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October 26, 2026

Planning Commission
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

RE: Extension of Time - Conditional Use Permit PA-22-08

Dear Planning Commission,

Austin Legal Group submits this letter on behalf of our client, Newport Wellness, LLC (the "**Applicant**"), who is in the process of opening a commercial cannabis facility in the City of Costa Mesa (the "**City**"). Pursuant to Costa Mesa Municipal Code ("**CMMC**") Section 13-29(k)(4)(c), we respectfully urge the Planning Commission to grant an extension to CUP PA-22-08 to allow the City to complete its review of the building-permit application that is actively under review by staff. Without additional time, CUP PA-22-08 could expire despite active investment from the Applicant, ongoing compliance with the CUP requirements, City regulations, and the planned public benefits associated with the project.

GENERAL BACKGROUND

On March 25, 2024, the City's Planning Commission approved Planning Application 22-08 for the redevelopment of an existing 2,076-square-foot commercial building to operate a cannabis storefront and delivery business at 2490 Newport Boulevard. On May 7, 2024, the Planning Commission's decision was upheld by City Council, subject to the conditions contained in Resolution 2024-17. The conditions of CUP PA-22-08 included sidewalk, curb, and gutter improvements designed to Public Works standards, landscaping and irrigation plans, an updated lighting plan and photometric study, fencing and wall improvements, a trash enclosure, a bicycle rack, odor-control specifications, construction-security measures, and related site improvements. The Applicant retained Ezequiel Pescina and Plans and Permits Express Inc. (the "**Architectural Consultant**") as its consultant to coordinate the architectural, engineering and permit-plan process.

During the course of project development, the Applicant explored potential modifications to the interior floor plan that would have required an amendment to CUP PA-22-08. However, in an effort to avoid additional entitlement review and maintain the project's progress toward construction, the Applicant elected on January 14, 2026, to proceed with the originally approved plans. The project team thereafter continued preparing the building plans for submittal, which occurred on March 6, 2026. On March 11, 2026, Assistant Planner Gabriel Villalobos advised the Architectural Consultant that CUP PA-22-08 was approaching expiration and placed the plan check on hold pending approval of an extension of time.

From March 11, 2026 through June 5, 2026, 86 calendar days elapsed while the first extension of CUP PA-22-08 was being considered and finalized. During this period, plan-check processing was limited, although certain preliminary and administrative activities continued. On May 29, 2026, the City approved a 180-day extension of CUP PA-22-08, which became final on June 5, 2026. In its written determination, the City acknowledged that the building permit application had been submitted on March 6, 2026, remained

under review, and that the extension would provide additional time to complete the plan-check process and obtain the necessary permits. Applying CMMC Section 13-29(k)(6), the Economic and Development Services Director also found that the extension would not conflict with any changes since the original approval in 2024 and that there had been no changes to State or local regulations that would render the CUP approval invalid. The extension established a new expiration date of November 3, 2026.

On June 24, 2026, the City issued detailed plan-check correction comments addressing technical requirements associated with the approved plans, CUP conditions, Building Code requirements, and Public Works standards. Although the site and right-of-way improvements had been established through the CUP approval, completion of the permitting process required additional civil and street-improvement drawings, site surveying, easement documentation, utility coordination, structural calculations, and related professional work. The Applicant authorized and funded the necessary technical work to address the City's comments and satisfy the existing CUP conditions. As the various technical requirements were evaluated and coordinated, the anticipated completion dates were extended from July to late August and subsequently through September. Throughout this process, the Applicant maintained regular communication with the project team regarding outstanding items and anticipated completion dates, met directly with City staff to address permitting requirements, and coordinated with contractors to be prepared to commence construction upon issuance of the building permit.

The corrected plans were resubmitted to the City on September 16 and 17, 2026. The plans were returned by the City with requested corrections on October 8, 2026 and were resubmitted on October 20, 2026 and are currently in review by the City. In an effort to advance the project while the building permit application remained under review, on September 18, 2026, the Applicant directed the Architectural Consultant to prepare a project-specific demolition plan to allow the demolition permit to proceed independently. The demolition plans were submitted to the City on September 29, 2026. The Applicant has continued to devote substantial financial resources to the project, investing more than $130,000 in rent, architectural plans, permit fees, and administrative expenses as of October 19, 2026.

