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**PLANNING COMMISSION AGENDA  
IN-PERSON/VIRTUAL HYBRID MEETING  
CITY HALL AUDITORIUM, 250 N 5<sup>th</sup> STREET  
TUESDAY, MAY 14, 2024 - 5:30 PM  
*Attend virtually: [bit.ly/GJ-PC-5-14-24](https://bit.ly/GJ-PC-5-14-24)***

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**Call to Order - 5:30 PM**

**Consent Agenda**

1. Minutes of Previous Meeting(s)

**Regular Agenda**

1. Consider a request by Paul Herek, applicant and business owner, to terminate an existing Conditional Use Permit (CUP-2013-491 and amended with CUP-2020-147) on a property of approximately 1.596 acres in a CG (Commercial General) zone district located at 304 North Avenue and 1130 N. 3rd Street.

**Other Business**

**Adjournment**

**GRAND JUNCTION PLANNING COMMISSION**  
**April 9, 2024, 5:30 PM**  
**MINUTES**

The meeting of the Planning Commission was called to order at 5:32 p.m. by Commissioner Scissors.

Those present were Planning Commissioners; Sandra Weckerly, Kim Herek, Ian Moore, and Orin Zyvan.

Also present were Jamie Beard (City Attorney), Niki Galehouse (Planning Supervisor), Madeline Robinson (Planning Technician), and Jacob Kaplan (Planning Technician).

There were 0 members of the public in attendance, and 1 virtually.

**CONSENT AGENDA**

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**1. Approval of Minutes**

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Minutes of Previous Meeting(s) from March 26, 2024.

Commissioner Weckerly moved to approve the consent agenda.

*Commissioner Herek seconded; motion passed 5-0.*

**REGULAR AGENDA**

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**1. Five Star Annexation**

**ANX-2023-219**

Consider a request by Five Star Homes and Development Inc. to Zone 0.11 acres within the Five Star Annexation to RM-8 (Residential Medium 8) Located East of the Northern End of Allyce Avenue within the Birks Blue Subdivision.

**Staff Presentation**

Tim Lehrbach, Senior Planner, introduced exhibits into the record and provided a presentation regarding the request.

Tracy States with River City Consultants was present and available for questions.

**Questions for staff and applicant**

Commissioner Weckerly asked for clarification on the location of the parcel to be annexed.

Commissioner Zyvan asked if the drainage easement would remain following annexation. Additionally, he asked about the future prospects for multimodal transportation for this parcel.

Tracy clarified that the parcel would continue to be designated for drainage.

## **Public Hearing**

*The public comment period was opened at 5:00 p.m. on Tuesday, April 2, 2024, via [www.GJSpeaks.org](http://www.GJSpeaks.org).*

There were no public comments.

*The public comment period was closed at 5:50 p.m. on April 9, 2024.*

## **Discussion**

### **Motion and Vote**

Commissioner Weckerly made the following motion "Mr. Chairman, on the Zone of Annexation request for the property located east of the northern end of Allyce Avenue within the Birks Blue subdivision, file number ANX-2023-219, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact as listed in the staff report."

*Commissioner Herek seconded; motion passed 5-0.*

## **OTHER BUSINESS**

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Niki Galehouse noted that the April 23<sup>rd</sup> Planning Commission would be cancelled.

## **ADJOURNMENT**

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Commissioner Herek moved to adjourn the meeting.

*The vote to adjourn was 5-0.*

The meeting adjourned at 5:52 p.m.



## Grand Junction Planning Commission

### Regular Session

Item #1.

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**Meeting Date:** May 14, 2024  
**Presented By:** Jessica Johnsen, Senior Planner  
**Department:** Community Development  
**Submitted By:** Jessica Johnsen, Senior Planner

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### Information

#### **SUBJECT:**

Consider a request by Paul Herek, applicant and business owner, to terminate an existing Conditional Use Permit (CUP-2013-491 and amended with CUP-2020-147) on a property of approximately 1.596 acres in a CG (Commercial General) zone district located at 304 North Avenue and 1130 N. 3rd Street.

#### **RECOMMENDATION:**

Staff recommends approval of the request.

#### **EXECUTIVE SUMMARY:**

The Applicant is requesting to terminate an existing Conditional Use Permit (CUP) on a property located at 304 North Avenue and 1130 N. 3rd Street (Volleys).

#### **BACKGROUND OR DETAILED INFORMATION:**

The Applicant is seeking to terminate the Conditional Use Permit (CUP-2013-491), approved in February 2014 and an amendment, CUP-2020-147 approved in October 2020) to operate its business on an existing property. The applicable site is 0.797 acres and currently contains an approximately 13,153 square foot building with outdoor volleyball courts on the lot to the east (1130 N 3rd Street).

The subject property is zoned Commercial General (CG). The properties to the east, west, and north are also zoned CG, the properties to the south are zoned Mixed-Use Light Commercial (MU-2). According to the Comprehensive Plan Land Use Map, this area is designated Mixed Use.

The current land uses are Bar or Tavern and Recreation and Entertainment, Outdoor. Pursuant to the Zoning and Development code in effect at the time of CUP approval, a Bar or Tavern and the use of "All Other Outdoor Recreation" (for the volleyball courts)



was allowed with a CUP. With the updated Zoning and Development Code, the use of a “Bar or Tavern” and “Outdoor Entertainment and Recreation” is now allowed by right. Further, this property is located in North Avenue Overlay Zone District and the parking ratios have changed, reducing the number of required parking spaces. However, the applicant is proposing to keep a portion of the existing parking spaces on-site as well as utilize on-street parking.

The Applicant is proposing to add two additional volleyball courts where a previous storage building was located, adjacent to the existing courts.

**NOTIFICATION REQUIREMENTS**

A Neighborhood Comment Meeting regarding the proposed termination of the CUP was held at 304 North Avenue on March 25, 2024, in accordance with Section 21.02.030(c) of the Zoning and Development Code. One member of the public attended along with one city staff member and the applicants.

Notice was completed consistent with the provisions in Section 21.02.030(g) of the City’s Zoning and Development Code. The subject property was posted with an application sign on April 1, 2024. Mailed notice of the public hearings before Planning Commission and City Council in the form of notification cards was sent to surrounding property owners within 500 feet of the subject property on May 3, 2024. The notice of the Planning Commission public hearing was published May 5, 2024 in the Grand Junction Daily Sentinel. An online hearing with opportunity for public comment was held between May 7, 2024 and May 13, 2024 through the GJSpeaks platform.

**ANALYSIS**

**Consistency with the Comprehensive Plan**

The site is currently zoned CG (Commercial General) and the proposed use is consistent with the Comprehensive Plan because both “Bar or Tavern” and ”Outdoor Entertainment and Recreation” are allowed by right in CG zoning. The proposed land use furthers Plan Principle 8 of the Comprehensive Plan “Resource Stewardship”.

- Promote the use of sustainable development and waste reduction practices.
  1. *Maximize Existing Infrastructure. Concentrate urban development in areas that maximize existing infrastructure investment, reduce the loss of agricultural land, reduce impervious surfaces, and meet other resource stewardship goals.*

The proposed use and improvements to the property (specifically adding additional courts in the location of a recent building demolition) for recreational use is appropriate and unique to this property. By utilizing existing sites and infrastructure to expand approved uses, the reuse of the site further implements the Comprehensive Plan.

**Conditional Use and Special Dimensional Permit Amendment, Termination, or Revocation**

Section 21.02.050(g) of the Zoning and Development Code outlines the criteria by which a Conditional Use Permit can be terminated. Analysis of the proposal relative to the criteria is included below.

**Section 21.02.050(g)(3) – Preliminary Criteria**

An applicant for amendment, termination, or revocation of a Conditional Use or Special Dimensional Permit must establish the following to the satisfaction of the decision-maker before the requested change(s) can be considered by the decision-maker:

1. Permit Holder - A Conditional Use or Special Dimensional Permit may be amended or terminated at the request of the permit holder as follows:
  - o Grounds for Termination - The permit holder shall show that the use is an allowed use in the zone district in which it is now established.

The 2023 City of Grand Junction Zoning and Development Code now allows both uses on the site by-right. A new application for this use at this location would not require a Conditional Use Permit.

**RECOMMENDATION AND FINDINGS OF FACT**

After reviewing the Volleys Termination of Conditional Use Permit request, CUP-2024-128, for the property located at 304 North Avenue and 1130 N. 3rd Street, the following findings of fact have been made:

1. The request is consistent with the goals and policies of the Comprehensive Plan; and
2. In accordance with Section 21.02.050(g) of the Grand Junction Zoning and Development Code, the criteria for termination of a CUP has been met.

Therefore, Staff recommends approval of the request.

**SUGGESTED MOTION:**

Mr. Chairman, on the Termination of the Conditional Use Permit for the property located at 304 North Avenue and 1130 N. 3rd Street, City File number CUP-2024-128, I move that the Planning Commission approve the termination of the CUP with the findings of fact listed in the staff report.

**Attachments**

1. Exhibit 2 - Development Application
2. Exhibit 3 - Site Map
3. Exhibit 4 - Neighborhood Meeting notice & notes
4. Exhibit 5 - Existng CUP documents

## Development Application

We, the undersigned, being the owner's of the property adjacent to or situated in the City of Grand Junction, Mesa County, State of Colorado, as described herein do petition this:

Petition For: Termination of CUP

Please fill in blanks below only for Zone of Annexation, Rezones, and Comprehensive Plan Amendments:

|   |   |
|---|---|
| Existing Land Use Designation <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span> | Existing Zoning <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span> |
| Proposed Land Use Designation <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span> | Proposed Zoning <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span> |

Property Information

Site Location: 330 North Ave. B      Site Acreage: 0.50

Site Tax No(s):       Site Zoning: CG

Project Description: Terminate Conditional Use Permit

Property Owner Information

Applicant Information

Representative Information

|  |  |   |
|--|--|---|
| Name: <span style="border: 1px solid black; padding: 2px;">Manchester Family Rentals LLC</span>          | Name: <span style="border: 1px solid black; padding: 2px;">Paul Herck</span>                             | Name: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span>             |
| Street Address: <span style="border: 1px solid black; padding: 2px;">2698 Lanci Ct</span>                | Street Address: <span style="border: 1px solid black; padding: 2px;">1140 Aquarius Ave.</span>           | Street Address: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span>   |
| City/State/Zip: <span style="border: 1px solid black; padding: 2px;">65 CO 81504</span>                  | City/State/Zip: <span style="border: 1px solid black; padding: 2px;">Fruita, CO 81521</span>             | City/State/Zip: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span>   |
| Business Phone #: <span style="border: 1px solid black; padding: 2px;">(970) 260-7867</span>             | Business Phone #: <span style="border: 1px solid black; padding: 2px;">(970) 255-4644</span>             | Business Phone #: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span> |
| E-Mail: <span style="border: 1px solid black; padding: 2px;">Lara.teres@msn.com</span>                   | E-Mail: <span style="border: 1px solid black; padding: 2px;">Volkeysqj@gmail.com</span>                  | E-Mail: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span>           |
| Fax #: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span> | Fax #: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span> | Fax #: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span>            |
| Contact Person: <span style="border: 1px solid black; padding: 2px;">Larry Manchester</span>             | Contact Person: <span style="border: 1px solid black; padding: 2px;">Paul Herck</span>                   | Contact Person: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span>   |
| Contact Phone #: <span style="border: 1px solid black; padding: 2px;">(970) 260-7867</span>              | Contact Phone #: <span style="border: 1px solid black; padding: 2px;">(402) 850-1921</span>              | Contact Phone #: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px;"></span>  |

