

**CITY OF LEAVENWORTH PLANNING COMMISSION**  
**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048  
**REGULAR SESSION**  
**Monday, February 2, 2026**  
6:00 PM

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**CALL TO ORDER:**

**Commissioners Present**

Ted Davis  
Ken Bateman  
Bill Waugh  
Don Homan  
Mark Preisinger  
Sherry Hanson

**Commissioners Absent**

Dennis Hund

**City Staff Present**

Scott Peterson  
David Waters  
Kim Portillo  
Michelle Baragary

Chairman Bateman called the meeting to order at 6:00 p.m. and noted a quorum was present.

**APPROVAL OF MINUTES – January 5, 2026**

Chairman Ken Bateman asked for questions, comments or a motion on the January 5, 2026 minutes presented for approval. Vice Chairman Preisinger moved to approve the minutes as presented, seconded by Commissioner Hanson and approved by a vote of 6-0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**1. WELCOME NEW MEMBER – TED DAVIS**

Planning Director Kim Portillo introduced Ted Davis as a newly appointed member of the Planning Commission.

**2. 2026-02 SUP – 100 HIGHWAY TERRACE**

Conduct a public hearing for Case No. 2026-02 SUP 100 Hwy Ter., wherein the applicant is requesting a Special Use Permit to allow a detention center in the I-2 (Heavy Industrial District) zoning district.

Chairman Bateman called for the staff report.

Planning Director Kim Portillo stated this item is to allow a Jail or Prison in the I-2 Heavy Industrial Zoning District. The subject property is approximately 20 acres in size and was previously used as a correctional facility. The proposed facility will house approximately 1000 detainees and have approximately 300 employees. The current zoning of I-2 Heavy Industrial requires a special use permit for the requested use. The Future Land Use is designated as industrial. The site borders city limits with the City of Lansing. Surrounding uses include a mix of industrial and institutional uses with the VA cemetery to the north, a private cemetery to the east, residential to the south separated by landscape buffering, and a mix of light and heavy industrial uses such as warehousing and office to the west.

City Manager Scott Peterson reviewed the procedural history of application and Golden Criteria. In 2012, the City passed Ordinance No. 7911 amending the City's then-effective Development Regulations to, among other things, require a special use permit to operate a "jail" or "prison" within the City. Prior to and after the City's 2012 revisions to the Development Regulations, CoreCivic operated a detention facility ("jail" or "prison") known as the Leavenworth Detention Center.

Prior to the 2012 revisions to the Development Regulations, CoreCivic was not required to obtain a special use permit. After the enactment of the 2012 revisions to the Development Regulations, and when CoreCivic was formerly housing detainees at its Leavenworth Facility, it did not require an issued special use permit because the use of its Property as a "jail" or "prison" was "grandfathered" pursuant to Sect. 1.05.E.2 of the Development Regulations, which provides:

*Status of existing legal uses designated as special uses.* Any existing legal use at the effective date of these development regulations which is designated as a special use by these development regulations shall be deemed as an existing special use and a lawful conforming use.

Therefore, after the enactment of the 2012 revisions to the Development Regulations, CoreCivic's use of the Property as a jail or prison was deemed to be lawful and conforming as a special use or as if CoreCivic had a valid special use permit, subject to the terms of the Development Regulations.

Sec. 2.04.C of the City's Development Regulations states as follows:

*Discontinuance or violation of permit conditions.* A special use permit may be granted by and continued annually by the city commission. The continuation of a special use permit exists with the property as long as such special use permit is used in accordance with its original intended and approved purpose and the annual SUP fee is paid. Any discontinuance of more than 12 months, violation of permit conditions, or failure to pay a fee may enable the city commission to administratively rescind a special use permit.

Sect. 1.05.D.8 of the Development Regulations states as follows:

*Abandonment or discontinuance.* When a nonconforming use is abandoned for a period of 24 consecutive months any subsequent use or occupancy of such land after this period shall comply with the regulations of the zoning district in which such land is located.

CoreCivic stopped housing detainees at the Property and the Facility on or about January 1, 2022, and CoreCivic has not housed detainees there since that time.

In 2024, CoreCivic began engaging in conversations with the City about the possibility of CoreCivic housing detainees at the Property pursuant to a contract or other arrangement it claimed to have or for which it claimed to have been negotiating with ICE. On February 21, 2025, CoreCivic applied to the City for a special use permit for use of the Property as a detention center (“jail” or “prison”).

The City scheduled a hearing before the Planning Commission for April 7, 2025, to consider CoreCivic’s application, and then two hearings before the City Commission on May 13, and 27, 2025, respectively, for the City Commission to consider CoreCivic’s application. However, on March 13, 2025, CoreCivic withdrew its application, taking the position that it did not need a special use permit.

On the basis that CoreCivic had discontinued its use of the Property as a jail or prison on or about January 1, 2022, and that such discontinuance had continued for more than twelve (12) months (as provided in Sec. 2.04.C of the Development Regulations), on March 25, 2025 (and also pursuant to Development Regulations Sect. 2.04.C), the City Commission passed and adopted Resolution No. B-2394 which administratively rescinded any right CoreCivic has or would have had to use the Property as a jail or prison pursuant to a special use permit.

Resolution No. B-2394 further stated that, on the basis that CoreCivic had abandoned its use of the Property as a jail or prison on or about January 1, 2022, and that such abandonment had continued for a period of more than twenty-four (24) consecutive months (as provided in Sect. 1.05.D.8 of the Development Regulations), and to the extent use of the Property as jail or prison could be deemed to be or to have been a lawful nonconforming use, any such use of the Property was no longer a lawful nonconforming use.

Various instances of litigation between the City and CoreCivic then ensued. On June 4, 2025, the Leavenworth County District Court issued a temporary injunction against CoreCivic, stating, in relevant part:

CoreCivic, Inc., is hereby temporarily enjoined, pending a full determination on the merits, from operating a jail or prison, as those terms are defined in the City Development Regulations, at its property located at 100 Highway Terrace, unless and until it obtains a Special Use Permit from the City of Leavenworth or it is otherwise expressly permitted to use the property for jail or prison purposes by this Court or another court of competent jurisdiction.

CoreCivic subsequently appealed the temporary injunction to the Kansas Court of Appeals. Oral arguments before the Court of Appeals are scheduled to be held on February 10, 2026.

On December 4, 2025, CoreCivic filed this current application for a Special Use Permit. CoreCivic again states that it would be housing detainees at the Property pursuant to a contract or other arrangement it claims to have with ICE. It is important to note, however, that CoreCivic is not ICE. Rather, CoreCivic is a private corporation and a federal contractor to ICE. Although CoreCivic has not advised the City of any other contractual relationships, CoreCivic could, conceivably, contract with other detention authorities such as the State of Kansas.

On January 7th, 2026, notification of the February 2, 2026, public hearing before the Planning Commission was sent to property owners within 200 feet (as to City limits) and 1,000 feet (as to outside of the City limits) of the subject Property, as required by Kansas statute. Notice of the public hearing was also published in the Leavenworth Times on January 7, 2026, as required by law.

