

**CITY OF LAGUNA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**AGENDA ITEM:** No. 4 - CONSENT **DATE:** 2/14/07

**TO:** PLANNING COMMISSION

**CASE:** Conditional Use Permit 07-01

**APPLICANT:** Sue Marie Connolly

**LOCATION:** 384 Forest Avenue, Suite 27  
APN 641-252-24

**ENVIRONMENTAL  
STATUS:** Categorically Exempt, Class 1

**PREPARED BY:** Wendy Jung, Assistant Planner  
(949) 497-0321

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**REQUESTED ACTION:** The applicant requests approval to continue the operation of an established day spa (Sue Marie's Day Spa) located at 384 Forest Avenue, Suite 27.

**BACKGROUND:** The proposed site is located in the CBD-2 Downtown Commercial Zoning District within the Downtown Specific Plan. The suite is approximately 790 square feet and is part of the Lumber Yard Mall. Sue Marie's Day Spa has been operating at this location since 1998. On December 4, 1998, the business owner, Sue Marie Connolly, was given permission to temporarily establish her business at this location as a result of the damages from the November 1998 fire at her previous location at 274 Forest Avenue. Due to hardship, the Community Development Director waived the Conditional Use Permit requirement for a period of one year from the date a Certificate of Use was issued for her temporary business location.

A Certificate of Use was issued on January 4, 1999. Ms. Connolly did not return a signed copy of the letter to confirm the agreement, nor was an application submitted for a Conditional Use Permit on or before January 4, 2000. Sue Marie's Day Spa has been operating without a Conditional Use Permit from 1998 until present.

**STAFF ANALYSIS:** The applicant would like to comply with the requirement of obtaining a Conditional Use Permit to maintain the existing use. The proposed hours of operation are Tuesday to Saturday from 10:00 a.m. to 5:00 p.m. The day spa offers personal services including facials, waxing, manicures, pedicures, tinting, body treatments, massage and the sale of skin care products. A complete detailed list of the services provided may be found at the following website: [www.suemariesdayspa.com/html/index.html](http://www.suemariesdayspa.com/html/index.html).

In the Downtown Specific Plan, the purpose of the CBD-2 Downtown Commercial is to maintain a balance of resident- and visitor-serving businesses. The existing use is compatible with the Downtown Specific Plan and with the surrounding uses located within the Lumber Yard Mall. The site maintains adequate parking for the existing and continuing use as a day spa.

**RECOMMENDATION:** Staff recommends that the Planning Commission approve Conditional Use Permit 07-01, subject to the conditions in the attached resolution.

**ATTACHMENTS:** Exhibit A: Application  
Exhibit B: Location Map/Site Plan  
Exhibit C: Letter dated 12/4/98  
Exhibit D: Certificate of Use  
Resolution

CITY OF LAGUNA BEACH

**CONDITIONAL USE PERMIT APPLICATION**

See reverse side for filing instructions

CUP Number 07-01

**I. PROPERTY OWNER/APPLICANT INFORMATION:**

DATE: 1-15-07

Legal Owner Laguna Country Mart, Ltd. Telephone \_\_\_\_\_  
Address 384 FOREST AVE #20 LAGUNA BEACH  
Applicant SUE MARIE CONNOLLY Telephone 714-280-0992  
Address 721 So Coast Hwy #B Laguna Bch

**II. PROPERTY INFORMATION:**

Location 384 FOREST AVE State FL 27  
Assessor Parcel Number 641-252-24 PIN 4572  
Current/Previous Use WAX SPA  
Building/Suite Square Footage 790 Parking Spaces Provided 50

**III. PROPOSED USE:**

Briefly describe the specific use(s) proposed. Include information about proposed merchandise and services, menu items, proposed business hours, etc.