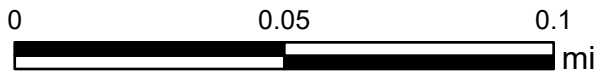
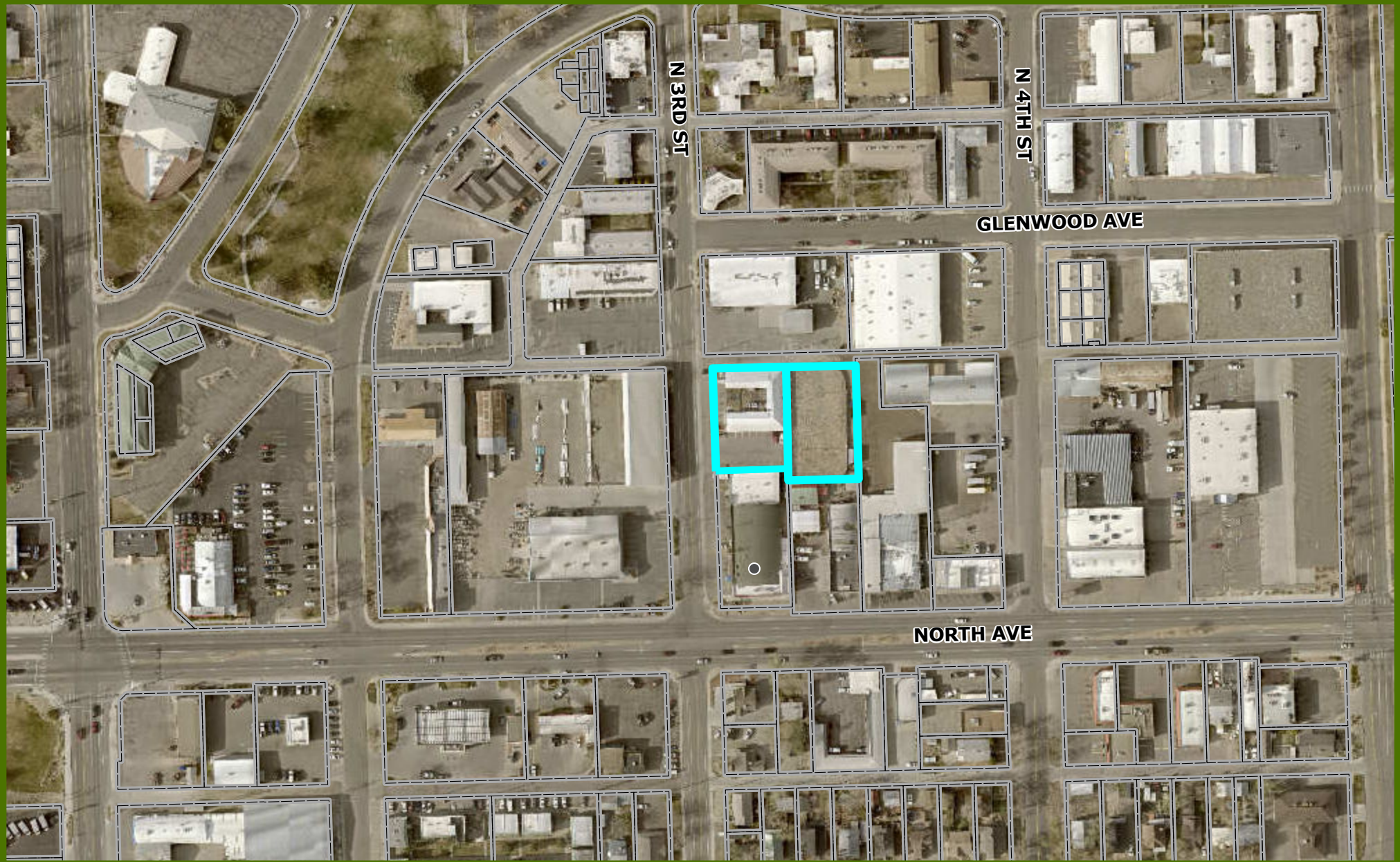
**NOTE: Legal property owner is owner of record on date of submittal.**

We hereby acknowledge that we have familiarized ourselves with the rules and regulations with respect to the preparation of this submittal, that the foregoing information is true and complete to the best of our knowledge, and that we assume the responsibility to monitor the status of the application and the review comments. We recognize that we or our representative(s) must be present at all required hearings. In the event that the petitioner is not represented, the item may be dropped from the agenda and an additional fee may be charged to cover rescheduling expenses before it can again be placed on the agenda.

|   |  |
|---|--|
| Signature of Person Completing the Application <span style="border: 1px solid black; padding: 2px;"></span> | Date <span style="border: 1px solid black; padding: 2px;">2/28/24</span> |
| Signature of Legal Property Owner <span style="border: 1px solid black; padding: 2px;"></span>              | Date <span style="border: 1px solid black; padding: 2px;">2/28/24</span> |



# Site Map



Printed: 5/3/2024  
1 inch equals 188 feet  
Scale: 1:2,257

**Neighborhood Meeting Notice**

Neighborhood Meeting for Volleys Termination of Conditional Use Permit

**Change to previous date of meeting**

Dear Property Owner:

This letter is to notify you that on **Monday March 25<sup>th</sup> at 5:30 PM** a Neighborhood Comment Meeting will be held at Volleys to discuss the Termination of our current Conditional Use Permit. New city code does not require Volleys to operate under a Conditional Use Permit any longer as we are a properly zoned business. We are requesting to have this Permit terminated.

The meeting will be held on site at Volleys, 1130 North 3<sup>rd</sup> Street.

The Neighborhood Meeting is an opportunity for adjacent property owners to learn more about the project, ask question and submit written statements to Volleys and the City of Grand Junction.

Thank You,

Paul Herek

## Neighborhood Meeting Notes

Meeting held on 3/25 @ 5:30 PM

In Attendance – Paul Herek (applicant), Jessica Johnsen (Planner W/ City of Grand Junction)

One neighbor attended (Mike Sitz)

Neighbor expressed concern about parking. City staff advised them of new code requirements and the applicant discussed additional parking on the street.





**RECORD OF DECISION / FINDINGS OF FACT**

DATE: February 12, 2014

FILE: CUP-2013-491

LOCATION: **Portions of 304 and 330 North Avenue**

PETITIONER: Paul Herek

PROPERTY OWNER: Linda Manchester

PROJECT IS: **APPROVED w/ Conditions**

On February 11, 2014, the Grand Junction Planning Commission **approved** the requested Conditional Use Permit (CUP) to operate a bar in conjunction with an outdoor volleyball facility in a C-2 (General Commercial) zone district. The project is located on portions of 304 and 330 North Avenue, as illustrated in the staff report.

The Planning Commission found that the request was consistent with the goals and policies of the Comprehensive Plan, specifically Goal 6; that review criteria of Section 21.02.110 of the Grand Junction Municipal Code (GJMC) have all been met; and finding that submitted Sign Plan meets with the sign requirements as specified in GJMC Section 21.02.110(d).

The Conditional Use Permit approval is **subject to the following conditions:**

- Landowner shall dedicate public right of way for that portion of the existing alley adjacent to the site;
- Execution of a power of attorney for future alley improvements shall be recorded prior to July 11, 2014.
- **Parking agreement, lease or easement shall be provided as described in Staff Report in a form acceptable to the City Attorney prior to establishment of the use on the site.**

A recording fee of \$11, plus \$5 for each page in addition to the first, will be required for each of the above documents, payable to the Mesa County Clerk & Recorder.

Once established the conditional use approval runs with the land unless the property changes use or the use is abandoned for a period of 12 consecutive months, pursuant to GJMC Section 21.02.110(g). The applicant must develop or establish such use within one (1) year from the date of approval pursuant to GJMC Section 21.02.080(n)(1)(ii). Failure to satisfy any condition of approval shall constitute sufficient basis to revoke this approval, as described in GJMC Section 21.02.110(h)(iii) and (iv). Please note that any expansion and/or modification of the use will necessitate a new review and conditional use approval.

Before issuing a planning clearance, a Transportation Capacity Payment (TCP), is due for \$1930, payable to the City of Grand Junction. The Planning Clearance (PCN-2014-113) for the interior remodel and site improvements, once issued, is valid for 180 days, pursuant to Section 31.02.070(a)(8)(i).

Sincerely,

Brian Rusche, Senior Planner  
[brusche@gjcity.org](mailto:brusche@gjcity.org)  
 (970) 256-4058

Shared Use Agreement for Parking Facilities

This Shared Use Agreement for Parking Facilities, entered into this 22 day of April, 2014,  
between Harbert Inv Co Property Owner  
at, 240 North Ave. GJ, CO 81501 and Paul Henek Volleys business owner  
(Volleys).

Property Owner is the owner of the following described real property:

[Parking lot for the retail property located at 240 North Ave. Grand Junction, CO 81501]

situated in the City of Grand Junction, County of Mesa, Colorado (the Property). Situated on the  
Property are parking spaces the use of which will be shared by the parties on the terms and conditions  
stated herein.

Volleys leases part of a neighboring parcel for an outdoor recreation facility. In consideration of the  
covenants and mutual promises contained herein, the Parties agree as follows:

1. Property Owner hereby grants a non-exclusive license to Volleys and its employees, agents and  
business invitees (hereinafter referred to collectively as "Volleys") to use the following described parking  
spaces:

Any of the parking spaces located around the 'Artists Haven' retail store, excluding  
parking areas / spaces in the back lot, as shown on Exhibit 1 (Parking Facilities).



Property Owner and Volleys reserve the right to tow, at owners expense, vehicles improperly parked or abandoned, subject to approval by both Parties. Property Owner or Volleys may conduct surveillance of the Parking Facilities for safety purposes if it is deemed necessary .

#### 8. COOPERATION

Property Owner and Volleys agree to cooperate to the best of their abilities to mutually use the facilities without disrupting the other party. The parties agree to meet on occasion to work out any problems that may arise to the shared use.

#### 9. INSURANCE

At their own expense, Property Owner and Volleys agree to maintain liability insurance for the facilities as is standard for their own business usage.

#### 10. INDEMNIFICATION

Neither Property Owner or Volleys will be held responsible to the other for any lost or stolen goods. This can include, but not subject to, break ins, stolen items, broken or damaged property.

Property owner and Volley do agree to be responsible for assisting in any investigation into such circumstances that relate to their own customers property if any such problem may occur.

#### 11. REMOVAL OF SIGNAGE

Upon termination of this agreement, Volleys agrees to remove any signage provided by Volleys.

By signing below the Parties execute this Agreement as of the Effective Date Set forth at the outset hereof.

County of Mesa )

Subscribed and sworn to before me this 14 day of June, 2014 by

Paul Herek

Witness my hand and official seal:

DeAnn DiDonato

My commission expires: 01/10/2016

DEANN DiDONATO  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20124001134  
MY COMMISSION EXPIRES 01-10-2016

## Shared Use Agreement for Parking Facilities

This Shared Use Agreement for Parking Facilities, entered into this date,

2-21-19

between, Larry Manchester Property Owner at:

330 North AVE. Grand Junction, CO 81501

and, Doria L. Herek, Volleys Business Owner (Volleys)

Property Owner is the owner of the following described real property:  
(Parking lot for the retail property located at 330 North Ave. Grand Junction, CO 81501)

Situated in the city of Grand Junction, County of Mesa, Colorado (the Property). Situated on the property are parking spaces the use of which will be shared by the parties on the terms and conditions stated herein.

Volleys leases part of a neighboring parcel for an outdoor recreation facility. In consideration of the covenants and mutual promises contained herein, the Parties agree as follows:

1. Property Owner hereby grants a non-exclusive license to Volleys and it's employees, agents and, business invitees (hereinafter referred to collectively as "Volleys") to use the following described parking spaces:

Any of the parking spaces located around the Property at 330 North Ave., excluding parking areas / spaces in the back lot, as shown on Exhibit 1 (Parking Facilities).

2. TERM. The term of this license is one year. The license is renewable thereafter upon agreement of the parties for any additional term, which can be less than one year. In any renewal period, the license can be terminated by the Property Owner upon 30 days notice.

3. USE OF FACILITIES. Volleys may use the Parking Facilities seven days a week between the hours of 4:30pm and 12am (close). Property Owner may also grant Volleys license to use the Parking Facilities on other days and at other times in its sole discretion (Extra Use). Volleys will seek permission from Property Owner at least ten days in advance of such Extra Use. Permission for Extra Use shall not affect the other terms of this Agreement / License.

**4. MAINTENANCE.** Volleys agrees to share maintenance costs responsibilities with Property Owner based upon a reasonable percentage of use, including relative number of vehicles and amount of time. Property Owner shall document maintenance expenses to the satisfaction of Volleys and provide advance notice of not less than 10 days of maintenance activities for which it expects participation, partial cost reimbursement or cost sharing. Maintenance activities can include, but are not necessarily limited to, lot sweeping, line painting and asphalt repair.

Volleys agrees to be responsible for any damage to the Parking Facilities above normal wear and tear caused by Volleys use of the Parking Facilities.

**5. UTILITIES AND TAXES**

Volleys shall not be responsible for payment of any taxes or utilities related to the property.

**6. SIGNAGE.** Volleys will be responsible for parking signage, if any is needed on the Property, to designate parking areas available or restricted to Volleys.

**7. ENFORCEMENT.** Property Owner and Volleys reserve the right to tow, at owners expense, vehicles improperly parked or abandoned, subject to approval by both Parties. Property Owner or Volleys may conduct surveillance of the Parking Facilities for safety purposes if it is deemed necessary.

**8. COOPERATION.** Property Owner and Volleys agree to cooperate to the best of their abilities to mutually use the facilities without disrupting the other party. The parties agree to meet on occasion to work out any problems that may arise to the shared use.

**9. INSURANCE.** At their own expense, Property Owner and Volleys agree to maintain liability insurance for the facilities as is standard for their own business usage.

**10. INDEMNIFICATION.** Neither Property Owner or Volleys will be held responsible to the other for any lost or stolen goods. This can include, but not subject to, break ins, stolen items, broken or damaged property. Property owner and Volleys do agree to be responsible for assisting in and investigation into such circumstances that relate to their own customers property if any such problems may occur.

**11. REMOVAL OF SIGNAGE.** Upon termination of this agreement, Volleys agrees to remove any signage provided by Volleys.

By signing below the Parties execute this Agreement as of the Effective Date Set forth at the outset hereof.



