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UNITED STATES DISTRICT COURT  
FEDERAL DISTRICT COURT OF NEVADA

Edgar Alexander GARCIA SOTO,

Petitioner,

v.

Jason KNIGHT, Field Office Director of Enforcement and Removal Operations, Salt Lake City Field Office, Immigration and Customs Enforcement; Michael BERNACKE, Acting Director of the Las Vegas U.S. Immigration and Customs Enforcement Field Sub-Office; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General; John MATTOS, Warden, Nevada Southern Detention Center,

Respondents.

Case No. 2:25-cv-02138

**REPLY TO RESPONSE FOR  
PETITION OF WRIT OF HABEAS  
CORPUS AND ORDER TO SHOW  
CAUSE**

Petitioner hereby submits this the following reply to Respondents' opposition to his Petition for a Writ of Habeas Corpus and their response to this Court's order to show cause.

**I. OBJECTION TO CONSIDERATION OF RESPONSE**

This Court issued a scheduling order in this matter November 10, 2025. Respondents did not file a response on that date, instead filing an emergency motion requesting an extension of time based on the existence of other similar petitions to which they were required to respond, and because of the ongoing government shutdown. On November 10, 2025, Petitioner submitted his opposition to that emergency motion based on the lack of a true emergency justifying the extension, his ongoing deprivation of his liberty interests, prejudice to him and his counsel in preparing his reply, and because Respondents failed to comply with the Local Rules that required them to attempt to meet and confer prior to filing such an emergency motion.

Respondents filed their opposition to the petition on November 12, 2025 – the same deadline given for Petitioner's reply to that opposition. Because of Respondents' failure to comply with this Court's scheduling order and for the foregoing reasons, he respectfully asks that this Court strike Respondent's Response from the record.

**II. FACTUAL DISPUTES**

Respondents state that Petitioner was encountered and apprehended as part of an "enforcement action targeting a large illegal gambling and criminal enterprise." Dkt. 21 at \*6. This event was in fact a lawfully permitted horse race, sanctioned by the Canyon County Planning or Zoning Commission. See Exhibit A.

**III. PETITIONER'S DETENTION IS GOVERNED BY § 1226(a).**

Respondents initially rely on a mischaracterization of the holding *Jennings v. Rodriguez*, 583 U.S. 281 (2018) to find solid ground for the proposition that any individual who entered

without inspection and admission or parole is subjected to the mandatory detention provisions in 8 U.S.C. § 1225(b). While the Supreme Court in that matter did engage in some statutory analysis in *Jennings*, it did not conclude that all such noncitizens are subject to a mandatory detention 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 289 (“U. S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens **already in the country** pending the outcome of removal proceedings under §§1226(a) and (c)”) (emphasis added). The core issue in *Jennings* was whether there were time limits to how long an individual could be detained under 8 U.S.C. §§ 1225(b) and 1226(c) – *Jennings*, 583 U.S. at 302-03, 305-06.

Post-*Jennings*, Respondents rely solely on *Chavez v. Noem*, et. al., No. 3:25-cv-02325, 2025 WL 2730228 (S. D. Cal. Sept. 24, 2025) and *Vargas Lopez v. Trump*, No. 8:25-cv-00526, WL 2780351 (D. Neb. September 30, 2025) for district court authority supporting their proposition that 8 U.S.C. § 1225(b) properly governs Petitioner’s detention. These cases are not supportive of Respondents’ position. The *Chavez* court has not resolved the issue at hand, and the *Vargas Lopez* court pithily disposed of the issue based on the petitioner’s poor development of the record.