DAY SPA - PERSONAL SERVICES FOR THE RESIDENTS OF LAGUNA BEACH - FACIALS - SKIN CARE PRODUCTS ETC. 10-5 pm - TUES - SAT

Similar Businesses Owned or Operated by the Applicant: SUE MARIE'S DAY SPA - 274 FOREST AVE LAGUNA Bch CA

**IV. JUSTIFICATION:**

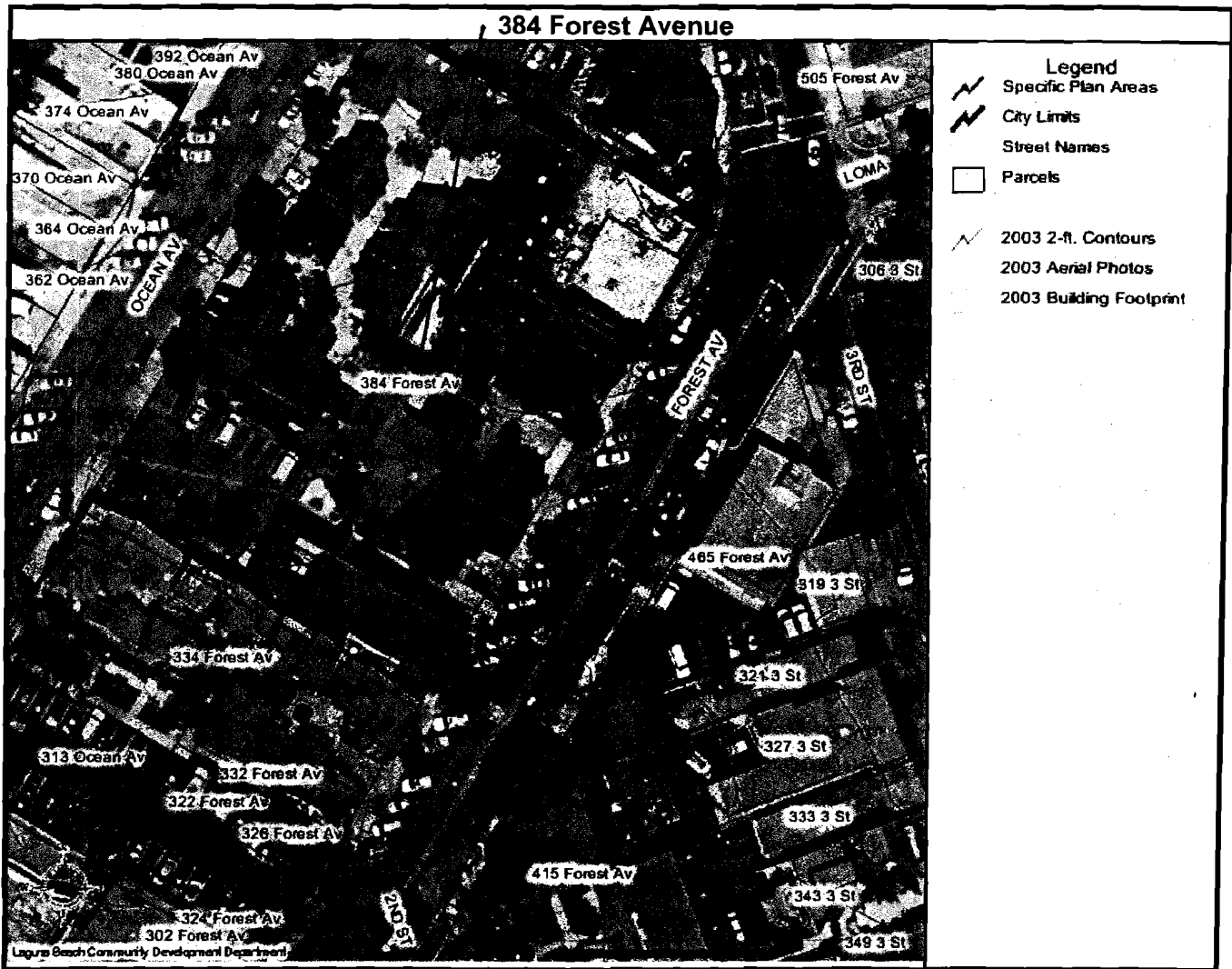
1. Is this site appropriate for the proposed use in terms of size, parking, storage, trash, etc.?  
yes - 790 SQUARE FEET - LARGE PARKING UNDERGROUND AND ON FOREST AVE + OCEAN AVE - TRASH IS OUTSIDE WITH 2 LARGE DUMPSTERS + 1 RECYCLE DUMPSTER - NO STORAGE NEEDED
2. Does this site have adequate street access and on-site parking to handle the traffic generated by the proposed use?  
yes - FOREST AVE + OCEAN AVE AS WELL AS 50 UNDERGROUND PARKING SPOTS.
3. Is the proposed use compatible with the surrounding land uses? Explain.  
yes - Hair Salon, Tanning Salon, + Coffee Pub Close - ALL RESIDENT SERVING
4. Is the proposed use consistent with the goals and policies of the Downtown Specific Plan and the City's General Plan? Explain.  
yes - RESIDENT SERVING - ESTABLISHED IN 1998

