

**RESOLUTION NO. Z-8382 OF
THE ZONING ADMINISTRATOR OF ALAMEDA COUNTY
ADOPTED AT THE HEARING OF FEBRUARY 14, 1996, CONCERNING C-5720**

WHEREAS JIM BAUM & ULTIMATE PEAK, INC. have filed for **CONDITIONAL USE PERMIT, C-5720**, to review the continued operation of an existing outdoor recreation facility (motor vehicle raceway) and to allow construction of a new grandstand cover and new identification sign greater than 24 square feet in an "A" (Agricultural) District, located at 17001 Midway Road, east side, approximately 2,200 feet south of Highway I-580, Unincorporated Mountain House Area, Assessor's Parcel No. 99B-7675-5-7.

WHEREAS the Zoning Administrator did hold a public hearing on said application at the hour of 1:30 p.m. on the 17th and 31st of January and the 14th day of February, 1996, in the Alameda County Public Works Building, Auditorium, 399 Elmhurst Street, Hayward, California; and

WHEREAS it satisfactorily appears from affidavits on file that proper notice of said public hearing was given in all respects as required by law; and

WHEREAS this application has been reviewed in accordance with the provisions of the California Environmental Quality Act and has been found to be categorically exempt; class 23; and

WHEREAS a Pre-Hearing Analysis was submitted recommending the application be conditionally approved; and

WHEREAS applicants and representatives appeared at said public hearing and presented testimony in support of the application; and

WHEREAS the Zoning Administrator did hear and consider all said reports, recommendations and testimony as hereinabove set forth;

NOW THEREFORE, BE IT RESOLVED that the Zoning Administrator finds that:

- a) The use is required by the public need as, with closure of the Fremont Drag Strip facility, there continues to be no other full-size auto or motorcycle facility of this type available in the County and many motor sports fans can't get satisfaction; the proposed modifications are consistent with the action taken on the original permit.
- b) The use will be properly related to other land uses and transportation and service facilities in the vicinity as, with implementation of the following conditions and performance standards, the proposal would have minimal impact on surrounding rural residential land uses. Adequate public and private transportation and service facilities are available.

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- c) The use, if permitted, under all the circumstances and conditions of this particular case, will not materially affect adversely the health or safety of persons residing or working in the vicinity, or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood as the requirements of all applicable public agencies related to public health and safety would be met, as modified herein.
- d) The use will not be contrary to the specific intent clauses or performance standards established for the District in which it is to be considered as properly conditioned and monitored outdoor recreational facilities are a conditional use in the "A" (Agricultural) District. The proposed modifications of the original permit conditions are minor and merely update existing conditions already imposed on the property. The use will continue to be monitored effectively ensuring strict compliance with all conditions and performance standards imposed.

BE IT FURTHER RESOLVED that the Zoning Administrator does hereby conditionally approve said application as shown by the amended project plans and the August 30, 1991, project description, "Exhibits A, Exhibit B, and Exhibit X-1" on file with the Planning Department and attached hereto and made part of this permit by reference, except as amended below. These documents shall be incorporated into the final racetrack improvement plans, performance standards, and subject further to the following conditions:

Prior to Initiation of Use and Beginning of Track Operations:

1. The applicant or his successor shall defend, indemnify, and hold harmless Alameda County, its agents, officers, and employees from any claim, action, or proceeding against Alameda County, its agents, officers, and employees to attack, set aside, void or annul this conditional use permit, including any amendments thereto, or any supporting environmental impact report, negative declaration, California Environmental Quality Act (CEQA) exemption, or other environmental documents and actions taken pursuant to CEQA, the Alameda Zoning Ordinance, or other Federal, State or County statutes, regulations, ordinances, or requirements, and shall defend, indemnify, and hold harmless Alameda County, its agents, officers, and employees against liability for personal injury or property damage caused by or resulting from acts or omissions by the applicant or his successor, or the applicant's or its successor's agents, officers or employees in the operation or implementation of this conditional use permit. Such indemnification shall include, but not be limited to, an award of costs and attorneys' fees to the plaintiffs or petitioners in such action as well as staff time, costs, and attorneys' fees incurred by Alameda County in its defense. The County shall promptly notify the applicant or its successor of any such challenge.
2. Spectators shall be given all reasonable protection from racing vehicles; the track operators shall maintain a liability policy in the minimum amount of one million dollars (\$1,000,000) with the County of Alameda named as additional insured.