The *Chavez* court has not reached a decision on the merits of the legal argument as to whether § 1225 or § 1226 properly encapsulates individuals like Petitioner. Respondents rely on language from the court’s order in that case denying an Ex Parte Application for a TRO. *Chavez v. Noem*, 2025 WL 2730228. The *Chavez* Court’s decision has only found that the petitioner had

not met their burden to show that the case is likely to succeed on the merits, sufficient to be granted an injunction, but has not issued a decision denying the petition.<sup>1</sup>

Section 1226(c)(1)(E) does not remove such discretion for all noncitizens charged with such crimes; it only removes discretion for those who have entered the United States without inspection and admission or parole. 8 U.S.C. § 1226(c)(1)(E)(i) (referencing aliens inadmissible under paragraph (6)(A) . . . of § 1182(a)); 8 U.S.C. § 1182(a)(6)(A) (aliens inadmissible as “present in the United States without being admitted or paroled”). The *Chavez* court, and Respondents who rely upon it, seemed to misunderstand the petitioner’s argument. See Resp. at 13 (“the addition of Section 1226(c) simply removed the Attorney General’s detention discretion for aliens charged with specific crimes.”)

Under Respondent’s interpretation of the statutory scheme, all noncitizens who entered without inspection and admission or parole are subject to mandatory detention with no “discretion to release” which could be abrogated by section 1226(c)(1)(E), rendering the detention requirements specifically applied by Congress to individuals inadmissible under section 1182(a)(6)(A), in enacting the Laken Riley Act, superfluous and without meaning.

Statutes should be construed as a whole, giving effect to all of their provisions, and amendments to a statute must be read in harmony with their agency’s longstanding construction. See *Vazquez v. Bostock et. al.*, No. 3:25-cv-05240 at \*37 (W.D. Wash. September 30, 2025).

The *Vargas Lopez* court disposed of proceedings based upon deficiencies in the pleadings. *Vargas Lopez*, 2025 WL 2780351, at \*1-2. The court alternatively concluded that Vargas Lopez was detained under § 1225(b)(2), but in addressing the overlapping nature of 8

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<sup>1</sup> While the court in *Chavez* has not decided the ultimate outcome of the case, it has found that it has jurisdiction pursuant to *Jennings v. Rodriguez*, and that exhaustion would be futile based on *Yajure Hurtado*.

U.S.C. § 1225 and 8 U.S.C. § 1226, the Court applied no canon of statutory construction in concluding that the statutes are not in conflict, writing that “[e]ven if Vargas Lopez might fall within the scope of § 1226(a), he certainly fits within the language of § 1225(b)(2) as well.” *Id.* Because Respondent’s interpretation of 8 U.S.C. §§ 1225 and 1226 renders the applicability of the discretionary detention statute and the exception to it in § 1226 superfluous and without effect, this Court should reject their interpretation.

Respondents’ reliance on deference to *Hurtado* also does not save them. As Respondents’ note, the weight owed to an agency interpretation in part depends on its “consistency with earlier and later pronouncements[.]” *Skidmore v. Swife & Co.*, 323 U.S. 134 (1944); Dkt. 21 at \*15. But the novel interpretation of 8 U.S.C. §§ 1225(a) and 1226(b) propounded by the *Hurtado* decision dates only to July of this year.

#### **IV. ADMINISTRATIVE EXHAUSTION IS FUTILE**

Respondents claim that Petitioner has not given an Immigration Judge the opportunity to adjudicate his claim, going so far as to say that “without a bond hearing, it will not be possible to determine what the outcome of such hearing will be.” Dkt. 21 at \*2. This argument is disingenuous as Respondents are aware that there is no Immigration Court that will find jurisdiction for a Bond Argument without a District Court from ordering them to do so. Dkt. 21 at \*12 (“The BIA mandate is also sweeping [. . .] [it] is binding on all immigration judges in the United States.”). Binding immigration law in every district includes precedential BIA decisions, and Ninth Circuit Case law; however, decisions of the District Courts are not binding on the Immigration Court except with regard to named parties. 8 C.F.R. § 1003.1(g); *Matter of K-S-*, 20 I&N Dec. 715, 719 (BIA 1993) (the Board is not bound to follow the published decision of a United States district court in cases arising within the same district). *Yajure Hurtado* is therefore

binding precedent and every single Immigration Judge in the Country is bound by law to follow it.

