



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:

Application of: Jake & Brook Jones, David Bensinger, Marjorie Lynn, Lonnie Flynn, Bobbi & Lyle McFaddan, Jode & Monica Stella, and Eric Hallstrom / Robert & Lana Leake, Guy Whittemore, Jerry Jones, Dorothy Minor, Carolyn Lindsey, and Sandra Seward

Project No. 201600646-A(A) & 201600646-A(B) (*x-ref: 201600646 CU-MSP-FP*)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

A. The Board finds that the record is comprised of:

1. Exhibits to the Staff Report.
2. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
3. All other information contained in Ada County Development Services File for Project No. 201600646-A(A) & 201600646-A(B).
4. All other information contained in Ada County Development Services File for Project No. 201600646 CU-MSP-FP.

B. As to procedural items, the Board finds the following:

1. On July 14, 2016, the Ada County Planning and Zoning Commission (Commission) approved the conditional use, master site plan, and floodplain application (Project No. 201600646 CU-MSP-FP).
2. On July 27, 2016, Development Services received an application from Jake & Brook Jones, David Bensinger, Marjorie Lynn, Lonnie Flynn, Bobbi & Lyle McFaddan, Jode & Monica Stella, and Eric Hallstrom appealing the Commission's decision and scheduled the appeal for public hearing before the Board of Ada County Commissioners on September 14, 2016.
3. On July 27, 2016, Development Services received an application from Robert & Lana Leake, Guy Whittemore, Jerry Jones, Dorothy Minor, Carolyn Lindsey, and Sandra Seward appealing the Commission's decision and scheduled the appeal for public hearing before the Board of Ada County Commissioners on September 14, 2016.

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4. On August 1, 2016, staff notified other agencies of Jake & Brook Jones, David Bensinger, Marjorie Lynn, Lonnie Flynn, Bobbi & Lyle McFaddan, Jode & Monica Stella, and Eric Hallstrom's application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.
 5. On August 1, 2016, staff notified other agencies of Robert & Lana Leake, Guy Whittemore, Jerry Jones, Dorothy Minor, Carolyn Lindsey, and Sandra Seward's application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.
 6. On August 3, 2016, property owners within 3,000 feet of the site were notified of the hearing by mail for both appeal applications. The notice dimensions increased from the original application, which was originally sent at 2,640-feet. Neighbors that fell just outside of the radius notice contacted staff and expressed concerns regarding not being noticed and a desire to be included on the radius notice for the appeal application. In an effort to include all property owners from the proposed site out to State Highway 16, the noticing increased to property owners within 3,000-feet of the site.
 7. Legal notice of the Board's hearing was published in The Idaho Statesman on August 23, 2016 for both appeal applications. Notices of the public hearing is required to be posted on the property ten days prior to the public hearing and a sign posting certification is required to be submitted to the Director seven days prior to the public hearing.
- C. As to the project description, the Board finds based on the application materials found in the file for Project No. 201600646 CU-MSP-FP the following:
1. PROPOSED USES: Vehicle Racetrack.
 2. PROPOSED STRUCTURES: Outdoor track, fencing, storage building.
 3. PROPOSED SITE IMPROVEMENTS: 80,100 foot long asphalt go-kart track, parking lot improved with recycled asphalt (total of 40 spaces), and a 4-foot tall chain link fence around the racetrack.
- D. Based on the materials found in the file for Project No. 201600646 CU-MSP-FP, the Board finds the following concerning the project description:
1. PARCEL NUMBER AND LOCATION: The parcel numbers are S0309121187, S0309131605, and S0309212400. The property is located at 8700 W Chaparral Road in Section 9, T.5N, R.1W.
 2. OWNERSHIP: IP Irrevocable Trust.
 3. SITE CHARACTERISTICS:

Property size: 100.25-acres

Existing structures: There is an existing 2,000 sq. ft. single family residence and several agricultural structures: 1,320 sq. ft. agriculture structure, 9,600 sq. ft. agriculture structure, 1,200 sq. ft. agriculture structure, 675 sq. ft. agriculture structure, 1,200 sq. ft. agriculture structure, 840 sq. ft. agriculture structure, and 500 sq. ft. agriculture structure.

Existing vegetation: Dry brush, natural vegetation, and residential landscaping.

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Slope: The site is relatively flat with slopes less than 15%. There is a portion of the site near the north property line that exceeds 50%, although no portion of the proposed go-kart track is located in this area.

Irrigation: None.

Drainage: The property typically drains to the southeast.

Views: The site is generally visible from all directions.

Other Opportunities and/or Constraints: WUFI, Floodplain (Unnumbered A zone).

- E. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the current land use and zoning:

The property is single family residence and vacant natural vegetation in the Rural Preservation (RP) District.

- F. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the surrounding land use and zoning:

North: The property to the north is single family residence and agricultural use in the Rural Preservation (RP) District.

South: The property to the south is single family residence and vacant natural vegetation in the Rural Preservation (RP) District.

East: The property to the east is single family residence and vacant natural vegetation in the Rural Preservation (RP) District.

West: The property to the west is vacant land in the Rural Preservation (RP) District.

- G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201600646 CU-MSP-FP, the Board finds the following concerning services:

Access Street and Designation: Access is off W. Chaparral Road. W. Chaparral Road is designated as a local roadway.

Fire Protection: None. (Sheriff Department/State Fire Marshall)

Sewage Disposal: Individual septic.

Water Service: Well.

Irrigation District: None.

Drainage District: None.

- H. As to the applicable law, the Board finds the following:

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Board finds that **Section 8-7-7 of the Ada County Code** is applicable because the appellants are appealing the Commission's decision to approve a conditional use, master site plan, and floodplain application for a vehicle racetrack. The Board finds that the applications comply with Section 8-7-7 of the Ada County Code. Regarding **Section 8-7-7 of the Ada County Code**, the Board finds the following:

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- A. *Application: Any decision or action may be appealed as set forth in this chapter. The appellant shall be an affected person as defined in Idaho Code Section 67-6521(1)(a).*
1. *A person aggrieved by a final decision or action within the jurisdiction and authority of the Board (see subsection 8-7-2A of this chapter), the hearings examiner (see subsection 8-7-2F of this chapter), or the commission (see subsection 8-7-2D of this chapter) may appeal to the board.*

The Board finds that all appellants are residents within the area of the proposed vehicle racetrack.

