



# STAFF REPORT

## Planning Commission

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### CASE #CU-91-10-15

<b>PC Date:</b>	August 4, 2015	<b>Case Planner:</b>	Jared Draper
<b>CC Date:</b>	September 21, 2015		
<b>Location:</b>	4901 Krameria Street, Commerce City, CO 80022		
<b>Applicant:</b>	Green Level Realty, LLC (Time to Change Community Corrections Program)	<b>Owner:</b>	Same as Applicant
<b>Address:</b>	4901 Krameria Street Commerce City, CO 80022	<b>Address:</b>	Same as Applicant

### Case Summary

<b>Request:</b>	Conditional Use Permit renewal for Time to Change Community Corrections Program
<b>Project Description:</b>	The applicant is requesting a Conditional Use Permit (CUP) renewal for the community corrections facility at the subject property. The use of the property for a community corrections facility was originally approved in 2007 through a use-by-permit (AU-1638-07) and then approved through the conditional use permit for a 5-year period in 2010 (CU-91-10). This request is the renew the conditional use permit without any changes to prior conditions that were placed on the property.
<b>Issues/Concerns:</b>	<ul style="list-style-type: none"><li>▪ Police impacts</li><li>▪ Neighborhood concerns</li></ul>
<b>Key Approval Criteria:</b>	<ul style="list-style-type: none"><li>▪ Compliance with all previous conditions</li><li>▪ Approval criteria for Conditional Use Permits</li></ul>
<b>Staff Recommendation:</b>	Approval with Conditions
<b>Current Zone District:</b>	I-1S (Industrial Park Storage District)
<b>Comp Plan Designation:</b>	Industrial/Distribution

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

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary             | <input checked="" type="checkbox"/> Vicinity Map    |
| <input checked="" type="checkbox"/> City Council Minutes 2010                 | <input type="checkbox"/> Neighborhood Meeting Notes |
| <input checked="" type="checkbox"/> Site Plan                                 | <input type="checkbox"/>                            |
| <input checked="" type="checkbox"/> Police Department Calls for Service Table | <input type="checkbox"/>                            |

## Background Information

### Site Information

<b>Site Size:</b>	1.62 acres
<b>Current Conditions:</b>	The site has a 1-story building with a parking lot and recreation area
<b>Existing Right-of-Way:</b>	Krameria Street to the East and E. 49 <sup>th</sup> Avenue to the South
<b>Neighborhood:</b>	Stapleton Industrial Park
<b>Existing Buildings:</b>	1-story building used to house and treat clients
<b>Buildings to Remain?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Site in Floodplain</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
<b>North</b>	Industrial	D & D Roofing and Life Time Fence Company	I-1S
<b>South</b>	Industrial	Multi-tenant industrial building	I-1S
<b>East</b>	Industrial	Interstate Batteries	I-1S
<b>West</b>	Industrial	H2O Power Equipment	I-1S

### Case History

#### **Case Z-173-79:**

In August of 1979, the City Council of Commerce City approved the rezoning of the Stapleton Industrial Park from I-1 to I-1S. The area that was rezoned was bound by Sand Creek to the north and east, E. 48th Avenue to the south, and Ivy Street to the west. This rezoning effort was initiated by City Staff in the late 1970's due to a large number of legal non-conforming properties that existed in the area after the passage of the updated zoning ordinance (ordinance #366) in 1975. The updated ordinance prohibited outside storage in the I-1 district. I-1S was created to allow outside storage for the properties in this area, as long as a Use-by-Permit was granted by the Board of Adjustment.

#### **AU-1638-07:**

In January of 2007, the Board of Adjustment approved a Use-by-Permit so that Time to Change Community Corrections Program could operate a community corrections facility on the subject property. At the time this case was heard, it received a great deal of attention and there were a variety of individuals who spoke at the public hearing. Individuals who spoke at the hearing included representatives from the Adams County Sheriffs Department, Adams County District Attorney's office, the Commerce City Police Department and numerous nearby property owners. After taking into consideration all of the comments, the Board of Adjustment approved the Use-by-Permit subject to the following conditions:

- 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 sexual assault pursuant to CRS 18-1.3-406(II)(E), or if the applicant must register as a sexual offender
  - Any crime against an at-risk adult or at-risk juvenile
  - Murder
  - 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.

**CU-91-10:**

In April of 2010, the City Council approved the Conditional Use Permit for Time to Change Community Corrections Program. The case was approved with the following 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 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.