In fact, the Tacoma Immigration Court has continued to deny bond, citing *Matter of Yajure Hurtado*, despite a declaratory judgment by the Western District of Washington, barring Immigration judges at the Tacoma Immigration Court from finding they have no jurisdiction over such aliens as described in *Yajure Hurtado* as aliens encapsulated within 8 U.S.C. § 1225(b).<sup>2</sup>

Even those cases cited by Respondents in support of their position, *Chavez* and *Vargas Lopez*, have agreed that exhaustion would be futile for the reasons outlined, and concluded proceedings on the merits without addressing futility, respectively. *Chavez v. Noem*, et. al., No. 3:25-cv-02325, 2025 WL 2730228 at 6-7 (S. D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 8:25-cv-00526, WL 2780351 at (D. Neb. September 30, 2025). There is, therefore, no court which has agreed with Respondents that exhaustion should be required in this case.

#### **V. RELEASE IS THE APPROPRIATE REMEDY**

Respondents have not stated their specific interest in detaining Petitioner, only arguing that detention is required by statute. If their interest is solely to seek Petitioner's removal, that does not require detention, and absent an indication of flight risk or danger to the community, the interest in detention is insignificant.

Many district courts faced with the same issue in this action have in recent weeks determined to order the immediate release of immigration habeas petitioners. *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 LX 473521, at \*39 (W.D. Tex. Oct. 1, 2025) *citing J.U. v. Maldonado*, No. 25-cv-4836, 2025 U.S. Dist. LEXIS 191630, 2025 WL 2772765, at \*10

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<sup>2</sup> Ellen M. Banner, *Federal Court Ruling Doesn't Stop Washington State Immigration Judges' Bond Denials*, **The Chronicle** Oct. 28, 2025, <https://www.chronline.com/stories/federal-court-ruling-doesnt-stop-washington-state-immigration-judges-bond-denials,389980>

(E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496, at \*11 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924, at \*12 (D. Mass. Sept. 9, 2025); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at \*19 (D. Ariz. Aug. 11, 2025); *M.S.L. v. Bostock*, No. 25-cv-1204, 2025 WL 2430267, at \*15 (D. Or. Aug. 21, 2025). In the majority of these cases, the Court found that the government had no or an insignificant interest in detaining the petitioner. *Santiago*, 2025 LX473521 at \*39 citing *J.U.*, 2025 U.S. Dist. LEXIS 191630, 2025 WL 2772765, at \*10; *Zumba*, 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496, at \*10; *Rosado*, 2025 WL 2337099, at \*14, 18; *Sepulveda Ayala v. Bondi* ("*Sepulveda Ayala II*"), 25-cv-1063, 2025 WL 2209708, at \*3 (W.D. Wash. Aug. 4, 2025).

#### **VI. EAJA FEES SHOULD BE GRANTED**

Respondents' contention that fees should not be granted pursuant to § 2412 is unpersuasive. They cite to two cases in support of their argument that their position is "substantially justified," prohibiting an award of attorney fees and costs – *Vargas Lopez* and *Chavez* – which are each addressed above. Petitioner cites to over twenty cases in support of his interpretation of 8 U.S.C. §§ 1225 and 1226, none of which Respondents address directly. For those reasons, Petitioner respectfully asks this Court to award him attorney fees and costs should he ultimately prevail.

#### **VII. CONCLUSION**

Pursuant to the foregoing, Petitioner respectfully ask that this Court grant his requests for relief.

DATED: November 14, 2025

By: /s/ Casey Parsons  
Casey Parsons  
Attorneys for Petitioner

# EXHIBIT A

# EXHIBIT A



**PLANNING OR ZONING COMMISSION**  
**FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

In the matter of the application of:

**CU2022-0008 – Tellez**

The Canyon County Planning and Zoning Commission considers the following:

Case No. CU2022-0008: Ivan Tellez is requesting a Conditional Use Permit to utilize two contiguous parcels totaling 24.31 acres to build and operate a commercial arena and race track. The subject property is located at 27410 Peckham Road, Wilder ID, also referenced as Parcel R36854010A and R36854010, a portion of the SE quarter of Section 16, T4N, R5W, BM, Canyon County, Idaho.

