

August 5, 2013

**VIA FEDERAL EXPRESS**

Mr. Paul Workman  
City Planner  
City of Commerce City  
7887 E. 60th Avenue  
Commerce City, CO 80022

Re: Application for Conditional Use Permit for a Medical Marijuana Dispensary (Application Number CU-99-12-13) to be located at 5500 Colorado Boulevard, Commerce City, Colorado (the "Property")

iVita Wellness (the "Applicant") has previously submitted an application for a Conditional Use Permit for an 1,100 square foot medical marijuana dispensary under Application Number CU-99-12-13, (the "Application") and the City of Commerce City (the "City"), on May 16, 2013, provided comments to the Applicant concerning the Application. This narrative first answers the City's May 16 questions. Then we explain how the Application meets the approval criteria for a Conditional Use Permit and how this Application meets the requirements of Section 21-5249 governing Medical Marijuana Businesses.

Included with this letter are (i) a copy of a deed showing the ownership of the Property, (ii) fifteen copies of the development plan which includes the site plan and architectural elevations, and (iii) fifteen copies of an operations narrative letter. An electronic copy of this information is also included on the enclosed CD-Rom.

It is our understanding that the Applicant has previously submitted a signed Development Review Application and has paid the City fees required for this application. Therefore, we have not enclosed another Development Review Application or any additional fees.

The Applicant seeks a conditional use permit to operate an 1,100 square foot medical marijuana dispensary in an existing vacant building. This building is one of four buildings at the site, which total approximately 82,000 square feet. The other business at the site is Harris Rebar.

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The dispensary will be secured by Safenet. The security system will include CCTV video monitoring with video cameras located in the parking lot, on the exterior and on the interior of the building as required by the Colorado regulations governing medical marijuana dispensaries. The reception area will be open to the public, but the dispensary where the product is located, will be locked. Each customer will be accompanied by a dispensary employee while in the dispensary area. An alarm system will be installed at the dispensary. If the alarm system is triggered, it will notify the Applicant and the Commerce City police. The security at the dispensary may be modified based on changes in Colorado state law.

iVita Wellness currently operates two other medical marijuana dispensaries at 1660 Pearl Street and 3980 Franklin Street, Denver, Colorado. iVita was one of the first companies to be licensed by both the City and County of Denver and the State of Colorado. Attached as **Exhibit A** are the Applicant's licenses for the two dispensaries that it operates in Denver. Once the City approves the conditional use permit for the dispensary, the Applicant will apply for all applicable state and City licenses necessary to operate a dispensary within the City.

The Colorado Department of Revenue is the enforcement division of medical marijuana. City may obtain a copy of the Colorado Medical Marijuana Code at [www.colorado.gov/revenue](http://www.colorado.gov/revenue).

iVita has approximately 900 members. Members are not allowed to use medical marijuana at the dispensary or at the Property.

### **Approval Criteria for Conditional Use Permits**

This Application meets the criteria for the issuance of a Conditional Use Permit as detailed below. We describe how the proposed development meets each criteria under each section below. Section 21-3230(3) of the City's Land Development Code (the "Code") states that the City Council may grant a conditional use permit if

(a) All of the following criteria are met:

- (i) The proposed use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future as a result of the implementation of

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provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city;

*The Applicant wants to use an existing building that is not currently in use for an 1,100 square foot medical marijuana dispensary. This use will not result in a substantial or undue adverse effect on adjacent property or the character of the neighborhood because the surrounding uses are industrial uses and/or commercial businesses and the zoning in this area is I-2 or I-3. There will be no changes to the exterior footprint of the building so there will be no change on the character of the neighborhood. The medical marijuana dispensary will likely generate approximately 100 car trips a day and there will be three (3) parking spaces on the Property to serve the dispensary. Thus, this use will not have a substantial adverse effect on traffic conditions or parking. There are no new public improvements needed to support this dispensary because it will be served by existing utilities and roadways. Thus, there is no adverse effect on public improvements.*

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

*There are no adverse effects from this proposed use that need to be mitigated.*

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

*The characteristics of the site are suitable for the dispensary because the dispensary will be located within one of the existing buildings at the Property. The other business on the site is Harris Rebar, which is an industrial business, so the dispensary will not have a detrimental effect on this business. The dispensary will be served by existing improvements and utilities, so there will be no need for additional public infrastructure due to this use.*

- (iv) The proposed use will be adequately served by and will not impose an undue burden on any of the existing improvements, facilities, and services of the city or its residents. Where any such improvements,

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facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;

*The dispensary will be located in an existing building which is already served by existing utilities and roadways. The existing utilities and roadways are sufficient for the proposed dispensary use and it will not generate the need for larger utility lines or roadway infrastructure. Thus, this use will not create a burden on any existing improvements, facilities, and services of the City.*

- (v) The applicant has provided adequate assurances of continuing maintenance; and

*The dispensary will be located in an existing building with existing parking and utilities. The Applicant will maintain the building as well as required parking and landscaping as required by the City Code.*

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

*A medical marijuana business is an allowed use within the City pursuant to Section 21-5249 of the City Code and is allowed under the laws of the State of Colorado.*

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

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

*There are no medical marijuana dispensaries in the City; thus, this is a use that is needed within the City.*

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

*The City Code allows for the operation of medical marijuana dispensaries within the boundaries of the City. Thus, this is a use that fits within the goals and objectives established by the City Council.*

### **Section 21-5249 Medical Marijuana Business**

**(1) Location.** No medical marijuana business or primary caregiver shall be located within 1,000 feet of the following: (a) The exterior boundary of any public zone district; (b) The exterior boundary of any residential zone district; (c) The exterior boundary of any existing or occupied mobile home; (d) The exterior boundary of any lot on which there is located a single family or multi-family residence, whether located within or outside of the city; (e) Any church or religious institution; (f) Any educational institution or school, either public or private; (g) Any licensed child care facility; (h) Any alcohol or drug rehabilitation facility; (i) Any group home for the developmentally disabled; (j) Any public community center, park, fairground, or recreation center, or any publicly owned or maintained building open for use to the general public; (k) Any other medical marijuana business whether such business is located within or outside of the city; or (l) Any halfway house or correctional facility.

*The proposed location of the dispensary is not within 1,000 feet of any of the zone districts, uses or structures listed in (a) through (l) above.*

**(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 a view into the interior; and for new construction, the building shall be constructed so as to prevent any possibility of viewing the interior from the exterior of such structure.

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.

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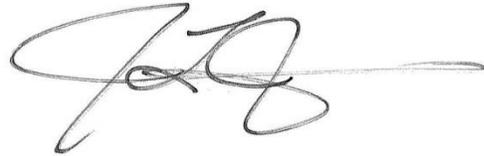
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Thank you for your assistance with this application. Please feel free to call me  
with any questions that you may have.

Sincerely,

FOSTER GRAHAM MILSTEIN & CALISHER, LLP

A handwritten signature in black ink, appearing to read 'JLJ', with a long horizontal flourish extending to the right.

Jerri L. Jenkins

JLJ/cw

Enclosures

cc: Mr. Andy Weiss  
David Wm. Foster, Esq.