Mr. Peterson read out loud sections from a memorandum prepared by Police Chief Pat Kitchens, detailing previous issues police encountered when dealing with the previous detention center operated by CoreCivic. Sections read aloud from the memorandum include;

*“In the last several years of the Facility’s operation before it closed at the end of 2021, the Leavenworth Police Department encountered many significant problems in responding to reports of crimes, including violent felonies, at the Facility. Due to frequent changes in leadership at CoreCivic, we had difficulty getting these problems addressed. Some of the difficulties we faced are described below.*

*The Leavenworth Police Department needs immediate access to the Facility to properly investigate crimes. Despite this, officers had a difficult time accessing the facility after receiving reports of crimes. Whether officers would be permitted to enter depended entirely on who was in charge. Officers often were not allowed access at all and had to conduct interviews outside of the Facility’s gate.*

*CoreCivic failed repeatedly to report significant crimes that occurred on the Property until a significant time passed after they occurred, often several days and sometimes months later. In one instance in November 2018, CoreCivic failed to report a death of an inmate to City Police for six days.*

*Police need a standard protocol that allows officers to obtain video evidence from detention facilities without a subpoena. The procedure for obtaining video evidence from CoreCivic was problematic. The rules changed frequently, and again, they seemed to be different depending on who was on duty.”*

Mr. Peterson also read testimony from Tim Guardado, Superintendent for the City’s Wastewater Treatment Plant Division. Sections read aloud include:

*“From 2017 through 2021, the Wastewater Division received at least four separate calls from concerned citizens regarding malfunctions at the Facility, and the City was required to submit three Wastewater Incident Reports to the KDHE due to sewage spilling onto the ground.*

*The Facility uses “grinder pumps” to process its waste. When the grinder pumps malfunction, the Facility bypasses this equipment and redirects excess debris into the City’s sewer system. The excess debris includes sheets, rags, and other large pieces of waste material that the City’s sewage system is not designed to handle.*

*This occurs upstream from the City’s Select Lift Station (“Lift Station”), which is a critical infrastructure component for managing the City’s sewage system. As the bypassed debris from the Facility flows downstream, it often gets caught in the impellers of the pumps at the Lift Station. This has led to numerous calls to City staff at all hours of the day to address the issues.”*

Mr. Peterson stated that the special use permit has been reviewed in accordance with the Golden Factors, derived from a court case, Golden V. City of Overland Park. Staff’s analysis of the Golden Factors is as follows:

- The character of the neighborhood.

*The character of the neighborhood is predominantly institutional and industrial in nature, with limited residential located to the south. Properties to the north and east consist of cemetery uses, including a federally owned VA cemetery and a privately owned cemetery. These uses are low-intensity and generate minimal daily activity. The area to the west is characterized by heavy industrial zoning and uses, including service-oriented businesses, warehouses, and offices.*

*Single-family residential zoning and uses exist to the south; however, they are separated from the subject property by grade transitions and a wooded buffer.*

*The subject property itself has historically been used for institutional purposes, including a former correctional facility. The historical presence of a correctional facility contributes to the established institutional character of the area. The proposed detention facility would be consistent with the established pattern of development and would not introduce a new or unfamiliar land use to the surrounding neighborhood.*

- The zoning and uses of nearby property.

*The subject property is zoned I-2 Heavy Industrial, as are the properties to the west, which are developed with industrial uses such as a lawn service company, electrical contractor, warehouses, storage and office buildings. These uses align with the intent of the I-2 zoning district.*

*The property to the north is unzoned and federally owned, operating as the VA cemetery, while the property to the east is zoned A-1 Agricultural (Lansing), and developed as a cemetery. These adjacent uses are generally compatible with industrial and institutional development due to their low traffic and operation intensity.*

*Properties to the south are zoned R-2 Single-Unit Residential District (Lansing) and developed with single-family homes. The single-family properties are physically separated from the subject property by existing topography and vegetation. A wooded tree area located atop a ridgeline lies between the subject property and the residential neighborhood, with the homes and detention center site situated at lower elevations on opposite sides of the hill.*

*Given the surrounding zoning, land uses, historical site context and natural buffering from the residential development, the proposed detention center would be an appropriate use of the Property.*

- The suitability of the subject property for the uses to which it has been restricted (that is, whether the property can be developed as zoned).

*The subject property was historically developed as a jail or prison and the former buildings for that use remain on site. Given the specialized nature of the existing structures, adaptive reuse of the site for other permitted industrial uses would be limited and require substantial renovation or demolition. In contrast, reuse of the site as a detention center optimizes the*

*functionally of the existing structures without the need for significant site disturbance or construction.*

- The extent to which removal of the restrictions will detrimentally affect nearby property.

*Removal of the restrictions and approval of the Special Use Permit (with the below-described Conditions) is not expected to detrimentally affect nearby properties. The site is located within an I-2 Heavy Industrial district and is separated from nearby single-family homes by a wooded berm and ridgeline, providing visual and noise buffering. The Special Use Permit would allow continuation of an institutional use compatible with surrounding development.*

Ms. Portillo continued on with review of the additional Golden Factors.

- The length of time the subject property has remained vacant as zoned (often considered in determining whether the current zoning is prohibiting development).

*The Property was previously operated by the same entity, CoreCivic. CoreCivic stopped housing detainees at the Property and the Facility on or about January 1, 2022, and CoreCivic has not housed detainees there since that time. Given the discontinuation of the use for a period greater than 24 months, the City Commission determined, pursuant to Resolution No. B-2394, that any use of the Facility and/or the Property as a jail or prison is no longer a lawful nonconforming use and that any use as a jail or prison shall and does require a special use permit. The City Commission further determined, in Resolution No. B-2394 that, given such discontinuation, any previous or previously-deemed special use designation was thereby administratively rescinded. The Property cannot be used for its intended purposes without a special use permit; therefore, this factor weighs in favor of granting the Special Use Permit.*

- The relative gain to the public health, safety, and welfare by the destruction of the value of a complaining party's property as compared to the hardship imposed upon the individual landowner (applicant) if the rezoning is not approved. Ms. Portillo clarified that although this states rezoning, it also applies to the special use permit.

*Approval of the Special Use Permit (with the below-described Conditions) provides greater benefit to the public health, safety and welfare than any potential impact to nearby properties. The proposed use reuses an existing facility specifically designed for institutional use, while the surrounding properties are protected by industrial zoning, existing land use patterns, and natural buffering. Denial of the request (as limited by the below-described Conditions) may impose hardship on the applicant since it has developed the site for use as a jail or prison, and there is a limited market of prospective purchasers for the site in its current state.*

- The recommendations of permanent or professional staff.

*Based on the items outlined in this policy report, staff recommends approval of the Special Use Permit with the Conditions stated.*

- Conformance of the requested change to the adopted or recognized master plan.

*The adopted Comprehensive Plan designates this site as a future land use of “industrial.” The proposed use would be in conformance with this designation.*

Sec. 2.04.B.7 of the Development Regulations provides a list of additional findings that the City Commission must make when considering the issuance of a Special Use Permit. Those findings, and Staff’s analysis of such findings, are as follows:

- a. The proposed special use complies with all applicable provisions of this ordinance.

