

August 28, 2025

**VIA E-MAIL**

Larisa McKelvey Day  
Chairperson  
Salinas Planning Commission  
200 Lincoln Avenue  
Salinas, CA 93901

Re: Appeal of Conditional Use Permit No. 2024-24

Dear Ms. McKelvey Day and Members of the Planning Commission:

This office represents Bridge Group Investments, LLC and Mersho Investments, LLC (collectively “Steerpoint”), the owner (“Owner”) of the Northridge Mall (the “Mall”) and the appellant of the above-referenced conditional use permit (“CUP”), which permits construction of an almost 23,000 square foot Dave and Buster’s with alcohol service until 2:00 a.m. (the “Project”).<sup>1</sup> Given the Mall’s location immediately adjacent to the Project, it will suffer the most immediate negative consequences from this ill-considered Project. As set forth below, the City’s CUP findings are legally deficient and the City cannot approve the Project.

**1. The CUP Findings are Not Supported by Substantial Evidence**

To approve a CUP, the City must make findings supported by substantial evidence in the administrative record. Substantial evidence is not synonymous with any evidence—rather, it is defined as evidence of “ponderable legal significance...reasonable in nature, credible, and of solid value [, and] relevant evidence that a reasonable mind might accept as adequate to support a conclusion...” *See Young v. Gannon* (2002) 97 Cal.App.4th 209, 225. In other words, “[w]here findings are devoid of evidentiary support, or are based upon inferences arbitrarily drawn and without reasonable foundation, or are contrary to facts universally accepted as true and judicially known, the administrative order will be reversed as not being supported by substantial evidence in the light of the whole record.” *Lorimore v. State Personnel Board* (1965) 232 Cal.App.2d 183, 187.

The substantial evidence test is essentially a reasonableness test and requires that a reasonable person, having weighed the evidence in the entire record, be able to reach the same

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<sup>1</sup> Despite numerous communications between this office and City Planning staff concerning the appeal and this office submitting the appeal, this office has received no communications from the City regarding the appeal. This office is only aware that the City has apparently scheduled an appeal hearing because the City informed Steerpoint.

conclusion reached by the City to be deemed lawful. *See Kirkorowicz v. California Coastal Commission* (2000) 83 Cal.App.4th 980, 986; *Sierra Club v. California Coastal Commission* (1993) 12 Cal.App.4th 602, 610.

Here, among other findings, the City must find that “[t]he proposed location of the conditional use and the proposed conditions under which it would be operated or maintained...will not be detrimental to the public health, safety, or welfare of persons residing or working adjacent to the neighborhood of such use, nor detrimental to the properties, or improvements in the vicinity or to the general welfare of the City.” The City cannot make this finding, and the “evidence” cited in support of the finding is not evidence at all. The finding simply states that states the Project’s hours of operation and that alcohol won’t be sold outside of those hours or sold for off-site consumption.

The finding says nothing about the Project’s actual operations; namely, that it is a massive, 23,000 square foot establishment that is functionally a giant bar. The Project is permitted to open at 10:00 a.m. but does not have to provide security until 5:00 p.m., providing hours a day of alcohol service in a giant, over half-acre setting with no security.

Concern over the Project’s operation is not speculative. With its appeal, Steerpoint submitted evidence of numerous instances of violent behavior at Dave & Buster’s – murders, shootings, stabbings, assaults, robberies – the list goes on and on. As such, not only is there not substantial evidence to support the City’s finding, but the only evidence in the record is that the Project will be detrimental to public health, safety, and welfare, particularly to the “properties [and] improvements in the vicinity[.]” *See Topanga Ass’n for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506 (findings not supported by substantial evidence are invalid).

Remarkably, other statements of fact in the CUP approval are further evidence of the folly of approving the Project. CUP Finding No. 4 notes that the crime rate for the area’s Police Reporting District is over 2.7 times higher than the overall City average.<sup>2</sup> The City’s justification for approving a Project for an operator with demonstrated nationwide issues contributing to serious crime is to state that the Police Department does not object to the Project as long as it has security cameras and installation of “ample lighting,” whatever exactly that means.

The finding further states that “[t]he proposed on-sale alcohol related use will not adversely affect the welfare of the area...[because] the use is located in an existing shopping center.” Again, this is not substantial evidence (or evidence at all) supporting the finding, particularly in light of the objective crime statistics for the area.

Given the Mall’s importance to the economic vitality of north Salinas, it is particularly important that the City not permit uses that could have a cascading negative effect on surrounding commercial and retail property.

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<sup>2</sup> Given that the overall City average includes this PRD, this PRD’s crime rate is more than 2.7 times higher than the rest of the City.

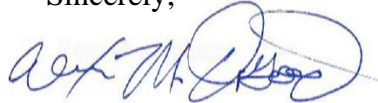
**2. The Project's CEQA Exemption is Improper**

The City approved the CUP using the "Existing Facilities" exemption (CEQA Guidelines section 15301), stating that the Project is just the "operation...and minor alteration of an existing private structure[.]" This dramatically misstates the scope of the Project relative to the property's former use, a department store. There is a significant, material difference between a department store that operated during the day and early evening and a massive bar that will operate until 2:00 a.m. The Project will attract hundreds of patrons until late at night and many of them will be inebriated, very noisy, and destructive.

The Existing Facilities exemption is not automatically appropriate simply because the same physical shell will remain regardless of the new use. The City must actually analyze the impact of the proposed use. *See Azusa Land Reclamation Company, Inc. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.3d 1165 (landfill that planned to import substantial additional waste not eligible for existing facilities exemption). Here, the former and proposed uses are substantially different, yet the City provides no findings or other evidence substantiating the use of the exemption. This violates CEQA, and the City cannot approve the CUP using this exemption.

For the foregoing reasons, the CUP approval is legally deficient, and the Planning Commission should grant the appeal.

Sincerely,



Alexander M. DeGood

cc: Tom Wiles, Senior Planner