Property Owner (Print Name and Title):

Manchester Family Rentals LLC (Larry Manchester)

Property Owner Signature:

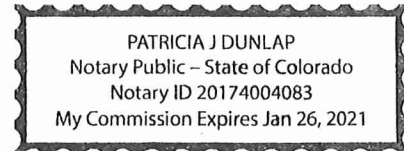
[Handwritten Signature]

(State of Colorado, County of Mesa)

Subscribed and sworn to before me this 21 day of February, 2019 by Larry Manchester

Witness my hand and official seal: [Handwritten Signature]

My Commission expires: Jan. 26, 2021



Volleys

Print Name and Title:

Doria L. Herek owner

Volleys Signature:

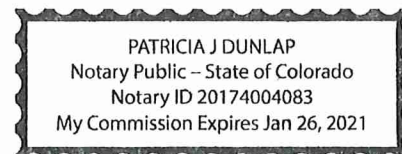
[Handwritten Signature]

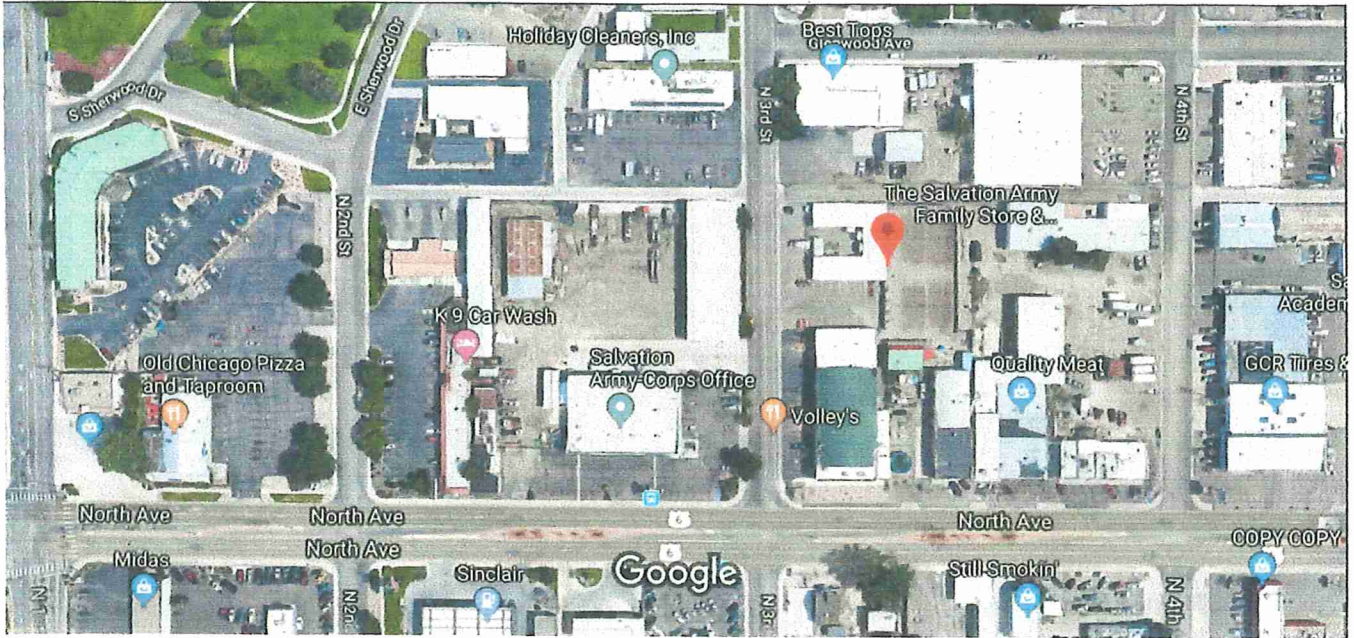
(State of Colorado, County of Mesa)

Subscribed and sworn to before me this 21 day of February, by Doria L. Herek

Witness my hand and official seal: [Handwritten Signature]

My commission expires: Jan. 26, 2021





Imagery ©2019 Google, Map data ©2019 Google 50 ft

## Shared Use Agreement for Parking Facilities

This Shared Use Agreement for Parking Facilities, entered into this date,

2-23-19

between, Carl Emmerton, Property Owner at:

340 North Ave Grand Junction, CO 81501

and, Doria L. Herek, Volleys Business Owner (Volleys)

Property Owner is the owner of the following described real property:  
(Parking lot for the retail property located at 340 North Ave. Grand Junction, CO 81501)

Situated in the city of Grand Junction, County of Mesa, Colorado (the Property). Situated on the property are parking spaces the use of which will be shared by the parties on the terms and conditions stated herein.

Volleys leases part of a neighboring parcel for an outdoor recreation facility. In consideration of the covenants and mutual promises contained herein, the Parties agree as follows:

1. Property Owner hereby grants a non-exclusive license to Volleys and it's employees, agents and, business invitees (hereinafter referred to collectively as "Volleys") to use the following described parking spaces:

Any of the parking spaces located around the Property at 340 North Ave., excluding parking areas / spaces in the back lot, as shown on Exhibit 1 (Parking Facilities).

2. TERM. The term of this license is one year. The license is renewable thereafter upon agreement of the parties for any additional term, which can be less than one year. In any renewal period, the license can be terminated by the Property Owner upon 30 days notice.

3. USE OF FACILITIES. Volleys may use the Parking Facilities seven days a week between the hours of 4:30pm and 12am (close). Property Owner may also grant Volleys license to use the Parking Facilities on other days and at other times in its sole discretion (Extra Use). Volleys will seek permission from Property Owner at least ten days in advance of such Extra Use. Permission for Extra Use shall not affect the other terms of this Agreement / License.



4. **MAINTENANCE.** Volleys agrees to share maintenance costs responsibilities with Property Owner based upon a reasonable percentage of use, including relative number of vehicles and amount of time. Property Owner shall document maintenance expenses to the satisfaction of Volleys and provide advance notice of not less than 10 days of maintenance activities for which it expects participation, partial cost reimbursement or cost sharing. Maintenance activities can include, but are not necessarily limited to, lot sweeping, line painting and asphalt repair.

Volleys agrees to be responsible for any damage to the Parking Facilities above normal wear and tear caused by Volleys use of the Parking Facilities.

5. **UTILITIES AND TAXES**

Volleys shall not be responsible for payment of any taxes or utilities related to the property.

6. **SIGNAGE.** Volleys will be responsible for parking signage, if any is needed on the Property, to designate parking areas available or restricted to Volleys.

7. **ENFORCEMENT.** Property Owner and Volleys reserve the right to tow, at owners expense, vehicles improperly parked or abandoned, subject to approval by both Parties. Property Owner or Volleys may conduct surveillance of the Parking Facilities for safety purposes if it is deemed necessary.

8. **COOPERATION.** Property Owner and Volleys agree to cooperate to the best of their abilities to mutually use the facilities without disrupting the other party. The parties agree to meet on occasion to work out any problems that may arise to the shared use.

9. **INSURANCE.** At their own expense, Property Owner and Volleys agree to maintain liability insurance for the facilities as is standard for their own business usage.

10. **INDEMNIFICATION.** Neither Property Owner or Volleys will be held responsible to the other for any lost or stolen goods. This can include, but not subject to, break ins, stolen items, broken or damaged property. Property owner and Volleys do agree to be responsible for assisting in and investigation into such circumstances that relate to their own customers property if any such problems may occur.

11. **REMOVAL OF SIGNAGE.** Upon termination of this agreement, Volleys agrees to remove any signage provided by Volleys.

By signing below the Parties execute this Agreement as of the Effective Date Set forth at the outset hereof.



Property Owner (Print Name and Title):

CARL EMMERTON OWNER

Property Owner Signature:

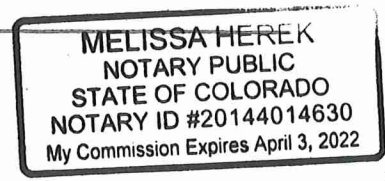
[Signature]

(State of Colorado, County of Mesa)

Subscribed and sworn to before me this 23 day of February, 2019 by

[Signature]

Witness my hand and official seal: \_\_\_\_\_



My Commission expires: April 3, 2022

Volleys

Print Name and Title:

Doria L. Herek, owner

Volleys Signature:

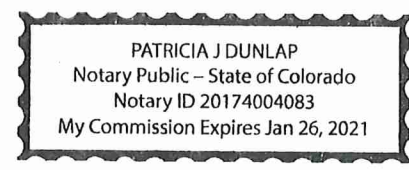
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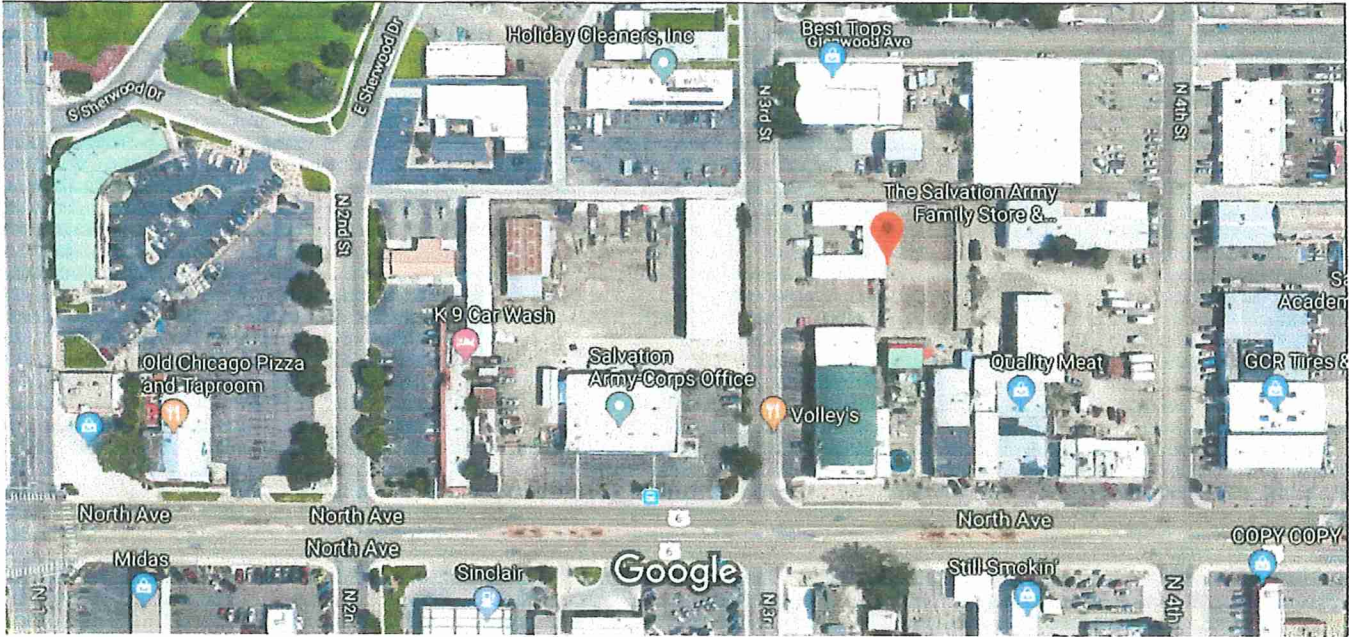
(State of Colorado, County of Mesa)

Subscribed and sworn to before me this 27 day of February <sup>2019</sup>, by

Witness my hand and official seal: [Signature]

My commission expires: Jan. 26, 2021





Imagery ©2019 Google, Map data ©2019 Google 50 ft

Shared Use Agreement for Parking Facilities

This Shared Use Agreement for Parking Facilities, entered into this date,

2-21-19

between, Larry Manchester <sup>Not Property owner</sup> Property Owner at:

330 North Ave. Grand Junction, CO 81501

and, Doria L. Herek, Volleys Business Owner (Volleys)

Property Owner is the owner of the following described real property:  
(Parking lot for the retail property located at 330 North Ave. Grand Junction, CO 81501)

Situated in the city of Grand Junction, County of Mesa, Colorado (the Property). Situated on the property are parking spaces the use of which will be shared by the parties on the terms and conditions stated herein.

Volleys leases part of a neighboring parcel for an outdoor recreation facility. In consideration of the covenants and mutual promises contained herein, the Parties agree as follows:

1. Property Owner hereby grants a non-exclusive license to Volleys and it's employees, agents and, business invitees (hereinafter referred to collectively as "Volleys") to use the following described parking spaces:

\* Any of the parking spaces located around the Property at 330 North Ave., excluding parking areas / spaces in the back lot, as shown on Exhibit 1 (Parking Facilities).

2. TERM. The term of this license is one year. The license is renewable thereafter upon agreement of the parties for any additional term, which can be less than one year. In any renewal period, the license can be terminated by the Property Owner upon 30 days notice.

3. USE OF FACILITIES. Volleys may use the Parking Facilities seven days a week between the hours of 4:30pm and 12am (close). Property Owner may also grant Volleys license to use the Parking Facilities on other days and at other times in its sole discretion (Extra Use). Volleys will seek permission from Property Owner at least ten days in advance of such Extra Use. Permission for Extra Use shall not affect the other terms of this Agreement / License.

Hours of operation must be covered. Must determine what are hours of operation?



4. MAINTENANCE. Volleys agrees to share maintenance costs responsibilities with Property Owner based upon a reasonable percentage of use, including relative number of vehicles and amount of time. Property Owner shall document maintenance expenses to the satisfaction of Volleys and provide advance notice of not less than 10 days of maintenance activities for which it expects participation, partial cost reimbursement or cost sharing. Maintenance activities can include, but are not necessarily limited to, lot sweeping, line painting and asphalt repair.