*Based on all available information, Staff believes that, with the Conditions, this application complies with all provisions of City of Leavenworth Development Regulations.*

- b. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

*Subject to the Conditions, the proposed use will contribute to the economic development and public welfare by returning a currently vacant detention facility to active use. Given the specialized nature of the building, finding an alternative use would be challenging, and prolonged vacancy could lead to deterioration and blight. The proposed use will reintegrate the Property into the local economy.*

- c. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

*Based on all available information, but with and subject to the Conditions, Staff does not believe that the proposed use will cause any substantial injury to the value of other property in the neighborhood. The proposed use would be consistent with the building’s original purpose. The Facility was originally designed for detention use, meaning this proposal would re-start a long-standing land use rather than be an introduction of something new or disruptive.*

*The Facility is bordered by a 158-acre cemetery to the east. The 133-acre Secretary of Veteran Affairs-owned Leavenworth National Cemetery and another institutional use, the 192-acre Department of Veterans Affairs Medical Center complex, border the site to the north. Industrial uses border the Property to the east, and a residential neighborhood is adjacent to the south. A key factor in minimizing any impact on the residential subdivision to the south is the presence of a dense, established wooded buffer area between 75 feet and 100 feet in depth. This landscape barrier obscures the facility from view and also acts as a noise buffer. Residents will not have a view of the facility, helping to maintain the residential character of the neighborhood.*

- d. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to:
  - (1) The location, nature and height of buildings, structures, walls, and fences on the site, and
  - (2) The nature and extent of landscaping and screening on the site.

- (3) Off-street parking and loading areas whether on the premises or auxiliary to the premises will be provided in accordance with the standards set forth in this appendix and such areas adjoining residential uses will be located to protect such residential uses from any injurious effect.
- (4) Adequate utility, drainage, and other necessary facilities have been or will be provided.
- (5) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

*The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.*

*The Facility is being repurposed within an existing structure designed for detention use, avoiding the need for large-scale modifications or expansions. The site has access from Muncie Road, a designated collector road capable of providing adequate access.*

*Through the below-listed Conditions and the Performance Agreement, CoreCivic has shown a willingness to work with City Public Works to ensure property sewer infrastructure management, preventing further strain on City services. Similarly, through the Conditions and the Performance Agreement, clear protocols are established for law enforcement activities, including for calls of service, to ensure minimal disruption to the surrounding community and address any difficulties.*

Mr. Peterson stated that it is staff's opinion that the proposal meets all of the Golden Criteria.

Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. Staff received several emails both in favor and in opposition, and they were included in the agenda packet for the meeting.

Mr. Peterson stated that he will now read staff's recommendations and proposed conditions. He stated that there is additional staff statement explaining each condition in the policy report.

#### STAFF RECOMMENDATION:

Staff recommends **approval** of the Special Use Permit request based on the analysis and findings included herein with the following Conditions. Following certain of the Conditions below are Staff comments on the same. As used below, the term "CoreCivic" shall mean the applicant (CoreCivic, Inc.) and any current or future owner or operator of the Property and/or the Facility located thereon. Prior to the public hearing, CoreCivic (through its legal counsel) has indicated to the City Attorney that it is agreeable to these Conditions.

1. CoreCivic shall operate the Property and the Facility in accordance with the Special Use Permit, the City's Development Regulations, and all applicable federal, state, and local laws (collectively, "Laws") related to the Property and the Facility. CoreCivic shall obtain and maintain all proper licenses required for operation of the Facility.
2. Promptly following the effective date of the Special Use Permit, CoreCivic will diligently pursue accreditation of the Facility from the American Correction Association (ACA) Commission on Accreditation for Corrections. CoreCivic shall achieve such accreditation within eighteen (18) months

of the effective date of the Special Use Permit and provide the City with a copy of the certificate of accreditation documenting the same.

3. CoreCivic shall operate the Property and the Facility (i) in accordance with the National Detention Standards promulgated by the U.S. Department of Homeland Security, Immigration and Customs Enforcement (Revised 2025) or such standards as may be required by any current or subsequent Detention Agreement, and (ii) in accordance with the “Expected Practices” set forth in the Performance-Based Standards and Expected Practices for Adult Local Detention Facilities, 5th Ed. (May 2023), published by the American Correctional Association, as the same may be amended.
4. CoreCivic will provide the City, its agents and employees, access to the Property and the Facility at reasonable times and upon reasonable prior written notice to monitor compliance with the conditions of the Special Use Permit and the Performance Agreement (defined below) and to perform inspections as required to maintain proper licenses required for operation of the Facility. The City, its agents and employees, will be permitted to reasonably document such access and inspections; provided, that subject to City rights or obligations under applicable Laws, the City shall reasonably comply with such measures and protocols for the protection of detainee privacy and Facility security as may reasonably be required by CoreCivic and/or those entities with whom CoreCivic contracts to provide detention services (each, a “Detention Authority”); and further provided, that CoreCivic shall provide the City with written copies of such requirements, measures, and protocols for access and inspection currently in effect at the time of such request for access and inspection.
5. Only adults aged eighteen (18) and older may be detained in the Facility.
6. Within five (5) business days after written City request, CoreCivic will provide a roster to the City of all detainees at the Facility. City agrees that, to the extent permitted by law, such records may be held by the City as correctional records subject to K.S.A. 45-221(a)(29) of the Kansas open records act, as amended. Notwithstanding the foregoing, City acknowledges and agrees that roster release may be subject to prior consent of any applicable Detention Authority, and the period for CoreCivic’s performance under this condition shall be extended for such longer time as is reasonably necessary to obtain such Detention Authority’s consent, provided that CoreCivic has requested such consent and provided the City with a written copy of such request within the above-stated five (5) business days.

7. The Special Use Permit will be issued for an initial term of five (5) years (commencing as of the effective date of the Special Use Permit) and, subject to the Development Regulations and any legislative or quasi-judicial determinations within the purview of the City and/or its governing body, shall be subject to continuation for additional terms of five (5) years. Nothing herein shall preclude the City from exercising its rights or remedies under the Development Regulations regarding review, payment of annual Special Use Permit fees under Sec. 2.04.C of the Development Regulations (such fee currently estimated at twenty-five dollars (\$25) per annum), discontinuance, violation, revocation, or rescission of the Special Use Permit or the use of the Property or the Facility, including but not limited to those under Sec. 2.04.C and Sec. 2.04.D of the Development Regulations.
8. As provided in CoreCivic's Letter of Intent to the City dated December 4, 2025, and submitted with its Special Use Permit application (the "Letter of Intent"), and unless otherwise ordered by a court of competent jurisdiction or unless the detainee resided in the City of Leavenworth at the time such detainee was detained, no detainees will be released directly into the City of Leavenworth. Except as set forth herein, all detainees processed through the Facility will be transported (or have their transportation arranged by CoreCivic, whether through a Detention Authority or otherwise) to Kansas City International Airport (MCI), Kansas City Union Station, or to the nearest office of the Detention Authority not located in the City of Leavenworth, Kansas.
9. At any one time, the Facility shall not be used to detain or house more than 1,104 inmates or detainees, its rated capacity. Notwithstanding the foregoing, to accommodate a request for surge capacity, CoreCivic may detain or house inmates or detainees in excess of such capacity only upon prior written approval by the City of Leavenworth Fire Chief.
10. CoreCivic shall have a staffing pattern to effectively staff the Facility in a safe and secure manner. The number, type and distribution of staff as described in the staffing pattern shall be maintained throughout the term of the Special Use Permit. Subject to the remaining provisions of this Condition No. 10, CoreCivic will staff the Facility (whether through employed staff, contracted staff, or otherwise) at a ratio of not less than 0.29 full-time employees or staff (FTEs) per 1.0 inmates or detainees. (By way of example only, assuming a full rated capacity of 1,104 inmates or detainees, and as provided in the Letter of Intent, CoreCivic will staff the Facility with no fewer than 320 FTEs. The number of FTEs may be proportionately lower than this requirement when the Facility is not fully occupied.) Staffing levels shall not fall below a monthly average of 80% of the requirements set forth in this Condition No. 10; however, the use of overtime and temporary staff may be used to fill vacant positions. CoreCivic shall maintain a competitive salary schedule for all personnel, comparable to the applicable U.S. Department of Labor Area Wide Wage Determination. CoreCivic will promptly provide information as the City may reasonably request to confirm compliance with this requirement (with names of employees partially redacted and SSNs fully redacted).
11. CoreCivic will install, within six (6) months after the effective date of the Special Use Permit, a new grinder pump pursuant to specifications approved by the City's Director of Public Works. CoreCivic will install and maintain, at CoreCivic's cost, equipment, personnel, materials, and supplies consistent with commercial industry standards to reasonably prevent negative impacts to the City's sanitary sewer and storm sewer facilities. CoreCivic will provide the City with prompt notice if CoreCivic has reason to believe that foreign objects, chemicals, or other materials have been disposed into City sanitary sewer or storm sewer facilities inappropriately.
12. Within three (3) months after the effective date of the Special Use Permit, CoreCivic will install or re-install a tree-line buffer on the Property between the Facility and those properties located directly to the south of the Facility, with such plantings and caliper of trees as the City may reasonably require.

