



## Grand Junction Planning Commission

### Regular Session

Item #1.

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**Meeting Date:** July 28, 2020

**Presented By:** Senta Costello, Planner

**Department:** Community Development

**Submitted By:** Senta Costello, Associate Planner

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### **Information**

#### **SUBJECT:**

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.

#### **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 3rd 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 3rd 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 3rd, 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 3rd Avenue and on Glenwood Avenue; for a total of 60 spaces.

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

No other amendments to the previously approved CUP are proposed.

### **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 3rd 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 (see graphic on following page). 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 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 surrounding 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 this 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 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 3rd 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 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.

**Attachments**

1. Exhibit 1 - Application Packet
2. Exhibit 2 - Maps & Locations
3. Exhibit 3 - Original approval documents