Volleys agrees to be responsible for any damage to the Parking Facilities above normal wear and tear caused by Volleys use of the Parking Facilities.

#### 5. UTILITIES AND TAXES

Volleys shall not be responsible for payment of any taxes or utilities related to the property.

6. SIGNAGE. Volleys will be responsible for parking signage, if any is needed on the Property, to designate parking areas available or restricted to Volleys. *No must*

*have spaces available or tell what are limited. No change of*  
7. ENFORCEMENT. Property Owner and Volleys reserve the right to tow, at owners expense, vehicles improperly parked or abandoned, subject to approval by both *approval* Parties. Property Owner or Volleys may conduct surveillance of the Parking Facilities for safety purposes if it is deemed necessary.

8. COOPERATION. Property Owner and Volleys agree to cooperate to the best of their abilities to mutually use the facilities without disrupting the other party. The parties agree to meet on occasion to work out any problems that may arise to the shared use.

9. INSURANCE. At their own expense, Property Owner and Volleys agree to maintain liability insurance for the facilities as is standard for their own business usage.

10. INDEMNIFICATION. Neither Property Owner or Volleys will be held responsible to the other for any lost or stolen goods. This can include, but not subject to, break ins, stolen items, broken or damaged property.

Property owner and Volleys do agree to be responsible for assisting in and investigation into such circumstances that relate to their own customers property if any such problems may occur.

11. REMOVAL OF SIGNAGE. Upon termination of this agreement, Volleys agrees to remove any signage provided by Volleys.

By signing below the Parties execute this Agreement as of the Effective Date Set forth at the outset hereof.

Property Owner (Print Name and Title):

Manchester Family Rentals LLC (Larry Manchester)

Property Owner Signature:

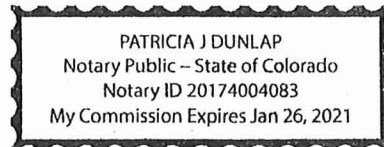
[Handwritten Signature]

(State of Colorado, County of Mesa)

Subscribed and sworn to before me this 21 day of February, 2019 by Larry Manchester

Witness my hand and official seal: [Handwritten Signature]

My Commission expires: Jan. 26, 2021



Volleys

Print Name and Title:

Doria L. Herek owner

Volleys Signature:

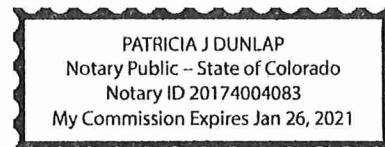
[Handwritten Signature]

(State of Colorado, County of Mesa)

Subscribed and sworn to before me this 21 day of February, by Doria L. Herek

Witness my hand and official seal: [Handwritten Signature]

My commission expires: Jan. 26, 2021







Imagery ©2019 Google, Map data ©2019 Google 50 ft

Shared Use Agreement for Parking Facilities

This Shared Use Agreement for Parking Facilities, entered into this date,

2-23-19

between, Carl Emmerton, Property Owner at:

340 North Ave Grand Junction, CO 81501

and, Doria L. Herek, Volleys Business Owner (Volleys)

*Not property owner*

*E+E (Company)  
extra person  
Statement of authority*

Property Owner is the owner of the following described real property:  
(Parking lot for the retail property located at 340 North Ave. Grand Junction, CO 81501) *True description*

Situated in the city of Grand Junction, County of Mesa, Colorado (the Property).  
Situated on the property are parking spaces the use of which will be shared by the parties on the terms and conditions stated herein.

Volleys leases part of a neighboring parcel for an outdoor recreation facility. In consideration of the covenants and mutual promises contained herein, the Parties agree as follows:

1. Property Owner hereby grants a non-exclusive license to Volleys and it's employees, agents and, business invitees (hereinafter referred to collectively as "Volleys") to use the following described parking spaces:

*↳ who is Volleys - CUP to Volleys?*

Any of the parking spaces located around the Property at 340 North Ave., excluding parking areas / spaces in the back lot, as shown on Exhibit 1 (Parking Facilities).

2. TERM. The term of this license is one year. The license is renewable thereafter upon agreement of the parties for any additional term, which can be less than one year. In any renewal period, the license can be terminated by the Property Owner upon 30 days notice. *Notice to City by both parties otherwise no termination*

3. USE OF FACILITIES. Volleys may use the Parking Facilities seven days a week between the hours of 4:30pm and 12am (close). Property Owner may also grant Volleys license to use the Parking Facilities on other days and at other times in its sole discretion (Extra Use). Volleys will seek permission from Property Owner at least ten days in advance of such Extra Use. Permission for Extra Use shall not affect the other terms of this Agreement / License.

*limited to being open to these hours*

*regardless of CUP because no parking agreement in place*

~~6251 8889~~

509 4487  
6975 685



4. **MAINTENANCE.** Volleys agrees to share maintenance costs responsibilities with Property Owner based upon a reasonable percentage of use, including relative number of vehicles and amount of time. Property Owner shall document maintenance expenses to the satisfaction of Volleys and provide advance notice of not less than 10 days of maintenance activities for which it expects participation, partial cost reimbursement or cost sharing. Maintenance activities can include, but are not necessarily limited to, lot sweeping, line painting and asphalt repair.

Volleys agrees to be responsible for any damage to the Parking Facilities above normal wear and tear caused by Volleys use of the Parking Facilities.

5. **UTILITIES AND TAXES**

Volleys shall not be responsible for payment of any taxes or utilities related to the property.

6. **SIGNAGE.** Volleys will be responsible for parking signage, if any is needed on the Property, to designate parking areas available or restricted to Volleys.

7. **ENFORCEMENT.** Property Owner and Volleys reserve the right to tow, at owners expense, vehicles improperly parked or abandoned, subject to approval by both Parties. Property Owner or Volleys may conduct surveillance of the Parking Facilities for safety purposes if it is deemed necessary.

8. **COOPERATION.** Property Owner and Volleys agree to cooperate to the best of their abilities to mutually use the facilities without disrupting the other party. The parties agree to meet on occasion to work out any problems that may arise to the shared use.

9. **INSURANCE.** At their own expense, Property Owner and Volleys agree to maintain liability insurance for the facilities as is standard for their own business usage.

10. **INDEMNIFICATION.** Neither Property Owner or Volleys will be held responsible to the other for any lost or stolen goods. This can include, but not subject to, break ins, stolen items, broken or damaged property. Property owner and Volleys do agree to be responsible for assisting in and investigation into such circumstances that relate to their own customers property if any such problems may occur.

11. **REMOVAL OF SIGNAGE.** Upon termination of this agreement, Volleys agrees to remove any signage provided by Volleys.

By signing below the Parties execute this Agreement as of the Effective Date Set forth at the outset hereof.



Property Owner (Print Name and Title):

CARL EMMERTON OWNER

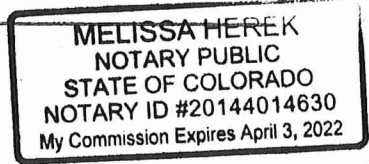
Property Owner Signature:

[Signature]

(State of Colorado, County of Mesa)

Subscribed and sworn to before me this 23 day of February, 2019 by  
[Signature]

Witness my hand and official seal:



My Commission expires: April 3, 2022

Volleys

Print Name and Title:

Doria L. Herek, owner

Volleys Signature:

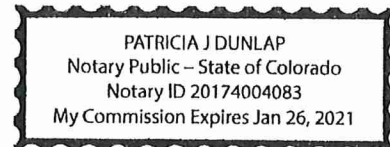
[Signature]

(State of Colorado, County of Mesa)

Subscribed and sworn to before me this 27 day of February <sup>2019</sup>, by

Witness my hand and official seal: [Signature]

My commission expires: Jan. 26, 2021



Google Maps

→ No lease



Imagery ©2019 Google, Map data ©2019 Google 50 ft

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## Grand Junction Planning Commission Regular Session

**Meeting Date:** October 27, 2020  
**Presented By:** Senta Costello, Associate Planner  
**Department:** Community Development  
**Submitted By:** Senta Costello, Associate Planner

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### **SUBJECT**

Consider a request by Doria Herek (Leasee) on behalf of Linda Manchester (Property Owner) for an amendment to an existing Conditional Use Permit (CUP) for an Outdoor Recreation Facility, currently operated as Volley's, to amend the parking requirements and hours of operation on 0.797 acres in a C-2 (General Commercial) zone district, located on portions of property addressed as 330 North Avenue, 304 North Avenue and 1130 N 3<sup>rd</sup> Street.

### **RECOMMENDATION**

Staff recommends approval of the request.

### **EXECUTIVE SUMMARY**

The Applicant, Doria Herek, is requesting an amendment to an existing Conditional Use Permit (CUP) issued in 2014 for an Outdoor Recreation Facility, currently known as Volley's, located on Parcel No. 2945-113-19-002 and Parcel No. 2945-113-19-001 addressed as 304 North Avenue, 330 North Avenue, and 1130 N 3<sup>rd</sup> Street in a C-2 (General Commercial) zone district. The request includes amending the parking requirements and hours of operation for the Outdoor Recreation Facility. Volley's has been subject to complaints and subsequent code enforcement action due to parking encroachment on neighboring properties.

### **BACKGROUND OR DETAILED INFORMATION**

The property identified by Parcel No. 2945-113-19-002 addressed as both 1130 N 3<sup>rd</sup> Street and 330 North Avenue is home to a fireplace retailer; Parcel No. 2945-113-19-001 addressed as 304 North Avenue houses several businesses including a restaurant and a barber shop. The north half of the parcel addressed as 1130 N 3<sup>rd</sup>, is home to the Outdoor Recreation Facility ("Facility") currently operated as Volley's, an outdoor area offering

sand volleyball, food service and a small bar. A portion of the property at 304 North Ave provides 27 on-site parking spaces utilized by the Outdoor Recreation Facility.

In 2013, Paul Herek requested approval for an Outdoor Recreation Facility, including an outdoor sand volleyball area and bar comprised of approximately 9,000 square feet of court/sand (4 courts) space and an existing 960 square foot concrete block building. The CUP was approved in 2014 (CUP-2013-491) and the approval included the associated parking on the property located at 304 North Avenue. The Facility proposed to utilize all the facilities previously occupied for an in-line skating facility that operated on the site through 1996. See attached the General Project Report for information regarding the original CUP request. The City of Grand Junction Planning Commission approved the original CUP at a public hearing February 11, 2014 to operate the facility, as proposed.

The approved CUP allowed for hours of operation from 5:00 pm – 10:30 pm, Monday – Saturday, closed on Sundays. It was represented at that time that the courts would be available for league play during the season, March to November, weather permitting. The Applicant continues to operate league play during these hours, but in 2013, did not include the hours of operation outside of times dedicated for league play – thus Volley's has not been operating within the previously approved hours. The amendment is requesting amendment permitted hours to reflect their full range of hours of operation, as follows:

Monday through Friday from 3:00 p.m. to 2:00 a.m.  
Saturday and Sunday from 12:00 p.m. to 2:00 a.m.

The Applicant is also requesting amendment related to their parking requirements. The approved CUP provided there would be 79 spaces available for Volley's patrons provided via shared parking leases, on-site spaces and on-street spaces. The CUP was conditioned upon executed leases being submitted that documented the 45 spaces off-site spaces could be utilized on neighboring properties. One lease for the 34 spaces on the old Harbert Lumber property located at 240 North Avenue was provided, however it expired after one year.

The Applicant is now requesting amendment to the previous parking requirement and is requesting the provision of 60 spaces in total instead of the previous 79 spaces. There is no specific requirement in the Code for the number of spaces required for Outdoor Recreation Facility as the Code provides spaces will be provided "as required by the Director." As such, Staff requested the Applicant conduct an analysis of their parking usage. The Applicant conducted an analysis of their parking needs during the 2019 season. The analysis consisted of a base comparison to other similar uses within the

Zoning and Development Code, finding the closest similarity to be with a health or fitness center, calculated at 1 space/500 square feet; the Volley's site required parking would be 30 spaces using this calculation. The two uses are not fully akin in that the Volley's use is a team-based use, not individual – though many recreation facilities offer organized league play. Volley's organizes their league play by eight teams of six players each on the four courts totaling 48 players with overlap of some teams between matches; however, team members often ride together. For additional information, the Applicant conducted a parking count during the busiest summer league week during the 2019 season. Through their review, they found that the Facility creates a demand of approximately 60 parking spaces which provides adequate parking during their business hours as well as peak events for both customers and staff. The Applicant is proposing to meet their parking needs by providing 27 spaces on-site (304 North Avenue), leasing 12 spaces from the property owner at 340 North Avenue, E & E Enterprises 22 LLC, and utilizing 21 on-street spaces that are currently available along North 3<sup>rd</sup> Avenue and on Glenwood Avenue; for a total of 60 spaces. The Zoning and Development Code allows for use of on-street parking within 500 feet of the subject property for customers and within 1000 feet for employees.