13. Within two (2) weeks after the effective date of the Special Use Permit, CoreCivic shall provide the City with any current contracts or agreements which CoreCivic has with any Detention Authority for detention services related to the Property or the Facility (each, a “Detention Agreement”). Thereafter, CoreCivic shall promptly provide the City with copies of any amendments to any Detention Agreement. The provision by CoreCivic of any Detention Agreement shall be subject to only such redactions as may be permitted by applicable open-records or freedom-of-information laws. CoreCivic shall promptly inform the City of any actions relating to any Detention Agreement that might impact CoreCivic’s authority to operate the Facility under the Special Use Permit. The City shall treat all Detention Agreements as confidential and shall not share or otherwise distribute any Detention Agreements without the express written consent of CoreCivic and, if required, the relevant Detention Authority, unless release or disclosure is otherwise required by law, including pursuant to an open records or freedom of information request, as reasonably determined by the City.
14. The Special Use Permit is subject to the terms and conditions of that certain “Performance Agreement” attached hereto as Attachment 1 and incorporated herein by this reference. The effectiveness of the Special Use Permit shall be contingent and dependent upon the execution by CoreCivic of the Performance Agreement.
15. Nothing in this Special Use Permit or the Performance Agreement shall preclude the City from exercising its rights or remedies under the Development Regulations or applicable Laws regarding discontinuance, violation, revocation, or rescission of the Special Use Permit or the use of the Property or the Facility, including but not limited to those under Sec. 2.04.C and Sec. 2.04.D of the Development Regulations, subject to such rights as to notices and/or hearings as to which CoreCivic may be entitled thereunder. Nothing in this Special Use Permit or the Performance Agreement shall be deemed a waiver by the City or the Leavenworth Police Department (“LPD”) of their ability to obtain and act on a search warrant or administrative search warrant for the purposes of ensuring compliance with the City’s Development Regulations or of the ability of the City or the LPD to act in accordance with applicable Laws in furtherance of any such search warrants.
16. If any part, term, provision, or condition of this Special Use Permit or the Performance Agreement is held to be illegal, in conflict with any law or otherwise invalid, the remaining portion or portions shall be considered severable and not be affected by such determination, and the rights and obligations of the parties shall be construed and enforced as if the Special Use Permit and/or Performance Agreement did not contain the particular part, term or provisions held to be illegal or invalid.

Failure to maintain compliance with all conditions shall result in revocation of the Special Use Permit.

#### **PLANNING COMMISSION ACTION/OPTIONS**

- Motion, based upon Staff findings as stated, such other findings as made by the Planning Commission, and the Conditions as presented (or such other conditions as the Planning Commission may determine), to recommend **approval** of the Special Use Permit to the City Commission with the included conditions.

*Sample motion: “I move that the Leavenworth Planning Commission recommend to the City Commission approval of the application for Special Use Permit No. 2026-02-SUP, with Condition Nos. 1 through 16 as provided in the Staff report [or such other conditions as described in the motion].”*

- Motion, based upon Staff findings as stated, such other findings as made by the Planning Commission, and the Conditions as presented, to recommend **denial** of the Special Use Permit to the City Commission.

*Sample motion: "I move that the Leavenworth Planning Commission recommend to the City Commission denial of the application for Special Use Permit No. 2026-02-SUP."*

- Table the Planning Commission's consideration, with or without continuing the public hearing, until a date certain. *NOTE: The Planning Commission cannot table indefinitely. Per K.S.A. 12-757(d), "If the planning commission fails to make a recommendation on a rezoning request, the planning commission shall be deemed to have made a recommendation of disapproval."*

*Sample motion: "I move that the Leavenworth Planning Commission table the Planning Commission's consideration of application No. 2026-02-SUP until \_\_\_\_\_, 2026 [and continue the public hearing until such date]."*

Chairman Bateman asked for questions about the staff report.

Vice Chairman Preisinger stated that any goodwill CoreCivic had with the City has been squandered due to the lawsuit pushed on the City but hopefully it can be regained. CoreCivic has not been a good neighbor but hopefully that will change. Mr. Preisinger stated he is concerned about the stonewalling of police in the past, and asked staff what guarantees we have that police can enter the facility.

Legal Council for the City, David Waters, stated that through the Performance Agreement reached between the City and CoreCivic, they have agreed to allow those inspections as needed. The City must also be aware of 4<sup>th</sup> amendment issues with demanding access, but he is comfortable with the structuring of the agreement, as is Police Chief Pat Kitchens.

Vice Chairman Preisinger asked if the police have probable cause, will they be granted immediate access to the facility?

Mr. Waters stated it is difficult to answer the hypothetical. Generally speaking, a warrant is required for things like that, however with their agreement we can work with them on that.

Chairman Bateman asked what is the law enforcement jurisdiction of the property?

Mr. Waters stated it is the City of Leavenworth.

Chairman Bateman stated that CoreCivic is not a law enforcement agency.

Commissioner Waugh asked if an assault is conducted inside the facility, Leavenworth Police Department would be the group to respond?

Mr. Waters stated that is correct.

Vice Chairman Preisinger stated that CoreCivic is no different than Price Chopper as a business with employees. If somebody gets stabbed at Price Chopper, police will handle it and Price Chopper can't deny access. Similarly, he wants to make sure police have the right and authority to handle such situations that may occur at the detention facility.

Police Chief Pat Kitchens stated that he has read the agreement, and he is satisfied that police will be capable of investigating crimes and getting the information necessary to search, seize and prosecute in the case of an event. He is comfortable that police can do their job as needed. Previous issues were procedural, and if they hold up to their agreement, police should be able to respond as needed.