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3. As detailed further below, the following plans and programs shall be submitted for Zoning Administrator review and approval prior to implementation and before any race track events can take place:

- a) Site Improvement Plans - including proposed grading, drainage, parking, emergency secondary access, building, and utility improvements, temporary mobile homes (as caretakers quarters) and grandstand cover.
- b) Traffic Management Plan - including proposed traffic schedules; designated routes to the from track events; directions used in all pre-event advertising (except radio and television); traffic control staff, location and procedures; emergency access; typical traffic announcement during events; directional signage, size, type, location, and text shall be submitted to the Zoning Administrator and Public Works Agency, Traffic Section staff for review and approval prior to any events. Required encroachment permits shall be secured, as needed.

The applicant shall make every effort to direct a minimum sixty percent (60%) of expected event traffic to access the site from Patterson Pass Road. Attendants shall be on duty to direct traffic onto and off the site from and towards the direction of Patterson Pass Road and to and from all parking areas. All advertizing material and road signs which include directional information shall indicate directions to the site in this manner.

- c) Sign Program - including any signs visible off-site, internal circulation, off-site directional signs, permanent track identification and upcoming event signs; signs and advertising visible only to on-site spectators will not be regulated.
- d) Demolition Derbies: Truck and Pull - Prior to the first scheduled demolition derby or truck and pull, asphalt paving shall be install over the entire racetrack infield to prevent oil, gasoline and other contaminates from leaching into the water table.
- e) Illuminated Pylon Identification Sign/Electronic Reader Board -Subject to final design approval by the Zoning Administrator prior to the issuance of a building permit, this permit authorizes the construction and maintenance of one, double face sign display. The height of the bottom of the sign cabinet shall be no more than 10 feet above the horizon as viewed from eastbound I-580 at the point identified in the applicant=s submitted visual analysis as AView #3" and this height shall be finally determined by actual test in the field. (Overall height of sign at the intended height described above would be approximately 45 feet.) Sign cabinet dimensions shall not exceed 15' high by 30' wide with any sign area devoted to corporate advertizing limited to no more than 30% of the overall sign area. Minor changes to the identification sign may be approved by the Zoning Administrator as needed to ensure the sign is in scale

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with surrounding agricultural improvements and the intent of this action.

A permit for the sign shall be obtained from Cal-Trans. The sign shall not be electronically operated in any calendar year in which there is not an active auto racing season. The electronic reader board shall not display commercial message(s), but rather announcements about the track, time, temperature, etc.

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4. All requirements of the following County agencies shall be met:
- a) Building Department
 - b) Public Works Agency - Land Development, Design, Traffic, Encroachment, and Grading Sections
 - c) Fire Department
 - d) Sheriff's Department (see also conditions #20 & #21)
 - e) Environmental Health Care Services Agency (Water, Septic, and Food Services)
 - f) Division of Environmental Protection (Hazardous Materials)
 - g) Emergency Medical Services Agency
 - h) Zone 7 - Flood Control Planning and Water Conservation District

Confirmation certifying individual agency compliance shall be submitted to the Zoning Administrator prior to the start of any racing events.

- 5) All requirements of the following State and Federal agencies shall be met:
- a) United States Fish and Wildlife Service, including fair share participation in any regional wildlife impact mitigation programs when and if established.
 - b) Department of Fish and Game, including fair share participation in any regional wildlife impact mitigation programs when and if established.
 - c) Department of Transportation (Cal-Trans)
 - d) Alcoholic Beverage Control

Confirmation certifying individual agency compliance shall be submitted to the Zoning Administrator prior to the start of any racing events.