**Summary of the Record**

I. The record is comprised of the following:

A. The record includes all testimony, the staff report, exhibits, and documents in Case File CU2022-0008.

**Applicable Law**

- I. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code §09-09-17, 09-19-12 (Area of City Impact Agreement).
- a. Notice of the public hearing was provided pursuant to CCZO §07-05-01, Idaho Code §67-6509 and 67-6512.
  - b. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code §67-6512.
  - c. Every use which requires the granting of a conditional use permit is declared to possess characteristics which require review and appraisal by the commission to determine whether or not the use would cause any damage, hazard, nuisance or other detriment to persons or property in the vicinity. See CCZO §07-07-01.
  - d. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development;(6) Requiring the provision



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for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. *See* Idaho Code §67-6512, CCZO §07-07-17, and 07-07-19.

2. The commission shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-07-01. **Or** Any hearing examiner appointed by the board shall perform such duties as assigned by the board pursuant to Idaho Code section 67-6520. See CCZO §07-03-07.
3. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. *Chambers v. Kootenai Cnty. Bd. of Comm'rs*, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
4. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
5. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.
6. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(1).

**The application (CU2022-0008) was presented at a public hearing before the Canyon County Planning and Zoning Commission on March 6, 2025. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Canyon County Planning and Zoning Commission decides as follows:**

**CONDITIONAL USE PERMIT HEARING CRITERIA – CCZO §07-07-05**

**1. Is the proposed use permitted in the zone by conditional use permit?**

**Conclusion:** According to CCZO 07-10-27, the proposed commercial racetrack and arena are allowed with a CUP in the agricultural zone.

**Findings:** (1) Both parcels that the proposed facility is to be developed on are zoned agricultural. (Exhibit B1)

- (2) The proposed use, commercial racetrack and arena, is permitted in the "A" (Agricultural) zone by conditional use permit approval pursuant to CCZO §07-10-27 "Amusement park, theme park or commercial racetrack" and "Arena (Commercial)".



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CCZO §07-02-03: Definitions:

**COMMERCIAL RACETRACK:** A facility, whether private or public, indoor or outdoor, the primary purpose of which is to hold race events run with animals, humans or human operated machines or equipment, and for which a fee is charged to participants and/or an admission charge is paid by the public.

**ARENA (COMMERCIAL):** A facility, whether private or public, indoor or outdoor, the primary purpose of which is to exhibit animals or hold events such as rodeos, horse events or cattle auctions or exhibits, and for which a fee is charged to participants and an admission charge is paid by the public.

**ANIMAL FACILITY (SMALL):** A facility of more than one (1) up to four (4) animal units per acre of land devoted to the animals' care.

**ANIMAL/BIRD UNIT:** The following numbers of animals are a unit of measurement to determine the number of animals allowed per acre of land devoted to the animals' care: two (2) cows, two (2) horses, ten (10) sheep, five (5) swine, ten (10) goats, six (6) llamas, twelve (12) alpacas, seventy five (75) chickens, seventy five (75) game birds, fifteen (15) turkeys, fifteen (15) geese, fifteen (15) peacocks/guinea hens, four (4) ostrich, eight (8) emu, and twelve (12) rhea.

CCZO §07-10-27: Land Use Regulations

Animal facility (small) on 5 acres or more<sup>1</sup> is an allowed use in the "A" (Agricultural) zone. The applicant proposes fewer than the maximum number of animals allowed on the 24-acre facility. [Outside (not owned by the property owner) horses will be transitory and only onsite for race date events.]

Per CCZO §07-07-03, the applicant submitted a conditional use permit application on February 28, 2022 (Exhibit A).

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0008.
- (4) Evidence includes associated findings and evidence supported within this document.

**2. What is the nature of the request?**

**Conclusion:**

The nature of the request is to operate a commercial racetrack, two race days per month, April through November [16 total race dates]. On race dates (hereafter "event") the operator desires to accommodate up to 500 people inclusive of owners/trainers and staff on the property and a maximum of 180 vehicles per event. He also proposes to sell food and drinks, including beer during scheduled events. Portable toilets will be provided.