Commissioner Hanson asked if the police department has enough manpower to handle dealing with the detention facility.

Chief Kitchens stated that the last time CoreCivic was operational, they dealt with approximately 100 calls a year, primarily low-level offences and he is comfortable with it.

Mr. Waters stated that per the Performance Agreement, CoreCivic has agreed to pay \$150,000 annually to support additional police resources as needed.

Commissioner Waugh asked if that would also cover the additional administrative costs the city would take on with monitoring the special use permit if approved?

Mr. Waters clarified that the agreement calls for three types of payments. The first is a one-time impact fee of \$1.5 million, the second is \$150,000 annual payment allocated for police resources, and third is a \$250,000 annual payment for the City's general administrative costs that go toward having to deal with the proposed use.

Commissioner Waugh asked if that is enough to provide the resources the city needs to track this and hold them accountable?

Mr. Peterson stated that is correct.

Commissioner Waugh asked Chief Kitchens if he feels this covers the reporting needs as well.

Chief Kitchens stated yes sir.

Commissioner Hanson asked if the payment amounts are based on another CoreCivic facility, or how were they computed?

Mr. Peterson stated that the \$1.5 million impact fee was configured partially to cover anticipated attorney fees for the lawsuit CoreCivic brought against the City and to allow some additional funding back to the community. The \$150,000 was what the City thought was sufficient to cover any gaps manpower, overtime, and things like that. The \$250,000 fee is intended to cover any sewer fees the City may have or things like that that may come up.

Commissioner Ted Davis asked if there is a review process on those fees so that after the first, second, or fifth year for example, they might increase if necessary?

Mr. Peterson stated there is nothing that increases the cost of those fees but they are ad infinitum as long as they operate.

Mr. Waters clarified that the agreement contract requires that they would be revisited every five years at the renewal of the special use permit.

Commissioner Hanson asked for clarification on where the impact fee funds would go, for the portion not used for legal expenses.

Mr. Peterson stated it would go to the general fund and ultimately be up to the City Commission to decide how it should be spent.

Chairman Bateman asked if should we get into the specifics of the performance agreement for a minute?

Mr. Waters stated he can summarize. A lot of the performance agreement is restating of the conditions. A big chunk does cover in more detail police department conditions, for example setting up a liaison, as well as inspection rights access, making sure police officers are permitted to keep body cameras worn and shoes on. It also reviews the payment of the administrative fees and some additional legal considerations.

Chairman Bateman stated that we want to review some of the agreement in more detail. He stated that the word “promptly” is used and promptly could mean 30 minutes or six days. He would prefer the agreement have specific performance metrics. Using the word promptly puts the City in a difficult decision if they would like to revoke the special use permit because of that, they would have to go to court and argue what promptly means.

Mr. Waters stated that ultimately this is going to be the Planning Commission’s recommendation to the City Commission. Staff, himself, and CoreCivic have worked quite a while on these and he does not know what changes they may have but they would need to make any proposed changes to the conditions as part of a motion. He does not know if CoreCivic would agree to changes proposed or how it would impact litigation. Depending on what revisions are proposed, he would be hesitant to provide off the cuff legal advice.

Chairman Bateman stated he is not proposing changes other than looking at it and seeing what good compliance measures would look like.

Mr. Waters stated that he feels comfortable with what is in the agreement.

Vice Chairman Preisinger asked related to wastewater, the provision states that within six months they will install a grinder. He recommends that before they accept detainees, the grinder is in place.

Mr. Peterson stated that there will be an opportunity for the applicant to answer some questions and they could speak to the nature of where they are with that.

Vice Chairman Preisinger stated that the agreement allows for 18 months for accreditation by ACA, there should be a date in the agreement that within X amount of them opening, the application is submitted. It should be submitted immediately if it takes 18 months to be obtained.

Mr. Waters stated that CoreCivic can address the application process. Staff is comfortable that the completion date is provided and that is the important thing. Again, if the conditions are not met the City could take it up for recension.

Commissioner Waugh asked if the grinder exists on the site now.

Mr. Peterson stated that the grinder does exist, but he doesn’t know if the Public Works Department has reviewed it to make sure it meets the standards. Mr. Peterson would like CoreCivic to answer as to what sort of changes they have made from their previous grinder which had issues.

Vice Chairman Preisinger asked related to police access, the agreement states CoreCivic will provide access at reasonable times upon reasonable prior notice. What is the definition of reasonable. Why can’t we say two days?

Mr. Waters stated this is the language we negotiated with CoreCivic, the commission may ask CoreCivic their thoughts on that.

Vice Chairman Preisinger and the Police and Fire chiefs if there is an SOP for major incidents that may require substantial force or rapid response.

Chief Kitchens stated that there was before, and he anticipates that there would be again, similar to what we have with USP and the Lansing Correctional Facility. It impacts other organizations, for example the County Sheriff, Kansas Highway Patrol, so it would be a multi-agency agreement that is pretty common. Additionally they have mutual aid agreements that allow them to call upon other agencies for additional assistance as needed.

Chairman Bateman stated that the conditions propose an emergency plan be in place within 90 days of the opening of the facility. He thinks it would be unacceptable to have anyone in the facility without an emergency operations plan in place.

Chief Kitchens stated that we had that prior to the legal issues which paused everything and were ongoing. There is already a draft of it and he is satisfied that we can solve that relatively easily.

Chairman Bateman asked if the language in the performance agreement stating “within 90 days” would allow detainees to be placed without a response plan in place?

Chief Kitchens stated yes if it states 90 days.

Vice Chairman Preisinger stated that he has an issue with the proposed five-year term of the special use permit. In his many years with the City Council, he has learned that special use permits are renewed annually with a \$25 fee. For example, daycares must be renewed yearly. He thinks CoreCivic should be limited to one year.

Commissioner Waugh noted a section of the agreement that uses the language “prompt” when referring to reporting and investigating of alleged crimes within the facility. Should we have more detail on the reporting aspects, given the difference between a minor offense and a sexual assault, and a murder. More serious felonies should be reported immediately.

Commissioner Homen stated he thinks it’s great to have the condition stating that only adults of 18 years of age and older will be detained. He asked if there will be a separation between males and females detained. Mr. Waters stated that he can ask CoreCivic when they are given the chance to speak.

Chairman Bateman opened the public hearing. He stated that this is a quasi-judicial hearing, and that those who wish to speak need to remain on topic as to what we are discussing. We are reviewing whether this piece of property can be granted a permit to operate as a jail or prison, it is not about ICE, the Trump Administration, or if the moon is made of cheese. Decorum must also be upheld, with no booing, clapping, hissing, screaming. He stated that those exhibiting inappropriate behavior will be asked to leave. He asked those coming up to speak state their name and address.

Charles Renner, outside council for the applicant, spoke. He stated that they are in full agreement with the conditions and performance agreement terms. He offered to answer any questions the commission may have.

John Molloy of CoreCivic spoke. He stated that a brand-new grinder has been installed, he is not sure if the City has inspected it yet. They understand the issues that have happened in the past and do not want them to repeat. He understands there have been issues with access for the police department. Chief Kitchens and him have had several conversations about his disappointment and frustration and that is why they have

developed the MOU that is part of the agreement. They are open to any conversations to get the relationship in a better place with the city than they are now. They will make sure to get City staff in to inspect the grinder.

