



## MILPITAS PLANNING COMMISSION AGENDA REPORT

**PUBLIC HEARING**

Meeting Date: January 26, 2011

---

**APPLICATION:**                      **CONDITIONAL USE PERMIT NO. UP10-0025**

APPLICATION  
SUMMARY:

A request to operate a 1,821s.f. massage facility within the Victorian Square Shopping Center.

LOCATION:

1215 E Calaveras Blvd. (APN: 029-13-041)

APPLICANT:

Wayne Renshaw, 111 W. Saint John St #950, San Jose, CA 95113

OWNER:

Feng Yu, 1215 E. Calaveras Blvd., Milpitas, CA 95035

**RECOMMENDATION:**

**Staff recommends that the Planning Commission: Adopt Resolution No. 11-005 approving the project subject to the conditions of approval.**

PROJECT DATA:

General Plan/

Zoning Designation:

General Commercial / General Commercial with Site and Architectural Review Overlay District

CEQA Determination:

Categorically exempt from further environmental review pursuant to Section 15301 for existing facilities.

PLANNER:

Tiffany Brown, Junior Planner  
PJ: 2691

ATTACHMENTS:

- A. Resolution No. 11-005
- B. Site Plans
- C. Letter from applicant

# LOCATION MAP



No scale

**BACKGROUND**

On November 24, 2010 an application was submitted by Wayne Renshaw, representing Feng Yu with Milpitas Day Spa, requesting to locate a massage establishment within the Victorian Square Shopping Center. According to Table 5.02-1, Commercial Zone Uses, of the Zoning Ordinance, massage establishments are conditionally permitted uses with review and approval by the Planning Commission.

**PROJECT DESCRIPTION**

The project site is a developed commercial center built in the late seventies and early eighties. The site consists of four commercial buildings, three smaller buildings along E. Calaveras Blvd. and one large rectangular building toward the rear of property. The proposed project tenant space is located within the large rectangular building located at the rear of the property at 1215 E. Calaveras Blvd. A vicinity map of the subject site location is included on the previous page. The General Plan and Zoning Ordinance designate this site as General Commercial. Neighboring uses include Milpitas Dental Center, Star Bucks, Check into Cash, Subway, and other commercial retail uses.

The applicant proposes a massage establishment within a 1,821 square foot tenant space. This space includes six massage rooms, a shower room, a staff room, restrooms, and receptions area. Each massage room has a cut clearstory opening on the wall facing the common walk area. This opening allows sound in all massage rooms to be heard throughout the establishment. The opening will remain open at all times and may be covered by some type of shade or curtain. As proposed, the couples massage room does not have a cut clearstory opening on the site plans, however, staff recommends as a condition of approval, the applicant will be required to add a cut clearstory opening for the couples massage room. Milpitas Day Spa will offer foot, full body, and head with shoulder massages in a variety of styles (i.e. traditional Swedish massage, deep tissue work, hot stone massage etc.). The business hours of operation will be 7 days a week from 9:00a.m. to 10:00p.m. See Attachment C for more details.

**ADOPTED PLANS AND ORDINANCES CONSISTENCY**

***General Plan***

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

**Table 2**  
**General Plan Consistency**

<b>Policy</b>	<b>Consistency Finding</b>
<i>2.a-I-5: Maintain policies that promote a strong economy which provides economic opportunities for all Milpitas residents within existing environmental, social fiscal and land use constraints.</i>	Consistent.
<i>2.a-I-10: Foster community pride and growth through beautification of existing and future development.</i>	Consistent.

The proposed massage establishment is consistent with the General Plan in that the Spa is within the existing environmental, social, fiscal and land use constraints and the use at the proposed location fosters community growth and pride by occupying a vacant tenant space within the Victorian Square. A shopping center fully occupied or close to being fully occupied, creates a thriving shopping center that promotes pride and in addition adds a variety of tenants for the center customers.

