

# CU-99-12-14

**Applicant:** iVita Wellness

**Location:** 5500 Colorado Blvd

**Request:** CUP for a Medical Marijuana  
Dispensary



# Commerce City Vicinity Map

CU-99-12-14



Area shown is approx. 1/4 mile square



PIN: '182318200005'

Commerce City Planning Department  
Prepared By: Workman  
Date Saved: 11/27/13

#### Legend

- Subject Property
- C-2 - General Commercial District
- I-1 - Light Intensity Industrial District
- I-2 - Medium Intensity Industrial District
- I-3 - Heavy Intensity Industrial District

- Current Zoning:

➤ I-2

- Future Land Use Plan:

➤ Industrial/Distribution





Proposed  
Dispensary



Proposed Dispensary

# Case History – I

- 2012:
  - Applicant submitted a Conditional Use Permit (CUP) for a Medical Marijuana Dispensary (MMD).
  - Application was denied by staff for being within 1,000-feet of a park.
    - The Sand Creek Regional Greenway Trailhead is within a 1,000-feet and was included in the definition for a park.
  - Applicant appealed the denial to Planning Commission and City Council (AP-15-12).
    - Staff's denial was unanimously upheld, but City Council directed that the LDC be revised to exclude trails from the 1,000-foot separation requirement for MMDs.

# Case History – II

- 2013:
  - City Council approved an amendment to the MMD section of the LDC to exclude trails from the separation requirements for MMDs.
  - The applicant has continued to pursue approval of the CUP throughout 2013.
    - As an application goes through the appeal process, it continues to be considered an active application.
  - At this time, the application has been determined to be ready for the public hearing process.

# MMD Review Process in Commerce City

## 1. Land Use Process:

- CUP

## 2. City License Process:

- City Clerk's Office
  - Similar to Liquor License
  - Hearing Officer has final approval
- 
- If the CUP is approved, the applicant may not begin operations until they are approved through the city's license process as well.



- Existing Business
  - Grow facility in Denver
  - Dispensaries in Denver



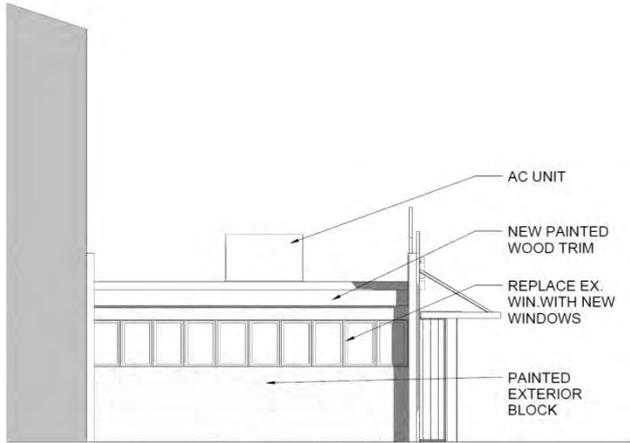
- Existing Locations
  - 1660 Pearl Street
  - 3980 Franklin Street

# Commerce City Operations

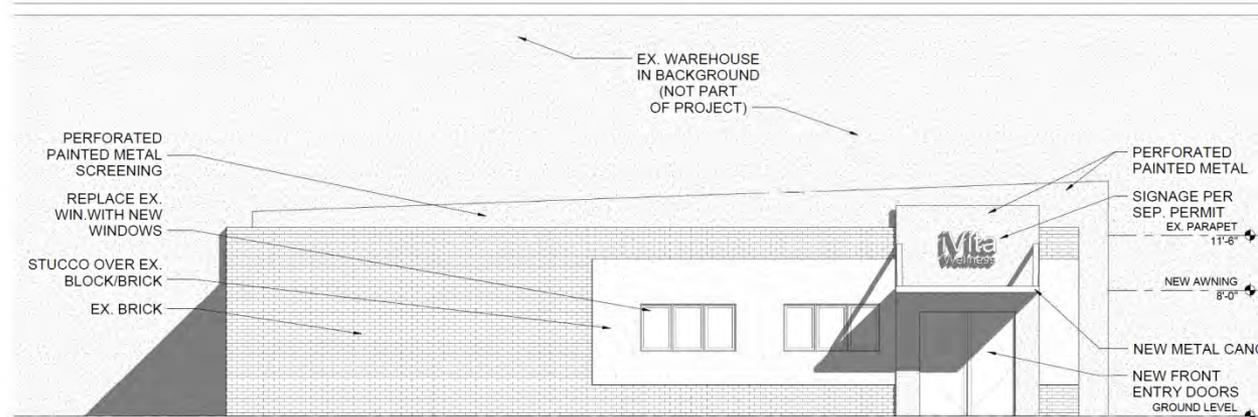
- 1,100 square foot dispensary in an existing office building.
- Operate from 9am – 7pm daily.
- 5 Employees.
- 100 patients at this facility.
- Secured by Safenet. It will also have closed circuit TV's with cameras in the parking lot, on the exterior of the building, and in the interior of the building.