The City has received numerous complaints regarding parking that occurs off-site, primarily coming from the property owner located at 1251 N. 3<sup>rd</sup> Street. The issue appears largely the use of convenience versus volume of available and proximate parking. The property at 1251 N. 3<sup>rd</sup> Street is convenient and directly across the street from the entry to Volley's. To assist in remedying patron's parking at 1251 N. 3<sup>rd</sup>, the Applicant has represented that they actively notify patrons of where available parking is located as they enter the Facility. The Applicant also has a sign posted at the primary entrance of the subject site to deter patrons from parking on the property at 1251 N. 3<sup>rd</sup> Street.

No other amendments to the previously approved CUP are proposed.

Planning Commission heard the request to amend the CUP at its July 28, 2020 meeting. It was determined that further analysis and information on required and available parking was necessary. It was also determined that additional work from the applicant in cooperation with the neighbors to educate and police customers parking on neighboring properties without permission.

Since the July Planning Commission, Volley's has had two large, 16-team tournaments in addition to their regular league play schedule. Volley's has provided information to staff that they have been checking in players at the gate, especially during tournaments, and as part of that process asking where they are parked, giving directions to where

permitted overflow parking is available and letting them know that, if parked outside of the permitted areas, they need to move their vehicles. They noted that they did not have to ask anyone to relocate a vehicle since the last Planning Commission date. Mr. Sitz, of Holiday Cleaners, has also provided information that he has installed a sign at the entrance to his parking lot that lets drivers know that Volley's parking is not permitted in the lot (picture attached).

Staff has also done additional research on what an acceptable parking count would be. Other communities with specific or similar uses to Volley's in their Codes were looked at and evaluated in addition to the analysis provided by the Applicant.

Listed below are other communities' requirements and what requirements for the Volley's site would be using each of those standards:

**Subject Site: Total bar size: 960 square feet; Four volleyball courts with a total recreation/outdoor seating area: ±15,500 square feet.**

**City of Phoenix, Arizona:** Requires nine spaces per volleyball court. This would equate to 36 spaces for subject site for the volleyball/recreational use of the subject site. Per the City of Grand Junction parking standards for bars/taverns, one space per 100 square feet is required. In conclusion, if these parking requirements are added up, the Applicant would have a parking requirement of **46 spaces**.

**City of Long Beach, California:** Requires five spaces per volleyball court. This would equate to 20 spaces for the volleyball/recreational use of the subject site. Per the City of Grand Junction parking standards for bars/taverns, one space per 100 square feet is required. In conclusion, if these parking requirements are added up, the Applicant would have a parking requirement of **30 spaces**.

**City of Dallas, Texas:** While the City of Dallas does not have specific language regarding volleyball courts, they have a comparable category of "commercial amusement". This use requires one space per 200 square feet of floor area, plus one space per 400 square feet of site area. For the subject site, this would equate to five spaces for bar area and 38 spaces for volleyball/recreational/outdoor seating area, for a total of **43 spaces**.

**City of Fruita, Colorado:** Similar to the City of Dallas, the City of Fruita does not have a specific use category for volleyball courts. Fruita does have a comparable category of "outdoor commercial recreation use/major event entertainment". This use requires one space for 500 square feet of site area, indicating 35 spaces for the volleyball/recreational/outdoor seating area of the subject site. Per the City of Grand Junction parking standards for bars/taverns, one space per 100 square feet is required. In conclusion, if these parking requirements are added up, the Applicant would have a parking requirement of **45 spaces**.

Another similar outdoor recreation use would likely have a parking requirement utilizing similar calculations as shown in other communities; however, when combined the information above and the historical parking needs provided by the Applicant specific to the needs of Volley's, the 60-space requirement is appropriate to provide adequate parking for Volley's business.

## **NOTIFICATION REQUIREMENTS**

A Neighborhood Meeting regarding the proposed amended Conditional Use Permit request was held on December 2, 2019 in accordance with Section 21.02.080 (e) of the Zoning and Development Code. The meeting was held on site and lasted approximately 30 minutes. There was one (1) neighbor in attendance, the owner of Holiday Cleaners located at 1251 N 3<sup>rd</sup> Street. The discussion during the meeting centered around the off-site parking generated by the Volley's customers and the impacts to surrounding properties.

Notice was completed consistent with the provisions in Section 21.02.080 (g) of the Zoning and Development Code. The subject property was posted with an application sign on July 14, 2020. Mailed notice of the public hearings before Planning Commission and City Council in the form of notification cards was sent to surrounding property owners within 500 feet of the subject property, as well as neighborhood associations within 1000 feet, on July 17, 2020. The notice of this public hearing was published on July 21, 2020 in the Grand Junction Daily Sentinel.

## **ANALYSIS**

(d) General Approval Criteria. No permit may be approved unless all of the following criteria are satisfied:

(1) *Compliance with the Comprehensive Plan and any applicable adopted plan.*

The North Avenue West Corridor Plan was adopted on November 2, 2011 as a subarea Plan. The North Avenue West Corridor Plan's vision is "for people and places, a crossroads of Grand Junction, a corridor to the City Center. A place where higher education facilities connect with medical facilities, downtown, sports facilities, historic neighborhoods, existing and future residential neighborhoods, regional retail and employment opportunities." It also included strategies to achieve the vision. Strategies included – create services at the neighborhood level and for the student population; create a significant "neighborhood" of residential, retail, commercial, entertainment, educational and public activity areas.

The Plan identified the subject property as part of the Sherwood Park Mixed Use District. "The Sherwood Park Mixed-Use District comprising that area from 1st Street to



5th Street has many existing multifamily, office, retail and service businesses already. The Comprehensive Plan identifies this area as a Neighborhood Center and encourages infill and redevelopment, providing additional density and intensity. This plan recommends that the core area of the Neighborhood Center be established along 3rd Street from North Avenue to Sherwood Park. This location is ideal with its proximity to North Avenue, a major arterial street providing access to the core area and the park a couple of blocks to the north. Sherwood Park provides open space opportunities and public facilities for the Neighborhood Center. Parking for businesses should occur to the rear or side of businesses, and shared parking facilities are encouraged.”

“Neighborhood Centers will also have a grocery store focus that will be surrounded by smaller ancillary commercial uses, smaller discount stores, craft stores, restaurants, and specialty stores. In many cases they are merely modest extensions of centers that already exist. They consist of three to ten buildings, one to three stories in height. They will be drive-to destinations, but also have medium-to-high density residential and office uses mixed in vertically or horizontally adjacent in order to provide a close-by clientele that will help sustain the retail. They will have store fronts connected and facing along public streets or around plazas and other gathering areas.”

Prior to its use as some form of outdoor recreational use, the area was used for outdoor storage by the property at 330 North Avenue. The rear half of the site was redeveloped in 1996 and established for a hockey rink and now volleyball courts. The Volley’s use provides an outdoor activity/sports facility opportunity for the local area students that’s within walking distance to campuses as well as being centrally located within the community as a whole. Parking areas are located internal to the site, beside or behind buildings.

Subsequently, a North Avenue Overlay Zone was adopted on February 20, 2013 to implement the North Avenue Corridor Plan. This overlay includes all properties with North Avenue frontage, regardless of their size or configuration. While the subject properties are included within this overlay, the site of the Conditional Use Permit does not have frontage on, nor gains direct access (vehicular or pedestrian) to or from, North Avenue. Therefore, the North Avenue Overlay standards, such as public street dedications, improvements on North Avenue, building setbacks and façade standards, do not apply to this request.

The proposed land use furthers Goal 6 of the Comprehensive Plan: “Land use decisions will encourage preservation of existing buildings and their appropriate reuse”. The continued use of the property, specifically the courts, a feature unique to this property, for recreational use is appropriate and works to help implement the Comprehensive Plan.

Staff therefore finds that this criterion has been met.

(2) *Compliance with the Zoning and Development Code.*



The property where Volley's is located has developed over time beginning in the 1940's, prior to any Codes being in place for development. The most recent improvements were constructed in 1996 under a Zoning and Development Code that has been entirely re-written twice since then along with multiple amendments along the way. Under the current Zoning and Development Code, principally adopted in 2010, the site is considered a "legal non-conforming site". As the Applicant proposes no changes to the site, this status remains intact. Further, the use is allowed by the Code as a conditional use and compliance with the Code would occur with the issuance of an amendment to the existing CUP.

Staff therefore finds that this criterion has been met.

(3) *Conditions of any prior approvals.*

The site has not been maintained in accordance with the approvals issued for the original CUP. The requirement for active off-site parking leases has not been adhered to. The Applicant does not believe the 79 spaces as previously represented can either be provided nor are necessary. As a part of this application, the applicant has provided documentation of leased spaces that, when combined with available on-site and on-street parking, will bring the use within the number of spaces that they have determined through their parking analysis, and staff supports, are adequate to provide parking for their customers and staff.

The Applicant has presented that the hours listed in the 2013 General Project Report were intended to be understood as hours for league play, not the hours of operation of the business as a whole; however, hours of operation were not specifically called out in the staff report or final approval letter. The business hours have been significantly different than the hours as presented with the 2013 CUP, and as the hours of operation can affect the potential impacts a use has on the surrounding neighborhood, the Applicant is also proposing an amendment that clarifies the hours and days the business is in operation.

Currently, staff has found that conditions of prior approvals are not being met. However, should these amendments be approved, the prior conditions will be modified.

(4) *Public facilities and utilities shall be available concurrent with the development.*

No changes are proposed to the site and/or operations. Utility services to the site are adequate for the existing outdoor recreational use, Public safety facilities are adequate in this location, and site access and circulation have also been found to be adequate.

Staff therefore finds that this criterion has been met.

(5) *Received all applicable local, State and federal permits.*

The Applicant maintains a liquor license issued by the City of Grand Junction and is currently in compliance with the license. The Applicant does not propose any physical changes to the site or changes to the operation of the business other than the refined parking information and stated hours of operation. As such, there are no new or amended permits required.

Staff therefore finds this criterion has been met.

*Further criteria must be met by the proposal in order to be granted a CUP Amendment. Pursuant to GJMC Section 21.02.110 (a), a Conditional Use is meant to provide an opportunity to utilize property for an activity which under usual circumstances could be detrimental to other permitted uses, and which normally is not permitted within the same district. A Conditional Use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A Conditional Use is not a use by right; it is one that is otherwise prohibited within a given zone district without approval of a CUP. The application shall therefore demonstrate that the proposed development will comply with the following:*

(1) *District Standards. The underlying zoning districts standards established in Chapter 21.03 of the Grand Junction Municipal Code, except density when the application is pursuant to GJMC 21.08.020(c);*

The properties are zoned C-2 (General Commercial). The performance standards for the C-2 zone district specify "Outdoor storage and display areas are not allowed within the front yard setback. Permanent and portable display of retail merchandise is permitted." Though most of the operations are outdoors, including the volleyball activities and the drinking and dining, no outdoor storage or display is proposed. The building meets the bulk standards of the C-2 zone and there are no proposed physical changes to the site.

Staff therefore finds this criterion has been met.

(2) *Specific Standards. The use-specific standards established in Chapter 21.04 GJMC;*

No use specific standards are established for the Outdoor Recreation Facility use.

Staff therefore finds this criterion is not applicable.

(3) *Availability of Complementary Uses. Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.*

The site is in the heart of the Neighborhood Center identified by the Comprehensive Plan. It is located two blocks from Sherwood Park and Grand Junction High School and a little over one-half mile to Colorado Mesa University. The close proximity of North Avenue provides access to transit options, hospitals and fire protection, along with complimentary retail and entertainment businesses.

Staff therefore finds this criterion has been met.

*(4) Compatibility with Adjoining Properties. Compatibility with and protection of neighboring properties through measures such as:*

*(i) Protection of Privacy. The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants;*

The sand court area is surrounded on the north by a hanging mesh fabric 20 feet above grade that provides a “net” to catch errant volleyballs. The cinder block building forms the southern border of the site, along with the back of the principle structure. A storage building located on 304 North Avenue blocks the view of the facility from N. 3rd Street, except through the parking lot. The Facility is not visible from North Avenue. The entrance to the facility is through a gate accessible through the parking lot. The entrance is gated, which allows for control of patrons and fencing requirements for compliance with liquor laws. The northern border of the site is the existing alley. Further north and east is the Salvation Army building, which is oriented toward N. 4th Street. Staff therefore finds this criterion has been met.

*(ii) Protection of Use and Enjoyment. All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property;*

The site is largely hidden from the public and is adjacent to the back or service entrances of the adjoining businesses. The majority of the other businesses in the area have hours of operation that are either offset from Volley’s or have limited overlap in the late afternoon and/or early evening. There are no other adjoining uses that operate as late as the Volley’s site. The physical buffering by buildings and offset hours minimizes the potential negative visual and noise impacts created by the use.

Staff therefore finds this criterion has been met.