### ***Zoning Ordinance***

The proposed project at the proposed location is consistent with the Zoning Ordinance Table XI-10-5.02-1, in that a massage establishment as the primary business use is a Conditionally Permitted use within the General Commercial zone (*if in compliance with the Milpitas Municipal Code III-6-7, Massage Establishments*). The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

### ***Milpitas Municipal Code III-6-7, Massage Establishment,***

The purpose and intent of the Massage Ordinance is to is to protect the public health, safety and welfare by regulating the operation of massage establishments, off-premises massage services, and persons offering massage and to ensure that persons offering massage services conduct their work in a lawful and professional manner; that they possess the minimum necessary qualifications and training; and that they comply with minimum building sanitation and health standards. As conditioned, the proposed establishment is consistent with the Milpitas Municipal Code III-6-1, Massage Establishment. (*See attachment D, Milpitas Municipal Code III-6-7*)

### **ENVIRONMENTAL REVIEW**

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Section 15301 of the General Provisions for Existing Facilities due to the proposed project being use for a massage establishment to locate within an existing facility.

### **PUBLIC COMMENT/OUTREACH**

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

### **CONCLUSION**

The proposal to locate a new massage establishment within the Victorian Square shopping center is consistent with the General Plan and Zoning Ordinance. The Milpitas Day Spa will promote a mix of uses, provide economic opportunities, and will be compatible with its neighboring existing / future tenants within the center.

### **RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. 11-005 approving UP10-0025, subject to the attached Resolution and Conditions of Approval.

*Attachments:*

- A. Resolution No. 11-005
- B. Site Plans
- C. Letter from applicant

## RESOLUTION NO. 11-005

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP10-0025, MILPITAS DAY SPA, TO ALLOW A MASSAGE ESTABLISHMENT LOCATED AT 1215 E CALAVERAS BLVD.

**WHEREAS**, on November 24, 2010, an application was submitted by Wayne Renshaw, 111 W. Saint John St. #950, San Jose, CA 95113, to allow for a massage establishment within the Victorian Square shopping center. The property is located within the General Commercial Zoning District. (APN:029-13-041); and

**WHEREAS**, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt.

**WHEREAS**, on January 26, 2011 the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

**NOW THEREFORE**, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** The project is categorically exempt from further environmental review pursuant to Section 15301 of the CEQA guidelines, General Provisions for Existing Facilities due to the proposed project being use for a massage establishment to locate within an existing facility

**Section 3:** The proposed massage establishment is consistent with the General Plan policies 2.a-I-5 and 2.a-I-10 in that the Spa is within the existing environmental, social, fiscal and land use constraints and the use at the proposed location fosters community growth and pride by occupying a vacant tenant space within the Victorian Square. A shopping center fully occupied or close to being fully occupied, creates a thriving shopping center that promotes pride and in addition adds a variety of tenants for the center customers.

**Section 4:** The proposed project at the proposed location is consistent with the Zoning Ordinance Table XI-10-5.02-1, in that a massage establishment is a Conditionally Permitted use within the General Commercial zone. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

**Section 5:** The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP10-0025, Milpitas Day Spa, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on January 26, 2011.

---

Chair

**TO WIT:**

**I HEREBY CERTIFY** that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on January 26, 2011, and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Zeya Mohsin				
Lawrence Ciardella				
Sudhir Mandal				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
John Luk				

**EXHIBIT 1****CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT NO.**

A request to operate a 1,821 square foot massage facility within the  
Victorian Square Shopping Center.  
1215 E Calaveras Blvd. (APN: 029-13-041)

**General Conditions**

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on **January 26, 2011**, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**

**UP10-0025** shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:

- a. Completes a foundation associated with the project; or
  - b. Dedicates any land or easement as required from the zoning action; or
  - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of **UP10-0025** if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
  3. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
  4. Use Permit No. UP10-0025 is for a Massage Establishment known as the Milpitas Day Spa. The business provides foot, full body, and head with shoulder massages in a variety of styles (i.e. traditional Swedish massage, deep tissue work, hot stone massage etc.). The business hours of operation will be 7 days a week from 9:00a.m. to 10:00p.m. **(P)**
  5. Each massage room is to have and maintain a cut clearstory opening on the wall facing the common walk area. This opening allows sound in all massage rooms to be heard throughout

the establishment. The opening will remain open at all times and may be covered by some type of shade or curtain. **Prior to Building Permit issuance**, the applicant shall add a clearstory opening on the wall for the couples massage room. **(P)**