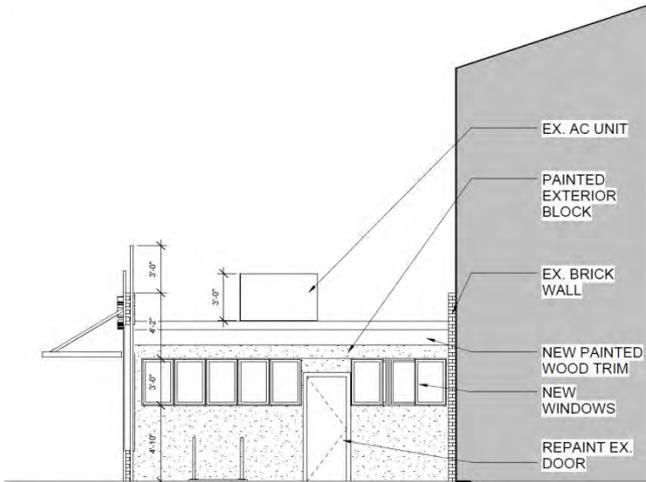
# Proposed Elevations



1 LEFT ELEVATION  
1/4" = 1'-0"



2 FRONT ELEVATION  
1/4" = 1'-0"



3 RIGHT ELEVATION



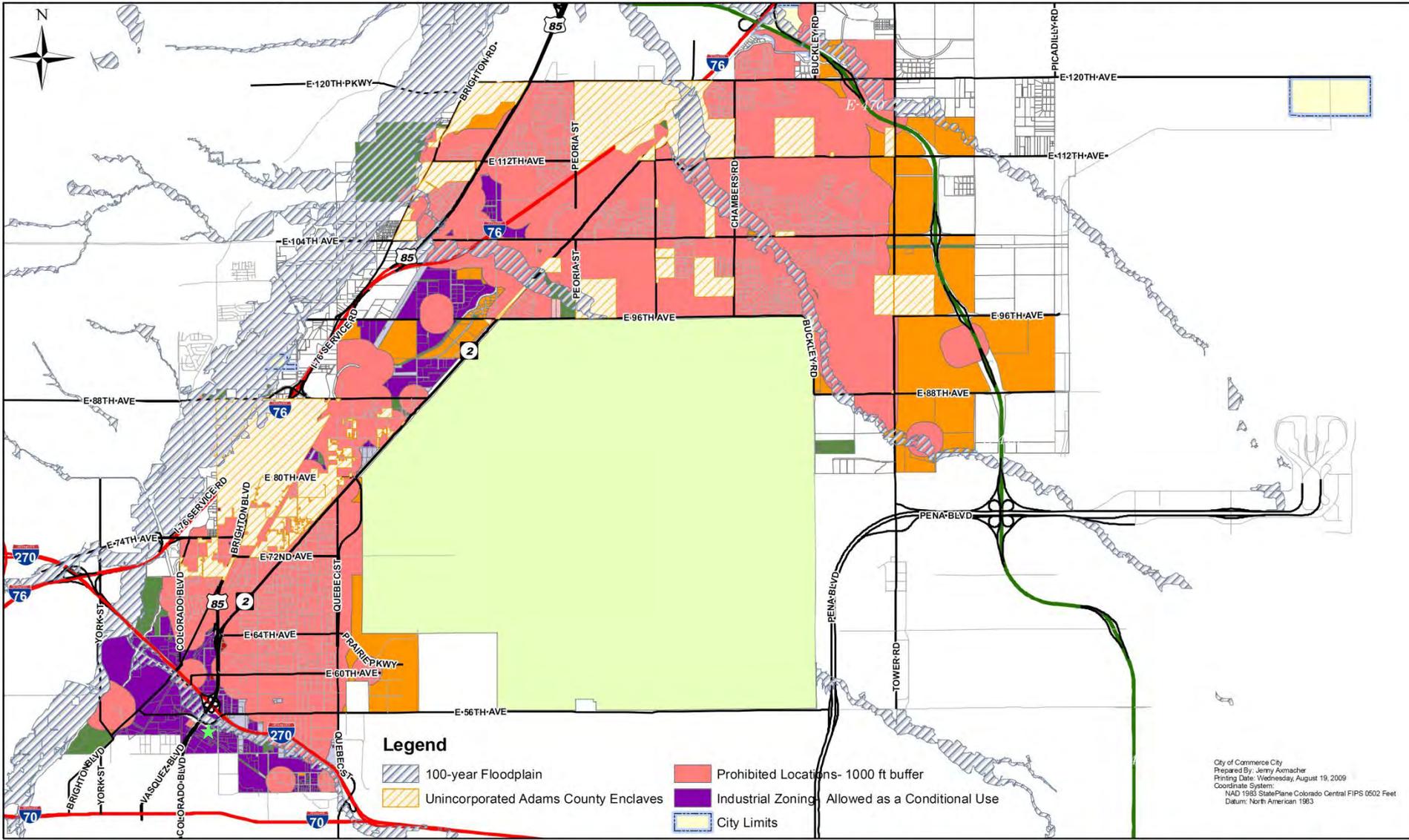
NOTE: BACK ELEVATION IS JOINED TO BUILDING BEHIND

