (Level 1 & Level 2)
 - Testing Laboratory
 - Distribution
 - [Retail \(Dispensaries & Delivery\)](#)
 - Microbusiness
 - Special Events
- **Effective January 19, 2018**



Cannabis Ordinance

Retail and Delivery Land Use Definition

- **Cannabis Retail** means a facility where medical or adult use Cannabis or medical or adult Use Cannabis Products are offered, either individually or in any combination, for retail sale, including an establishment that delivers Cannabis or Cannabis Products as part of a retail sale. Also known as a cannabis “dispensary.”
- **State License Type - 10**

Cannabis Ordinance

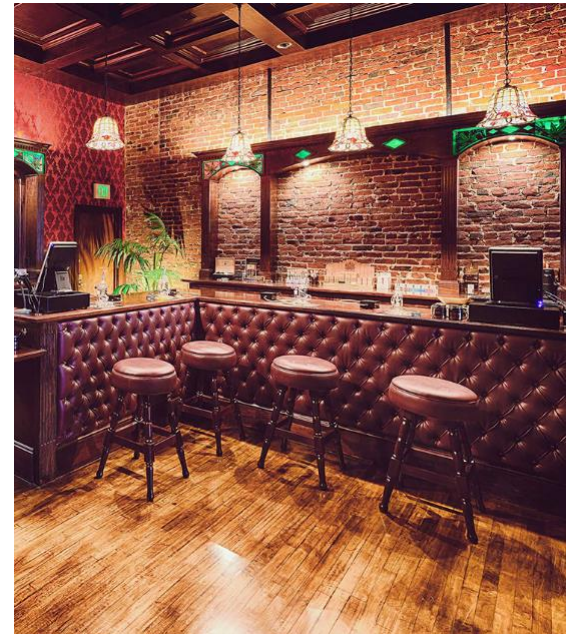
Retail Specific Requirements

- **Eligible Zoning Districts**
 - Commercial – CO, CN, CG, & CSC
 - Industrial – BP, IL & IG
- **Setbacks to Sensitive Receptors**
 - 600 feet to a K-12 school [CA Health & Safety Code § 11362.768(h)]
- **Overconcentration**
 - 600 feet to another Cannabis Retail facility
- **Conditional Use Permit**
 - Neighborhood Meeting
 - Public Hearing – Planning Commission
 - Appeal – City Council

Cannabis Ordinance

Retail Specific Requirements

- **Deliveries** - Allowed only from a Cannabis Retail facility with a storefront
- **Drive-through** – Not permitted
- **Hours of Operation** – 9:00 am to 9:00 pm
- **Security** – entry must be visible from street, secured entry, products, cash
- **On-Site Consumption (not proposed)** – subject to state and local law; and use permit



State Law and Local Ordinance

Proximity to a School

- **Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)**
 - No cannabis business is allowed within 600 feet of a K-12 school, day care center, or youth center... unless a licensing authority or a local jurisdiction specifies a different radius" including a zero setback.
- **City of Santa Rosa Chapter 20-46 (Cannabis)**
 - City of Santa Rosa asserted its right to establish different setbacks through City Code Section 20-46.040(B)
 - City Code requires that Cannabis retail be setback 600 feet from a K-12 school as defined by Health and Safety Code section 11362.768
 - In addition, the City Code relies on the public review and hearing process and the requirement for six Conditional Use Permit findings.

Conditional Use Permit

Required Findings a - c

- a) The proposed use is allowed within the applicable zoning district and **complies with all other applicable provisions of the Zoning Code** and the City Code;
- b) The proposed use is **consistent with the General Plan** and any applicable specific plan;
- c) The design, location, size, and operating characteristics of the proposed activity would be **compatible with the existing and future land uses** in the vicinity;