6. The massage establishment shall comply with Title III, Chapter 6 "Massage Establishments and Practitioners", of the City of Milpitas Municipal Code. **(P)**
7. The massage establishment permit, and a copy of the permit of each and every massage practitioner employed by a massage establishment shall be displayed in an open and conspicuous place on the premises. **(P)**
8. Prior to issuance of a certificate of occupancy and business license, the applicant shall submit an application to the Chief of Police or his or her authorized representative. Please refer to III-6-6 Massage Establishment, and Off-Premises Massage Service Permit Application. **(P)**
9. Each person employed or acting as a message practitioner shall have a valid massage practitioner permit issued by the Chief of Police which shall be clearly visible on the massage practitioner's person during working hours. It shall be unlawful for any owner, manager, operator, managing officer/employee, or permittee to employ or permit a person to act as a massage practitioner who is not listed on the massage establishment permit application or off-premises massage services permit application and who is not in possession of a valid massage practitioner permit issued pursuant to Chapter 6 of the Milpitas Municipal Code. **(P)**
10. The possession of a valid massage establishment permit or off-premises massage service permit does not authorize the possessor of the permit or any other person to perform work for which a massage practitioner permit is required. **(P)**
11. Massage shall be provided or given only between the hours of 7:00 a.m. and 10:00 p.m. No massage establishment shall be open and no customer shall be in such massage establishment between the hours of 10:30 p.m. and 7:00 a.m. No off-premises massage shall be provided or given between the hours of 10:00 p.m. and 7:00 a.m. **(P)**
12. A list of services available, and the cost of such services, shall be posted in an open public place within the premises and shall be described in readily understandable language. No owner, manager, operator, managing officer/employee, or permittee shall permit, and no massage practitioner shall offer or perform, any service other than those posted. **(P)**
13. Every massage establishment and off-premises massage service shall keep a written record of the date and hour of each service provided, the name and address of each patron and the service received, and the name of the massage practitioner administering the service. Such records shall be open to inspection only by City officials, including the Police Department and the City Attorney, charged with enforcement of this chapter. These records may not be used for any other purpose than as records of services provided and may not be provided to other parties by the massage establishment or off-premises massage service unless otherwise

required by law. Such records shall be retained on the premises of the massage establishment or at the off-premises massage service business office for a period of two (2) years. **(P)**

14. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, table coverings and linens. Clean towels, coverings and linens shall be stored in enclosed cabinets. Towels and linens shall not be used on more than one (1) patron, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one (1) patron. Soiled linens and paper towels shall be deposited in separate, approved receptacles. **(P)**
15. All employees, and massage practitioners, shall perform their work fully clothed, be clean and wear clean outer garments which are used and worn only at the establishment (i.e., a smock). **(P)**
16. No massage establishment or off-premises massage service shall operate as a school of massage, or use the same facilities as that of a school of massage. **(P)**
17. No massage establishment or off-premises massage service which has been granted a permit under the provisions of this Chapter shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers that any service is available other than those services described in Section 6-2(c) of this Chapter. No massage establishment or off-premises massage service shall employ language in the text of such advertising that would reasonably suggest to a prospective patron that any service is available other than those services as described in Section 6-2(c) of this Chapter. **(P)**
18. At least one entrance door, allowing access to the massage establishment and any building it may be located in, shall remain unlocked during business hours. **(P)**
19. No massage establishment shall be open for business without at least one massage practitioner on the premises at all times who is in possession of a valid permit. **(P)**
20. Any change with respect to the information contained in the permittee's application shall be reported to the Chief of Police within ten (10) days of such change. (Ord. 172.3 (part), 4/18/95) **(P)**

