



STAFF REPORT

Planning Commission

CASE #CU-91-10-15-23

PC Date:	March 7, 2023	Case Planner:	Dalton Guerra
CC Date:	April 17, 2023		
Location:	4901 Krameria Street, Commerce City, CO 80022		
Applicant:	CoreCivic	Owner:	Green Level Realty
Address:	4901 Krameria St. Commerce City, CO 80022	Address:	10139 Yampa St. Commerce City, CO 80022

Case Summary

Request:	Conditional Use Permit (CUP) for an extension of an existing community corrections facility.
Project Description:	CoreCivic is requesting the approval of a Conditional Use Permit in order to continue the operation of a community corrections facility at 4901 Krameria Street, located within the I-1S zone district which has been approved since January 2007.
Issues/Concerns:	<ul style="list-style-type: none"> Removing previous conditions that are no longer necessary
Key Approval Criteria:	<ul style="list-style-type: none"> Land Development Code (LDC) Conditional Use Permit Approval Criteria
Staff Recommendation:	Approval
Current Zone District:	I-1S, Industrial Park Storage District
Comp Plan Designation:	Industrial/Distribution

Attachments for Review: *Checked if applicable to case.*

- Vicinity Map
- Applicant's Narrative
- Previous Approval with Conditions
- Proposed Conditions

Background Information

Site Information

Site Size:	1.62 acres
Current Conditions:	Existing building, surface parking lot, outdoor recreation area
Existing Right-of-Way:	East 49 th Drive to the south and Krameria Street to the east
Neighborhood:	Stapleton Industrial Park
Existing Buildings:	21,431 s.f. Community Correction Facility
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Site in Floodplain	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Surrounding Properties

	<u>Existing Land Use</u>	<u>Occupant</u>	<u>Zoning</u>
North	Industrial	DXP	I-1S
East	Industrial	Interstate Batteries	I-1S
South	Industrial	Multi-Tenant	I-1S
West	Industrial	H2O Power Equipment	I-1S

Case History

A Use by Permit was originally approved with conditions by the Board of Adjustment in January 2007 (AU-1638-07) to allow a Community Corrections Facility at 4901 Krameria Street. After the update of the Land Development Code, this use was reclassified from a Use by Permit to a Conditional Use Permit. Then, a Conditional Use Permit was approved with conditions by City Council in May 2010 (CU-91-10) to allow a Community Corrections Facility at 4901 Krameria Street. A Conditional Use Permit extension was approved with conditions by City Council in September 2015 (CUP-91-10-15) to allow a Community Corrections Facility at 4901 Krameria Street.

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
AU-1638-07	01/09/2007	Use by Permit to allow a Community Corrections Facility	Approved
CU-91-10	05/03/2010	Conditional Use Permit to allow a Community Corrections Facility	Approved
CU-91-10-15	09/21/2015	Conditional Use Permit extension to allow a Community Corrections Facility	Approved

Applicant's Request

CoreCivic requests approval of a Conditional Use Permit to allow the continued operation of a community corrections facility. The original approval was in the form of a Use by Permit approved by the Board of Adjustment in 2007. Then a Conditional Use Permit was approved by City Council in 2010, which was followed by approval of an extension of the approved CUP in 2015. The applicant had the latest approval from City Council to operate a community corrections facility at this location from September 21, 2015 until September 21, 2022 at which point they would need to come back to the City Council for a renewal. The applicant made a submittal for a new CUP prior to the expiration date in 2022. The applicant is not in violation of the previous condition of approval to renew prior to September 21, 2022 because they have had an active application on file with the City since May of 2022. Due to ongoing discussion internally with the Development Review Team regarding the conditions of approval, the application is now coming forward to the Planning Commission for a recommendation. The applicant narrative states, "*The current application is for a Conditional Use Permit to continue operations. We have developed excellent working relationships with neighbors and Commerce City Police Department, and there have been no significant issues at the facility.*"

Development Review Team Analysis

Scope of Review:

The request for consideration at this hearing is a Conditional Use Permit. The Land Development Code (LDC) sets out the specific criteria for review of a Conditional Use Permit. A Conditional Use Permit is to be reviewed by the Development Review Team (DRT) and provide Planning Commission a staff report. Planning Commission will make a recommendation to City Council, which will hold a public hearing for a final decision in accordance with the City's Land Development Code (LDC). As it relates to Conditional Use Permits, the LDC sets out the specific criteria upon which such an application can be approved or denied. Therefore, the analysis and evaluation must be limited to those criteria; no outside considerations may be the basis of a decision of approval or denial.