- 6) Minor variations to these conditions may be reviewed and approved without public hearing by, and at the discretion of, the Zoning Administrator. Major amendments to or any expansion of the project shall require conditional use permit amendment and public hearing.

Track Operations/Performance Standards

- 7) No concerts, mud-bog racing, or drag racing events are allowed under this permit. Live music is permitted provided it is part of a scheduled racing event. Not to exceed the limits under Condition #14, musical entertainment, and truck & tractor pulls that are incidental and concurrent with scheduled spectator racing events may be held within one day of any approved racing event. Approval of racing-related musical entertainment and/or truck and tractor pulls may be revoked at any time by the Zoning Administrator.

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- 8) All racing events, and all events and activities where movement of a vehicle is principal to the activity, e.g. rallies, driver training, practice sessions, demonstrations,

etc., shall be conducted only within the area defined by the outer perimeter of the largest track as shown on "Exhibit A" and on a paved surface unless expressly approved by the Zoning Administrator.

Four-wheel drive maintenance vehicles, in the performance of their normal maintenance duties on-site, are exempted from this prohibition. There shall be no motorcycle or other vehicle riding outside of the track, parking, and pit areas except for facility maintenance vehicles and equipment.

The staging area for racing-related musical entertainment shall be located at the southwesterly end of the track only with speakers and amplification equipment oriented towards the grandstands.

- 9) Except for racing-related musical entertainment, all non-auto related events at the facility shall be reviewed and specifically approved by the Zoning Administrator, by written request, prior to occurrence. The Zoning Administrator may approve, or reject, such events as being, or not being, within the scope of this application and the Court of Appeal's Categorical Exemption.
- 10) Before March, 1997, spectator capacity at any event shall not exceed six thousand (6,000) people. Thereafter, spectator capacity at any event shall not exceed seventy-five hundred (7,500) people.
- 11) The applicant shall monitor attendance. Before March, 1997, access gates shall be closed for further entry (except for an emergency) when the six thousand (6,000) spectator limit is reached. Additional entry of event patrons is allowed as an equal number of people exit the event to maintain the six thousand (6,000) spectator capacity. Before March, 1997, the total capacity including spectators, participants and staff, shall not exceed sixty-five hundred (6,500) persons. Thereafter, spectator and total capacity shall not exceed 7,500 persons and 8,000 persons, respectively, as monitored above.
- 12) Maximum d.b.a. (decibel) levels per vehicle shall not exceed ninety-five (95) dBA at a one hundred (100) foot radius (per California State Department of Agriculture, Division of Fairs and Expositions, Noise Contract Policy Guidelines for Oval Tack Racing) on the north and west sides of the track oval.
- 13) Maximum dBA levels shall be monitored for participating racetrack vehicles within 100 feet radius of the outer race track oval perimeter, for each vehicle. Acceptable noise monitoring equipment shall be located and permanently maintained in a location to be determined in cooperation with Zoning Administrator or other designated staff. At the applicant's expense and County determined frequency, County staff will confirm the accuracy of the measurements taken.

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- 14) Hours of operation shall be limited from 8:00 AM - 10:00 PM for training sessions year-round, and from 9:00 AM - 11:00 PM, Saturdays, Sundays and national holidays only for spectator racing events during the March through November racing season. In no case shall any racing activity be scheduled to take place after 11:00 PM.

Hours of operation on Fridays shall be prohibited unless a Traffic Engineer's Report studying the impacts from significant spectator attendance at the racetrack facility on service levels at the Grant Line Road/I-580 and Patterson Pass Road/I-580 Interchanges, among other traffic issues, is first reviewed and approved by both the Zoning Administrator and the Director of Public Works Agency, Traffic Division and made part of the permit, by reference. The selection of the Traffic Consultant shall be approved by the County; cost for review of the Traffic Report shall be borne by the applicant.