**Findings:** (1) Evidence submitted includes a site plan. (Exhibit A)



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- (2) The applicant's letter of intent states that the applicant intends to sell food and drink and charge for spectator entry.
- (3) Letter of Intent indicates Portable Toilets are to be used.
- (4) The applicants site plan shows the area for the track, speakers, parking. Applicant intends to add bleachers along the straight-away section of the race track eventually.
- (5) On race dates the applicant proposes to have 6-10 races with no more than four horses per race. The Hours of operation between 11 am and 8 pm. No racing activities are to occur after dusk.
- (6) The Commission has determined that a 250 person limit for events as requested by Canyon County Sheriff's Office is more appropriate than 500 people.

**3. Is the proposed use consistent with the comprehensive plan?**

**Conclusion:** Staff finds that the proposed use is consistent with the Canyon County Comp Plan 2020.

**Findings:** (1.) The proposed development is consistent with the following policies from the Canyon County Comp Plan 2020:  
The proposed use is consistent with many goals and policies of the Comprehensive Plan including but not limited to Property Rights Component including Policy no. 1, "*No person shall be deprived of private property without due process of law.*" Policy no. 8 "*Promote orderly development that benefits the public good and protects the individual with minimum conflict.*" Policy No. 11, "*Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors and neighborhoods.*" The neighbors in the immediate vicinity of the proposed application have provided letters of support (see Exhibits A.6-8).

Economic Development Component Goal no. 4 with states, "*Provide an economically viable environment that builds and maintains a diverse base of business*" and policies no. 1 and 2, "*Canyon County should encourage the continued use of agricultural lands, land uses, and recognize the economic benefits they provide to the community,*" and to "*Support existing business and industry in the county.*"

Land Use Component including goal no. 2 and 3 with state, "*To provide for the orderly growth and accompanying development of the resources with the county that is compatible with the surrounding area,*" and "*Use appropriate techniques to mitigate incompatible land uses*". The area consists of ag-residential properties, ag-industry inclusive of a hops processing facility and Peckham Road Feedlot, a 12,000 head CAFO operation. Further to the west there is a pocket of residential development. Policy no. 1 states, "*Review all residential, commercial and industrial development proposals to determine the land use compatibility and impact to surrounding areas.*" The proposed use requires a conditional use permit whereby conditions can be placed to mitigate impacts for the proposed events.



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4. **Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?**

**Conclusion:** The proposed use will not negatively change the essential character of the area as this use is allowed in an agricultural parcel with a Conditional Use Permit. Mitigating Conditions of Approval will help ensure the use doesn't negatively change the essential character of the area.

- Findings:**
- (1) The uses in the area range from intensive agricultural industry including a hops processing facility and a 12,000 head cattle feedlot along with sporadic ag-residential properties.
  - (2) Several immediately adjacent residential property owners provided letters of support for the proposed facility (see Exhibits A.6-8).
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0008.
  - (4) Evidence includes associated findings and evidence supported within this document.

5. **Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use?**

**Conclusion:** Adequate sewer and irrigation will be provided. Waste removal for events is to be provided by portable toilets that will be properly pumped or hauled away by a certified agent. Drainage will be retained on site per applicant's land use worksheet.

- Findings:**
- (1) The applicant wishes to use portable toilets to discard of sewage. These toilets are to be rented from a company and will be removed and properly disposed of off site at the conclusion of the event.
  - (2) Irrigation is provided by Wilder Irrigation District and Boise Project Board of Control.
  - (3) Drainage will be retained on site. No large areas of non-permeable soils (paved) are requested or planned for the proposed racetrack facility.
  - (4) Evidence includes associated findings and evidence supported within this document.

6. **Does legal access to the subject property for the development exist or will it exist at the time of development?**

**Conclusion:** Legal access does exist per comments received from Golden Gate Highway District (Exhibit D1)

- Findings:**
- (1) Currently, access to the properties exists from Peckham Rd via R36854010. The applicant intends to continue access for parking to the arena on to



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R36854010A. An approved highway district access permit is required for the change of use prior to race date events occurring.