Conditional Use Permit

Required Findings d - f

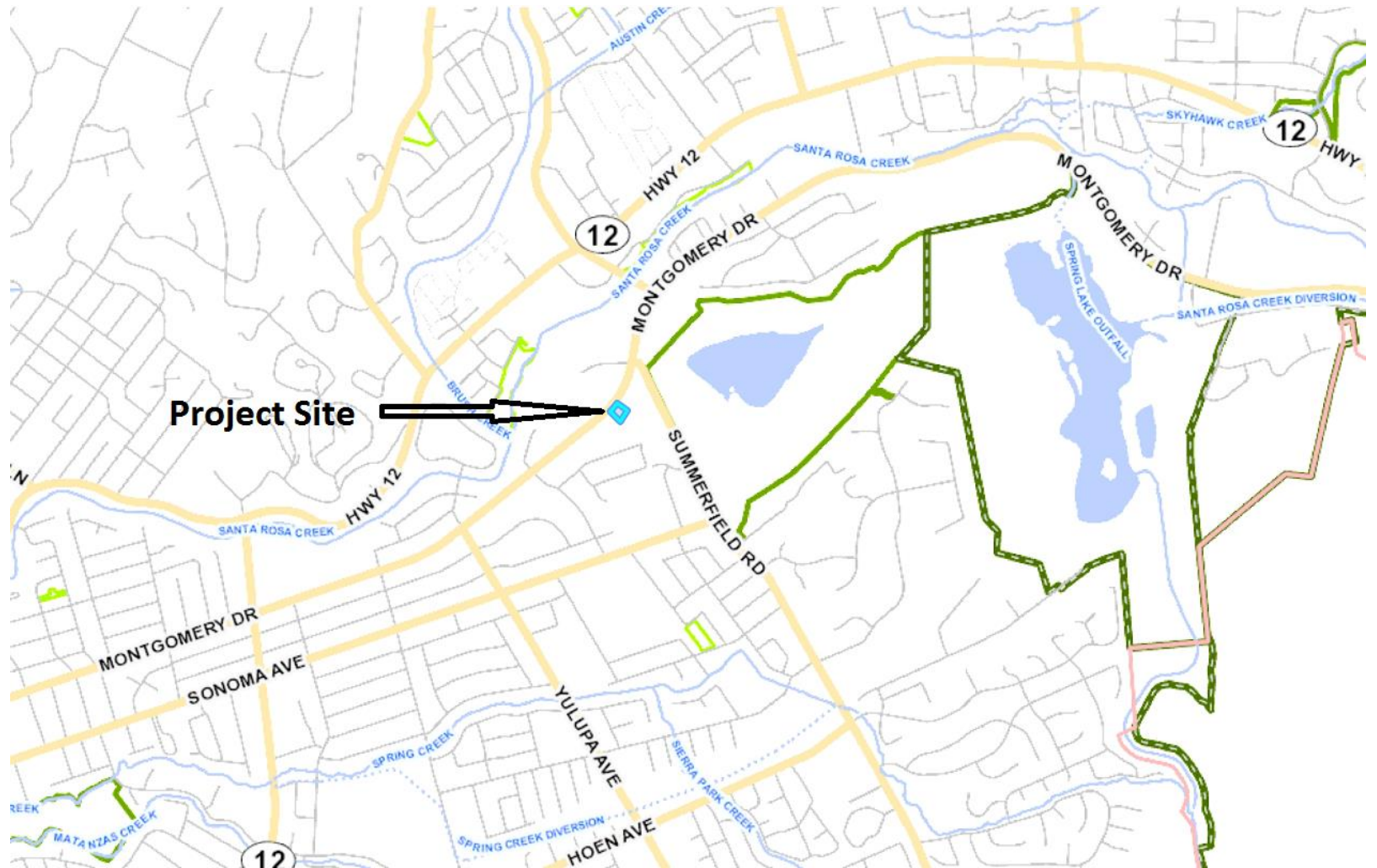
- d) The site is **physically suitable for the type, density, and intensity of use** being proposed, including access, utilities, and the absence of physical constraints;
- e) Granting the permit **would not constitute a nuisance** or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located; and
- f) The proposed project has been reviewed in **compliance with the California Environmental Quality Act (CEQA)**.