**(P)** = Planning





**wayne renschow**  
architect

111 W Saint John St. #950  
San Jose, CA 95113  
(408) 288 8033  
fax 999 6637

consultant

**project summary**

**MILPITAS DAY SPA - PROJECT SUMMARY**  
MILPITAS DAY SPA AIMS TO BE THE PREMIER SPA IN THE CITY OF MILPITAS, OFFERING A COMPLETE DAY SPA EXPERIENCE. WE OFFER FOOT, FULL BODY, HEAD AND SHOULDER MASSAGE IN A VARIETY OF STYLES - TRADITIONAL SWEDISH MASSAGE, DEEP TISSUE WORK, HOT STONE MASSAGE AND FOOT MASSAGE. OUR EXPERT THERAPISTS NOT ONLY RELIEVE STRESS AND FATIGUE, WE CAN ALSO HELP RESTORE BALANCE AND HARMONY BETWEEN THE MIND AND BODY.

**PROPOSED BUSINESS HOURS:**  
7 DAYS A WEEK, 9:00 A.M. TO 10:00 P.M.

**MISSION**  
MILPITAS DAY SPA WILL PROVIDE PUBLIC VALUABLE HEALTH BENEFITS TO THE CITY OF MILPITAS AND REDUCE MANY NEGATIVE IMPACTS TO THE PUBLIC HEALTH. OUR CUSTOMERS WILL BE ABLE TO RELAX BOTH BODY AND MIND; RELIEVE STRESS AND FATIGUE; RESTORE THE BALANCE AND HARMONY WITHIN THEIR BODY. MILPITAS DAY SPA WILL ESTABLISH ITSELF AS A DEPENDABLE DESTINATION WHERE PEOPLE CAN GO TO ESCAPE THE STRESSES OF LIFE AND REJUVENATE THEIR ENERGIES.

**BUSINESS MANAGER:** MS. FENG YU  
OWNER, FREMONT HEALTH SPA LOCATED AT 43779 BOSCELL ROAD, FREMONT CA.

**WORK HISTORY:**  
OAKLAND HEALTH AND NATURAL HEALING INC., FULL TIME MASSAGE THERAPIST 7/09  
OAKLAND HEALTH AND NATURAL HEALING INC., PART TIME MASSAGE THERAPIST 7/06-7/09  
SAN PABLO BUSINESS PLAZA LP, MANAGER ASSISTANT 12/03-08

**EDUCATION:**  
MASSAGE THERAPIST: ACADEMY OF CHINESE CULTURE AND HEALTH SCIENCES  
5/29/10 (100 HOURS)  
MASSAGE THERAPIST ORIENTAL MEDICINE INSTITUTE IN AMERICA CERTIFICATE  
(600 HOURS)  
ELECTRICIAN SHANGHAI ELECTRONIC UNIVERSITY BA DEGREE

**LICENSES AND PERMITS**  
MASSAGE THERAPIST PERMIT FOR OAKLAND HEALTH AND NATURAL HEALING 7/09  
MASSAGE THERAPIST ON OUT CALL SERVICE PERMIT CITY OF OAKLAND 7/06-7/09  
MASSAGE THERAPIST LICENSE ORIENTAL MEDICINE INSTITUTE IN AMERICA 2006  
CERTIFIED MASSAGE THERAPIST MEMBER AMERICAN MASSAGE THERAPY ASSOCIATION  
LICENSED MASSAGE THERAPIST  
MASSAGE TECHNICIAN PERMIT ISSUED BY CITY OF FREMONT

- general notes**
1. This sheet is part of a set and is not to be used alone.
  2. This sheet is not to be used for construction unless the architect's stamp and signature appear on drawings and status box indicates drawings have been released for construction.
  3. These plans and prints thereof, as instruments of service, are owned by the architect and are for use on this project only. Reproduction and/or distribution without the prior written consent of the architect is forbidden.
  4. Copyright Wayne Renschow, Architect 2010