(iii) *Compatible Design and Integration. All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include; buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.*

The site is located in a primarily commercial neighborhood with Sherwood Park and the surrounding residential neighborhood further north and is largely hidden from public view and is adjacent to the back or service entrances of the adjoining businesses. The four sand volleyball courts are confined by netting on the north. The cinder block building forms the southern border of the site, along with the back of the principle structure. A storage building located on 304 North Avenue blocks the view of the facility from N. 3rd Street, except through the parking lot. The entrance to the facility is through a gate accessible through this parking lot, limiting access, allowing for control of patrons and alcoholic beverages. The northern border is the existing alley. Landscaping has been added to the three planting beds located on the west side of the 304 North Avenue property. The City did receive complaints about noise prior to the 2019 season, however, the Applicant addressed the noise related issues at that time. No further complaints were received during the 2019 or 2020 season. The physical buffering by buildings and offset hours minimizes the potential negative visual and noise impacts created by the use. Staff therefore finds that this criterion has been met.

### **RECOMMENDATION AND FINDINGS OF FACT**

After reviewing the Conditional Use Permit Amendment request, CUP-2020-147, for the property located at 1130 N 3<sup>rd</sup> Street, 304 North Avenue and 330 North Avenue, the following findings of fact and condition have been made:

1. The request conforms with Sections 21.02.070(6) and 21.02.110(c) of the Zoning and Development Code.

Condition 1: A minimum of 60 parking spaces must be provided, subject to Section 21.06.050 parking standards of the Code.

Therefore, Staff recommends approval of the request with the findings of fact and conditions as provide in the staff report.

### **SUGGESTED MOTION**

Mr. Chairman, on the Conditional Use Permit Amendment for the property located at 1130 N 3<sup>rd</sup> Street, 304 North Avenue and 330 North Avenue, City file number CUP-

2020-147, I move that the Planning Commission approve the request with the findings of fact and condition as listed in the staff report.

**FISCAL IMPACT STATEMENT**

There is no direct fiscal impact related to this request.

**Attachments**

1. Exhibit 1 – Application Packet
2. Exhibit 2 – Location Maps and Photos
3. Exhibit 3 – Previous approval



**GRAND JUNCTION PLANNING COMMISSION**  
**October 27, 2020 MINUTES**  
**6:00 p.m.**

The meeting of the Planning Commission was called to order at 6:00 p.m. by Chairman Andrew Teske.

Those present were Planning Commissioners; Chair Andrew Teske, Bill Wade, George Gatseos, Keith Ehlers, Ken Scissors and Sam Susuras.

Also present were Jamie Beard (Assistant City Attorney), Tamra Allen (Community Development Director), Jace Hochwalt (Senior Planner), and Senta Costello (Associate Planner).

There was 1 member of the public in attendance.

**CONSENT AGENDA**

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Commissioner Susuras moved to adopt Consent Agenda Item #1. Commissioner Wade seconded the motion. The motion carried 7-0.

**1. Minutes of Previous Meeting(s)**

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The Planning Commission reviewed the meeting minutes from the September 22, 2020 meeting.

**REGULAR AGENDA**

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**1. Volley's Conditional Use Permit **File # CUP-2020-147****

Consider a request by Doria Herek for an amendment to an existing Conditional Use Permit (CUP) for Volley's; an outdoor recreation facility on 0.797 acres in a C-2 (General Commercial) zone district, located at 1130 N 3rd Street and 330 North Avenue.

**Staff Presentation**

Senta Costello, Associate Planner, introduced exhibits into the record and provided a presentation regarding the request.

**Questions for Staff**

Commissioner Gatseos asked a question regarding the number of parking spaces.

**Applicant's Presentation**

Paul Herek, representing the Applicant, was present and made a statement regarding the request.

**Questions for Applicant**

None.

**Public Hearing**

The public hearing was opened at 5 p.m. on Tuesday, October 20, 2020 via [www.GJSpeaks.org](http://www.GJSpeaks.org).

None.

The public hearing was closed at 6:20 p.m. on October 27, 2020.

**Applicant's Response**

None.

**Questions for Applicant or Staff**

None.

**Discussion**

Commissioners Wade and Gatseos made comments in support of the request.

**Motion and Vote**

Commissioner Gatseos made the following motion, "Mr. Chairman, on the Conditional Use Permit Amendment for the property located at 1130 N 3rd Street, 304 North Avenue and 330 North Avenue, City file number CUP-2020-147, I move that the Planning Commission approve the request with the findings of fact and condition as listed in the staff report."

Commissioner Ehlers seconded the motion. The motion carried 7-0.

**2. 1032 Belford Rezone **File # RZN-2020-434****

Consider a request by Maverick Place, LLC to rezone 0.144 acres from C-1 (Light Commercial) to R-O (Residential Office).

**Staff Presentation**

Senta Costello, Associate Planner, introduced exhibits into the record and provided a presentation regarding the request.

**Questions for Staff**

Commissioner Gatseos asked a question regarding the Greater Downtown Transitional Overlay zone and about the R-O zone district.

Commissioner Teske asked question regarding the density in C-1 and R-O zone districts.

**Applicant's Presentation**

Ted Ciavonne, the Applicant's representative, was present and available for questions.

**Questions for Applicant**

Commissioner Gatseos asked a question regarding the potential plans for parking at this site.

**Public Hearing**

The public hearing was opened at 5 p.m. on Tuesday, October 20, 2020 via [www.GJSpeaks.org](http://www.GJSpeaks.org).

Linda Lynch left a comment via GJSpeaks in opposition of the request.

Linda Lynch made a comment in opposition of the request.

The public hearing was closed at 6:40 p.m. on October 27, 2020.

**Applicant's Response**

Mr. Ciavonne responded to public comment.

**Questions for Applicant or Staff**

None.

**Discussion**

Commissioner Ehlers made a comment regarding the request.

Commissioner Gatseos made a comment regarding the rezone criteria.

**Motion and Vote**

Commissioner Susuras made the following motion, "Mr. Chairman, on the rezone request for the property located at 1032 Belford Avenue, City file number RZN-2020-434, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact as listed in the staff report."

Commissioner Wade seconded the motion. The motion carried 7-0.

**3. Fracture Lane Rezone**

**File # RZN-2020-521**

Consider a Request by David Forenza to Rezone Two Parcels Totaling 2.97 acres from I-O (Industrial Office) to BP (Business Park Mixed Use) Located at the Southwest Corner of Fracture Lane and 25 ½ Road.

**Staff Presentation**

Jace Hochwalt, Senior Planner, introduced exhibits into the record and provided a presentation regarding the request.

**Questions for Staff**

None.

**Applicant's Presentation**

The Applicant, Bobby Ladd, representing the property owner, made a brief statement regarding the request.

**Questions for Applicant**

None.

**Public Hearing**

The public hearing was opened at 5 p.m. on Tuesday, October 20, 2020 via [www.GJSpeaks.org](http://www.GJSpeaks.org).

None.

The public hearing was closed at 6:56 p.m. on October 27, 2020.

**Applicant's Response**

None.

**Questions for Applicant or Staff**

None.

**Discussion**

None.

**Motion and Vote**

Commissioner Susuras made the following motion, "Chairman, on the Fracture Lane Rezone request from an I-O (Industrial Office) zone district to a BP (Business Park Mixed Use) zone district for a 2.97-acre property located at the southwest corner of Fracture Lane and 25 ½ Road, City file number RZN-2020-521, I move that the Planning



Commission forward a recommendation of approval to City Council with the findings of fact as listed in the staff report.

Commissioner Scissors seconded the motion.

Commissioner Teske made a comment in support of the request.

The motion carried 7-0.

**4. Other Business**

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None.

**5. Adjournment**

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Commissioner Wade moved to adjourn the meeting. Commissioner Reece seconded the motion. The meeting adjourned at 7:00 p.m.

## Shared Parking Agreement

This Shared Parking Agreement (Agreement) is entered into this 12<sup>th</sup> day of January, 2020 (Effective Date), by and between the following:

**E and E Enterprises 22 LLC**, a Colorado limited liability company, whose principal business address is 640 Silver Oak Dr., Grand Junction, Colorado 81505, and **Jevne R. Edwards**, whose address is 14633 W. Saint Moritz Lane, Surprise, Arizona, 85379, (collectively, **Property Owner 1**), and

**Manchester Family Rentals, LLC**, a Colorado limited liability company, whose address is 2698 Lanai Court, Grand Junction Colorado 81506 (**Property Owner 2**); and

**Volleys, LLC**, a Colorado limited liability company, whose address is 1130 N. 3<sup>rd</sup> Street, Grand Junction, Colorado 81501 (**Tenant 2**),

collectively referred to as the Parties.

### RECITALS:

- A. Property Owner 1 is the owner of the real property situated in the City of Grand Junction, County of Mesa, Colorado described in the attached Exhibit A, as evidenced by that certain Special Warranty Deed recorded under Reception No. 2676903 (in Mesa County official records), and addressed as 340 North Avenue, Grand Junction, Colorado 81501, Assessor's Parcel No. 2945-113-19-007 (Property 1).
- B. Property 1 includes a parking lot consisting of space for approximately 15 parked vehicles. The businesses conducted on Property 1 are primarily conducted during regular daytime business hours (with a closing time of 5:00 pm).
- C. Property Owner 2 is the owner of that real property situated in the City of Grand Junction, County of Mesa, Colorado described in the attached Exhibit B, as evidenced by that certain Warranty Deed recorded under Reception No. 2751064 (Mesa County), and addressed as 304 North Avenue, and known by Mesa County Assessor's Parcel No. 2945-113-19-001, and that real property described in Exhibit C, as evidenced by that certain Warranty Deed recorded under Reception No. 2751063 (Mesa County), and addressed as 330 North Avenue, and known by Mesa County Assessor's Parcel No. 2945-113-19-002 (together, Property 2).
- D. Property 2 is directly next door to Property 1 and shares a boundary with Property 1.
- E. Tenant 2 is leasing Property 2 from Property Owner 2 for use as a seasonal outdoor team volleyball recreation facility ("Volleys"). The season runs from approximately April 1 through October 31, with possible use in November as weather permits. Volleys' facilities consist of four outdoor sand volleyball courts and a bar. The volleyball courts are used primarily for league play but during the summer may be

used for volleyball camp activities for students. The bar is available to the volleyball patrons of Volleys but not open to the general public.

- F. Volleys' overall hours of operation are from noon to 2:00 am daily, with the busiest times from 5:00 to 10:30 pm. During those times the on-site and street parking available to Volleys may be insufficient for Volleys' patrons, and therefore the City of Grand Junction requires that Volleys acquire rights for additional parking.
- G. The Parties agree that Volleys brings activity and vibrancy to the commercial neighborhood during the off-hours, which benefits all the Parties, and that there is mutual benefit to each Party to this Agreement of the rights and obligations granted and imposed hereby.

**THEREFORE**, in consideration of the covenants and mutual promises contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **License.** Property Owner 1 hereby grants a non-exclusive license to Property Owner 2 and to and for the use and benefit of Tenant 2 and its employees, agents and business invitees (hereinafter referred to collectively as "Volleys") to use the parking lot on Property 1 between the hours of 5:00 pm and 2:00 am (the "Parking Facilities"). This license shall run with the land and be binding upon the heirs and assigns of the Property Owners and their tenants until cancelled or terminated pursuant to the terms hereof.

2. **Consent.** Property Owner 1 represents that its tenants do not object to this grant of license for shared parking.

3. **Term.** The term of this license is five years. The license is renewable thereafter upon agreement of the parties for any additional term, which can be less than one year. In any renewal period, the license can be terminated by Property Owner 1 upon 30 days' notice to Property Owner 2, Tenant 2 and the City of Grand Junction Community Development Department.

4. **Use of Facilities.** Property Owner 2 and Tenant 2 and the business invitees thereof are hereby granted a license to use the Parking Facilities seven days a week between the hours of 5:00 p.m. and 2:00 a.m. Property Owner 1 may also grant Tenant 2 license to use the Parking Facilities on other days and at other times in its sole discretion (Extra Use). Tenant 2 will seek permission from Property Owner at least ten days in advance of such Extra Use. Permission for Extra Use shall not affect the other terms of this Agreement / License.

5. **Maintenance.** Tenant 2 agrees to share maintenance costs and responsibilities with Property Owner 1 based upon a reasonable percentage of use, including relative number of vehicles and amount of time. Property Owner 1 shall document maintenance expenses to the satisfaction of Tenant 2 and provide advance notice of not less than 10 days of maintenance activities for which it expects participation, partial cost reimbursement or cost sharing. Maintenance activities can include, but are not necessarily limited to, lot sweeping, line painting



and asphalt repair. Tenant 2 agrees to be responsible for any damage to the Parking Facilities above normal wear and tear caused by patrons of Tenant 2 of the Parking Facilities.

6. **Termination.** The license may be terminated by Property Owner 1 if a change of use on the premises leased by Tenant 2 (Volleys) substantially increases the burdens on the Parking Facilities or unreasonably interferes with the business of Property Owner 1's tenants, provided that 90 days written notice is given of such termination to Property Owner 2, Tenant 2, and the City of Grand Junction Community Development Department.

7. **Utilities and Taxes.** Each Property Owners and Tenant shall not be responsible for payment of any taxes or utilities related to the property of the other.

8. **Signage.** Volleys will be responsible for parking signage, if any is needed on the Property, to designate parking areas available or restricted to Volleys.

9. **Enforcement.** Property Owner 1 and Tenant 2 reserve the right to tow, at owner's expense, vehicles improperly parked or abandoned, subject to approval by both Parties. Any Party may conduct surveillance of the Parking Facilities for safety purposes if it is deemed necessary in the discretion of any Party, subject to the consent of Property Owner 1.