B. *Appeal Procedures:*

1. *Appeals of written decision shall be filed with the director within fifteen (15) days after the date of the written decision, or it shall not be accepted. An application and fees as set forth in article A of this chapter, shall be submitted to the director on forms provided by the development services department.*

The Board finds that Jake & Brook Jones, David Bensinger, Marjorie Lynn, Lonnie Flynn, Bobbi & Lyle McFadden, Jode & Monica Stella, and Eric Hallstrom filed an appeal with the Director on July 27, 2016, which is within fifteen (15) days after the date of the written decision made on July 14, 2016, to approve Project No. 201600646 CU-MSP-FP.

The Board finds that Robert & Lana Leake, Guy Whittemore, Jerry Jones, Dorothy Minor, Carolyn Lindsey, and Sandra Seward filed an appeal with the Director on July 27, 2016, which is within fifteen (15) days after the date of the written decision made on July 14, 2016, to approve Project No. 201600646 CU-MSP-FP.

2. *The director shall schedule and the board shall hold a public hearing and make a decision pursuant to the procedures as set forth in section 8-7A-8 of this chapter.*

The Board finds that the Director scheduled a public hearing in front of the Board on September 14, 2016, and that the Board held a public hearing. The Board has made a decision pursuant to the procedures as set forth in Section 8-7A-8.

3. *At this public hearing, the board shall consider the order, requirements, permit, decision, or determination of the commission, and any attached conditions thereto. The board shall consider any additional evidence that may be offered by the public hearing, applicant, director, and/or commission.*

The Board finds that they have at their September 14, 2016 public hearing considered the order, decision, determination, and supporting materials from the Commission's July 14, 2016, public hearing as well as evidence submitted to the Board at the Board's September 14, 2016 public hearing.

The Board finds that both appellant's have submitted identical detailed letters (Exhibits #2 & 4) illustrating why the Board should overturn the Commission's decision to approve the go-kart racetrack. The Board's findings will apply to both

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letters and applications. The Board finds that the appellants identified six areas of concern and outlined the reasons the Board should deny the proposed go kart track, which include: conflict with Ada County Code/Ada County Comprehensive Plan/property values, fire hazard/safety, traffic impacts, noise, wildlife, floodplain, and property values.

- *Ada County Code/Ada County Comprehensive Plan: It is the opinion of the appellants that the applications are not compliant with sections of the Ada County Code and the Ada County Comprehensive Plan. The appellants stated that the chief objective of the Ada County Code, Ada County Comprehensive Plan, and Idaho State Land Use Planning Act is to protect personal property rights. The appellants also referenced Ada County Code Section 8-5B-5 (Conditional Use required findings) and stated the proposed use does not meet the findings in the following ways: use is detrimental to the public health, safety, and welfare, will create undue adverse impacts on surrounding properties, the use is not consistent with the Ada County Comprehensive Plan to preserve property values and preserve rural acreage properties, the use is not compliant with and is in direct contrast with the purpose statement of the applicable base district (RP) as it exists today with developed rural estate home-sites, it is in contrast with the specific use standards as set forth in the County Code, it may likely violate state and federal regulations, it will impede the normal development of surrounding property as the area is developing with rural estate agricultural oriented home-sites, adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are not being provided for.*

The Board finds as conditioned and as identified in the findings below (Item #H7) the proposed use complies with the purpose statement for the Rural Preservation (RP) District. A majority of the site has not been historically used as agricultural land due to the existing floodplain, lack of water for irrigation, and the fact that Willow Creek bisects the property. The proposed use will not remove the existing agricultural uses already occurring on the property. The Board finds that the proposed use meets the intent of the Ada County Comprehensive plan, and through conditions, the proposed use will not negatively impact the adjacent property owners.

- *Fire Safety: The appellants have identified concerns with fire safety as the property is located in the WUFI Overlay District. The appellants stated that the proposed use includes a significant increase of potential fire starting hazards in a fire-prone zone where there is no fire district. The appellants stated that the proposed activities, racing of go carts, bringing in large quantities of fuels and other fire accelerants, the increase of hundreds of additional cars, the increase of hundreds of additional people, all being introduced into their rural/agricultural home-site area during fire season, cannot be mitigated with County requirements. The 30-foot wide buffer does close to nothing compared to the fire danger impacts being brought to our rural area. The appellants referenced Ada County Code Section 8-5B-4 (Conditional Use standards) and stated the applicant cannot*

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control or provide mitigation for potential fire hazard introduced into the site. The appellants also stated that there are no fire district exists for this area.

The Board finds that the applicant has proposed fire mitigation measures (Exhibit #22) that have been reviewed by the Sheriff's Department, which is the authority when a property is not located within a fire district. The Sheriff's department responded in Exhibit #24 that if the applicant is willing to do what they have indicated in their plan, he is in support of the application. The Board finds that as conditioned, the applicant will be required to implement the fire mitigation plan and to provide written approval from the Sheriff's Department (or Fire District if it is annexed into a Fire District). In the fire mitigation plan, the applicant has identified that they will require all carts entering the site to meet the requirements of the WKA Association, they will have a 2,000-gallon water truck on site for all events and classes, as well as multiple fire extinguishers placed throughout the area. Additionally, the fire management plan identifies a 30-foot wide green space around the racetrack that will be irrigated with multiple sprinkler zones that can be activated quickly, parking areas will be covered with recycled asphalt, the racetrack will be paved, and all karts will be required to have spark arrestors.

The Board also finds that the proposed site plan (Exhibit #6.8) does not identify any "overflow parking" area and all parking areas and drive aisles that are shown on the site plan are proposed to be constructed using recycled asphalt. The Board finds that as conditioned, and in accordance with Ada County Code, the applicant will be required to conform to WUFI standards and no parking shall be allowed outside the designated parking areas. Also, the Board finds as conditioned and in accordance with Ada County Code Section 8-3B-4, campgrounds are prohibited in the WUFI Overlay District.