- (2) Golden Gate Highway District lists Peckham Road is a listed as a major collector on the districts. Additional access may be necessary to prevent congestion.
- (3) Access off of Rodeo Lane has been explored as viable. Access permit will be required from Golden Gate Highway District.
- (4) Evidence includes associated findings and evidence supported within this document.

**7. Will there be undue interference with existing or future traffic patterns?**

**Conclusion:** Traffic concerns shall be mitigated prior to commencement of race date activities. As indicated by Golden Gate Highway's comments, a traffic impact study will be needed given the scope of the proposed development for the purpose of identifying and mitigating traffic related issues as it concerns the development proposal (see Exhibit D.1 and D.1.a.)

- Findings:**
- (1) Per GGHD's comments a TIS may be needed for the amount of average daily trips predicated with events of this size in a rural agricultural area.
  - (2) A commercial access permit must be obtained from associated highway district.
  - (3) Canyon County Zoning Ordinances for Parking requirements per CCZO 07-13-03. For the purpose of this application, the number of spaces required is a minimum 150 spaces. Truck/trailer parking for exhibitors shall be provided for separate from the spectator parking (see condition #16). Exhibit 3 provides evidence that the proposed area for parking can accommodate parking for events on the subject properties.
  - (4) Applicant has completed a Traffic Impact Study that will need to be evaluated by Golden Gate Highway District for required mitigation (see condition #4).
  - (5) As per condition #28 the applicant must hire a private security service company to manage crowd, including entry and exit, and parking for each event.
  - (6) Evidence includes associated findings and evidence supported within this document.

**8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?**

**Conclusion:** Essential services may not be available to accommodate the use as proposed including, but not limited, police and fire protection and emergency medical services. The services



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will be negatively impacted if approved for the proposed number of vehicles and guests in attendance as proposed. The impacts could be mitigated with limitations on the number of people in attendance, number of proposed events, adequate ingress/egress, and other limiting conditions. Consider conditioning the events to accommodate fewer vehicles and guests in accordance with Canyon County Sheriff and Wilder Fire District reviews (Exhibit D.4.a. and D.8.) The proposed use could generate additional calls to the police and fire protection services.

**Findings: (1) The following is a review of services:**

**School Facilities:**

The proposed use, a commercial racetrack, does not affect the number of students in the public school system.

**Sheriff's Office:**

The Canyon County Sheriff's Office provided comments in Exhibit D.8. They have concerns regarding the proposed number of guests and vehicles on the site for scheduled events and have indicated that they cannot provide adequate services and ensure the safety of their deputies in the event of emergency calls and/or disturbance calls.

Exhibit D.8. excerpt...

*...The Canyon County Sheriff's Office proposes adding the following stipulations to the conditional use permit.*

- 1. Limit the number of people attending the event from 500 to 250. This is half the number of people to deal with in a volatile situation.*
- 2. Mr. Tellez must hire a private security company to manage the crowd and parking.*
- 3. If the Canyon County Sheriff's Office responds to the address more than twice a year, Mr. Tellez would be in violation of the conditional use permit and be subject to losing the permit.*
- 4. Have a minimum of two points of ingress/egress for entering the event and parking area. Have a designated parking area for spectators and another one for vehicles pulling trailers.*
- 5. Develop an emergency response plan to include an evacuation plan and have it on file with the Canyon County Emergency Manager.*
- 6. Post the evacuation plan on-site.*
- 7. Any food or alcohol sold on-site must be done by a licensed vendor.*

*It is not the intent of the Canyon County Sheriff's Office to prevent Mr. Tellez from building or operating a commercial race track but to keep the community, spectators, and deputies safe.*

**Fire Protection and EMS Services:**

In Exhibit D.4.a

- The Wilder Fire District indicates that it does not have the infrastructure to accommodate 500 guests/150 vehicles at an event. Primary concern is the manpower to support emergency situations.
- The District is also concerned with fire truck and ambulance access to the facility and request that if approved that the applicant provide driving surfaces for the accesses minimally meeting the following:



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Approved driving surface materials should include: crushed gravel, recycled asphalt, concrete and asphalt. Surface material minimum thickness of two (2) inches placed over six (6) inches minimum base of pit run or equivalent. Evidence of compliance would be fire district written approval provided to DSD a minimum of 10 days prior to the first event conducted on site.