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
Z-173-79	August, 1979	Rezone the Stapleton Industrial Park from I-1 to I-1S	<b>Approval</b>
AU-1638-07	January, 2007	Use-by-Permit for a community corrections facility	<b>Approval with Conditions</b>
CU-91-10	April, 2010	Conditional Use Permit for a community corrections facility	<b>Approval with Conditions</b>

## Applicant's Request

***Background:***

*Time to Change Community Corrections Program was originally granted approval to operate a community corrections facility by the Board of Adjustment in 2007 through a Use-by-Permit application. This approval was conditioned with several items, one of which mandated that it renew its approval in January of 2010. The applicant completed the renewal for the community corrections facility through the conditional use permit (CUP) process in 2010, due to an update in the Land Development Code (LDC) that changed the process for this specific use from a use-by-permit to a CUP. Several conditions were placed on the CUP case in 2010, one of which required the renewal of the CUP in May of 2015. The applicant has submitted all of the appropriate information and has been working with staff for the CUP renewal.*

*At this time, the applicant is requesting the approval of the renewal to the conditional use permit for Time to Change Community Corrections Program subject to previous applicable conditions placed on the CUP. According to the applicant, the facility offers a service that is needed and has continued to operate within the requirements of the previously granted CUP.*

## Development Review Team Analysis

*The Land Development Code requires a conditional use permit for community correction facilities within the I-1S zone district. This request is for a conditional use permit renewal and is not an entirely new application.*

### Comprehensive Plan

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

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU1a	Future land Use Plan as a Guide
<b><u>Analysis:</u></b>	The future land use map identifies this area for industrial/distribution. The proposed use on the subject property provides a service to the community and is located on a property that is suitable for the specific use.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Safety and Wellness	SW 1e	Safety through Design and Property Maintenance
<b><u>Analysis:</u></b>	The subject property has showed continued maintenance of the property over several years. In addition, the number of calls for service has not dramatically increased since the use started on the property.	

### **Need in the Community:**

Community corrections is an alternative for criminal justice supervision that is somewhere between probation and prison and our primary goal is community safety. There are two types of clients at this facility. The first type of clients are individuals who are sentenced to community corrections instead of prison (diversion clients), and the second type of clients are making a transition to community corrections after serving a portion of their sentence in the Department of Corrections (transition clients). The transition clients must also be within 18 months of their mandatory parole date, meaning that they are returning to the community and need assistance with the transition. Regardless of whether a potential client is on the diversion or transition track, there are two types of referrals for placement. The first type of referrals are those that are required to be screened by the Screening Committee based on criteria set out by the Adams County Community Corrections Board (ACCCB) and the second type of referrals are cases that do not require screening by the Screening Committee and are therefore referred directly to a program for review. It is also important to note that there is a local probation liaison for diversion clients and a local parole officer for transition clients. Each of these liaisons plays a vital role in oversight and program assistance, which speaks to the fact that the facility is surrounded by local experts to ensure collaboration which results in a treatment program which enhances community safety and effectively treats offenders.

Due to the nature of how referrals become clients, Time to Change Community Corrections Program does not need a judge's order or permission to decide that a client is no longer appropriate for the facility. In such a case, local law enforcement is called and the client is taken to the local jail, and in most cases, sent to the Department of Corrections to serve out their sentence.

The vast majority of clients either committed their crime in Adams County or they have a parole plan that includes transitioning back into Adams County. Individuals with drug and/or alcohol problems that contributed to their charge (approximately 85% of clients have substance abuse issues) and individuals who have demonstrated motivation to change their lifestyle, either by written statement or by participation in various educational/treatment opportunities in the Department of Corrections are target clients for Time to Change Community Corrections Program. In addition, offenders with support in the local community are more likely to be successful than those clients without family or

other pro-social support in the immediate area, so Time to Change Community Corrections Program then takes on the responsibility of helping those clients without support in the local community develop that support. Once a client is accepted into the facility they are subject to intense monitoring (random drug tests and location verification), life skills training, basic educational programs (GED classes, vocational training), and full-time employment.

Time to change provides a service to the community that ultimately enhances short term public safety through intense monitoring and long term public safety through clients that are transformed through intense treatment protocols. Additionally, a community corrections facility offer the opportunity for young men to return to their families as better fathers, husbands, employees and community members after the treatment process is completed.

#### **Site Operations:**

The applicant is not proposing any changes to the operations on the site from what was previously approved in case CU-91-10. A summary of this operations are as follows:

Time to Change operates 24 hours a day, 7 days a week, 365 days a year. The facility currently employs 11 security staff, 5 case managers, and 4 supervisors. These employees operate at the facility over three shifts (day, swing, and graveyard). The total number of clients at the site is limited to 136 based on the approved number of beds in the previous CUP case. Clients are not permitted to drive and therefore the traffic generated on the site includes only employees and visitors. Weekday trips are primarily generated by staff while the weekend trips are increased due to an increase in visitors to the site.