- *Floodplain: The appellants stated that the proposal cannot meet the Natural Features Analysis requirements. The applicant stated that the applicant's grading & drainage plan includes what appears to be plans to construct the racetrack within the floodplain and adjacent to Willow creek. There is no indication that the construction of this racetrack will do anything other than channel site polluted water into Willow Creek. The appellants stated that the project proponent has failed to demonstrate to the public and the governing body that the U.S. Army Corps of Engineers will permit work pursuant to Section 404(f) of the Clean Water Act, 33 U.S.C. 1251, et seq. The appellants stated that the Board should deny the applications to approve the racetrack, and if they approve this item, direct that the matter only be reconsidered once the Applicant has consulted with and obtained official assurances from the U.S. Army Corps of Engineers that the project's intent to construct and/or maintain area adjacent to Willow Creek will be lawfully permitted by the Corps, require that such consultations and official assurances be submitted to the Board as a part of the record, and provide the public an additional opportunity to comment once such information is made available. Parking overflow and erosion and drainage into the Willow Creek is an issue also.*

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The Board finds as conditioned and evidenced in the record, that the applicant submitted a floodplain application that was reviewed and approved by the County Engineer with conditions. While there are small portions of the racetrack that will be located within the floodplain, the County Engineer stated in Exhibit #21 that the documents submitted are acceptable. Additionally, the applicant will be required to submit a drainage study and plan in accordance with Ada County Code Section 8-4A-11, a LOMC shall be prepared, submitted to, and approved by FEMA prior to issuance of any building permit, and all drainage will be required to be retained onsite. The Board finds that the applicants engineer provided additional documentation (Exhibit #34) that identifies that the proposed use will not encroach into any area that would require a permit from the US Army Corps of Engineers. The County Engineer responded in Exhibit #35 that she consulted with Greg Martinez of the U.S. Army Corp of Engineers Boise Regulatory Office. The County Engineer confirmed with Mr. Martinez that based on the project drawings, the proposed project is outside the boundaries of any delineated wetlands and does not need their approval.

- *Wildlife: The appellants asserted that it appears to them that although Fish and Game have commented that there are no significant impacts in their opinion they feel that they do not take into consideration the general wildlife in the area, only that which they consider “sensitive.” The general wildlife, such as numerous species of birds, the deer, the antelope and other wildlife, all will be scared away from the area with the noise and activity the racetrack will bring.*

The Board finds that the Idaho Fish and Game responded in Exhibit #39 that the statement from the neighbors is somewhat right in that they look first at potential impacts to sensitive species. However, they do that for the applicant letter to the county because that is what Ada County code calls for. He stated that when assessing impacts to general wildlife species, the Department looks to see if a project could have an impact on a wildlife population or displace wildlife that could then adversely affect neighbors (i.e. elk eating crops). We know that a project like this will displace most wildlife currently using the property in question, as well as surrounding properties. However, we don't think it will have a population-level effect. That's due in part to the fact that the land has been heavily manipulated in the past and we assume the current wildlife value is limited. Our letter specifically states that “the Department does not anticipate *significant* additional impacts to wildlife resources.” That's not the same as no effect. To neighboring property owners, displacing the wildlife they are used to seeing to a different area might be an adverse impact.

- *Noise: The appellants stated that the pristine natural environment of the flatlands and hillsides, inclusive of wild grasses, wildlife, and the quiet flowing Willow Creek, all will be devastated by this noisy active spectator sport use. There is no way to screen the use as hillsides abound surrounding the generally flat area of the racetrack beneath the hillsides. Homes are on those hills and the track is in direct view and cannot be screened. Furthermore, noise will be channeled in all*

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directions and with the noise generator in the low spot and the hillside surrounding; the noise will be amplified and sent in all directions like a cone of a speaker does with sound. The appellants also referenced Ada County Code Section 8-5B-4 (Conditional Use standards) and stated the proposed use will increase noise not reduce it and the use will cause detrimental impacts to the agriculture use related impacts of noise on the domesticated farm animals and horses.

The Board finds that the applicant submitted a noise study (Exhibit #6.36) with the original application that stated that the noise that would be produced from the go karts would be minimal and would comply with the noise regulations in Ada County Code, Title 5, Chapter 13.

The Board finds that the appellants with Group A, submitted another noise study (Exhibit #36) which contradicts the noise study provided by the applicant. The noise study was conducted by Earnest Harper, CSC, DABFE, DABFET, CFC, of the Industrial Consulting Service and was conducted at the local Glen Morgan racetrack during a race day.

The Board finds that as conditioned, the proposed use shall be required to provide sound buffers adjacent to the track through landscaping berming and/or a sound wall to mitigate the impacts to the adjacent property owners and ensure that the proposed use will comply with the Ada County noise ordinance. The Ada County Engineer responded in Exhibit #18 that the applicant can build a landscape berm or sound wall within the floodplain boundary as long as they don't negatively impact the drainage path of the floodplain (i.e., it will need to be designed and located by an engineer and may need openings along the bottom).

The Board finds that as conditioned, the proposed use shall be restricted to the months of May through September, Mondays through Saturday from 9:00am to 8:00pm. The Board finds that as conditioned, the proposed use shall only have one sanctioned race event per months (not to exceed five (5) per year), and days that a sanctioned race occurs, no other events or classes shall be allowed. The Board finds that on non-sanctioned race day events, the propose use shall be restricted to only two events per day (i.e., one fundraiser in the morning, and one class in the evening).

- *Traffic: The appellants also questioned why the County would permit a use that will invite hundreds of cars, trucks, trailers, delivery vehicles and construction vehicles into this Rural Preservation home-site area? According to the applicant, people will be coming from hundreds of miles away to use this racetrack, which will also introduce safety concerns for the rural home-site residents. The proposal is inconsistent with the existing and planned environment and existing home-sites. Additionally, allowing all these additional vehicles and people will introduce a vast number of potential fire risks.*

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The Board finds that the application was transmitted to Ada County Highway District, which is the authority for traffic generation. Ada County Highway District provided a staff report in (Exhibit #49) that identified conditions of approval that include improving the driveway and identified no opposition to the increase in traffic on Chaparral Road.