10. **Cooperation.** The Parties agree to cooperate to the best of their abilities to mutually use the Parking Facilities without disrupting the lawful business and land use activities of the other parties. The Parties agree to meet on occasion in good faith to work out any problems that may arise due to the shared use.

11. **Insurance.** At their own expense, the Parties agree to maintain liability insurance for their respective properties and business activities as is standard for their own business usage.

12. **Waiver of Liability.** No party hereto will be held responsible for any damage to vehicles of the patrons using the Parking Facilities including without limitation as a result of break-ins, vandalism, stolen items, broken or damaged property, or conditions upon Property 1. Each party will assist in any investigation into such circumstances that relate to their own customer's property, if any such problem may occur.

13. **Removal of Signage.** Upon termination of this Agreement, Tenant 2 agrees to remove any signage on Property 1 or designating parking for its patrons on Property 1.

14. **Recording.** The Parties agree that this Agreement may be recorded in the real estate records of the Mesa County Clerk and Recorder.

By signing below the Parties execute this Agreement as of the Effective Date.

**PROPERTY OWNERS:**

  
\_\_\_\_\_  
Jevne R. Edwards



STATE OF Arizona )  
 ) ss.  
COUNTY OF Maricopa )

Subscribed and sworn to before me this 3 day of January, 2020, by  
Jevne R. Edwards.

Witness my hand and official seal.

My commission expires: 7.20.23

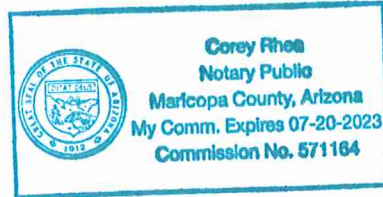


Notary Public

**E AND E ENTERPRISES 22, LLC**



Lee Emmerton, Member

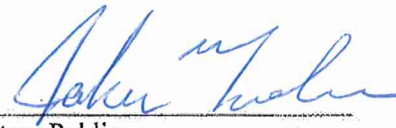


STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

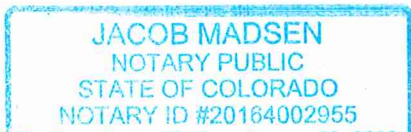
Subscribed and sworn to before me this 15<sup>th</sup> day of January, 2020, by Lee  
Emmerton as member of E and E Enterprises 22, LLC.

Witness my hand and official seal.

My commission expires: 01-25-2020



Notary Public



**MANCHESTER FAMILY RENTALS, LLC**, a Colorado limited liability company

Larry Manchester, Member

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by Larry  
Manchester as member of Manchester Family Rentals, LLC.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**TENANTS:**

**Volleys, LLC:**

\_\_\_\_\_  
David Allen Herek, as member of Volleys, LLC

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF MESA         )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by David Allen Herek as Member of Volleys, LLC.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**

**To Shared Parking Agreement**

**Legal Description of Property on Which Shared Parking is Situated**

**LOT 3 IN BLOCK 5 OF SHAFROTH-ROGERS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF RECORDED IN PLAT OBOK NO. 6 AT PAGE 2 AT RECEPTION NO. 338683, OFFICIAL RECORDS OF MESA COUNTY, COLORADO; EXCEPT THE NORTH 70 FEET OF THE EAST 65 FEET THEREOF AS CONVEYED IN DEED RECORDED DECEMBER 30, 1971 IN BOOK 970 AT PAGE 65; AND EXCEPT THE SOUTH 10 FEET THEREOF AS CONVEYED TO THE CITY OF GRAND JUNCTION, A MUNICIPAL CORPRATOIN, IN DEED RECORDED JUNE 9, 1978 IN BOOK 1152 AT PAGE 868, COUNTY OF MESA, STATE OF COLORADO**

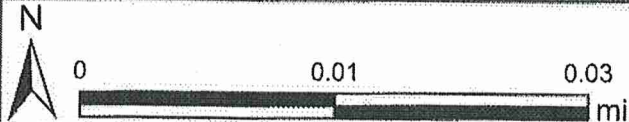
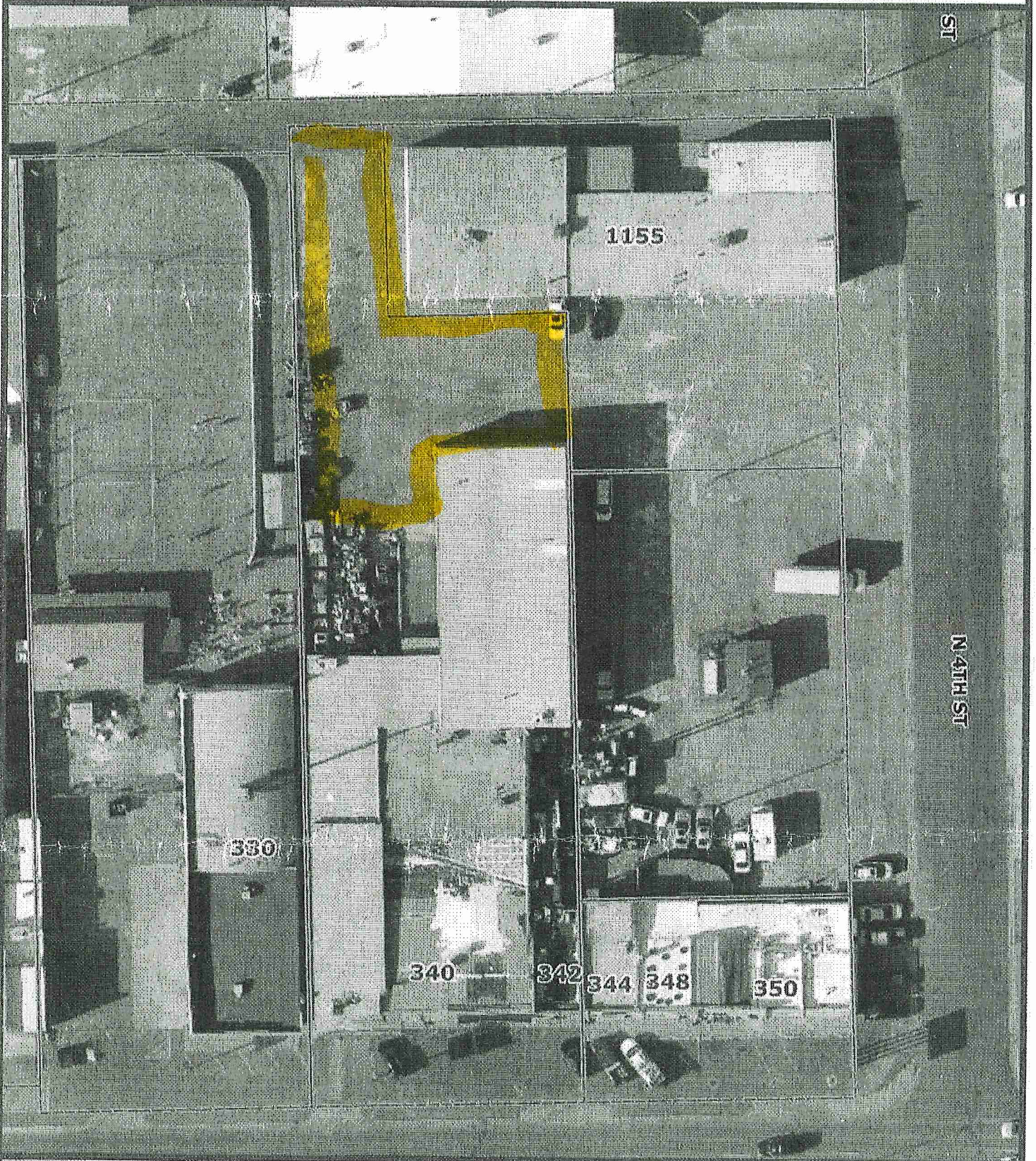
**EXHIBIT "B"**

**To Shared Parking Agreement**

**DEPICTION OF PARKING SPACES TO BE SHARED**



# 340 NORTH AVE SHARED PARKING



Printed: 12/16/2019  
1 inch equals 47 feet  
Scale: 1:564

CITY OF  
**Grand Junction**  
COLORADO  
OFFICIAL INFORMATION SYSTEM



Shared parking agreements will be submitted.

(ii) **Hours of operation.** Hours of operation during the 2019 season were 3:00 pm to midnight Monday through Friday and 12:00 pm to midnight Saturday and Sunday. Applicant received notice from the City that the hours of operation are not in compliance with the CUP; however hours of operation were not made a condition of approval under CUP-2013-491, so the applicant disputes that they are a condition of the CUP or could be made the basis for a revocation of the CUP or other code enforcement action. However, the applicant is willing for the amended CUP to specify the hours of operation, as follows:

Monday through Friday from 3:00 p.m. to 2:00 a.m.  
Saturday and Sunday from 12:00 p.m. to 2:00 a.m.

3. Land use in the surrounding area. Volleys is surrounded by commercial uses and commercially zoned properties.
4. Site access and traffic patterns. There is no change in the site access or traffic patterns that were considered in approving the existing conditional use permit.
5. Special or unusual demands on utilities. There are no special or unusual demands on utilities.
6. Effects on public facilities. There are no negative impacts on public facilities or services.
7. Hours of operation. During the outdoor volleyball season, which is approximately May through October, with occasional games in November as weather permits. Hours of operation will be from 3:00 p.m. to 2 a.m Monday through Friday and from 12:00 p.m. to 2:00 am Saturday and Sunday. Although hours of operation were not made a condition of the CUP-2013-491 approval, the general project report provided for the CUP-2013-491 application mentioned the hours of 5:30 – 10:30 p.m. daily.
8. Number of employees. There are 3 full time and 2 part time employees at Volleys.
9. Signage plans. Signage was established in accordance with that which was approved under CUP-2013-491; no change to signage is proposed.
10. Site soils and geology. There are no unusual soil or geologic conditions. No change to the site is proposed at this time.
11. Impact of project on site soils and geology. The land use does not impact site soils or geology. No change to the site is proposed at this time.

#### **E. REVIEW CRITERIA**

1. **21.02.110(h). Substantial change in circumstances has occurred since the approval of the permit which would justify a change in the permit.**

Circumstances have changed as follows:

- a. The Zoning and Development Code does not prescribe specific off-site parking for the use. No parking requirement was established with the CUP-2014-491 approval. Therefore the applicant requests that the parking requirement be established by the Director in accordance with Section §21.06.050(a)(1) of the Grand Junction Municipal Code and that the CUP be amended to establish a parking requirement of 60 spaces, to be provided as specified above.
- b. Volleys received a notice from the City of Grand Junction that the parking agreements were not in a form acceptable to the City Attorney. Volleys will provide a parking agreement to be reviewed as to form by the City Attorney.
- c. Volleys received a notice of violation from the City of Grand Junction regarding the hours of operation. Hours of operation were not made a condition of the approval of the CUP, and applicant therefore disputes that its conditional use permit can be revoked or terminated based on hours of operation. However, resolution of this dispute between the applicant and the City justifies a change in the permit to clarify Volleys' hours of operation, if hours of operation are determined to be a necessary condition of approval. Applicant's hours of operation are consistent with Volleys' liquor license, as follows: Monday through Friday 3:00 pm to 2:00 am; Saturday and Sunday 12:00 p.m. to 2:00 a.m. during the outdoor volleyball season, which is approximately from May through October. If hours of operation are a required condition of approval for the CUP, applicant requests those hours be specified.

2. **21.02.110(c). Underlying zoning district standards.**

**21.03.070(e) C-2: General Commercial.**

**(1) Purpose. To provide for commercial activities such as repair shops, wholesale businesses, warehousing and retail sales with limited outdoor display of goods and even more limited outdoor operations.**

**(2) Street Design. Effective and efficient street design and access shall be considerations in the determination of project/district intensity.**

**(3) Performance Standards. Outdoor storage and display areas are not allowed within the front yard setback. Permanent and portable display of retail merchandise is permitted.**

**Bulk standards:**

Lot area: 20,000 s.f.

Lot width: 50ft

Frontage: n/a

Front setback: 15 ft

Side setback: 0

Rear setback: 10 ft

Height: 40 ft

This criterion has been met. The site is currently zoned C-2 (General Commercial). Though most of the operations are outdoors, including the volleyball activities and the drinking and dining, no outdoor storage or display is proposed. The building meets the bulk standards of the C-2 zone.

***Use-specific standards.***

This criterion is met. There are no use-specific standards that apply to either outdoor recreation or a bar. Section 21.04.040 addresses accessory uses and includes standards for fencing. Section 21.04.040(i)(1)(iv) permits fences to vary from the standards if approved on a site as part of a conditional use permit. The proposed mesh enclosure is technically defined as a fence and exceeds the maximum height of six (6) feet for a commercial property. This enclosure is necessary to provide safety for the general public and privacy for the facility and was approved with CUP-2013-491. No changes in fencing or accessory uses are proposed.

***Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, businesses and commercial facilities and transportation facilities.***

The site is in the heart of the Neighborhood Center identified by the Comprehensive Plan. It is located two blocks from Sherwood Park and Grand Junction High School and a little over one-half mile to Colorado Mesa University. The close proximity of North Avenue provides access to transit options, hospitals and fire protection, along with complimentary retail and entertainment businesses. This criterion is met.