#### **Police Impacts:**

Attached to this report is the table that was provided from the Police Department for the calls for service for the subject property over the last 5 years. This information shows that the majority of calls for service were for "Attempt to Contact" and "EMS". Attempt to contact is simply a request to call or contact an individual made by another agency or another person. The number reflected in the calls for service table was not alarming to the Police Department and did not consider this or the EMS, medical call, as a significant issue. The Commerce City Police Department has indicated that the number of calls for service for Time to Change over the last 5 years have not been a hindrance to providing adequate service. Furthermore, the Police Department did not express any concerns over the renewal of the conditional use permit and has no objections for this request.

#### **Neighborhood Feedback:**

Time to Change is located within the Stapleton Industrial Park and does not have a history of creating undue substantial burdens on the adjacent property owners. The applicant explains that the location of the site in close proximity to industrial businesses provides an opportunity to create partnerships with business owners that need reliable work force with the additional benefit of job and skills training for the clients of the community corrections program. In addition, Time to Change has worked closely with the adjacent property owners and tenants through the Neighborhood Advisory Board which has enhanced communication within the neighborhood and with the city through a Police Department representative on the Neighborhood Advisory Board, Deputy Chief Fran Gomez. Time to Change has indicated that any concerns that are voiced by surrounding property owners are immediately considered and resolved.

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
<input checked="" type="checkbox"/>	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 are envisioned to exist in any adopted City plan, program or ordinance;	The applicant has made significant improvements to the property and has not included any signage in an effort to incorporate the building and use into the character of the surrounding area. The clients are not permitted to have vehicles so there is little to no impact on traffic and parking in the area and because most of the clients are not at the facility during the day when the surrounding properties are conducting business, there is little impact to adjacent properties or current conditions of the area. The applicant has established a track record for mitigating any impacts to its surroundings. To date, the applicant has installed fencing and landscaping on the property and worked closely with its neighbors through the Neighborhood Advisory Board to mitigate any impacts of the use.
<input checked="" type="checkbox"/>	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;	The applicant has established a track record for mitigating any impacts to its surroundings. To date, the applicant has installed fencing and landscaping on the property and worked closely with its neighbors through the Neighborhood Advisory Board to mitigate any impacts of the use.
<input checked="" type="checkbox"/>	The characteristics of the site are suitable for the proposed use;	The site meets the needs of the applicant without imposing a burden to surrounding property owners or the City. The site is large enough to accommodate the necessary parking, provide recreation areas for the clients, and it is located in an industrial park, where most of the businesses operate during the day.
<input checked="" type="checkbox"/>	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 or the applicant has committed to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;	<p>The use currently exists in the same way it is proposed and no new elements have been proposed that would increase the burden to existing improvements or facilities in the area.</p> <p>The Commerce City Police Department has indicated that at its current staffing levels the calls for service do not pose a burden to the force and the PD is in favor of the application.</p>
<input checked="" type="checkbox"/>	The applicant has provided adequate assurances of continuing maintenance;	The applicant has established a track record for making improvements and maintaining its property. It has not been sited for any property maintenance issues since the 2007 approval.
<input checked="" type="checkbox"/>	No evidence suggests that the use violates any federal, state, or local requirements.	The applicant is in compliance with all applicable federal, state and local requirements.
<input checked="" type="checkbox"/>	The proposed use complies with the general purposes, goals, objectives, policies, and standards of all City plans, programs, and ordinances	The proposed location of the facility is compliant with the general purpose, goals, and objectives of the City's ordinances in that it is located in an industrial area that is not near publicly zoned areas, residentially zoned areas, or schools. It is located near employment opportunities and public transportation. In addition, having a community correction facility allows for the rehabilitation of individuals that will eventually be back in or around the community.

**DRT Recommendation:**

Based on the aforementioned analysis of the current request, community need for a community corrections program, unchanging operations of the facility, police impacts and neighborhood feedback, the DRT is recommending approval of the CUP renewal request subject to the conditions that were previously place on the application in CU-91-10. However, the DRT is recommending that the current CUP expire on September 21, 2022 for a total of a 7-year period before a renewal is warranted. After review of the operations and feedback from the Police Department, the DRT is recommending an extending time period before CUP renewal based on the compliance of the applicant over the last 5 years and the continued maintenance of the property.

## **Development Review Team Recommendation**

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 condition:

**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.

## **\*Recommended Motion\***

### ***To recommend approval subject to condition(s):***

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Conditional Use Permit for the property located at **4901 Krameria Street** contained in case **CU-91-10-15** 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. 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.

## **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 **4901 Krameria Street** contained in case **CU-91-10-15** 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 **4901 Krameria Street** contained in case **CU-91-10-15** fails to meet the following criteria of the Land Development Code:

*List the criteria not met*

I further move that, based upon this finding, 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** to a future Planning Commission agenda.