4. *The board may affirm, reverse, modify, in whole or in part the order, requirement, permit, decision, or determination appealed from, or make or substitute any additional conditions that in its deliberations it may find warranted.*

The Board finds that they have at their September 14, 2016, public hearing considered the order, decision, determination, and supporting material from the Commission's July 14, 2016, public hearing as well as evidence submitted to the Board at the Board's September 14, 2016, public hearing.

The Board denies the appeals and approves the conditional use and master site plan as discussed above and in Findings of Fact Section H (2, 3, 4, 5, 6, and 7).

2. The Board finds that the **Ada County Comprehensive Plan as adopted by Ada County** is applicable because the subject property is not located within any City's Area of Impact. The Board finds the application complies with the **Ada County Comprehensive Plan as adopted by Ada County**. Regarding the Ada County Comprehensive Plan, the Board finds the following:

The Board finds that the property is designated as Rural Preservation (RP) in the Ada County Comprehensive Plan and the proposed use is in conformance with the Plan in the following ways:

Goal 5.7: Allow for a limited amount and range of commercial uses in rural areas, consistent with rural character.

Policy 5.7-3: All non-agricultural development occurring adjacent to agricultural land should be required to install and provide for continued maintenance of fences or other appropriate barriers to prevent intrusion of people and/or domestic animals onto agricultural land.

Policy 6.2-6: Floodplain areas should not be altered in any way that would flood surrounding properties, either up or downstream or across the stream.

Policy 6.8-2: Adopt fire safety standards for new construction and access in rural/urban interface lands, where fire protection is inadequate or unavailable, to reduce the threat of loss of life and property from wildfire hazards.

The Board finds that vehicle racetracks are conditional uses in the Rural Preservation (RP) District. The Board finds as conditioned that the proposed uses in the floodplain will be required to not make any significant alterations to the floodplain that would flood surrounding properties. The Board finds as conditioned that the racetrack will preserve the rural identity of the area as the property will retain some native vegetation throughout the site, there will be no structures added to the property and the applicant is providing barriers in the form of fencing to prevent intrusion of people and/or domestic animals

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from entering the site. The Board finds that the property is located in the WUFI overlay district and as conditioned, the applicant and/or owners will be required to comply with fire safety standards.

3. The Board finds that **Title 8, Chapter 3B of the Ada County Code** is applicable as the proposed development is located in the Wildland Urban Fire Interface Overlay District. **Article 8-3B of the Ada County Code** sets forth the purpose, applicability, standards and prohibited uses for development in the Wildland Urban Fire Interface Overlay District.

The Board finds that as conditioned, the applicant and/or owner shall comply with the Ada County Code Section 8-3B (Wildland Urban Fire Interface Overlay District). The applicant and/or owner identified in the detailed letter (Exhibit #6.5) that they will comply with the requirements for the WUFI overlay district by providing a landscape strip along both sides of the road leading to the parking lot, a 30-foot irrigated greenspace around the track providing a defensible fire barrier, a 2,000 gallon water truck, fire extinguishers throughout the track, and all parking areas will be constructed with recycled asphalt. Additionally, a new approved well will provide additional water for irrigation and for fighting any potential fires.

The Board finds that the applicant and/or owner shall be required to provide written approval from the Sherriff's office and State Fire Marshall. This includes a 30-foot greenspace around the proposed use and having a fire suppression vehicle or system on scene during all events and classes. Another option would be to annex into a fire district and meet their requirements for fire safety. The Board finds that in order to help mitigate any additional fire hazards, the go-karts shall be required to have spark arresters on them and the applicant and/or owner shall provide signage designating that the use of vehicles without spark arresters is prohibited.

4. The Board finds that **Title 8, Chapter 3F of the Ada County Code** is applicable as the proposed development is located in the Floodplain Overlay District. **Article 8-3F of the Ada County Code** sets forth the purpose, applicability, standards and prohibited uses for development in the Floodplain Overlay District.

The Board finds that as conditioned, the applicant and/or owner shall comply with Ada County Code Section 8-3F (Floodplain Overlay District). The Board finds as conditioned that minimal grading will be allowed in the floodplain, however significant grade changes shall not be allowed. Any portion of the landscaping berms and/or sound wall located within the floodplain will be required to be engineered and reviewed and approved by the County Engineer.

5. The Board finds **Article 8-4E-5 of the Ada County Code** is applicable because the applicant has applied for a master site plan for a vehicle racetrack. The Board finds that as conditioned the application complies with **Section 8-4E-5 of the Ada County Code**. Regarding Section 8-4E-5 the Board finds the following in regards to the master site plan:
 1. *The master site plan complies with this title and the applicable comprehensive plan;*

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The Board finds that as conditioned the master site plan for a vehicle racetrack complies with Title 8 of the Ada County Code because it meets the applicable required findings of fact as outlined herein. As evidenced in Finding #H2, the master site plan complies with the Ada County Comprehensive Plan.

2. *The applicant has submitted a natural features analysis (subsection 8-4E-4D of this article) identifying constraints presented by such natural features, and the proposed development sufficiently addresses such features;*

The Board finds that the applicant submitted a natural features analysis with the application that meets the requirements of Subsection 8-4E-4D of the Ada County Code. Hydrology: Willow Creek passes from north to south through the center of property. At this point Willow Creek has intermittent flows. No water is visible during the peak of summer. Floodplain areas – The Willow Creek floodway and floodplain locations are based on the T-O Engineers flood study dated June 2007. A letter of map revision application for the Willow Creek flood study is being submitted for FEMA’s review and approval. A wetland survey was conducted in 2007. Wetland species are located in clusters within the channel reaches and delineated as shown on the map. The channel bottom contains large sandy deposits devoid of vegetation, which break up the wetland clusters. Many of the willows were destroyed by a fire that swept the property after the wetland delineation. Soils: Three types of soil were identified on-site by the USDA and natural resources conservation service. Most of the site consists of harpt, brent, and cashmere soils. Vegetation: vegetation consists mainly of big sagebrush, bluebunch wheatgrass, thurbers needlegrass, sandberg bluegrass, cheat grass, Idaho fescue, squirreltail, and giant wildrye. Endangered plants & animals: A report was obtained from the U.S. Fish & Wildlife Service Website that identifies the slickspot peppergrass occurs within the vicinity of the project; however because the past disturbance of the site and agricultural use of the site would suggest that there are no slickspot peppergrass within the proposed go-kart facility limits. There are no historic sites within the subject property listed on the Ada County historic sites resources inventory. Hazardous Areas: Hazardous areas on the site include the willow creek floodway, floodplain and steep embankments formed by the erosion of the channel banks. The west side of the channel contains approximately 10-foot high vertical dirt embankments. These embankments show signs of sloughing and are an erosion and safety hazard. The west side of willow creek will be avoided by the proposed go-kart facility.