**Irrigation Facilities:**

Surface water irrigation is provided to the site by the Wilder Irrigation District. The site is bordered along the northeast property boundary by the Vantress Lateral. The irrigation facilities shall not be affected by the proposed use. No modifications to the facilities are requested or approved.

**Other: Idaho State Racing Commission:**

The State Racing Commission regulates pari-mutuel racing facilities. The applicant states that there will be no provisions for betting or pari-mutuel activities on the subject properties. A license is not required for live race meet events unless pari-mutuel betting is proposed. A condition should be placed restricting organized pari-mutuel and/or betting activities associated with the event races. Should DSD receive credible evidence of illegal gambling activities the conditional use permit may be reviewed for compliance and revocation proceedings may occur.

- (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0008.
- (3) Evidence includes associated findings and evidence supported within this document.

**Canyon County Code 09-07-09, 09-09-17- AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Wilder Area of City Impact. A notice was sent to the City of Wilder per Canyon County Code Section 09-17-15. Conditions applied require future development to work with the City of Wilder.

- Findings:**
- (1) The City of Wilder was noticed with other agencies on May 11, 2023 and December 11, 2024. Comment was received see Exhibit D.3. indicating that the proposed use was acceptable to the city.
  - (2) Affected agencies were noticed on May 12, 2023 and December 11, 2024.



**PLANNING OR ZONING COMMISSION**  
**FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

**Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **approves** Case # CU2022-0008, a conditional use permit for a commercial racetrack and arena subject to the following conditions as enumerated:

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. The applicant shall meet Southwest District Health (SWDH) requirements for the proposed uses on the property as evidenced by the applicant providing Development Services a letter of review and approval from SWDH prior to commencement of the special event center use on the property.
3. Comply with all Fire District requirements in accordance with State adopted IFC and as evidenced by review and written approval documentation from the applicable fire district a minimum of 10 days prior to commencement of commercial racetrack event activities on the site. (see Exhibit D.4.1)
4. The applicant shall comply with applicable Golden Gate Highway District access and traffic impact improvement requirements. The applicant shall obtain an access permit for the commercial racetrack approaches prior to commencement of the first event at the facility as evidenced by the applicant providing Development Services with an approved highway district letter indicating completion of improvements prior to commencement of special events (see Exhibit D1.).
5. All exterior lighting shall be full cutoff and fully shielded, and placed to direct the light source down and inside the property lines of the facility. All direct glare from the lights shall be contained within the facility area. No light source may be placed greater than fifteen (15') feet in height.
6. The facility shall be maintained in compliance with CCCO Chapter 2 Article 1: Public Nuisances.
7. Dust shall be controlled per applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to operations including but not limited to nuisance regulations (CCCO Chapter 2 Article 1: Public Nuisances) and shall be consistent with Idaho Department of Environmental Quality (DEQ) and Environmental Protection Agency (EPA) requirements.
8. Signage shall meet the requirements of CCZO §07-10-13 and shall not exceed 32 square feet or as provided for by an approval of a separate application for a Director's Administrative decision for a sign permit.
9. The applicant shall not impede, disrupt, or otherwise disturb the existing irrigation structures on and adjacent to the subject property.



**PLANNING OR ZONING COMMISSION**  
**FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

10. This conditional use permit must follow land use time limitation as stated in CCZO §07-07-23: "When a conditional use permit is granted, the land use or construction of its facility proposed in the application must have commenced within three (3) years of the date of the final decision by the presiding party or a court of appropriate jurisdiction. The improvements for the approved use must be completed within five (5) years of the same date."
11. Daily training/exercising/care of horses by the property owner and other horse owners/trainers is expected to occur daily or as needed on the subject property as an allowed use in the "A" (Agricultural) zone.
12. Violations of conditions of approval may result in revocation proceedings in accordance with CCZO §07-07-21.