No more than three (3) events (of any type) shall be allowed in any week (7 consecutive days). For the purpose of counting the number of events, it is understood that a single "Spectator Racing Event" may include "Training Session(s)" and may cover more than one day but not more than two consecutive days, and that a single "Smaller Event" and/or "Training Session(s)" may cover not more than one day.

Concessions and Services

- 15) Other than at an approved "swap-meet" event, there shall be no sales of parts, supplies, vehicles, or other products to the general public on the premises except food, refreshments, and souvenirs:
- a) All food and beverage facilities must be in full compliance with the minimum standards set by California State Food Handling Code(s). Scale drawings shall be submitted to the Health Department and approved before any construction or remodeling is undertaken. All food handling operations shall have a valid Health Department permit to operate.
 - b) The sewage disposal system (on-site septic system and supplemental disposal facilities, including port-a-lets and rest room trailers) shall be adequately sized and serviced to handle all the needs of the people at a maximum attendance.
 - c) A supply of water at the site with the chemical contents less than the U.S. Public Health Service allow as maximum for public supplies shall be provided. This supply shall be adequate in quantity to furnish water for a maximum attendance as determined by the County Health Department.
 - d) All trash, cans, car parts, paper, boards, broken glass, and other debris shall be collected within forty-eight (48) hours of the last race of each weekend or other event and hauled to a legitimate landfill or wrecking yard site.

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- 16) Within twenty-four (24) hours after any event, the applicant shall clean the Midway Road right-of-way for a distance of one thousand (1,000) yards in either direction from the property of litter generated by users of the facility. A two thousand dollar (\$2,000.00) cash bond, or equivalent, in a form acceptable to the County Roads Department, Public Works Building, shall be tendered prior to commencement of the use and maintained at that amount during the term of this permit. Action against this bond shall be taken in the event of non-performance with in the litter control program.
- 17) Except for wrecked vehicles during a Demolition Derby event, all wrecked vehicles shall be removed from the site within seventy-two (72) hours. Wrecked vehicles during a Demolition Derby shall be removed within 24 hours.
- 18) A fire suppression water supply, fire hydrant, supply lines, and other equipment shall be provided as required by the Alameda County Fire Department.
- 19) The permittee shall provide measures to prevent the discharge of contaminated material into any storm water or off-site drainage facility. The permittee shall comply with Federal, State, and local water quality standards and regulations.

Security

- 20) Security and law enforcement services for all types of activities at the site shall be determined by the County Sheriff or his designee, which may include requirement that Deputy Sheriffs and members of the California Highway Patrol be on-site, at the expense of the applicant, to provide for safety, traffic, and law enforcement services. A Racetrack Security Plan with a minimum security personnel schedule, based on type of event and approved by the County Sheriff or his designee, shall be prepared and submitted to the Zoning Administrator for review and made a part of this permit by reference, prior to any track event.
- 21) If the Alameda County Sheriff's Department or California Highway Patrol determines that any event or activity is a "Police Problem," either agency shall have authority to terminate said event.

Parking and Traffic

- 22) All event parking shall be accommodated on-site within the physical limits indicated, as shown on Exhibits "A" and "X-1" or as amended by the Public Works Agency Grading Inspector and Traffic Engineer in cooperation with the Zoning Administrator and applicant. The area indicated on Exhibit "X-1" as "Not to be Disturbed" shall be restored to its natural condition and not further disturbed. However, should the Zoning Administrator be advised by the USFWS that the buffer zone along the westerly side property line is suitable for unimproved, overflow parking, this area may be deleted from Exhibit "X-1"; otherwise a minimum 40' setback from the westerly side property shall be maintained.

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- 23) Fencing around the track shall be installed and maintained in good condition. Subject to Zoning Approval of the materials and details, prior to any racing events there shall be provided solid fencing along the westerly property line, five (5) to six (6) foot

height, chain link material with slats or solid wood material.