3. *The proposed landscaping meets the requirements of article F of this chapter;*

The Board finds that as conditioned the applicant shall be required to submit a revised landscape plan identifying additional screening and buffering along the north and south sides of the racetrack to mitigate the impacts of the vehicle racetrack on the adjacent property owners. The Board finds that the applicant shall be required to add berming and/or a sound wall to the north and south portions of the site. As evidenced in the record (Exhibit #6.9) the applicant is proposing a landscape berm with trees adjacent to the property to the south, landscaping such as trees, natural seeding adjacent to the track and driveway to the parking area.

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4. *The proposed parking and loading spaces meet the requirements of article G of this chapter;*

The Board finds that the proposed parking area meets the requirements of Article G. There are no specified parking requirements identified for a racetrack. However, the applicant identified in Exhibit #6.5 that they anticipate the number of Karts on the track from five to fifteen (5-15) for corporate and local races and up to four (4) volunteers. The applicant is proposing forty (40) parking stalls. The Board finds as evidenced in Exhibit #21, the County Engineer has identified that the proposed surface material of recycled asphalt is an acceptable alternative.

5. *The proposed lighting plan meets the requirements of article H of this chapter;*

The Board finds that as evidenced in the detailed letter (Exhibit #6.5) the applicant is not proposing any outdoor lighting. Therefore, this does not apply.

6. *The proposed master site plan complies with the applicable base district standards, overlay district standards, and specific use standards of this title;*

The Board finds that the property is located in the Rural Preservation (RP) District which requires a minimum road frontage of 100 feet, and a front setback of 50 feet with 25 foot setbacks along all other property lines. The Board finds that as conditioned, the proposed master site plan complies with the applicable design and dimensional standards of this title.

The Board finds as conditioned and as evidenced in Finding #H5, the master site plan complies with the specific use standards of this title.

7. *The proposed master site plan is consistent with the APA ridge to rivers pathways plan, and;*

The Board finds that the proposed master site plan is consistent with the Ada County Ridge-To-Rivers Pathway Plan because the property is not identified on the Plan.

8. *Adequate utilities and public services are available or provided for the proposed development, and the development would not be premature by reason of lack of utilities, transportation, schools, fire protection, or other essential services.*

The Board finds that adequate utilities and public services are available or provided for the vehicle racetrack. The application was transmitted to applicable agencies and political subdivisions on May 2, 2016.

The Building Division in Exhibit #6.16 stated that they have no objection to the proposed use of the land; however, the applicant should be aware that the structure to be used for storage will require a building permit for a change of use and occupancy. Plans prepared by a licensed Architect and/or Engineer including a thorough Code and structural analysis based on the 2012 International Building Code will be necessary along with the permit application. Central District Health responded in Exhibit #6.19 stated that an accessory use application is required. Any food sales or donation may require permitting. The Ada County Engineering Division responded in Exhibit #6.22 that the proposed use of recycling asphalt for the approach road and

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parking area is acceptable. The documents submitted are acceptable. In addition, in accordance with Ada County Code Section 8-3F-8-2B, New Development or Substantial Improvement – A/D Zones, a LOMC shall be prepared, submitted to, and approved by FEMA prior to issuance of a building permit. Please provide documentation that this process has been completed. A Drainage Study and Drainage Plan need to be submitted in accordance with Ada County Code 8-4A-11. All drainage from the proposed improvements shall be retained on site, during and after construction, so as to not negatively impact adjacent properties. The applicant/engineer of record shall schedule a final inspection with me, the County Engineer, upon completion of the project. At the conclusion of the approved work, the engineer of record shall submit a letter to me stating that the work has been executed in compliance with the approved plans.

The Ada County Highway District stated in Exhibit #6.26 that at this time they are unable to provide a formal letter but provide the following comments (1) Driveway is okay, and will need to be paved 30-feet back, (2) Chaparral pavement looks good, and we won't require any improvements, (3) Trip generation is difficult to determine based on the use. There are two trips generated per vehicle that comes to the site (one coming/one leaving). Typically with this type of use, there are multiple customers to a vehicle. Employees also generate trips, as do trash and services though those are limited. The applicant will have to pay impact fees, and we will have to work with them on this calculation.

The State Fire Marshall stated in Exhibit #6.27 that the greatest risk would be from fast moving wildfires. He would recommend a 30-foot wide greenspace around the property, especially any structures. Based on the information provided, the only building would be classified as an S-1 (moderate hazard storage). The 2012 edition of the International Fire Code, as adopted by the State of Idaho does not require the installation of fire sprinklers based on its square footage and use. General fire safety requirements would apply, i.e. fire extinguishers, fuel storage, etc. The Sherriff's Department stated in Exhibit #6.35 that there is a serious risk of fire due to the location and natural fuel in and around the area of the property for a go kart business. They do not feel that they could safely respond in a timely manner to a fire in order to prevent it from spreading rapidly into the surrounding area, or by providing emergency services to a participant/spectator. If the applicant were able to provide some mitigation to that issue such as having a fire suppression vehicle or system on scene during all of the events, we would feel more comfortable approving this application. Another option for the applicant would be to request annexation into a fire district which would allow a true fire department respond to the location.