According to the LDC, the current zoning of I-1S allows for a Community Corrections Facility subject to a Conditional Use Permit. The Community Corrections Facility has been in operation at this location since 2007. No additions or expansions of the existing operation are being proposed with this request. The applicant inquired about the possibility of removing the condition that sets an expiration for the CUP. The DRT has discussed and considered the possibility of removing a number of the previous conditions that are no longer necessary and/or do not relate to the approval criteria for a Conditional Use Permit as stated in Section 21-3230 of the LDC.

Public Hearing Background:

In accordance with Section 21-3230(2) of the Land Development Code (LDC), Conditional Use Permits are reviewed by the Development Review Team (DRT) and the Director of Community Development. Then the Planning Commission holds a public hearing and provides a recommendation to the City Council. City Council holds a public hearing and makes a final decision to approve, approve with conditions, or deny the application based on the approval criteria from Section 21-3230(3).

Neighborhood Meeting:

A neighborhood meeting was conducted on October 6, 2023 at the CoreCivic Community Corrections Facility. There were no attendees outside of CoreCivic Staff and Commerce City Planning Staff.

Overview:

The requested Conditional Use Permit is for an existing Community Corrections Facility located at 4901 Krameria Street. The site has an existing facility and has been approved since 2007. The intent of the facility is to provide transitional housing for clients who have been convicted of crimes and have either: a) Served their prison sentence and are now transitioning back into society or b) Have been convicted of a crime and sentenced to community corrections in lieu of prison time.

This Community Corrections Facility is monitored by the Adams County Community Corrections Board (ACCCB). This board is made up of representatives of the following entities: Adams County Sheriff's office, 17th Judicial District Attorney's Office, 17th Judicial Public Defender's Office, Broomfield Police Department, Colorado Department of Corrections, Adams County Probation, Chief Judge of the 17th Judicial District. All members of the board are appointed by the Adams County Board of County Commissioners and serve as an advisory board to the County Commissioners.

The ACCCB's Screening Committee reviews referrals and decides which clients are appropriate for the community corrections facility. This Screening Committee includes similar representation to the ACCCB

members and includes a representative of the Commerce City Police Department (per condition G of the original Use-by-Permit and condition F of the latest Conditional Use Permit approval).

The originally approved Use by Permit (AU-1638-07) had seven conditions of approval:

- A. The Use-by-Permit is granted to the applicant only with no right of assignment; however the applicant may reassign the permit to an affiliated entity to be created by the applicant for one time only.
- B. The Use-by-Permit will expire on January 9, 2010. The applicant will be required to apply to the Board of Adjustment should the applicant wish to renew the Use-by-Permit for a community corrections facility.
- C. The number of residential beds shall be limited to 120. Any increase to this number will require a new application to the Board of Adjustment.
- D. The applicant is allowed to operate a single-sex facility only. The applicant may determine whether it shall be all male or all female population.
- E. No person convicted of the following crimes shall be a client, either on a residential or out-patient basis at this facility.
 - a. A sexual assault pursuant to CRS 18-1.3-406(II)(E), or if the applicant must register as a sexual offender
 - b. Any crime against an at-risk adult or at-risk juvenile
 - c. Murder
 - d. First degree arson
- F. The applicant shall form a Neighborhood Advisory Board, composed of surrounding business owners and operators, for the purpose of addressing community issues.
- G. A representative of the Commerce City Police Department shall be permitted representation on the screening board which screens prospective residents of the facility.

Condition C was imposed by the Board of Adjustment as a result of the Police Department being concerned with the number of calls for service if the requested 180 bed maximum was approved. The applicant stated that 120 beds is the lowest they could go to remain economically viable. Condition D was imposed because the applicant at the time was operating an existing all-male facility in Adams County. Condition E was imposed to mitigate concerns about having clients of certain crimes at this facility and in the community. Condition G was imposed at the request of the Police Chief at the time.