Mr. Molloy stated that related to access to the property, they would be okay with changing the language to be more concrete and the goal is to help get the City to a place that they are comfortable with. Emergency plans are in place, he is not sure where the 90 days came from, but he is happy to share them with the Chief and other law enforcement entities in the area. There was a question about whether males and females will be separated, yes, they will be separated in the facility, which is what they do in all of their facilities. There was a question about ACA accreditation. They have 60 facilities across the nation, the majority of them require accreditation. It is an 18-month process for them to ensure protocols are in place and being followed with operation. If they don't pass the accreditation, it is a reason for the City to pull the SUP approval, and they are okay with that and understand that.

Mr. Molloy stated that he understands people's concerns about what happened in the last two years of the facility when it was previously opened.

Chairman Bateman asked if CoreCivic would be open to modifying the agreement to include what has been talked about here today? Reporting timeframes for specific crimes.

Mr. Molloy stated that he doesn't know how they would go about doing that mechanically but he doesn't have an issue and doesn't think the company would have an issue with making sure that the intent is strengthened and that they are not using legalize in a way where it gives the impression they are trying to circumvent the intent.

Commissioner Waugh stated that he doesn't think it's anyone's intent to develop timelines for everything under the sun, its for more serious events.

Chairman Bateman agreed.

Vice Chairman Preisinger asked Mr. Molloy, what about the SUP being for five years, or one year, or something shorter than five years?

Mr. Molloy stated that he and Mr. Peterson have talked about the duration of the SUP and there are multiple ways the City can terminate the SUP if they are not doing what they need to do. During the previous operation during COVID, they had lost a contract and that made it very difficult to staff, because people knew the contract was going away and left for other jobs. So having an SUP deadline every year would be a detriment to the ability to retain staff as people would think their job could go away every year. Also the City has lots of power to pull the SUP for multiple reasons to hold them accountable.

Vice Chairman Preisinger asked, if your facility closes in three years because there is no more need for it, are the payments guaranteed for five years?

Mr. Peterson stated that there are provisions in the agreement that if there are no inmates in the facility, they do not have to pay impact fees, but as soon as they do not have inmates, they must notify the City so that we can start the two-year clock.

Mr. Molloy stated that the fees are directly tied to the impact of the operation, so both sides agree that it didn't make sense to pay the fees if the facility is not operating.

Commissioner Waugh asked, you had mentioned you have 60 facilities across the nation and are a large company. Given the problems that were had in the past, can you describe or expand on what internal controls your company is going to use to make sure you meet the standards and that those things don't happen again?

Mr. Molloy stated that they learned a lot during COVID and the intervening 2-3 years. Number one is salary, they offer a very competitive salary to get good people and the right people. They have been very successful recruiting detention officers and medical staff. They have about 150 people already hired and, on the payroll, and its 300 to operate once fully operational. They have 150 other people they have made offers to, and they have a robust and seasoned staff at the facility. They feel they are in a good position to activate the facility and operate the way it is supposed to.

The plan is to bring in the population to about halfway full then pause and make sure the staff is acclimated and then reassess and continue to ramp up the facility.

Mr. Waugh stated that certainly improving the wage scale will help, but as a confined facility things will go wrong, and somebody must be watching. In the past it seemed no one was watching or didn't care so we would need to have assurance that internal controls are robust enough to identify problems before they get out of control and keep an open line of communication with the City and Police Chief.

Mr. Molloy stated that is why they will have a liaison between the facility and the police department, to improve communication issues, and the Chief can also call him at any time if he has any issues.

Vice Chairman Preisinger asked Mr. Molloy what his position is with the company.

Mr. Molloy stated that he is Vice Chairman of Federal Partnership Relations.

Vice Chairman Preisinger asked what has changed over the last year that suddenly now they realize they do need an SUP when a year ago they had submitted and then withdrew the application and put the city through a year-long lawsuit?

Mr. Molloy stated that the frustration with the legal process.

Vice Chairman Preisinger asked why they withdrew a year ago

Mr. Molloy stated that there was a fundamental disagreement among attorneys as to whether the facility was abandoned if they had staff there, and the feeling that the SUP was not needed as it has been operated for 29 years, and although they did not have detainees at the facility they still had staff at the facility and were still marketing the facility and still paying property taxes. They didn't view it as abandoning the facility, but at the end of the day the legal process was taking too long, and the decision was made to go back and revisit the SUP process.

Vice Chairman Preisinger asked the rest of CoreCivic representatives to introduce themselves.

Misty Mackey introduced herself as the current warden. She stated she has been with the company for 21 years.

Stacey Stone introduced himself as vice president of operations for CoreCivic.

Marcelo Ariola introduced himself as vice president of real estate for CoreCivic.

Chris Chamberlin introduced himself as the assistant field office director for enforcement removal operations in Kansas City.

Mr. Waters restated that standards of the American Correctional Association (ACA) are expected to apply on day 1.

Mr. Stone stated that the reason it takes so long to get accreditation is because you have to have documents from throughout the full year and the documents align with the actual practice.

Tim Aitken introduced himself as partnership relationships for CoreCivic.

Commissioner Homan asked why the vacant CoreCivic facility in Burlington Colorado isn't being proposed for this use.

Mr. Stone stated that they would open if asked for a contract.

Alicia Vanschoelandt spoke in opposition to the special use permit, stating a poor track record of performance from CoreCivic in the past.

Richard Pfifer spoke in support of the special use permit, stating that he is the assistant warden and the staff are currently being trained at other facilities.

Tony Roloson spoke in support of the special use permit, stating the economic opportunities it has provided for her family.

Terry Meglis spoke in support of the special use permit stating the depth of training at CoreCivic, meeting and exceeding ACA standards.

John Watt spoke in opposition to the special use permit citing human rights concerns perpetuated by ICE.

Rebecca Rogers spoke in support of the special use permit stating economic opportunities for her family and relationships built through working for CoreCivic.

Jonathan Puckett spoke in support of the special use permit stating that it will bring financial stability and workers to the area.

Donald Hudson spoke in support of the special use permit stating that working for CoreCivic has impressed him and they provide quality care and housing to those in the facility, and that there is significant training and opportunity for growth for employees.

Michael Cendejas spoke in support of the special use permit stating that he relocated to the area for CoreCivic and that they offer a reasonable wage for the area. He stated COVID-19 had a significant impact on past operations, but he has had a positive experience since working there. Not allowing them to open will have a negative impact on himself and the community by removing employment opportunities.

Chairman Bateman called for a recess with the meeting resuming at 7:57 PM.

Mike Trapp spoke in opposition to the special use permit stating CoreCivic has a poor history here and across the nation, with staffing issues and triple bunking.

Jean Anne Panisko spoke in opposition of the special use permit citing public welfare and fiscal responsibility, as CoreCivic puts a financial strain on local resources such as police.

Terry Nichols spoke in opposition to the special use permit citing human rights concerns.

Cody Dusthimer spoke in opposition of the special use permit citing cost to taxpayers to house detainees and the previous history of CoreCivic.

William Rogers spoke in opposition of the special use permit citing human rights violations and dangerous conditions at the facility when previously open. He stated the agreement proposed does not guarantee oversight.