Conditional Use Permit

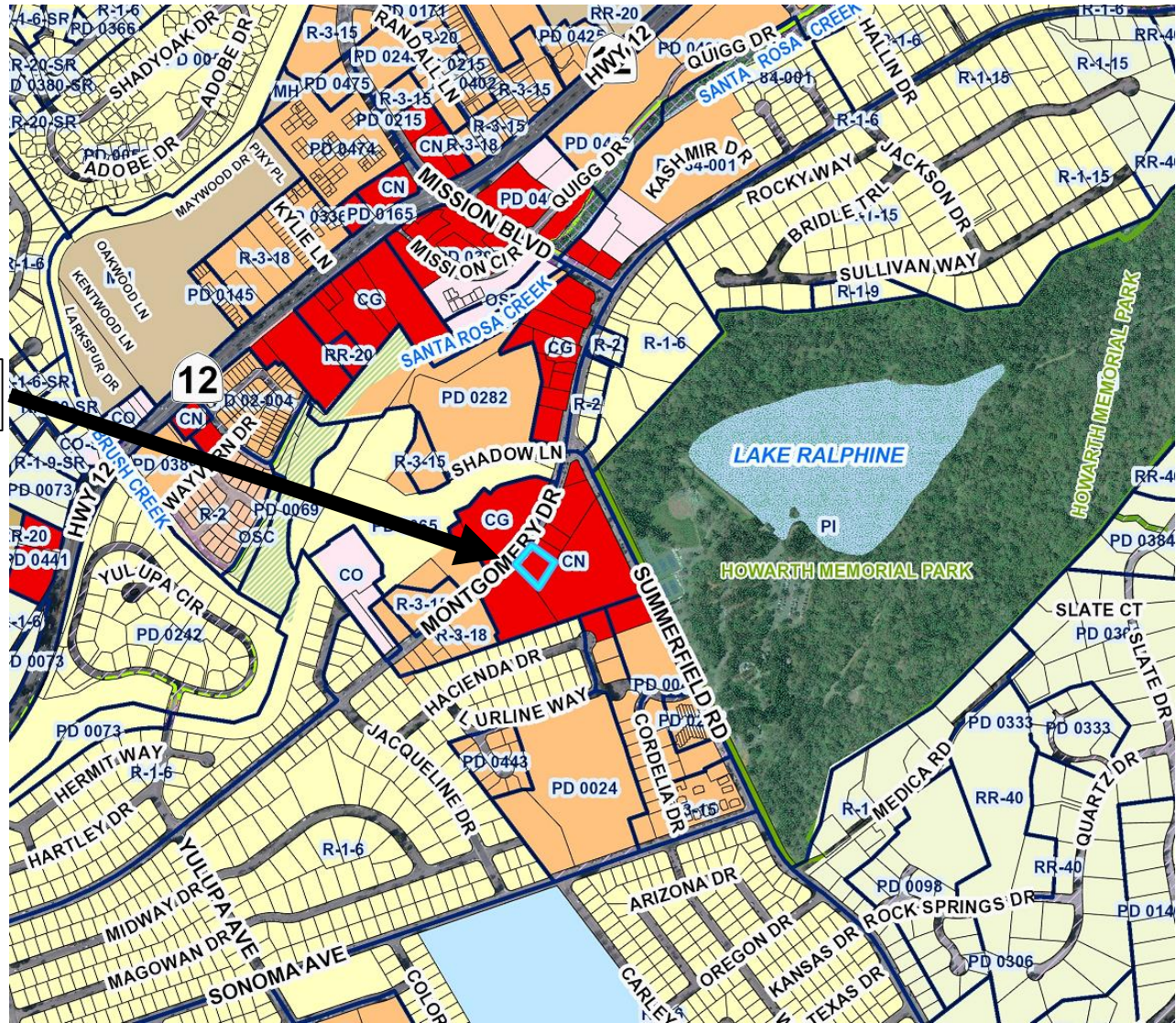
- Retail (dispensary) and Delivery
- Type 10 State License
 - 1,773 square feet of existing building
 - Retail – 918 square feet
 - Lobby– 288 square feet
 - Support Functions – 567 square feet
 - Office
 - Storage
 - Prep
 - Vault, hallway, bathroom etc.

- April 18, 2018 - Application submitted
- May 31, 2018 - Application deemed incomplete
- June 4, 2018 - Neighborhood Meeting
- June 19, 2018 – Supplemental application information submitted.
- July 2, 2018 – Application deemed complete
- October 15, 2018 – Application revised changing operator from Solful to Fox Den, Inc.
- January 14, 2019 - Public hearing notice