**V. AFFIDAVIT:**

I hereby certify that all of the above information contained in this application is, to the best of my knowledge and belief, true and correctly represented and that I have read and understand Chapter 25.05.030 of the Laguna Beach Municipal Code.

[Signature]  
APPLICANT'S SIGNATURE

[Signature]  
PROPERTY OWNER'S SIGNATURE







December 4, 1998

Sue Marie Connolly  
Sue Marie's Day Spa  
384 Forest Avenue, Suite 27  
Laguna Beach, CA 92651

SUBJECT: TEMPORARY BUSINESS LOCATION AT 384 FOREST AVENUE, SUITE 27

Dear Sue Marie:

I am very pleased that you have located a site in which to temporarily establish your business damaged in the November fire. City staff is currently working with your contractor to expedite the building permits for your tenant improvements in order to assist you in opening for operation as quickly as possible.

The temporary location that you have selected is located in the Downtown Specific Plan area. As you are aware, business owners are required to apply for and obtain a Conditional Use Permit prior to the establishment of a new business in the downtown. However, due to the hardship you have experienced, the City will waive the Conditional Use Permit requirement for a period of one year from the date a Certificate of Use is issued for your temporary business location. Should you decide to permanently relocate your business to the subject site, you will be required to submit a Conditional Use Permit application, including applicable attachments and fees, prior to the one-year expiration.

Enclosed is a business license address change form to be completed for your new business location. Please complete and return these forms along with this letter of agreement. All fees related to the business license and certificate of use are being waived.

This letter shall serve as confirmation that you may temporarily locate your business, Sue Marie's Day Spa, to 384 Forest Avenue, Suite 27, for one year without applying for a Conditional Use Permit. Please sign, date and return this letter indicating your agreement to the preceding terms by December 11, 1998, to the attention of Carolyn Martin. Should you have any questions regarding this agreement or the relocation process, please contact Carolyn Martin at (949) 497-0398.

Sincerely,

I have reviewed and agree to the terms outlined in this letter:

A handwritten signature in black ink, appearing to read "Kyle Butterwick".

Kyle Butterwick  
Director of Community Development

Sue Marie Connolly  
dba Sue Marie's Day Spa

Date

cc: Carolyn Martin, Associate Planner  
Cathy King, Business Licensing

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**EXHIBIT C**

# CERTIFICATE OF USE

Department of Community Development  
City of Laguna Beach, California

This is to certify that business of Day Spa  
(business name)

at 384 Ernest Avenue #27 in or on premises of 384 Ernest Avenue  
(street or suite address) (street address of building, complex or site)

and operated by Susan M. Schieber-Cornolly  
(name and address of owner and proprietor)  
under the name of Sun Marie's Day Spa is an approved use

as a conforming, ~~nonconforming~~ (strike one) use in the CEU-2 zone, as authorized by M.C. Title 25  
(reference to CDP number, etc.)