BASIS FOR EXTENSION

The Applicant requests an extension of CUP PA-22-08 to complete the permitting process and commence construction of the previously approved project. No modifications to the project or its conditions of approval are proposed.

CUP PA-22-08 established a two-year period for the permit to be utilized. CMMC Section 13-29(k)(2)(b) identifies the circumstances under which a permit is deemed exercised, including commencement of construction under an issued building permit, issuance of a certificate of occupancy, or establishment of the use with a business license. CMMC Section 13-29(k)(4)(c) allows the original review authority to grant extensions exceeding 180 days, subject to the same public hearing and notice requirements applicable to the original approval.

CMMC Section 13-29(k)(6) requires the review authority to find that there have been no changes in the conditions or circumstances of the site, including Zoning Code or General Plan amendments, that would preclude approval of the same project at the time of the requested extension. The Director made that finding for this project on May 29, 2026. This project remains unchanged, and the findings supporting the original CUP approval remain applicable. As discussed below, the extension will allow the Applicant to complete the improvements required by the City without any change to the approved use or development and the original findings for granting the CUP can still be made.

FINDINGS

On May 7, 2024, the same evening it upheld the approval of PA-22-08, the City Council adopted Ordinance No. 2024-03, which amended the separation requirements for cannabis storefronts in CMMC Section 13-200.93(e). The Ordinance took effect on June 6, 2024. When it approved this project, the City Council considered the surrounding residential neighborhood and added conditions to address it, including enhanced landscaping and trees on Monte Vista Avenue consistent with the residential neighborhood, a 24-hour security guard, and a parking attendant during business hours.

On May 29, 2026, nearly two years after the Ordinance took effect, the Economic and Development Services Director applied CMMC Section 13-29(k)(6) to this project. The Director found that the extension would not conflict with any changes since the original approval in 2024 and that there had been no changes to State or local regulations that would render the CUP approval invalid. That determination became final on June 5, 2026. Since then, there has been no Zoning Code, General Plan, or other regulatory change affecting the project, and the Applicant proposes no change to the project, its location, or its operations. The same finding can be made today.

The 1,000-foot separation from sensitive uses supports the same conclusion. The Code measures separation compliance as of submission of the Cannabis Business Permit application. (CMMC § 13-200.93(e)(1), (e)(6)(i).) Under Section 13-200.93(e)(1), the 1,000-foot separation is measured from K-12 schools, playgrounds, child daycares, homeless shelters, and youth centers in operation when a completed Cannabis Business Permit application is submitted. The Applicant's Cannabis Business Permit application was submitted on or about November 10, 2021 and the sensitive uses in operation on that date are the ones relevant to this location. The City confirmed in Resolution 2024-17 that none were within 1,000 feet.

I. The Proposed Development Remains Compatible with Surrounding Uses and Will Not Be Materially Detrimental to Other Properties.

The property remains zoned C1, which permits retail uses, including cannabis storefronts subject to CUP approval. The site continues to meet the separation requirements that apply to the project, and the Applicant's updated search identified no new K-12 school, playground, child daycare, homeless shelter, or youth center within 1,000 feet of the premises. Neither the proposed use nor the approved development has changed. The CUP requires substantial improvements, including compliance with current building codes, sidewalk, curb and gutter improvements along Monte Vista Avenue, landscaping and trees, parking lot construction, bicycle parking, and replacement of existing chain link fencing with upgraded fencing and walls. These improvements will benefit the surrounding properties and public right of way. Granting the extension will allow the Applicant to complete the improvements already required under the CUP.

II. The Extension Will Not Be Detrimental to Public Health, Safety or Welfare.

The extension does not authorize any new use or modification to the approved project. Rather, it allows the Applicant to complete improvements that will bring the existing building into compliance with current building codes, improve accessibility and security, replace deteriorating fencing and walls, and correct existing parking encroachments into required setbacks and public rights of way. These improvements will benefit public safety and surrounding properties. Denial of the extension would delay or prevent their completion.