# The Planning Commission's Analysis

1. Review of the potential areas that may accommodate a medical marijuana dispensary (MMD).
2. Review the request against the regulations in the Land Development Code (LDC).
3. Review the request against the existing conditions of the neighborhood and the specific site.
4. Review the outcome of the neighborhood meeting.
5. The Commerce City Police Department's review.



# Proposed Medical Marijuana Location Restrictions



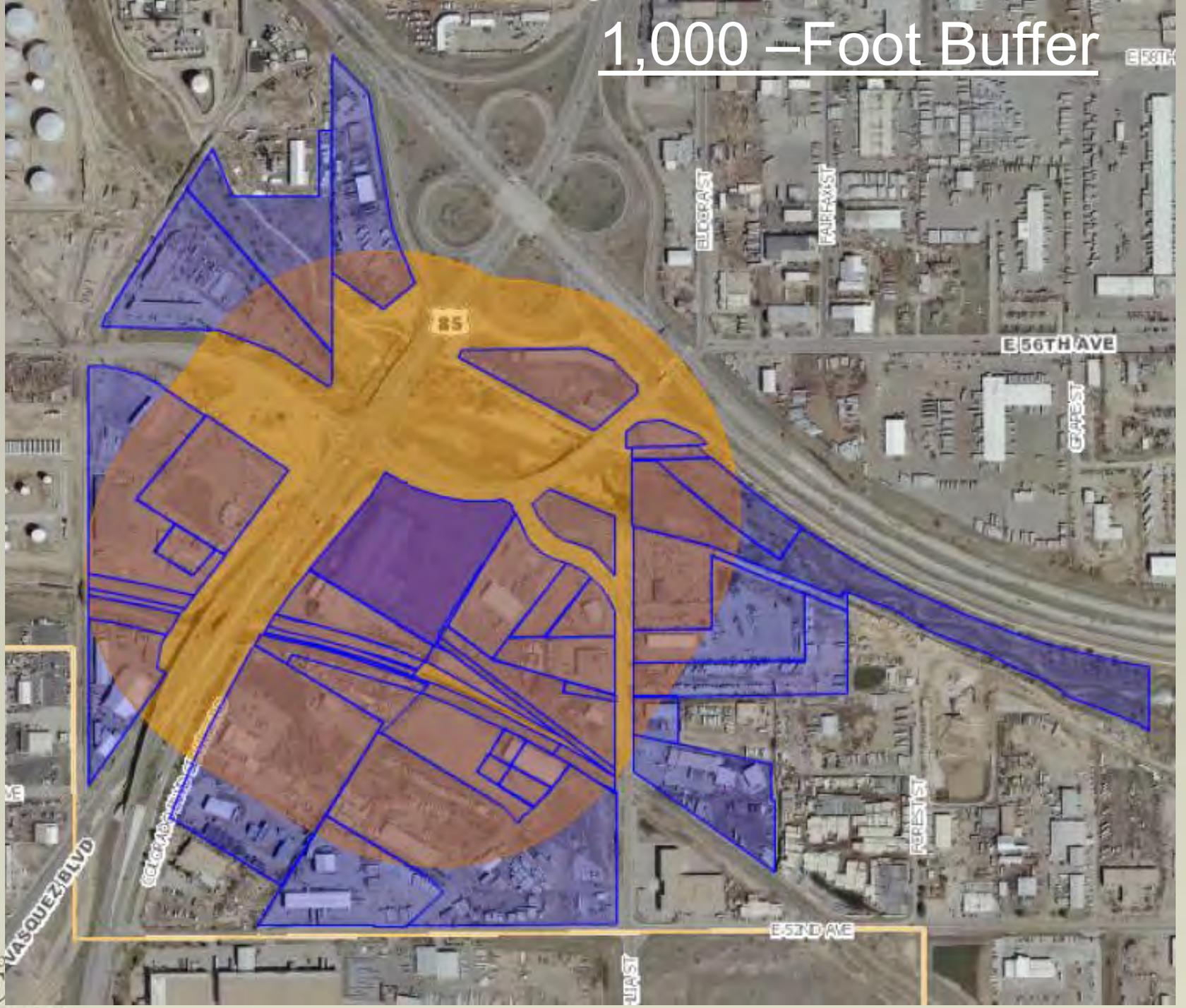
This map is for illustrative purposes only. Properties shown on this map as being located in an industrial area are not guaranteed to comply with the criteria listed in Ordinance 1770. This map is based solely on zoning and does not consider all relevant adjacent land uses which would prohibit the location of a medical marijuana facility within 1000 feet, such as day care facilities, churches, residences, etc.