6. The Board finds **Section 8-5-3-87 of the Ada County Code** is applicable because the applicant has applied for a vehicle racetrack. The Board finds that the application complies with the specific use standards found in **Section 8-5-3-87 of the Ada County Code**. Regarding Section 8-5-3-87 of the Ada County Code, the Board finds the following:

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- A. *If the racetrack provides animal boarding, such facilities shall be subject to the regulations of section 8-5-3-10, "Animal Boarding With Outside Runs", of this chapter. If the racetrack provides horse boarding, such facilities shall be subject to the regulations in section 8-5-3-107, "Stable Or Riding Arena, Commercial", of this chapter.*

The Board finds that the applicant is not proposing animal boarding as part of this application; therefore, this does not apply.

- B. *All structures or outdoor activity areas shall be located a minimum of three hundred feet (300') from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential district.*

The Board finds that the outdoor racetrack is proposed to be located 300-feet from all property lines. The Board finds that the subject property is not located within one thousand feet (1,000) from a residential district; therefore that setback does not apply.

- C. *Any outdoor speaker system associated with the racetrack shall comply with the noise regulations of section 5-13-3 of this code.*

The Board finds that the applicant is not proposing an outdoor speaker system. The Board finds that as conditioned, the applicant and/or owner shall comply with the noise regulations of Section 5-13-3.

- D. *Lighted facilities shall maintain a three hundred foot (300') setback from any property line abutting a residential district and shall comply with the lighting standards set forth in chapter 4, article H of this title. Setback requirements may be reduced at time of master site plan approval when conditions warrant a reduction. Possible conditions include, but are not limited to, building orientation, topography, distance to off-site improvements, and physical obstructions.*

The Board finds that the property is not bordered by a residential district, therefore this does not apply.

- E. *Accessory retail uses including, but not limited to, retail shops and food or beverage service, may be allowed if designed to serve patrons of the facility only, and is approved by the Central district health department and the applicable fire authority.*

The Board finds that the applicant is not proposing any accessory retail uses as part of the proposed use; therefore, this does not apply.

7. The Board finds **Section 8-5B-5 of the Ada County Code** is applicable because the applicant has applied for a vehicle racetrack. The Board finds that the application complies with **Section 8-5B-5 of the Ada County Code**. Regarding Section 8-5B-5 of the Ada County Code the Board finds the following:

- A. *The proposed use is not detrimental to the public health, safety, or welfare;*

The Board finds as conditioned that the proposed use is not detrimental to the public health, safety or welfare because it is required to be in conformance with the specific use standards for a vehicle racetrack.

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In addition, the applicant and/or owner will need to obtain building permits and required agency approvals. The hours of operation are proposed to be 9:00am to 8:00pm, Wednesdays through Sundays. The applicant originally proposed to hold races during the months of May through September. The applicant then proposed year round use of the racetrack at the Planning & Zoning hearing. The Board finds that due to the proximity of existing residents to the north and south, the days of operation shall be limited to Wednesdays through Saturdays, only one “sanctioned” race event per month (not to exceed five (5) per year) and two events per day (i.e. a fundraiser in the morning, and one class in the evening) and only during the months of May through September as originally proposed. The applicant will be required to comply with the Ada County noise ordinance. Additionally, the applicant shall be required to add additional landscape berms and/or a sound wall to mitigate the visual and noise impacts on the adjacent property owners.

The Board finds that the applicant and/or owner shall be required to provide written approval from the Sheriff’s office and State Fire Marshall. This includes a 30-foot greenspace around the proposed use and having a fire suppression vehicle on scene during all events and classes. Another option would be to annex into a fire district and meet their requirements for fire safety.

The Board finds that in order to help mitigate any additional fire hazards, the go-karts shall be required to have spark arresters on them and the applicant and/or owner shall provide signage designating that the use of vehicles without spark arresters is prohibited.

The Board finds that parking shall only be allowed in the parking areas as identified on the proposed site plan. All other parking on other areas of the site shall be prohibited. Additionally, the Board finds that camping on the property is prohibited.

B. The proposed use shall not create undue adverse impacts on surrounding properties;

The Board finds as conditioned that the vehicle racetrack will not create undue adverse impacts on surrounding properties due to the fact that the applicant shall be limited to conduct the use only during the originally proposed months of May through September, the applicant is not proposing any outdoor lighting, bleachers, or outdoor public address system, they are limiting the number of go-karts to a maximum of fifteen (15) on the track at one time, they will be limited to the hours of 9am to 8pm Wednesday through Saturday, only one “sanctioned” race event per month (not to exceed five (5) per year), only two events day, and additional landscaping and/or a sound wall adjacent to the racetrack will be required to mitigate noise and visual impacts. Additionally, the proposed use will be required to comply with the Ada County noise ordinance. The Board also finds as evidenced in the detailed letter (Exhibit #6.5) that the applicant proposes go-karts with engine sizes between 125-206cc. Therefore, the Board finds that the go-kart engines shall not exceed an engine size of 206cc.

C. The proposed use is consistent with the applicable comprehensive plan;

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The Board finds as evidenced in Finding #H2 that the racetrack is consistent with the Ada County Comprehensive Plan.

- D. *The proposed use complies with the purpose statement of the applicable base district and with the specific use standards as set forth in this chapter;*

The Board finds as conditioned that the vehicle racetrack complies with the purpose statement of the Rural Preservation (RP) District as the uses will not conflict with adjacent uses. The Board finds as conditioned and as evidenced in Finding #H6 that the vehicle racetrack complies with the specific use standards for a Racetrack, Vehicle or Animal.

- E. *The proposed use complies with all applicable county ordinances;*

The Board finds as conditioned that the vehicle racetrack complies with all applicable county ordinances as outlined in Finding #H5 & #H6 and as outlined herein.

- F. *The proposed use complies with all applicable state and federal regulations;*

The Board finds that all uses are innately required to comply with all applicable state and federal regulations as a matter of law.

- G. *The proposed use and facilities shall not impede the normal development of surrounding property;*

The Board finds that there is no evidence in the record that the vehicle racetrack will not impede the normal development of surrounding properties.

- H. *Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are, or shall be, provided for the proposed use; and*

The Board finds as conditioned that adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are provided for the vehicle racetrack.