In 2010 a Conditional Use Permit was required to operate a Community Corrections Facility due to a change in the Land Development Code. The CUP approved in 2010 (CU-91-10) made some modifications to the previous conditions of approval. As a result the following six conditions were imposed in 2010:

- A. The facility shall be prohibited from accepting clients who have been convicted of Sexual Assault and Arson pursuant to C.R.S 18-1.3-406
- B. The Conditional Use Permit shall expire on May 3, 2015. If the applicant wishes to operate the facility after the expiration of this approval, it will be required to renew this Conditional Use Permit.
- C. The number of clients allowed at this facility shall be limited to 136. Any increase to this number will require the applicant to amend this Conditional Use Permit.
- D. This facility shall continue to be a single-sex facility only.

- E. The applicant shall continue to operate the Neighborhood Advisory Board and it shall be comprised of surrounding business owners and operators, surrounding property owners, and anyone in the area that wishes to participate.
- F. A member of the Commerce City Police Department shall be permitted representation on the board that screens prospective clients for the facility.

Condition A was modified from the previous approval to now allow clients convicted of violent crimes at the request of the applicant. The reasoning being that clients convicted of violent crimes will be able to transition back into the community instead of going straight from prison into the community. Condition C was modified to allow more beds as a result of allowing clients that are convicted of violent crimes. The previously titled "Condition A" was removed because a CUP cannot be transferred and does not run with the land. Therefore, any change in ownership will require a new CUP to be approved.

A CUP was approved in 2015 (CU-91-10-15) as a renewal to the CUP approved in 2010 with 6 conditions:

- A. The facility shall be prohibited from accepting clients who have been convicted of Sexual Assault and Arson pursuant to C.R.S 18-1.3-406
- B. The Conditional Use Permit shall expire on September 21, 2022. If the applicant wishes to operate the facility after the expiration of this approval, it will be required to renew this Conditional Use Permit.
- C. The number of clients allowed at this facility shall be limited to 136. Any increase to this number will require the applicant to amend this Conditional Use Permit.
- D. This facility shall continue to be a single-sex facility only.
- E. The applicant shall continue to operate the Neighborhood Advisory Board and it shall be comprised of surrounding business owners and operators, surrounding property owners, and anyone in the area that wishes to participate.
- F. A member of the Commerce City Police Department shall be permitted representation on the board that screens prospective clients for the facility.

Condition B was the only condition to be modified and set an expiration date 7 years from the date of approval. None of the other conditions were modified.

The request being considered is a result of the condition from the 2015 CUP approval to renew the CUP by September 21, 2022. The applicant has also requested that the condition to renew the CUP in the future be removed as there have been no major issues at this facility and have remained in good standing with the City since 2007.

Proposed Conditions:

After discussion and analysis from the DRT it was determined that certain conditions from prior approvals are no longer necessary, not appropriate for this use, and not related to our approval criteria for a Conditional Use Permit. After carefully analyzing the previous conditions it was determined that there was no direct relation to our approval criteria which does not warrant good planning practice. In an effort to modernize and refine the existing conditions for this use staff is proposing to remove three of the previous conditions from the 2015 CUP renewal and keep the following:

- A. An expansion of the operation of this facility in any capacity shall require a new Conditional Use Permit to address potential adverse effects on adjacent properties including but not limited to the character of the neighborhood, traffic, parking, and public improvements.

- B. The applicant shall continue to operate the Neighborhood Advisory Board with a Commerce City Police Department representative to ensure that all potential adverse effects related to public safety will be mitigated to the maximum extent feasible.
- Condition A from the 2015 CUP was removed because the DRT does not believe it to be lawful to regulate the clients that CoreCivic can accept to their program. Additionally, a Commerce City Police Department representative will be involved with the screening of clients through the Adams County Community Corrections Board Screening Committee, which regulates the clients that are accepted into the facility.
 - Condition B has been removed because the DRT does not see the necessity of having the CUP expire if the facility has been in good standing with the City since 2007. If issues arise in the future, the City has the right to begin the revocation process per Section 21-10040 of the LDC. Commerce City PD can also address potential issues as representatives on the ACCCB Screening Committee.
 - Condition C has been modified to limit the expansion of the current operation/facility and requiring a new CUP so that the City may analyze and address any potential adverse effects on adjacent properties. This is directly related to the Conditional Use Permit approval criteria (i) in Section 21-3230(b) of the LDC. There are also additional regulations that limit the number of clients that the facility can have at one time including fire code and building code. Staff does not feel it is necessary to establish a specific number of maximum occupants for this facility within the conditions of approval.
 - Condition D has been removed because the DRT does not believe it to be lawful to regulate the clients that CoreCivic can accept to their program and dictate how their facility is run from an operational perspective. Additionally, a Commerce City Police Department representative will be involved with the screening of clients through the Adams County Community Corrections Board Screening Committee, which regulates the clients that are accepted into the facility.
 - Conditions E and F have been combined into one condition and still requires that the community corrections facility holds a Neighborhood Advisory Board and grants Commerce City Police Department representation on the ACCCB Screening Committee.