# LDC Regulations – 1

## Section 21-5249:

1. 1,000 feet from:
  - a. Residential Zone District;
  - b. Existing or Occupied Mobile Home;
  - c. Single-Family or Multi-Family Home (in or out of CC);
  - d. Church/Religious Institution;
  - e. Educational Institution/School (Public or Private);
  - f. Child Care Facility;
  - g. Alcohol or Drug Rehab Facility;
  - h. Group Home for Developmentally Disabled;
  - i. Other MMD (in or out of the city);
  - j. Halfway House or Correctional Facility; and
  - k. Fire station, community center, fairground, recreation center, other publically owned building open for use to the public, park (excluding any trail).

# 1,000 –Foot Buffer



CASA  
VASQUEZ BLVD

# DRT Analysis – 1

## Section 21-5249(1) Review:

1. Identify all properties within 1,000-feet.

- 27 properties were identified.

2. Review all business licenses for the 27 properties.

- No operations listed in 21-5249(1) were identified.

3. “Windshield Survey” of all 27 properties.

- No uses listed in 21-5249(1) were observed.

- The Planning Commission agreed that this analysis indicated compliance with 21-5249(1).

# LDC Regulations – 2

## Section 21-5249:

- 2. Indoor Use.** All business related to, or consumption of medical marijuana shall be conducted indoors, and all building openings, entries, and windows shall be located, covered, or screened in such a manner as to prevent any possibility of viewing the interior from the exterior of such structure.

# DRT Analysis – 2

## Section 21-5249(2) Review:

➤ The applicant states:

*“There will not be consumption of medical marijuana at the dispensary and medical marijuana will not be grown at the Property. The windows and any glass doors will be screened with a two pane window or glass door that includes a reflective film. The reflective film allows persons on the inside of the building to see outside, but persons on the outside of the building cannot see inside.”*

➤ The Planning Commission agreed that this statement indicates compliance with 21-5249(2).

# Planning Commission Analysis – Existing Conditions

- Neighborhood Context:
  - Industrial neighborhood.
  - Variety of users.
  - Retail dispensary would not conflict with other commercial and industrial uses.
- Site Context:
  - Existing industrial business on the subject property (Harris Rebar) that uses office space, indoor storage, outdoor storage.
  - Since the existing business uses the western portion of the site for office uses, a retail use on the west side of the property would be compatible.

# Planning Commission Analysis – Neighborhood Meeting

- Neighborhood Meeting:
  - October 29, 2013.
  - 6pm at the Commerce City Recreation Center.
  - 1 individual attended – information only.

# Planning Commission Analysis – Commerce City Police

- The Commerce City Police Department was referred on the request and has indicated neither opposition nor support for the request. They have acknowledged the request and indicated that if the request were to include a marijuana growing operation, they would have additional security concerns.

# Planning Commission Analysis – Approval Criteria

- The area is industrial in nature with a variety of uses and the subject property can accommodate an additional retail use.
- The applicant has proposed façade improvements, parking lot improvements, and landscaping improvements to increase the visual appeal of the property.
- The site is developed and can accommodate an additional retail use.
- The site is developed and all utilities are able to serve the new use.
- The applicant has provided assurance of continued maintenance.
- There is currently a conflict between State and Federal law on this type of activity. As a political subdivision of the State of Colorado, the city is bound to adhere to our state laws, which allow for Medical Marijuana Dispensaries.
- The request is compliant with the Comprehensive Plan.



# Contact Regarding the Request

- To date, staff has been contacted by one individual who requested additional information.

# Planning Commission's Recommendation

- On December 4, 2013, the Planning Commission voted unanimously to recommend that the City Council **approve the request subject to certain conditions.**

# Recommended Conditions

1. The applicant shall provide a copy of their state license to the City after any renewal of the state license.
2. The applicant shall be restricted to providing medical marijuana only.
3. There shall be no growing operations on the subject property without an amendment to this Conditional Use Permit.