***Compatibility with and protection of neighboring properties through measures such as:***

***Protection of privacy. The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers, and/or vegetations shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants.***

The mesh fabric net that was approved with CUP-2013-491 remains in place and screens of the facility (and volleyballs) adequately from neighboring properties. The cinder block building screens the at the southern border of the site as well as the back of another building on the site that is not used by Volleys. A storage building located on 304 North Avenue blocks the view of the facility from N. 3<sup>rd</sup> Street, except through the parking lot. The entrance to the facility is through a gate accessible through this parking lot; this limited entrance allows for control of patrons and alcoholic beverages. No change in the screening and other privacy measures is proposed, so this criterion is still met.

***Protection of use and enjoyment. All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property***



This criterion is met. The site is largely hidden from the public and is adjacent to the back or service entrances of the adjoining businesses, as described above. Most of Volleys' activity takes place on weekday evenings and weekends when the majority of adjacent businesses were closed, with some youth and training camps held during the day in the summer (when schools are out). Neighboring businesses have agreed to share parking during off-peak hours. Applicant has reviewed the parking needs of the use at the busiest times (Friday night league play), and found that 60 spaces are sufficient for peak activity. The 60 needed parking spaces will be provided through a mix of exclusive on-site (22 spaces), available street parking (29 spaces on N. 3<sup>rd</sup> and on the south side of Glenwood Ave at the intersection of N. 3<sup>rd</sup> – see Exhibit 2), and shared parking (38 spaces). The applicant has a commitment from The Salvation Army for the use of its parking lot located at 1155 N. 4<sup>th</sup>, which can accommodate 38 vehicles, during Volleys' peak times, which are after-hours for the businesses located there (a food bank and a warehouse). This makes a total of 89 spaces available during Volleys' peak times, and 51 spaces available during non-peak hours when all courts are not typically being used.

*Compatible Design and Integration. All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.*

The site is largely hidden from the public and is adjacent to the back or service entrances of the adjoining businesses. In addition, the busiest times for Volleys are during off-peak hours when the surrounding businesses are closed. There are four (4) sand volleyball courts, confined and screened by the "net" discussed above, and other buildings on site provide additional screening. This criterion was met with CUP-2013-491, and no changes to the site are proposed, so this criterion continues to be met.

***Conditions of prior approvals.***

The CUP-2013-491 had the following conditions of approval:

***Landowner shall dedicate public right of way for that portion of the existing alley adjacent to the site.*** This condition has been met.

***Execution of a power of attorney for future alley improvements shall be recorded prior to July 11, 2014.*** This condition has been met.

***Parking agreement, lease or easement shall be provided as described in Staff Report in a form acceptable to the City Attorney prior to establishment of the use on the site.*** The applicant requests an amendment to the CUP specifying the number of parking spaces required for applicant's use. (The parking requirement was not clearly established with the prior approval; rather, the number of spaces designated in the Staff Report was the number that the applicant has

on site plus the number that the applicant was able to negotiate use of with neighboring property owners at the time.) Applicant received notice from the City that parking agreements were not in a form acceptable to the City Attorney. Applicant has submitted a parking agreement to the City Attorney's office for review as to form.

While the shared parking agreement is terminable by the property owner, notice is required to the City of Grand Junction 90 days prior to termination. This will give the applicant time to acquire other shared parking and the City will be timely informed. In addition, while the parking agreement is for a term of only five years, the applicant plans to demolish two of three sides of the U-shaped metal building on applicant's site and convert that space into parking for Volleys. This is likely to occur within the next 24 months, and would give Volleys enough parking, counting all the on-site and available street parking, to meet a 60-space requirement, in which event the shared parking would no longer be needed.

#### **F. DEVELOPMENT SCHEDULE OR PHASING**

This criterion is not applicable. There is no further development of the site planned or proposed.

#### **G. SITE SKETCH**

The site configuration approved under CUP-2013-491 on February 12, 2014 has not undergone any changes and none are proposed with this application.

*All applicable site plan review criteria in Section 21.02.070(g) of the Grand Junction Zoning and Development Code and conformance with the SSID, TEDS and SWMM Manuals.*

This criterion continues to be met; no changes are proposed to the site. The site is classified as nonconforming because it does not meet current landscaping requirements. However, no increase in gross building square footage is proposed, so no site upgrades are required according to Section 21.08.040 of the Zoning and Development Code. The site was approved in 2014 and no changes to the site plan are needed or proposed with this request to amend the CUP regarding parking and hours of operation.

The site abuts the east/west alley between N. 3<sup>rd</sup> and N. 4<sup>th</sup> Street. Applicant dedicated right of way for the abutting portion of the alley and executed a Power of Attorney for future alley improvements with the approval of the CUP in 2014.

The proposal was evaluated by a City Development Engineer and found to meet the requirements of the SSID, TEDS and the SWMM manuals.

**Contingent partial demolition of metal building.** The applicant plans to demolish two of three sides of the U-shaped metal building on applicant's site and convert that space into parking for Volleys. This is likely to occur within the next 24 months, and would give Volleys enough parking, counting all the on-site and available street parking, to meet a 60-space requirement, in which event the shared parking would no longer be needed. Applicant requests that the Amended Conditional Use Permit allow for (but not require) such demolition in the future.

**EXHIBIT 1**

**PARKING ANALYSIS AND ALTERNATIVE PARKING PLAN**

**21.06.050 Off-street parking, loading and bicycle storage.**

**(a) Off-Street Parking Standards.**

(1) *Uses Not Identified.* The Director shall determine the parking requirement for a use which is not listed in subsection (c) of this section. The applicant shall provide adequate information so that the Director can make such decision by including:

- (i) *Type of uses;* **Outdoor recreation – 4 sand volleyball courts – and bar**
- (ii) *Number of employees;* **3 FT, 2 PT**
- (iii) *Building design capacity;* **960 Square Feet**
- (iv) *Square feet of sales area, service area, etc.;*
  - 4 volleyball courts totaling approximately 10,000 s.f.,
  - 8 picnic tables and 7 small patio tables over approximately 3500 s.f. of area for outdoor seating for the kitchen and bar services (dining/bar is accessory to the volleyball use)

(v) *On-site parking spaces* **22 onsite parking spaces**

(vi) *Proposed off-site parking spaces;*

**17 on-street parking spaces (Exhibit 2)**

**21 shared parking spaces with neighbors**

**Volleys currently has the following shared parking agreement commitments:**

**38 spaces at 1155 N. 4<sup>th</sup>**

**15 spaces at 340 North Avenue**

(vii) *Hours of operation.* **3:00 p.m. to 2:00 a.m. Monday through Friday; 12:00 p.m. to 2:00 a.m. Saturday and Sunday**

(2) *Multiple Uses.* If there are accessory or multiple uses within one or more structures, these standards shall apply to each use and structure, resulting in a total parking requirement for the complex or property except as provided in subsection (e) of this section (Alternative Parking Plan).

(3) *General.*

- (i) *Each parking space must be accessible independently of others. YES*
- (ii) *All square feet is gross floor area unless otherwise indicated. YES*
- (iii) *Spaces for seats or persons is designed capacity. YES*
- (iv) *A minimum of three spaces required for all uses requiring bicycle spaces.*
- (v) *ADA requirements are listed in GJMC 21.06.090(b).*

(c) **Off-Street Required Parking.** *The table below shows the number of parking spaces required for the uses indicated. The number of spaces required may be modified through the alternative parking plan described.*

|  |                                     |                                      |
|--|-------------------------------------|--------------------------------------|
| <i>Recreation and Entertainment, Outdoor</i> | <i>Driving Range</i>                | <i>1 per 20 feet of driving area</i> |
|  | <i>Miniature Golf</i>               | <i>2 per hole</i>                    |
|  | <i>All Other Outdoor Recreation</i> | <i>As determined by Director</i>     |

A parking standard for the use by Volleys is not provided in the parking table or elsewhere in the Code. Therefore pursuant to GJMC §21.06.050(a)(1) and (c), the Director shall determine the required parking based on the criteria described therein.

The parking requirement for the use that most closely resembles this use is that for a health or fitness center, which requires parking at a ratio of 1 per 500 s.f., That ratio results in a parking requirement of 30 spaces. The parking requirement for the accessory use of bar/kitchen services is 10 parking spaces (making a total of 40 spaces, if based on the most similar uses).

Volleys differs from a health or fitness center, however, in that Volleys outdoor recreation is based on use by teams rather than individuals. At Volley's busiest time, which is Friday night, there are 8 teams of 6 players each on the four sand volleyball courts (48 players). There is some overlap as team members arrive and other team members depart; however team members often ride together.

The bar/food is an accessory use to the volleyball activities and is used primarily by players and volleyball patrons. Volleys is not advertised as a bar or restaurant and typically is used by the volleyball players and league participants, so there is little, if any, general public use of the bar/food service. There are generally very few, if any, spectators.

The applicant did a parking count during its busiest summer league week in 2019 and the highest number of parking spaces used at any given time, including those for employees, was 60. Based on that analysis, applicant requests the Director to approve and establish a parking requirement of 60 spaces for Volleys, and to approve an alternative parking plan for Volleys in accordance with Exhibit 1.



21.06.050 (e) **Alternative Parking Plan.** Unless an alternative parking plan is approved at the time of site plan approval, the parking ratios above shall apply.

(1) *Applicant-Submitted Parking Data.* The required parking ratios may be modified where applicant-submitted parking data illustrates that required parking ratios do not accurately apply to a specific development. The data submitted for an alternative parking plan shall include, at a minimum, the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses.

The applicant did a parking count during its busiest summer league week in 2019 and the highest number of parking spaces used at any given time, including those for employees, was 60.

(2) *Credit for On-Street Parking.* Credit may be provided by the Director for any on-street parking spaces abutting the subject property. Such spaces must not be located within a clear sight triangle. No fractional spaces shall be credited.

Applicant request credit for on-street parking including 29 spaces located on N. 3<sup>rd</sup> and on Glenwood Avenue at the intersection with N. 3<sup>rd</sup>, as shown in Exhibit 2.

(3) *Off-Site Parking.* Required off-street parking spaces may be permitted on a separate lot from the lot on which the principal use is located if the off-site parking complies with all of the following standards:

(i) *Ineligible Activities.* Off-site parking may not be used to satisfy the required parking ratios for residential uses (except for guest parking), as well as convenience stores or other convenience-oriented uses. Required parking spaces reserved for persons with disabilities may not be located off site.

(ii) *Location.*

(A) *Off-site parking spaces shall be located within 500 feet (1,000 for employee spaces) from the primary entrance of the use served along the shortest available pedestrian route (measured from the nearest point of the parking area to the nearest point of the building or structure served by such parking lot). Off-site parking may not be separated from the use that it serves by a street right-of-way with a width of more than 80 feet unless a designated pedestrian crosswalk or walkway is provided.*

(B) *The off-site parking shall be located wholly within a district that allows commercial parking as principal use, except in the B-2 district.*

Applicant has use of a parking lot located at 1155 N. 4<sup>th</sup> (The Salvation Army property) during its peak hours, from 5:30 p.m. through 2:00 a.m. The parking lot can accommodate

approximately 38 parked vehicles at any given time. Applicant also has use of shared parking on the lot next door at 340 North Avenue which can accommodate 15 parked vehicles at any given time.

(iii) *Agreement.*

(A) *In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement between the record owners shall be required.*

(B) *An off-site parking agreement may be rescinded only if all required off-street parking spaces are provided in accordance with required ratios above.*

(4) *Shared Parking. Shared parking facilities may be permitted if the shared parking complies with all of the following standards:*

(i) *Ineligible Activities. Required parking spaces reserved for persons with disabilities may be located off-site with permission of the Director.*

(ii) *Location. Shared parking spaces shall be located within 500 feet of the primary entrance of all uses served along the shortest available pedestrian route (measured from the nearest point of the parking area to the nearest point of the building, structure or use served by such parking lot) unless shuttle bus service is provided to the parking area.*

(iii) *Shared Parking Study. Applicants wishing to use shared parking as a means of reducing the total number of required spaces shall submit a shared parking analysis using the latest edition of Urban Land Institute's Shared Parking. The study shall be provided in a form established by the Director and made available to the public. It shall address, at minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing parking spaces.*

(iv) *Agreement.*

(A) *A shared parking plan shall be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record shall be submitted to the Director on forms made available by the Director.*

(B) *A shared parking agreement may be rescinded only if all required off-street parking spaces are provided in accordance with an approved alternative parking plan. See subsection (e) of this section.*

An agreement for off-site shared parking will be executed by and between applicant and the owner of the property located at 1155 N. 4<sup>th</sup> (the Salvation Army). An agreement for off-site shared parking will also be executed by the applicant and the tenant of the property next door at 340 North Avenue.

The applicant plans to demolish two of three sides of the U-shaped metal building on applicant's site and convert that space into parking for Volleys. This is likely to occur within the next 24 months, and would give Volleys enough parking, counting all the on-site and available street parking, to meet a 60-space requirement, in which event the shared parking would no longer be needed.