Dylan Strick spoke in opposition of the special use permit, citing CoreCivic's track record and that they are unlikely to uphold their name.

John Shively spoke in opposition to the special use permit stating he is a resident of Leavenworth. He stated that in looking at the Golden Factors, there has been negative impact to the community infrastructure stormwater system and there has repeated strain on emergency services. He stated he does not have confidence in the company in acting in good faith and neither should the commission based on past experience.

Connie Forge spoke in opposition of the special use permit based on the scale, security, and operational impacts of the facility.

Jeff Gardner spoke in opposition to the special use permit stating the City's prior experience with CoreCivic and that overall welfare and compatibility of the community does not align. He stated there would be impacts on the community from the police resources needed.

Michelle Gregor Mendiola spoke in opposition to the special use permit as a business owner in Leavenworth, Kansas. She asked what the longest stay of the residents is and how that will be monitored. Once they are at the facility how will they receive their judicial process?

Daniel McIntosh spoke in opposition to the special use permit stating Golden Factor #7, stating that the hardship to the landowner in denying the permit pales to the public harm.

Cheyenne Logan spoke in opposition of the special use permit stating CoreCivic has not changed and the city should not have to divert police forces to support them.

Caitlin Hammett spoke in opposition to the special use permit. She stated she is the vice president of the Carceral Accountability Council. She stated they acknowledge the request meets Golden Factors 1 through 4, however factor 5 should be given the most consideration with dangerous working conditions negatively impacting the welfare of the community. She stated it would also have an impact on factor 7 and be a drain on City police resources.

Glen Dent spoke in opposition of the special use permit stating that this is a private prison looking to make profit.

Alejandro Rangel-Lopez spoke in opposition to the special use permit stating that he represents an organization called Loudlight. He stated that CoreCivic cannot be trusted for staff and detainee safety. He stated that the facility will be used for the current administration's unconstitutional detention.

Rick Joyce spoke in support of the special use permit, stating that they should be given a change and then held accountable if they mess up again.

Mike Lay spoke regarding the special use permit. He asked what the different custody levels would be. He stated that if the facility must open up there should be different teams to inspect things such as HR, food, cells, and grinder pumps to make sure they are keeping their word.

Marcia Levering spoke in opposition to the special use permit stating that she previously worked as a correctional officer for CoreCivic and they were understaffed and that necessities such as cleaning supplies were not provided and facility maintenance was not kept up. She stated that as result of understaffing and poor conditions she was attacked while on the job.

Judy Ancel spoke in opposition to the special use permit stating that this facility will be used to allow ICE to ramp up their operations and will lead to public protests in the community. She urged the commission to consider impacts of such demonstrations on the community's resources.

Sarah Robinson spoke in opposition of the special use permit stating CoreCivic puts profit over people.

Maria Palomino spoke in opposition to the special use permit stating that her family operates a business in Leavenworth and through that she gets to speak to many members of the community, and allowing the SUP to undermine the character of the community. She states CoreCivic cuts corners and would be bad for the community.

Benjamin Low spoke in opposition to the special use permit stating that CoreCivic has a long reputation of being understaffed, even admin and IT professionals. He stated that this City should not be the test study of if they have changed.

Joanna Low spoke in opposition to the special use permit stating that she is a small business owner in town and that she has concerns about the operation and reputation of CoreCivic, regarding understaffing, poor medical care, and other issues.

Chairman Bateman called for a recess with the meeting resuming at 9:05 PM.

With no one else wishing to speak, Chairman Bateman closed the public hearing and called for discussion among the commissioners.

Chairman Bateman asked the City's legal council to explain the next steps in the SUP process moving forward.

Mr. Waters explained the process for the SUP following the recommendation by the Planning Commission.

Chairman Bateman asked if the Golden Factors are an exclusive list for consideration.

Mr. Waters stated it is not an exclusive list and that the Development Code has other factors to be considered as well.

Vice Chairman Preisinger asked why the city wants a roster of detainees as is mentioned in the agreement.

Mr. Waters stated to determine the compliance with allowed number of detainees and needing to be aware of individuals who may need transportation to municipal court.

Commissioner Hanson asked if the roster would be subject to the open records act.

Mr. Waters stated there are certain protection and restrictions on what can be disclosed. Mr. Waters also stated the list could be used to identify possible witnesses if crimes were to occur.

Commissioners Homan and Hanson discussed the length of time a detainee would be held at the facility, stated as 90 days maximum.

Vice Chairman Preisinger stated he does not agree with granting a five-year SUP and it should be less than that, suggesting one year.

Commissioner Davis stated that a one-year SUP would be inefficient and would hinder their ability to attract applicants and considering the amount invested in training staff, one year does not make sense.

The commission discussed the proposed length of the SUP and asked Mr. Waters about a performance bond.

Mr. Waters stated a performance bond is something guaranteed to a city to reclaim land, such as a quarry, if a business were to go bankrupt. He stated he is not sure how the performance bond would be structured in this case as this is the first it has been brought up.

Chairman Bateman stated that the proposed agreement has CoreCivic making monthly payments to the City. If for some reason they were to go bankrupt, the performance bond or surety bond would make sure those payments were made to the City.

Commissioner Davis stated that CoreCivic's contract is not with the city, it is with ICE. If they were to go bankrupt, it wouldn't be the City who was damaged.

Mr. Waters stated if payments were not made the city could revoke the SUP.

Commissioner Hanson brought up the one-time impact fee, stating that it is unclear what it would go to.

Mr. Peterson stated that is partially because it will be used to cover legal fees associated with the lawsuit CoreCivic brought against the city and those fees are still ongoing and have not been finalized yet so its not known how much would be left to distribute elsewhere.

Commissioner Homan stated that detainees will not be released in Leavenworth.

Mr. Waters stated that is correct unless they previously resided in Leavenworth or a judge declared they must be released in Leavenworth.

Commissioners Waugh and Davis further discussed the performance bond, stating that a bond would be between the vendor and the customer, and in this case the city is neither.

Commissioner Homan asked if the performance bond could be used to make sure, they stick to the assurances they have stated in the agreement.

Mr. Waters stated that if they don't stick to the agreement, due course there would be revocation of the SUP.

Vice Chairman Preisinger asked if this goes through to the City Commission and revocation goes into effect, how long does it take to enforce.

Chairman Bateman stated that the performance agreement is not concrete enough and uses squishy language such as “promptly”. He stated that the organization does not have a good history with law enforcement and the contract needs to be stricter.

Commissioner Hanson asked how the commission felt about the Golden Factors.

Commissioner Davis states that he thinks they are met and staff did a great job recapping the history and looking at the criteria and factors.

Commissioner Hanson mentioned the Golden Factor related to the relative gain to the public welfare and safety as compared to the destruction of the value of the applicant’s property. She stated a member of the audience had brought it up.

Vice Chairman Preisinger reiterated that they are looking at this application as a zoning matter, whether the proposed use is a fit for the zoning.

Mr. Waters restated some of the history of the site as to how the zoning requirement for a SUP came to apply in this case. He reiterated that related to SUP’s there are factors to be considered established by Kansas law and the City’s own code.

Vice Chairman Preisinger made a motion for the Planning Commission to recess into executive session for 15 minutes in the first floor conference room. The meeting will resume at 9:52 PM. Commissioner Hanson seconded and the motion passed 6-0.