The application was transmitted to applicable agencies and political subdivisions on May 2, 2016. The Building Division in Exhibit #6.16 stated that they have no objection to the proposed use of the land; however, the applicant should be aware that the structure to be used for storage will require a building permit for a change of use and occupancy. Plans prepared by a licensed Architect and/or Engineer including a thorough Code and structural analysis based on the 2012 International Building Code will be necessary along with the permit application. Central District Health responded in Exhibit #6.19 stated that an accessory use application is required. Any food sales or donation may require permitting. The Ada County Engineering Division responded in Exhibit #6.22 that the proposed use of recycling asphalt for the approach road and parking area is acceptable. The documents submitted are acceptable. In addition, in accordance with Ada County Code Section 8-3F-8-2B, New Development or Substantial Improvement – A/D Zones, a LOMC shall be prepared, submitted to, and approved by FEMA prior to issuance of a building permit. Please provide documentation that this process has been completed. A Drainage Study and Drainage

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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Plan need to be submitted in accordance with Ada County Code 8-4A-11. All drainage from the proposed improvements shall be retained on site, during and after construction, so as to not negatively impact adjacent properties. The applicant/engineer of record shall schedule a final inspection with me, the County Engineer, upon completion of the project. At the conclusion of the approved work, the engineer of record shall submit a letter to me stating that the work has been executed in compliance with the approved plans.

The Ada County Highway District stated in Exhibit #6.26 that at this time they are unable to provide a formal letter but provide the following comments (1) Driveway is okay, and will need to be paved 30-feet back, (2) Chaparral pavement looks good, and we won't require any improvements, (3) Trip generation is difficult to determine based on the use. There are two trips generated per vehicle that comes to the site (one coming/one leaving). Typically with this type of use, there are multiple customers to a vehicle. Employees also generate trips, as do trash and services though those are limited. The applicant will have to pay impact fees, and we will have to work with them on this calculation.

The State Fire Marshall stated in Exhibit #6.27 that the greatest risk would be from fast moving wildfires. He would recommend a 30-foot wide greenspace around the property, especially any structures. Based on the information provided, the only building would be classified as an S-1 (moderate hazard storage). The 2012 edition of the International Fire Code, as adopted by the State of Idaho does not require the installation of fire sprinklers based on its square footage and use. General fire safety requirements would apply, i.e. fire extinguishers, fuel storage, etc. The Sheriff's Department stated in Exhibit #6.35 that there is a serious risk of fire due to the location and natural fuel in and around the area of the property for a go kart business. They do not feel that they could safely respond in a timely manner to a fire in order to prevent it from spreading rapidly into the surrounding area, or by providing emergency services to a participant/spectator. If the applicant were able to provide some mitigation to that issue such as having a fire suppression vehicle or system on scene during all of the events, we would feel more comfortable approving this application. Another option for the applicant would be to request annexation into a fire district which would allow a true fire department respond to the location.

- I. *Political subdivisions, including school districts, will be able to provide services for the proposed use.*

The Board finds that there has not been any evidence submitted into the record to indicate that political subdivisions would not be able to provide services for the racetrack use.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Board concludes that Project No. 201600646-A(A) complies with Section 8-7-7 of the Ada County Code.
2. The Board concludes that Project No. 201600646-A(B) complies with Section 8-7-7 of the Ada County Code
3. The Board concludes that Project No. 201600646 CU-MSP-FP complies with the Ada County Comprehensive Plan as adopted by Ada County.
4. The Board concludes that Project No. 201600646 CU-MSP-FP complies with Section 8-3B of the Ada County Code.
5. The Board concludes that Project No. 201600646 CU-MSP-FP complies with Section 8-3F of the Ada County Code.
6. The Board concludes that Project No. 201600646 CU-MSP-FP complies with Section 8-4E-5 of the Ada County Code.
7. The Board concludes that Project No. 201600646 CU-MSP-FP complies with Section 8-5-3-87 of the Ada County Code.
8. The Board concludes that Project No. 201600646 CU-MSP-FP complies with Section 8-5B-5 of the Ada County Code.

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ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein and the testimony from the public hearing, the Commission approves Project No. 201600646 CU-MSP-FP, subject to the Conditions of Approval attached as Exhibit A and the Master Site Plan dated April 29, 2016.

DATED this _____ day of _____, 20____.

Board of Ada County Commissioners

By: Jim Tibbs, Chairman

By: David L. Case, Commissioner

By: Rick Yzaguirre, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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EXHIBIT A

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF PROJECT #201600646 CU-MSP-FP WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE UNTIL TWO YEARS OF THE WRITTEN DECISION TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A ZONING CERTIFICATE UNLESS A TIME EXTENSION IS GRANTED. SEE SECTION 8-7-6 OF THE ADA COUNTY CODE FOR INFORMATION ON TIME EXTENSIONS. IF A BUILDING PERMIT IS REQUIRED THE ZONING CERTIFICATE SHALL BE ISSUED WITH THE BUILDING PERMIT. THIS APPROVAL SHALL BECOME VOID IF A VALID ZONING CERTIFICATE HAS NOT BEEN ISSUED BY THAT DATE.

1. The applicant and/or owner shall obtain written approval of the development (site plan and/or use) from the agencies noted below. All site improvements are prohibited prior to approval of these agencies:
 - a) Central District Health (*Accessory use application & any food sales, if necessary*)
 - b) The applicant and/or owner shall satisfy ACHD's site specific requirements and pay the applicable traffic impact fees.
 - c) The applicant shall either obtain written approval from the Sherriff's Department/State Fire Marshall for the proposed fire mitigation plan or the applicant and/or owner shall annex into a fire district and provide written approval from that district that they meet their requirements.
2. The applicant and/or owner shall submit documentation that a LOMC has been prepared, submitted to, and approved by FEMA prior to issuance of any building permit in accordance with Ada County Code Section 8-3F-8-2B for A/D Zones.
3. The applicant and/or owner shall submit a drainage study and drainage plan in accordance with Ada County Code 8-4A-11 prior to the issuance of a building permit.
4. The applicant shall submit a revised parking plan showing the proposed parking areas and proposed materials prior to the issuance of a building permit.
5. The applicant and/or owner shall submit a revised landscape plan to be approved by the Director prior to the issuance of any building permit identifying the following:
 - a) Additional landscaping or a sound wall adjacent to the north side of the racetrack (approximately 400-feet in length). Any portion of the landscaping and/or sound wall located within the floodplain shall be engineered, and written approval of the design shall be obtained from the County Engineer.
 - b) Additional landscaping or a sound wall adjacent to the south side of the racetrack (approximately 350-feet in length). Any portion of the landscaping and/or sound wall located within the floodplain shall be engineered, and written approval of the design shall be obtained from the County Engineer.
 - c) A minimum of 30-feet of greenspace adjacent to the racetrack and parking areas, if required by either the Sherriff's Department or Fire District.