With the new modified and updated conditions, staff believes that the City is being realistic with the expectations of the facility and can properly mitigate potential adverse impacts to the community. All of the proposed conditions are directly tied to the Approval Criteria for a Conditional Use Permit per Section 21-3230(b).

Commerce City Police Department indicated that the calls for service at this location are higher than a normal business. However, this is due to the nature of their industry and they have always been very cooperative with Commerce City law enforcement. A community corrections facility is a necessary service for the community because it creates a transitional period for clients that have been convicted of crimes before they are integrated back into society. CoreCivic requires the clients to have jobs which can provide employment to the surrounding area and they are also involved in a number of volunteer opportunities such as clean-up programs, community events, donation collections, etc.

Outside Agency Review:

Staff referred this application to several departments in the city as well as outside agencies. Commerce City Police Department stated that the applicant has been a good partner to the city and they provide a necessary service for our community. The Police Department has representation on the ACCCB

Screening Committee to address any potential concerns they may have about the operations of CoreCivic. There were no concerns expressed by other referral agencies.

Comprehensive Plan Analysis

In reviewing the requested Conditional Use Permit, the DRT reviewed the request’s compatibility with the City’s Comprehensive Plan. That analysis is provided in the following table.

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

Section	Goal	Description
Land Use and Growth Strategies	LU 1.1	Growth and Future Land Use Plan Consistency
Analysis:		The use of a Community Corrections Facility is consistent with the Future Land Use Plan designation of Industrial / Distribution. Industrial/Distribution allows for smaller retail and service uses to support the industrial uses. Clients of the CoreCivic operation are often employed by industrial businesses in the immediate area.

Section	Goal	Description
Land Use and Growth Strategies	LU 3.3	Compatible Uses in all Neighborhoods
Analysis:		The surrounding area is predominately industrial, which provides job opportunities to the clients in the community corrections facility and provides a buffer to any residential neighborhoods in the City.

Section	Goal	Description
Safety and Wellness	SW 3.3	Health and Human Services
Analysis:		Providing transitional housing for clients who are transitioning back into society helps the clients themselves but also protects the community. CoreCivic also provides a benefit to the community through community service volunteering and clean up programs.

LDC Conditional Use Permit Approval Criteria Analysis

The DRT recommendation for this case is based on the following LDC criteria, from Sec. 21-3230(3):

Approval Criteria. A Conditional Use Permit may be approved only if:

(a): All of the following are met:

Criteria (i): The proposed use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city;

Analysis: This is an existing use that has been in place since 2007. Since 2007, there have been no issues with negative impacts to surrounding properties. Commerce City Police Department supports the business and believes that it provides a necessary service to the community. Any future

expansion, change in ownership, or significant change in operation will require a new CUP with the City.

*Staff finds this application **meets this criterion.***

Criteria (ii): Any adverse effect has been or will be mitigated to the maximum extent feasible, including but not limited to sufficient landscaping and screening to ensure harmony for adjoining uses;

Analysis: The use and building have existed since 2007 with little to no adverse effects on adjoining uses. Potential impacts can be mitigated through the Neighborhood Advisory Board where Commerce City PD can provide input on client acceptance and general concerns regarding the business operations.

*Staff finds this application **meets this criterion.***

Criteria (iii): The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;

Analysis: All site conditions are existing but can be improved/modified if negative impacts appear as a result of the use and site design. Any expansion of the current facility would require processing with the City and would inevitably require improvements to the site.

*Staff finds this application **meets this criterion.***

Criteria (iv): The proposed use will be adequately served by and will not impose an undue burden on any of the existing improvements, facilities, and services of the city or its residents. Where any such improvements, facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;

Analysis: The use has been in place since 2007 and has not created an undue burden on the existing improvements, facilities, or services in particular the Police Department and/or the Fire Department. If the facility were to expand, City Staff would analyze the need for improvements to services and utilities.