III. The Extension Remains Consistent with the General Plan and Applicable Zoning.

The property remains zoned C1, which allows cannabis storefront retail subject to CUP approval. The Applicant proposes no additional square footage, increased density, or change in use. The extension does not alter the project's consistency with the General Plan or any applicable development standards. The City previously determined that the project satisfied the findings required for CUP approval. Nothing about the project has changed that would warrant a different determination. The Applicant has invested substantial funds, submitted building plans, responded to City corrections, and continues to pursue the permits necessary to begin construction. As the Director found on May 29, 2026, no Zoning Code, General Plan, or other regulatory change since the 2024 approval would preclude approval of the project.

CONCLUSION

The Applicant respectfully requests that the Planning Commission grant an additional extension of CUP PA-22-08 to allow completion of the building permit review and commencement of construction. Although the Applicant anticipates completing the permitting process within six months, it requests a one-year extension out of an abundance of caution. The Applicant has invested substantial funds in the project and continues to diligently address the City's technical requirements and plan check corrections. Without an extension, the CUP could expire while the building permit remains under City review. Granting the extension will preserve the Applicant's investment and allow completion of the project and the required improvements that benefit the surrounding neighborhood and the public.

Sincerely,
AUSTIN LEGAL GROUP, APC

Gina M. Austin, Esq.

Attachment A – May 2026 Extension

Attachment A
May 2026 Extension

Application Status Form
Sent Via Email

May 29, 2026

Keith Scott
Newport Wellness LLC
2490 Newport Blvd
Costa Mesa, CA 92627

RE: Time Extension for Conditional Use Permit PA-22-08

Dear Mr. Scott:

This time extension is for a conditional use permit application which proposed the redevelopment of an existing 2,076-square-foot commercial building for the purpose of operating a cannabis storefront retail and cannabis delivery business. The application was initially heard by the Planning Commission on March 25, 2024, where it was approved by a 3-2 vote. An application for review was submitted by council members Marr and Harper on April 1, 2024. The project was approved by City Council on May 7, 2024 by a 5-2 vote with the following modifications to conditions: include a permanent 24 hour security guard and a permanent parking attendant during business hours, as well as, a modification to the condition regarding landscaping to include enhanced landscaping on Monte Vista, including incorporating trees where feasible that improve the visual aesthetics consistent with the residential neighborhood, and promote pedestrian friendly design to the satisfaction of the Economic and Development Services Director.

Pursuant to Costa Mesa Municipal Code (CMMC) Section 13-29(k)(4), the Economic and Development Services Director may extend the time for an approved permit or approval to be exercised. Only one request for an extension of 180 days may be approved by the director. Any subsequent extension requests shall be considered by the original approval authority. A permit shall not be deemed "exercised" until at least one of the following has first occurred: a building permit has been issued and construction has commenced, and has continued to maintain a valid building permit by making satisfactory progress as determined by the building official, a certificate of occupancy has been issued, or the use is established and a business license has been issued.

Pursuant to CMMC Section13-29 (k)(6), a permit or approval may be extended beyond the expiration of the original approval provided the director finds that there have been no changes in the conditions or circumstances of the site, such as Zoning Code or General Plan amendment or other local and statewide regulations affecting the approved development standards or project so that there would have been ground for denial of the original project or any changes to the General Plan and/or Zoning Code that would preclude the approval of the same project at the time of the requested extension. The approval of the extension of time for the conditional use permit will not conflict with any changes since the original approval in 2024. There have been no changes to State or local regulations that would otherwise render the CUP approval invalid and no deviations from what was originally approved have been considered for the subject property. Additionally, a building permit for this application was submitted on March 6, 2026 and is currently in review. This extension would allow time for the building permit plan check to be addressed and permits to be issued, making the approval exercised per CMMC Section 13-29(k)(2)(b)(1). This extension for PA-22-08 would expire on November 3, 2026.

The decision will become final at 5 PM on June 5, 2026, unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or is called up for review by a member of the City Council. Any appeal must be filed within seven (7) days of the above approval date by 5 PM, pursuant to CMMC Sections 2-305(2) and 2-307. If you have any questions regarding the above items, please do not hesitate to contact the project planner, Gabriel Villalobos at 714-754-5610 or at gabriel.villalobos@costamesaca.gov.

Sincerely,

Carrie Tai
Economic and Development Services Director