**sheet notes**

1. EXISTING OFFICE TO BE USED AS MASSAGE ROOM.
2. EXISTING TOILET ROOM, TO REMAIN.
3. NEW SHOWER ROOM
4. NEW WATER HEATER AND MOP SINK
5. NEW BREAK ROOM COUNTER WITH SINK
6. EXISTING DOOR AND FRAME WITH GLASS PANEL. PROVIDE NEW FROSTED FILM OVER GLASS.
7. PROVIDE FROSTED WINDOW FILM OVER EXISTING GLASS WINDOW.
8. CUT CLEARSTORY OPENING ON WALL EXTENDING 24" BELOW FINISH CEILING. PATCH AND REPAIR EDGES OF OPENING TO MATCH ADJACENT. (NO GLASS IN OPENING)
9. EXISTING COLUMN, TO REMAIN.
10. NEW WASHER AND DRYER.
11. EXISTING FOLDING PARTITION, TO REMAIN

**Milpitas Day Spa**

**Conditional Use Permit**

1215 Calaveras Blvd  
Milpitas, CA 95035

#	description	date

release status	date
<input type="radio"/> client review	
<input type="radio"/> plan check	
<input type="radio"/> bidding	
<input type="radio"/> construction	

date 11/15/2010

proj num 1063

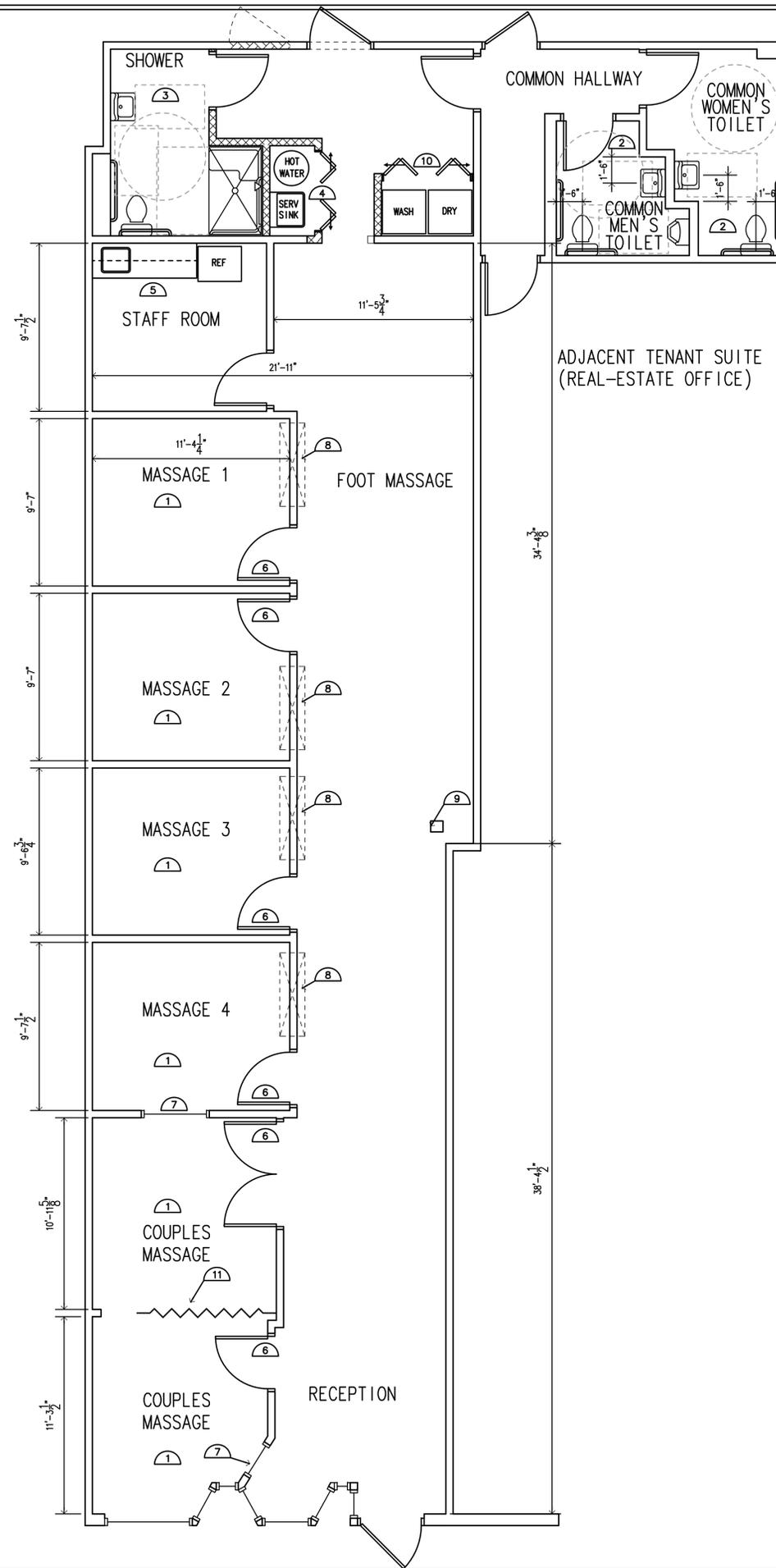
proj mgr wr

proj arch wr

scale 1/4"=1'-0" 0 1 2 3 4 5

**floor plan**

sheet number **A2.0**





**wayne rensaw**  
architect

111 West Saint John St.  
Suite 950  
San Jose, CA 95113

408 288 8033 phone  
408 999-6637 fax

wayne@wr-architect.com

January 20, 2011

Project Summary and Service Guide for  
Milpitas Day Spa  
1215 Calaveras Blvd  
Milpitas California.

Milpitas Day Spa - Project Summary

Milpitas day spa aims to be the premier spa in the city of Milpitas, offering a complete day spa experience.

Proposed Services:

Services include foot, full body, head and shoulder massage in a variety of styles - traditional Swedish massage, deep tissue work, hot stone massage and foot massage. Our expert therapists not only relieve stress and fatigue, we can also help restore balance and harmony between the mind and body.