**RACE DATE EVENTS:**

13. Events attendance shall be **limited to 250 total people** on the site per scheduled event to help to ensure community, spectator and emergency services personnel safety.
14. If the Canyon County Sheriff's Office responds to the address more than twice a year for legitimate disturbance calls, Mr. Tellez would be in violation of the conditional use permit requirements and could be subject to revocation of the permit.
15. The event days shall not exceed a maximum of 150 vehicles on the site per scheduled event.
16. All event parking shall be provided for onsite. Parking requirements shall be in accordance with §07-13-03. For the purpose of this application, the number of spaces required is a minimum 150 spaces. Truck/trailer parking for exhibitors shall be provided for separate from the spectator parking. All access aisles must be kept free of parked vehicles and spectator seating.
17. There shall be no parking of vehicles along the public roadways on event dates.
18. Prior to the commencement of the use (first event), all parking spaces shall meet all applicable off-street parking requirements (CCZO 07-13-01 and 07-13-03). Evidence of consistency shall be submitted to Canyon County DSD.
19. No parking signs shall be placed along the access road so as not to impede ingress/egress of emergency services.
20. The applicant may conduct no more than sixteen (16) total events per year. The event dates (spectator race days) may occur one day per weekend, two weekends per month, April through November.



**PLANNING OR ZONING COMMISSION**  
**FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

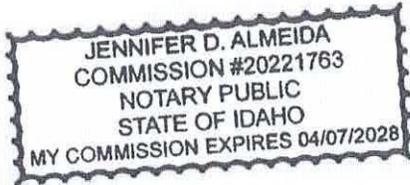
21. The hours of operation: Race date races will occur between the hours of eleven (11:00 a.m.) and eight (8:00 p.m.). No races will be conducted after dark. No racetrack lighting is proposed or approved. Spectators shall not arrive onsite prior to 9:00 a.m. on race dates.
22. Race date events are not sanctioned pari-mutuel races and not approved for wagering/gambling activities.
23. The applicant proposes six to ten races with no more than four (4) horses per race. Outside horses (not owned by property owner) may be hauled-in on race date or stalled on property for the race date weekend. Animals shall not exceed animal unit numbers for greater than five days at any given point in time on the 24-acre facility. [current code §07-02-03 and §07-10-27 provides for the proposed animal units as an allowed use in compliance with animal facilities (small)]
24. Portable sanitary units with wash stations shall be provided for events as required for expected event participation. A handicap unit shall be provided in accordance with ADA requirements.
25. Alcoholic Beverage Licensing: Alcoholic beverage, beer only, at the facility shall be provided and distributed in strict compliance with Local, State and Federal requirements for sales and distribution.
26. Food vendor/licensed caterer shall operate in compliance with the requirements of SWDH Food Establishment Licensing and Permitting. License/permit shall be onsite for inspection during events.
27. Music and amplified sound: All amplified sound shall be directed away from adjacent residences. There shall be no amplified music or public announcements outdoors prior to 10:00 a.m. or after 10:00 p.m. Amplified sound shall be maintained at a level of less than 90 decibel's so as not to create undue interference with neighboring properties. Verified noise complains/calls to sheriff's office may result in revocation of conditional use permit.
28. The applicant shall hire a private security service company to manage the crowd and parking for each event date to ensure conditions are adequately enforced including but not limited to restricted parking areas, crowd control, and entry exit of event day participants/spectators.
29. The applicant shall develop an emergency response plan to include an evacuation plan and have it on file with the Canyon County Emergency Manager. The evacuation plan shall be posted on the site during events. Emergency Medical personnel shall be on sight at all paid events.
30. Perimeter fencing shall be installed prior to first paid event. Fencing shall be six (6) feet tall and of a permanent nature placed in the ground.



**PLANNING OR ZONING COMMISSION**  
**FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

DATED this 20 day of March, 2025.

**PLANNING AND ZONING COMMISSION**  
**CANYON COUNTY, IDAHO**



Robert Sturgill, Chairman

State of Idaho )

SS

County of Canyon County )

On this 20<sup>th</sup> day of March, in the year 2025, before me Jennifer D Almeida, a notary public, personally appeared Robert Sturgill, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: Jennifer D Almeida

My Commission Expires: 4/7/28