- 24) The access road from Midway Road shall be maintained in good condition free of potholes. The access road leading to the parking area shall be maintained to a minimum width of forty (40) feet.
- 25) A standard stop sign shall be maintained at the driveway entrance at Midway Road.
- 26) Clear line-of-sight shall be maintained from the southwest corner of the property to Midway Road.

- (27) The applicant shall be responsible for ensuring that no cars park along Midway Road or outside the designated on-site parking areas; spectators and participants shall be advised of this condition; an attendant shall be posted at the front gate as spectators and participants are arriving to direct vehicles onto the site.

If, during the term of this permit, the Alameda County Planning Department is advised by the Director of Public Works that parking along Midway Road is occurring during events held at this facility, new conditions may be imposed to ensure compliance with the intent of this condition, including posting of permanent "No Parking" signs as required by the Director of Public Works. Said signs shall be installed by the applicant at no expense to the County.

- (28) Grass heights on parking areas shall meet County Fire Marshall requirements to prevent fire hazard.

Utility and Emergency Services

- (29) The potable water supply shall be adequate in quantity to furnish water for the maximum sixty-five hundred (6,500) person capacity and an eight thousand (8,000) person capacity after March, 1997, subject to Health Department requirements. Emergency water supply and storage shall meet Alameda County Fire Department requirements.
- (30) Outdoor lighting shall be directed towards the racetrack only and away from Highway I-580, Highway I-205 and adjacent residence(s).
- (31) Ambulance and medical first-aid protocols shall be established in cooperation with the County Office of Emergency Medical Services.

Temporary Mobilehome

- (32) Up to two mobile homes for caretaker's quarters may be installed subject to installation and connection to an approved water and septic system with required building and Environmental Health Department permits.
- (33) Residential use of the concession and office building shall cease not later than ninety (90) days after the effective date of this permit, or upon occupancy of the mobile home, whichever occurs first. Correctional work to the concession and office building as required by the Building Department shall be completed not later than ninety (90) days after the effective date of this permit.

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- (34) Use of recreational vehicles to spend the night, together with motorhomes, trailers, etc. for overnight accommodations, shall be prohibited unless a plan for duration of stay and sanitation, among other issues, is first reviewed and approved by both the Zoning Administrator and County Health Department and made a part of this permit, by reference.

Permit Term and Monitoring

- (35) After notice as provided for in the initial hearing, this matter may be set for rehearing within thirty (30) or sixty (60) days after the third anniversary of the original approval of this permit, and on the subsequent third anniversaries, for the purpose of modifying any condition previously imposed, or adding conditions that may be required to guarantee the continuance of the affirmative findings contained herein. Any condition modified or added shall be of the same force and effect as if originally imposed. This process may not result in the denial of the permit, or effective denial of the permit, prior to its natural expiration as provided below. Review costs shall be borne by the applicant. Otherwise, the subject Conditional Use Permit shall terminate on February 9, 2006, and shall remain revocable for cause in accordance with Section 8-90.3 of the Alameda County Zoning Ordinance.
- (36) The applicant shall provide for Planning Department monitoring of the facility as follows. Applicant shall give the Planning Department and the Sheriff's Department two weeks minimum advance notice of all events at the facility, describing the type of event, hours, and expected attendance. Any written response resulting from Zoning Enforcement referral and action shall be reimbursed to the County based upon actual costs.

Pursuant to Section 8-60.7 of the Alameda County Zoning Ordinance said Conditional Use Permit shall be implemented within a term of three (3) years of its issuance or it shall be of no force or effect.

Said Conditional Use Permit shall remain revocable for cause in accordance with Section 8-90.3 of the Alameda County Zoning Ordinance.

STEPHEN F. RICHARDS - ZONING ADMINISTRATOR
ALAMEDA COUNTY PLANNING DEPARTMENT