Expiration date: \_\_\_\_\_ Approved By: H. [Signature]  
Date: January 4, 1999 Title: Principal Planner

### POST IN CONSPICUOUS PLACE ON PREMISES

Note: This Certificate is non-transferable and applies only to the premises identified above for the use authorized above.

Exterior changes, including signs, require prior Design Review Approval.

RECORDING REQUESTED BY  
CITY OF LAGUNA BEACH  
AND WHEN RECORDED MAIL TO:

CITY CLERK  
CITY OF LAGUNA BEACH  
505 FOREST AVENUE  
LAGUNA BEACH, CA 92651

(Fee Exempt per Govt. Code 6103)

THIS SPACE RESERVED FOR RECORDING

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF LAGUNA BEACH  
APPROVING CONDITIONAL USE PERMIT 07-01

WHEREAS, an application has been filed by the prospective tenant of property located at 384 Forest Avenue, Suite 27 requesting a Conditional Use Permit in accordance with the provisions of Municipal Code Section 25.05.030 to establish a day spa offering facials, waxing, nail services, body treatments, massage, tinting and ancillary retail sales of associated products; and

WHEREAS, the owner of the subject property has authorized in writing the submittal of the application for a Conditional Use Permit; and

WHEREAS, the Planning Commission of the City of Laguna Beach, acting in accordance with the provisions of Municipal Code Section 25.05.030, conducted a legally noticed public hearing regarding this proposal on February 14, 2007; and

WHEREAS, the Planning Commission carefully considered the oral and documentary evidence and arguments presented at the hearing; and

WHEREAS, the proposed project is exempt from the provisions of the California Environmental Quality Act in accordance with Class 1, Existing Facilities; and

WHEREAS, the Planning Commission has made the following findings:



1. The site is adequate to accommodate the use without adverse impact on abutting property or on parking or traffic circulation in the downtown area in that the parking is legal, non-conforming with no intensification of use proposed; and no additional traffic will be generated and existing conditions are adequate.
2. The proposed use will maintain a balanced mix of uses that serves the needs of both local and non-local populations in that the use offers service to both residents and visitors.
3. The granting of the Conditional Use Permit will not produce an incremental effect of similar uses that would be detrimental to the City in that the use is a day spa that is unique in the downtown and contributes to the diversity of uses in the central business area.
4. The proposed use is consistent with the intent and purpose of the CBD-2 Downtown Commercial Zoning District, in which it is located, and the goals and policies of the Downtown Specific Plan and the City's General Plan in that the site was previously a day spa.
5. The Conditions stated in the decision are necessary to protect the public health, safety and general welfare to assure continued land-use compatibility.

NOW, THEREFORE, BE IT RESOLVED that **Conditional Use Permit 07-01** is hereby granted to the following extent:

Approval to establish a day spa offering facials, waxing, nail services, body treatments, massage, tinting and ancillary retail sales of associated products.

BE IT FURTHER RESOLVED, that the following condition(s) are set forth to protect the health, safety and welfare of the community and to assure the intent and purpose of the regulations:

1. The Conditional Use Permit shall be subject to review if written complaints are received, and shall be subject to administrative review one (1) year after issuance of the certificate of use to determine if the approved conditions of approval are in compliance. These reviews may result in a formal noticed public hearing before the Planning Commission. After the public hearing on the matter, the Planning Commission may require immediate condition compliance, amend the conditions of approval or proceed with revocation of the Conditional Use Permit as specified in Municipal Code Section 25.05.075.
2. It is understood that the conditions of approval apply herein to any future owners or lessees operating under this Conditional Use Permit. This means in legal terms that the conditions of approval for the Conditional Use Permit shall be and hereby are obligations of and binding upon the applicant and his/her heirs, successors, assigns, agents and representatives. The conditions shall constitute a covenant running with and binding the land in accordance with the provisions of California Civil Code Section 1468. Failure to comply with such conditions, and each of them, and any other related federal, state and local regulations may be grounds for revocation of the Conditional Use Permit, in addition to other remedies that may be available to the City.
3. Applicable Certificate of Use and/or Certificate of Occupancy shall not be issued until City staff has verified compliance with all conditions of approval.
4. This Conditional Use Permit shall not become effective until any required Design Review approval has been obtained.
5. This Conditional Use Permit shall not become effective until the owner of the subject property has signed an affidavit in the form attached to this Resolution, whereby the property owner