Chairman Bateman resumed the meeting at 9:52 PM.

Commissioner Waugh discussed the proposed time limitation of the SUP, stating that due to the time to do accreditation, one year as proposed earlier would be difficult.

Commissioner Homan suggested a period of 36 months for the duration of the SUP.

Vice Chairman Preisinger stated that he would also like the conditions to state that a grinder pump is installed and inspected prior to holding of detainees. He stated that on Condition #4, instead of using the language “reasonable time” when referring to the time frame in which CoreCivic should provide access to the facility should be changed to two business days to be more concrete.

Charles Renner from CoreCivic stated that they are comfortable with the two-day provision with written notice.

Mr. Waters restated the proposed revisions that the commission had discussed. Condition #4 the first sentence would be revised to say two days, condition #7 would be revised to change 5 years to 3 years, and condition #11 will be revised to say CoreCivic will have installed and inspected prior to the holding of any detainees a new grinder pump.

Charles Renner from CoreCivic restated the conditions, CoreCivic will allow access to the facility within two days with notice, limiting the permit to 3 years on the initial term, and installation and inspection of the grinder pump. He stated they are agreeable to those changes.

Chairman Bateman brought up that the performance agreement language needs to match the conditions listed in the SUP, and needs to be updated accordingly with the changes just mentioned.

Mr. Waters stated that the language in the performance agreement will be updated to reflect the conditions.

Chairman Bateman asked about Condition #9, which states that CoreCivic may only exceed the written capacity of the facility with prior written approval from the Leavenworth Fire Chief. He stated he does not see a reason to ever go over the rated capacity.

John Molloy of CoreCivic spoke and stated that on occasion the partner could have a need for capacity that exceeds the rated capacity for a short period of time. It has happened in the past and the language in the agreement comes from other contracts. In those occasions they have gotten approval from the fire chief based on egress to see where those would be housed.

Commissioners Preisinger and Waugh discussed the fire chief's authority in this case, stating that the fire chief could say they don't like the plan and has the power to say no without litigation, and that the fire chief could put a duration on it.

Mr. Molloy stated that they would be open to the fire chief putting a duration because it is intended not to be long term.

Stacey Stone of CoreCivic stated that the fire chief would have the authority to put a duration and a maximum number of people.

Commissioner Hanson asked if this would be double bunking.

Mr. Stone stated that no, this is not double bunking, it is called surge beds and set up as cots. They cannot exceed the capacity allowed by the fire chief after their inspection.

Vice Chairman Preisinger stated he is fine with that as long as the fire chief has the absolute authority to say yes or no.

The Commission discussed how to make a motion with the proposed changes to conditions.

Chairman Bateman reviewed the Golden Factors, starting with the character of the neighborhood. He stated that his view is it doesn't really affect the character of the neighborhood since it was an existing facility in the past. The rest of the commission stated that they are in agreeance with staff recommendation. No issues were brought up regarding this factor.

Regarding the zoning and uses of nearby property, Chairman Bateman asked if there were any issues. None were stated. Chairman Bateman said he found it to be perfectly acceptable with the surrounding uses, which include a plumbing company, electric company which are both consistent with I-2 usage.

Chairman Bateman asked about suitable of the subject property for the uses to which it has been restricted. The commission stated no issues.

Chairman Bateman asked about the extent to which the removal of restrictions would detrimentally affect nearby property. The commission had no issues with the exception of Chairman Bateman who stated we should consider the potential impact for demonstrations affecting the neighborhood to the south, although they may be short-lived, but he would say that doesn't really weigh in favor of not agreeing with the City staff's recommendation.

Chairman Bateman asked about the length of time the property has remained vacant as zoned. The commission stated there are no issues with this criteria.

Chairman Bateman asked about the relative gain to the public safety and welfare, as compared to the destruction of value to the complaining party as compared to the hardship imposed on the landowner if the request is denied. Chairman Bateman stated that CoreCivic has total assets of 2.9 billion dollars according to one of their annual reports and break out this location as worth 91 million plus. He stated the impact of them not opening compared to their assets would be almost insignificant but some of the impact to the neighborhood besides could be negative. Commissioner Hanson stated that rental property could also be impacted if renters do not want to rent in the area due to ICE presence. Commissioner Davis stated he doesn't agree that that is what this criteria means. Chairman Bateman stated that it could be looked at as impact to the community as a whole. Commissioner Davis stated it is a stretch to consider property loss in the north area of Leavenworth as related, it should be looked at as the adjoining area of the facility. Commissioner Homan stated he sees it the same as Commissioner Davis. He looks at the VA buildings which are in disarray in that area and does not see that impacting other areas of Leavenworth.

Chairman Bateman asked about recommendations of professional staff. The commission had no issues.

Chairman Bateman asked about conformance of the requested changes to the adopted Master Plan. The commission had no issues.

Chairman Bateman asked if there was anything else not listed as a golden factor that anyone wanted to bring up. No one spoke. Chairman Bateman brought up the concerns expressed by the community tonight, stating that CoreCivic has declared to have changed their ways, he stated in his experience he has heard that before and things don't really change.

Vice Chairman Preisinger stated he appreciates the people that came up and spoke on both sides. He stated the goodwill that CoreCivic had with the City has gone downhill in the last year with the withdrawal of their previous SUP application and lawsuit against the City, and use of this topic for political gain by some.

Chairman Bateman stated that if Leavenworth has a brand, it is corrections, and we want it to be done excellently, which it has not in the past, which has led to a great deal of frustration.

With no further discussion, Chairman Bateman called for a motion.

Chairman Bateman asked Planning Director Kim Portillo to read allowed the proposed amendments to the Conditions. Ms. Portillo stated the proposed amendments as follows:

Condition 4: CoreCivic will provide the City, its agents and employees, access to the Property and the Facility ~~at reasonable times and~~ within two (2) business days upon ~~reasonable~~ prior written notice, and continuing on as written in the policy report.

Condition #7: The Special Use Permit will be issued for an initial term of ~~five (5)~~ three (3) years (commencing as of the effective date of the Special Use Permit, and continuing on as written in the policy report.

Condition #11 CoreCivic will ~~install, within six (6) months after the effective date of the Special Use Permit,~~ have installed, prior to the holding of any detainees, a new grinder pump pursuant to specifications approved by the City's Director of Public Works, and continuing on as written in the policy report.

Additionally, the corresponding changes be made to the form of Performance Agreement provided in the original staff report.

Based on the findings as stated and conditions as presented, Commissioner Davis moved that the Leavenworth Planning Commission recommend to the City Commission approval of the application for Special Use Permit No.

2026-02-SUP, with Conditions 1 through 16 as provided in the Staff report, and subject to the four modifications previously read aloud by City Staff, seconded by Commissioner Homan. Commissioner Hanson, Waugh, Preisinger, Homan, and Davis voted yes. Chairman Bateman voted no. The motion passed by a vote of 5-1.

First consideration will go to the City Commission on February 24, 2026.

OTHER BUSINESS:

Staff noted that the next planning commission meeting will be on March 2<sup>nd</sup>, 2026.

Commissioner Preisinger moved to adjourn, seconded by Commissioner Hanson and approved 6-0.

Meeting adjourned at 10:24 p.m.

Minutes taken by Planning Director Kim Portillo.