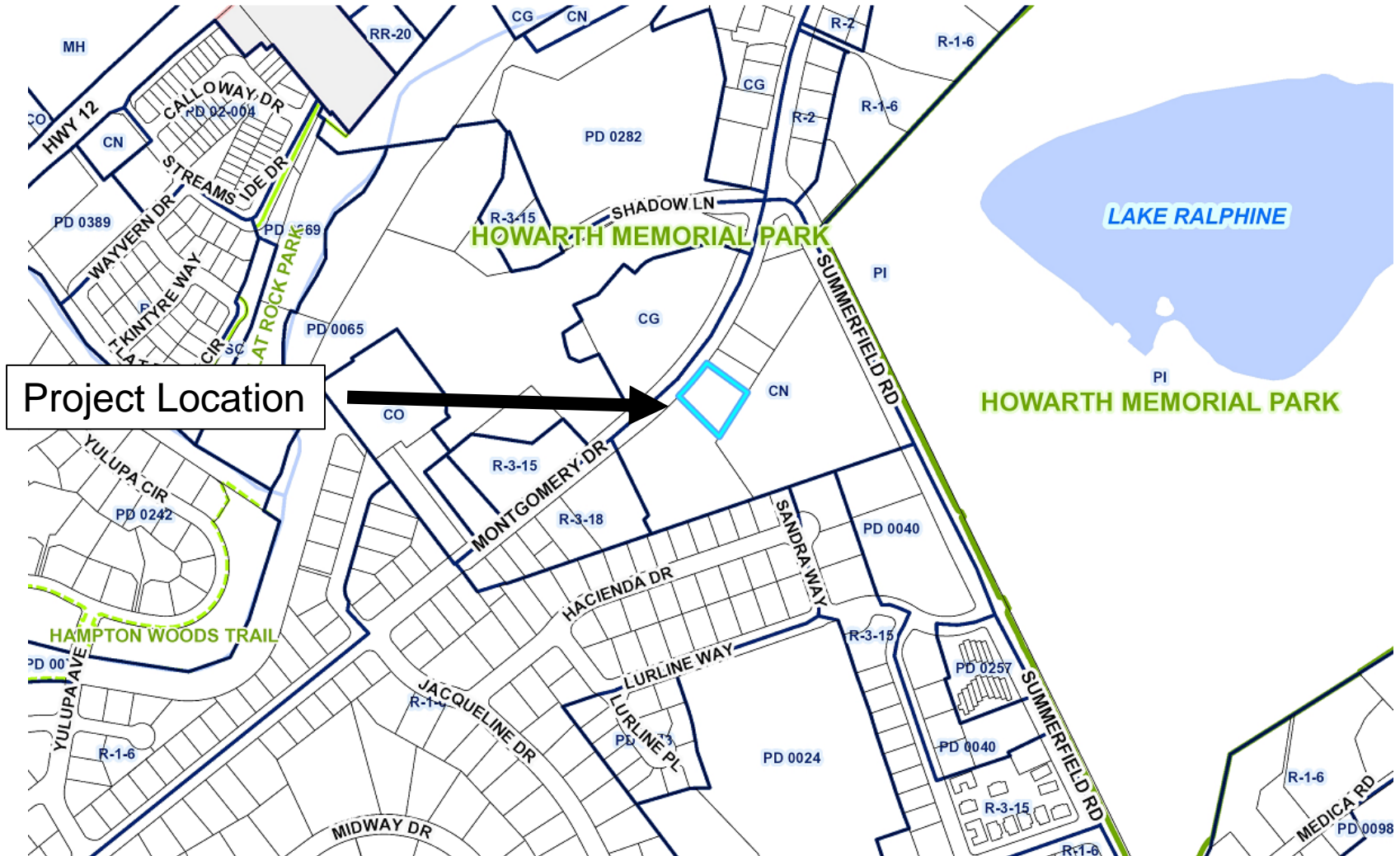
4036 Montgomery Rd., Unit B



Project Location

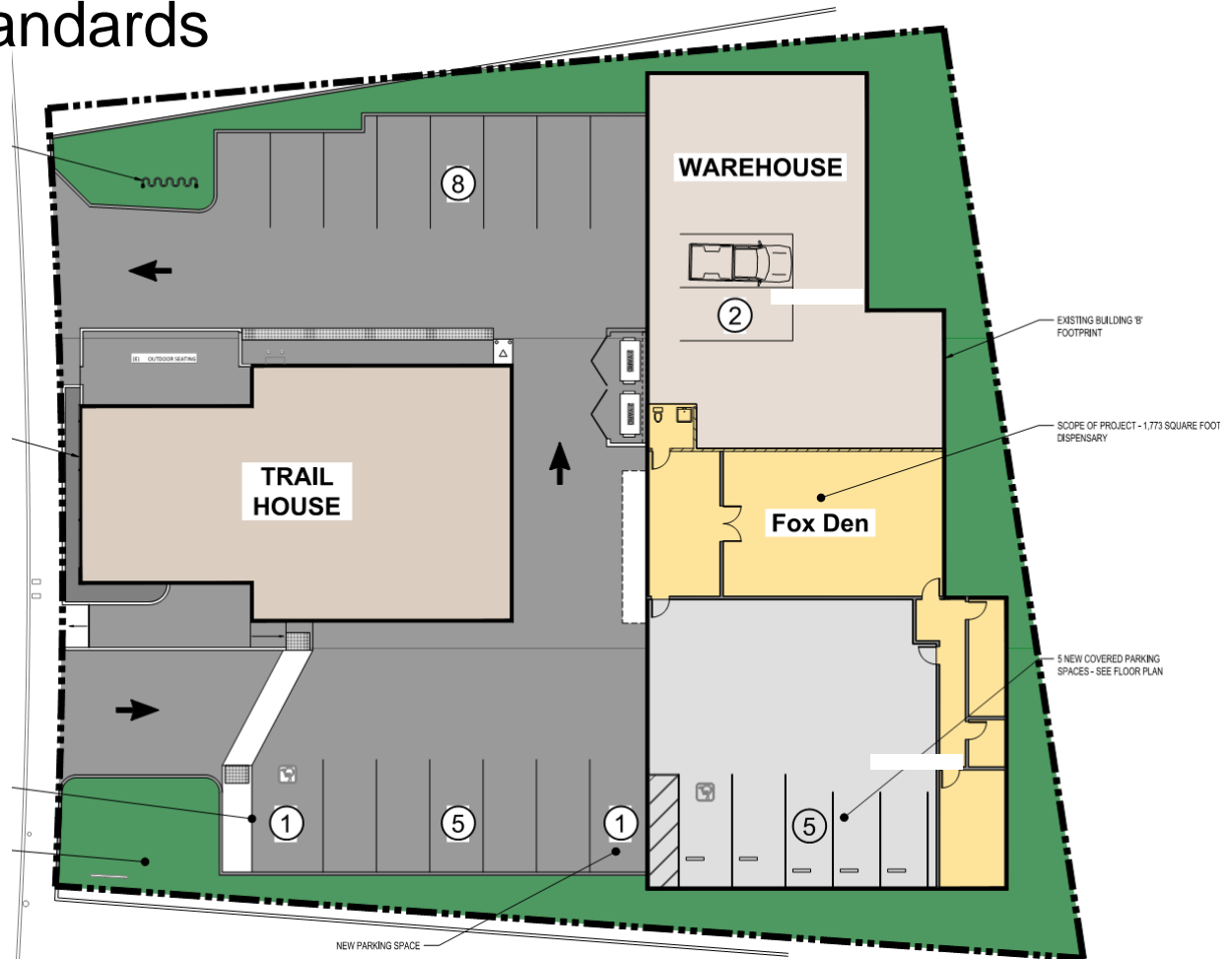


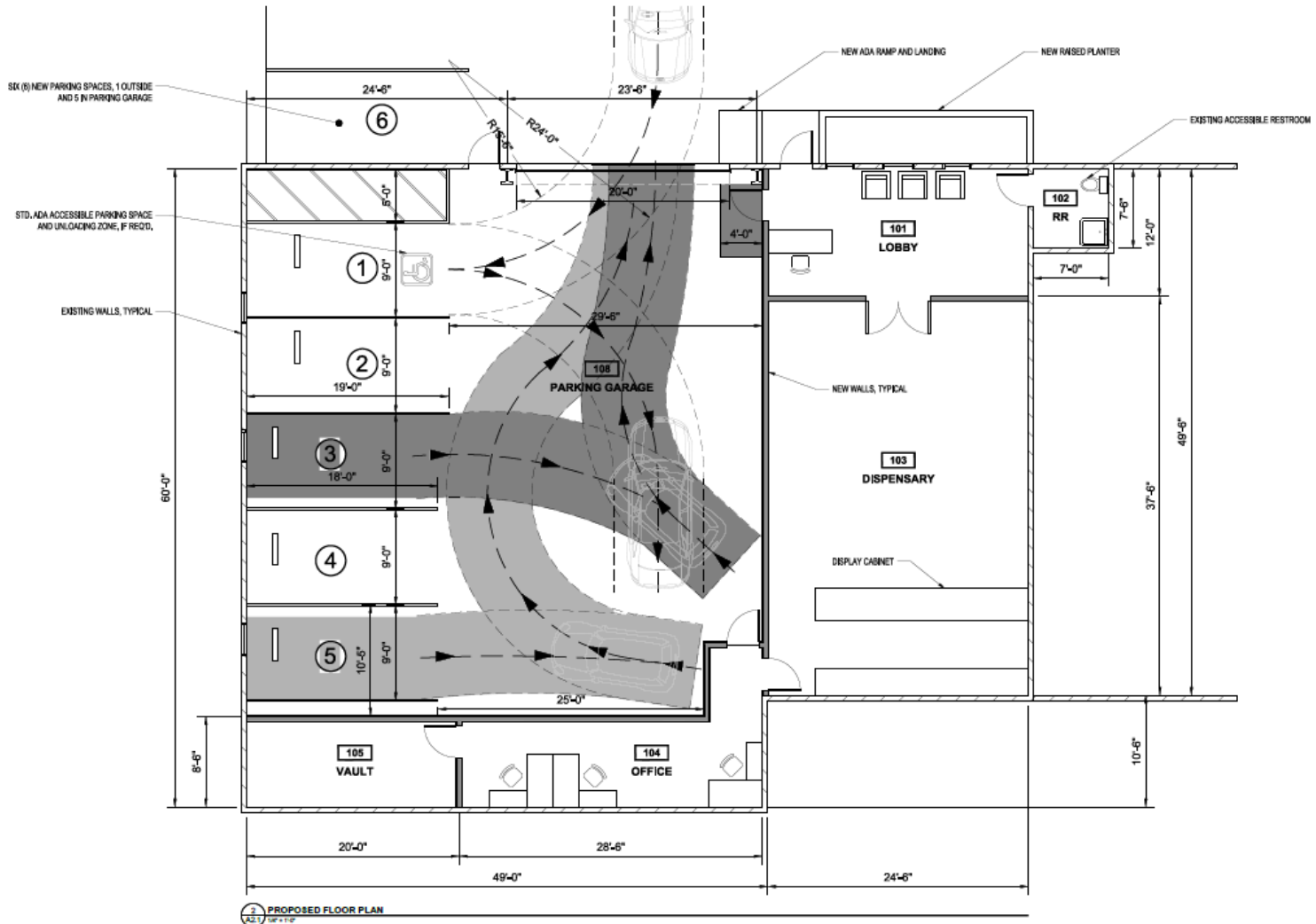
Zoning Neighborhood Commercial (CN)



Development Standards

- Parking
- Noise
- Odor
- Security
- Lighting





Parking Tabulation

	NAME/USE	AREA	BUSINESS ACTIVITY	PARKING RATIO	PARKING SPACES	BIKE RATIO	BIKE SPACES
(E) TRAIL HOUSE	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
Fox Den							
	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

Hours of Operation

Proposed

Retail:

9 a.m. to 9 p.m. every day

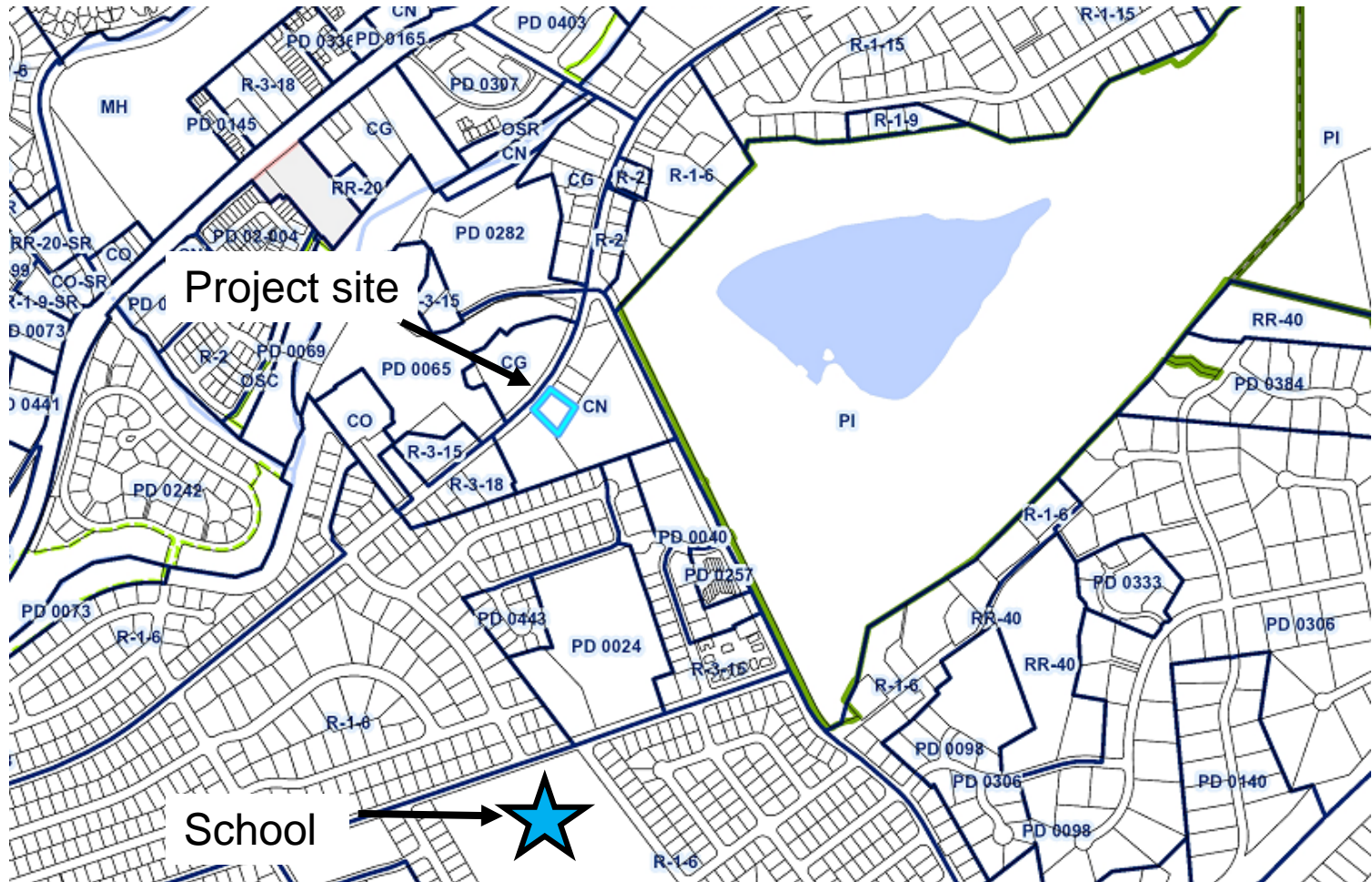
Delivery:

9 a.m. to 9 p.m. every day

- Neighborhood Meeting & Subsequent Public Input
 - Proximity to Howarth Memorial Park
 - Children visiting park
 - Contribute to existing public nuisance problems
 - Incompatible with Trail House
 - On-site circulation conflicts with cyclists
 - Bicycle-oriented events including those for children
 - Abutting Kiwi Preschool playground
 - Safety concerns
 - Children exposed to cannabis