Services foot and back massage are provided in the open area in a chair. Full body massage is provided in a private room. A "couples room" is also proposed to allow couples to receive massages together. (although the room is referred to as a "couples" room, typical customers are mother/daughter and female friends that are out to share a massage together)

Proposed business hours:  
7 days a week, 9:00 a.m. to 10:00 p.m.

Mission

Milpitas day spa will provide public valuable health benefits to the city of Milpitas and reduce many negative impacts to the public health. Our customers will be able to relax both body and mind; relieve stress and fatigue; restore the balance and harmony within their body. Milpitas day spa will establish itself as a dependable destination where people can go to escape the stresses of life and rejuvenate their energies.

Business manager: Mrs. Feng Yu  
Owner, Fremont health spa located at 43779 Boscell Road, Fremont ca.

Work history:

Oakland health and natural healing inc., full time massage therapist 7/09  
Oakland health and natural healing inc., part time massage therapist 7/06-7/09  
San Pablo business plaza lp, manager assistant 12/03-08

Education:

Massage therapist: academy of Chinese culture and health sciences  
5/29/10 (100 hours)  
Massage therapist oriental medicine institute in America certificate  
(600 hours)  
Electrician Shanghai Electronic University BS degree

architecture  
planning  
computer  
aided design  
visualization  
rendering

January 20, 2011

Page 2

Licenses and permits

Massage therapist permit for Oakland health and natural healing 7/09

Massage therapist on out call service permit city of Oakland 7/06-7/09

Massage therapist license oriental medicine institute in America 2006

Certified massage therapist member American massage therapy association

Licensed massage therapist

Massage technician permit issued by city of Fremont

Should you have any specific questions, please feel free to contact me directly.

Sincerely

Wayne Renshaw  
Architect.