acknowledges and consents to the imposition of the conditions set forth in this Resolution, and agrees that such conditions shall constitute restrictions running with the land and shall be binding upon the property owner and their heirs, successors and assigns. If the applicant is different than the owner of the subject property, then this Conditional Use Permit shall also not become effective until the applicant has signed an affidavit in the form attached to this Resolution, whereby the applicant acknowledges and consents to the imposition of the conditions set forth in this Resolution, and agrees that such conditions shall be binding upon the applicant and their heirs, successors and assigns.

6. This Conditional Use Permit shall lapse and automatically become void two years following the effective date unless: a) the privileges authorized are established; or b) a building permit is issued and construction is begun and diligently pursued to completion; or c) an extension of time is granted pursuant to Municipal Code Section 25.05.030 (I).

7. If the use authorized under this Resolution and Conditional Use Permit is abandoned or terminated for any reason for a period of at least one year, the Conditional Use Permit shall automatically expire and become void.

8. In the absence of specific provisions or conditions herein to the contrary, the application and all plans or exhibits attached to the application are relied upon, incorporated and made a part of this resolution. It is required that such plans or exhibits be complied with and implemented in a consistent manner with the approved use and other conditions of approval. Such plans and exhibits for which this Conditional Use Permit has been granted shall not be changed or amended except pursuant to a subsequent Conditional Use Permit or Variance as might otherwise be

required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.

9. No additions or enlargements of structures upon property for which this Conditional Use Permit has been granted shall be allowed except pursuant to a subsequent Conditional Use Permit or Variance as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.

10. The sale of tee-shirts, bathing suits, jewelry and ivory of any kind shall be prohibited.

11. Outdoor display or outside seating of any kind shall be prohibited, unless approved as an amendment to this Conditional Use Permit. Application for such an amendment may only be accepted for processing, if outdoor display and/or outside seating are permitted use(s) in the applicable zoning district.

12. A City business license shall be obtained prior to the operation of any business use permitted by this Conditional Use Permit.

13. No proposed change or modification to the specifically permitted use of a day spa shall be allowed except pursuant to a subsequent or amended Conditional Use Permit granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.

14. The applicant shall not allow, act, cause or permit any lessee, agent, employee, exhibitor or concessionaire any "prohibited discharge" (as defined in Municipal Code Section 16.01.020) into the City's storm water drainage system.

15. The applicant (and the applicant's successors or assigns) shall defend, indemnify and hold harmless the City and its officers, employees and agents from any claim, action, proceeding,

demand, damage, loss or liability arising out of or resulting from (a) the approval of this Conditional Use Permit and (b) the use and occupancy of the subject property in accordance with the project approval.

16. The required parking shall be available free of charge to the tenants and customers of the proposed business during the approved hours of operation.

17. The hours of operation shall be limited to 10:00 a.m. to 5:00 p.m., Tuesday through Saturday.

18. The applicant shall fully comply with the provisions of Municipal Code Chapter 5.61 regarding massage establishments and the required permits from the City prior to the issuance of a Certificate of Use and Occupancy. Any required licenses shall be posted and visible to the public.

NOW THEREFORE BE IT RESOLVED that the above decision was rendered on February 14, 2007.

ADOPTED this 14th day of February, 2007.

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ATTEST:

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Chairperson, Planning Commission  
City of Laguna Beach, California

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Director/Community Development  
City of Laguna Beach, California