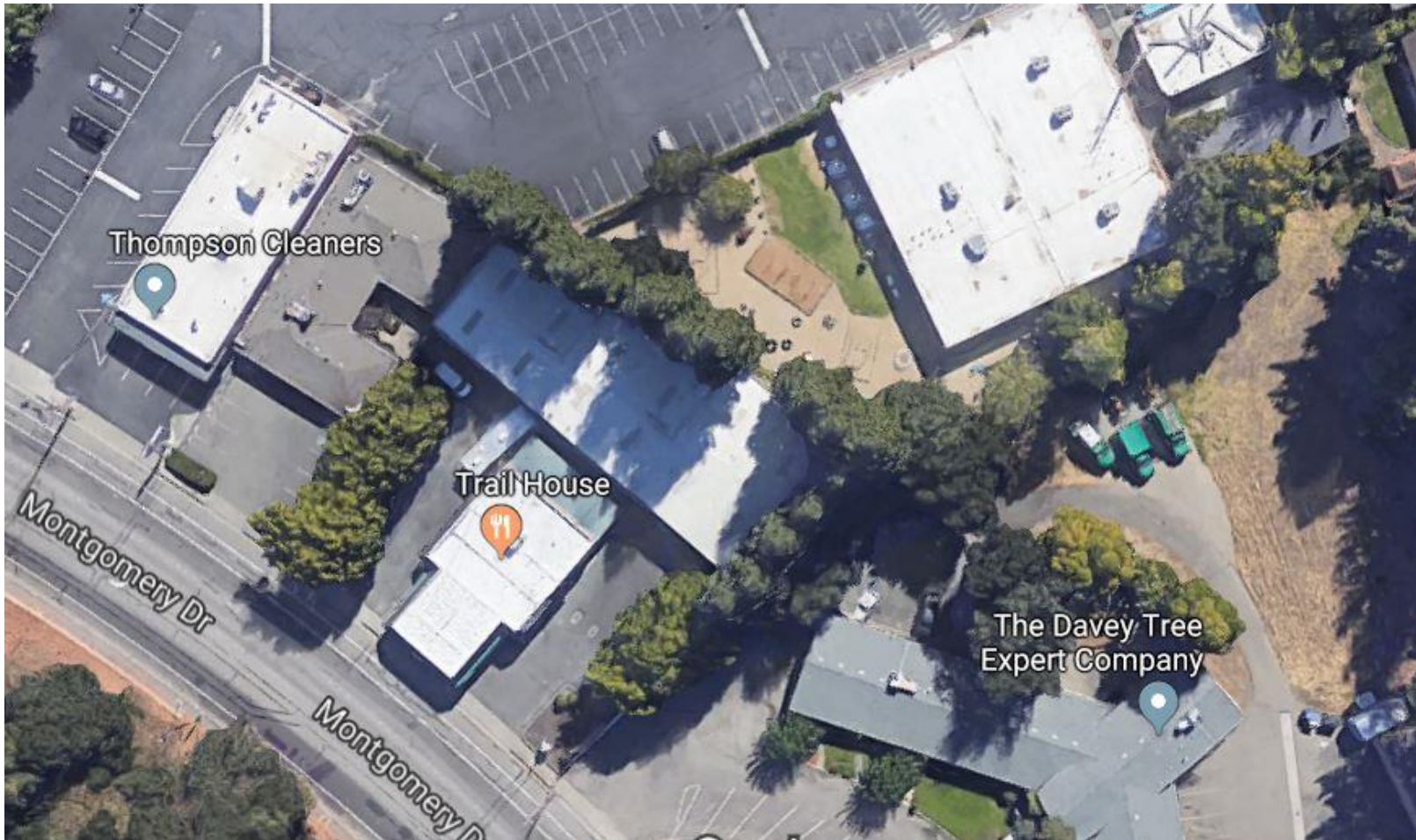
1. *“The Design, Location, Size and Operating Characteristics of the Proposed Activity Would NOT Be Compatible with the Existing and Future Land Uses in the Vicinity.”*
“Public Policy Supports a Setback for All Children Regardless of Age.”
2. *“The Proposed Project and Increased Traffic Will Create an Unsafe Environment for The Children at the Site.”*
3. *The Proposed Project Would Be Detrimental to Kiwi’s Welfare. “The stigma associated with marijuana and the fear of increased crime may diminish the appeal of Kiwi in the eyes of prospective parents who may not wish to enroll their child in a preschool located directly behind a dispensary.”*

Proximity To Schools



Site Photograph

Aerial View



Site Photograph

Street View



Environmental Review

California Environmental Quality Act (CEQA)

Found in compliance with CEQA:

- Pursuant to CEQA Guidelines Section 15303 – Involves a change of use
- Pursuant to CEQA Guidelines Section 15301 – Involves minor modifications to an existing facility
- Pursuant to CEQA Guidelines Section 15332 – Infill development

It is recommended by the Planning Commission that the Council, by resolution, deny the appeal and approve a Conditional Use Permit for cannabis retail (dispensary) and delivery business for medical and adult use at 4036 Montgomery Rd, Unit B.

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