*Staff finds this application **meets this criterion.***

Criteria (v): The applicant has provided adequate assurances of continuing maintenance;

Analysis: The applicant has indicated that any improvements or maintenance needed to the existing site will be accommodated. Further, any deficiencies in maintenance of the site will be subject to code violations from the Commerce City Neighborhood Services Division.

*Staff finds this application **meets this criterion.***

Criteria (vi): There is no evidence to suggest that the use violates any federal, state, or local requirements; and

Analysis: The use being operated at this site has been in good standing with the City and is not in violation of any other regulations mandated on a federal or state level. If the facility is ever in violation of a state or federal regulation then Commerce City PD will be informed at the Neighborhood Advisory Board meetings.

*Staff finds this application **meets this criterion.***

(b): One of the following criteria is met:

Criteria (i): There is a community need for the use at the proposed location, given existing and proposed uses of a similar nature in the area and of the need to provide and maintain a proper mix of uses both within the city and the immediate area of the proposed use; or

Analysis: The Commerce City Police Department stated that the existing use of a Community Corrections Facility has provided a benefit to the community and has been in good standing with the City. The site is in an appropriate area that does not create conflicts with the surrounding industrial uses.

*Staff finds this application **meets this criterion.***

Criteria (ii): The use complies with the general purposes, goals, objectives, policies, and standards of the comprehensive plan and all other plans or programs adopted by the city.

Analysis: The site is zoned I-1S and a community corrections facility is permitted subject to a Conditional Use Permit within the I-1S zoning district. The subject property is surrounded by I-1S uses and is consistent with the Future Land Use Plan.

*Staff finds this application **meets this criterion.***

Summary:

In summary, the DRT has determined that the request meets the approval criteria for a Conditional Use Permit outlined in the LDC as provided below, the proposal meets the Comprehensive Plan goals, and the proposal is appropriate given the surrounding industrial area. The community corrections facility at this location has been in good standing with the City since its inception in 2007 and provides a service for the community. After performing this analysis, the DRT is recommending that the Planning Commission forward a recommendation for **approval** to City Council.

Development Review Team Recommendation

The DRT discussed this case, CoreCivic CU-91-10-15-23, in a meeting on January 19th, 2023. All comments made were addressed and so the DRT made an official recommendation of approval for this particular case before Planning Commission.

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Conditional Use Permit set forth in the Land Development Code and recommends that the Planning Commission forward the Conditional Use Permit request to the City Council with a favorable recommendation subject to the following conditions:

A. An expansion of the operation of this facility in any capacity shall require a new Conditional Use Permit to address potential adverse effects on adjacent properties including but not limited to the character of the neighborhood, traffic, parking, and public improvements.

B. The applicant shall continue to operate the Neighborhood Advisory Board with a Commerce City Police Department representative to ensure that all potential adverse effects related to public safety will be mitigated to the maximum extent feasible.

Recommended Motion

To recommend approval with conditions:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at **4901 Krameria St** contained in case **CU-91-10-15-23** meets the criteria of the Land Development Code and based upon such finding, recommend that the City Council approve the Conditional Use Permit subject to the following conditions:

A. An expansion of the operation of this facility in any capacity shall require a new Conditional Use Permit to address potential adverse effects on adjacent properties including but not limited to the character of the neighborhood, traffic, parking, and public improvements.

B. The applicant shall continue to operate the Neighborhood Advisory Board with a Commerce City Police Department representative to ensure that all potential adverse effects related to public safety will be mitigated to the maximum extent feasible.

Alternative Motions

To recommend approval:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at the **4901 Krameria Street** contained in case **CU-91-10-15-23** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Conditional Use Permit.

To recommend denial:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at the **4901 Krameria Street** contained in case **CU-91-10-15-23** fails to meet the following criteria of the Land Development Code:

List the criteria not met

I further move that based upon this finding that the Planning Commission recommend that the City Council deny the Conditional Use Permit.

To continue the case:

I move that the Planning Commission continue the requested Conditional Use Permit for the property located at **4901 Krameria Street** contained in case **CU-91-10-15-23** to a future Planning Commission agenda.