CONDITIONS OF APPROVAL

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6. The applicant and/or owner shall either install a placard or striping that clearly identifies and demarcates the ADA accessible parking spaces prior to the issuance of a building permit.
7. The applicant and/or owner shall schedule a final inspection with the County Engineer upon completion of the project.
8. At the conclusion of the approved work, the engineer of record shall submit a letter to the County Engineer stating that the work has been executed in compliance with the approved plans.
9. The applicant and/or owner shall obtain a building permit for the existing structure proposed to be used for storage for the vehicle racetrack prior to commencing any development as required by Ada County Building Code as set forth in Title 7, Chapter 2 of the Ada County Code. Plans prepared by a licensed Architect and Engineer including a thorough Code and structural analysis based on the 2012 International Building Code will be necessary along with the permit application. Please contact the County Building Official at 287-7900 for fee and application information. The design and construction of the development shall comply with the approved and stamped master site plan and the Ada County Code.
10. Once construction is complete, the applicant shall request a zoning compliance inspection from the Development Services Department. Staff will check for compliance with the approved master site plan. The Director must approve any modification and/or expansion to the master site plan. See Section 8-4E-3 of the Ada County Code.
11. A Certificate of Occupancy will be issued when all of the above conditions have been met. In the event conditions cannot be met by the desired date of occupancy, the owner and/or applicant may request a surety agreement in lieu of completing the improvements. See Title 8, Chapter 4, Article K of the Ada County Code for the terms and regulations of surety agreements.

TERMS OF APPROVAL. THE FOLLOWING TERMS MUST BE COMPLIED WITH AT ALL TIMES OR YOUR APPROVAL MAY BE REVOKED.

12. A zoning certificate and/or a building permit may not be issued until 15 days after the Commission issues the written decision on the proposed development. In the event the decision of the Commission is appealed, the building permit may not be issued until the appeal is resolved in favor of the proposed development. See Section 8-7-7 of the Ada County Code for more information on appeals.
13. All drainage shall be retained onsite, during and after construction, so as to not negatively impact adjacent properties.
14. Compliance with Ada County Code Section 8-3B (WUFI Overlay District). (*Including but not limited to: vegetation control adjacent to all roadways, racetracks and driveways, etc.*).
15. Only minimal grading shall be allowed in the Unnumbered A flood zone as identified on the master site plan. The project shall not result in significant grade changes to the flood

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EXHIBIT A

zone. All natural drainage patterns through the portion of the site in the flood zone site shall be maintained.

16. The Director must approve any modification and/or expansion to the master site plan. See Section 8-4E-3 of the Ada County Code.
17. The use must comply with the specific use standards for a (Racetrack, Vehicle or Animal) in Section 8-5-3-87 of the Ada County Code.
18. Parking of vehicles or equipment associated with the use shall only be allowed in the parking areas as identified on the proposed site plan. Parking on other areas of the site shall be prohibited.
19. The days and hours of operation for the use are Wednesday through Saturday, between the hours of 9:00am and 8:00pm and during the months of May through September and as follows:
 - a) During the months of May to September, no more than one (1) sanctioned race event per month will be allowed. The sanctioned race event will occur on only one day of each said month (not to exceed five (5) per year).
 - b) The sanctioned race event will be the only event allowed on that day. It shall not occur in conjunction with another fundraising event or class.
 - c) No more than two fundraising events or classes shall be allowed per day (i.e., one fundraising event in the morning and one class in the evening).
20. Racers/riders shall not to exceed fifteen (15) on the track at one time.
21. No parking of vehicles or equipment associated with the use shall be allowed in the public ROW on Chaparral Road.
22. Any lighting on the site shall comply with the lighting regulations in Title 8, Chapter 4, Article H, of the Ada County Code.
23. The property must be managed and maintained consistent with the standard regulations in Title 8, Chapter 4, Article A of the Ada County Code. Please note that this Article contains specific regulations regarding the accumulation of junk, atmospheric emissions, construction sites, hazardous material storage, outdoor public address systems, outdoor storage of chemicals and fertilizers, transmission line corridors, and utilities.
24. The use must comply with all applicable County, State, and Federal regulations.
25. Any signage on the site shall comply with the sign regulations in Title 8, Chapter 4, Article I, of the Ada County Code.
26. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.
27. Any new utilities associated with the approved use shall be installed underground, in accordance with section 8-4A-21 of the Ada County Code.
28. Use of the racetrack is limited to go-karts only with engine size ranging between 125cc and a maximum of 206cc.
29. Use of the racetrack without spark arresters is strictly prohibited.

CONDITIONS OF APPROVAL

201600646-A(A) & 201600646-A(B), x-ref: Project No. 201600646 CU-MSP-FP

Jake & Brook Jones, David Bensinger, Marjorie Lynn, Lonnie Flynn, Bobbie & Lyle McFadden, Jode & Monica Stella, and Eric Hallstrom
Robert & Lana Leake, Guy Whittemore, Jerry Jones, Dorothy Minor, Carolyn Lindsey, and Sandra Seward

EXHIBIT A

30. The applicant and/or owner shall install and maintain a minimum two-foot (2') square sign at each gated entryway to the racetrack stating, "USE OF GO-KARTS WITHOUT SPARK ARRESTERS IS PROHIBITED."
31. All camping and/or campgrounds shall be strictly prohibited.

CONDITIONS OF APPROVAL

201600646-A(A) & 201600646-A(B), x-ref: Project No. 201600646 CU-MSP-FP

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