

**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 04/28/2020  
Agenda Item: 3**

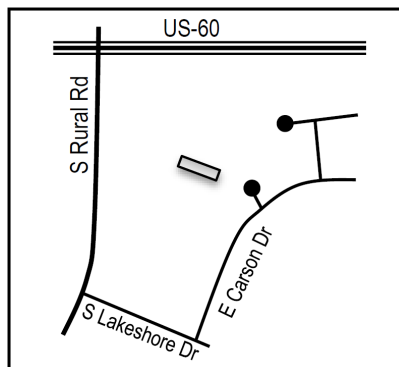
**ACTION:** Request a Use Permit to allow a massage establishment for **YOSHI MASSAGE SPA**, located at 4415 South Rural Road.

**FISCAL IMPACT:** N/A

**RECOMMENDATION:** Staff – Continue to May 26, 2020 DRC Hearing

**BACKGROUND INFORMATION:** YOSHI MASSAGE SPA (PL200015) is requesting a Use Permit to operate a massage establishment in an existing suite at 4415 South Rural Road, within the PCC-2, Planned Commercial Center General. A Use Permit for a massage establishment was approved in 2011 for this location and a Use Permit transfer was approved by staff in July 2019 to Yoshi Massage Spa. The request includes the following:

ZUP200011 Use Permit to allow a massage establishment.



Property Owner	MZH, LLC
Applicant	Michael Harris, Yoshi Massage Spa
Zoning District	PCC-2
Building Area	1,000 s.f.
Vehicle Parking	No change in demand
Bicycle Parking	No change in demand
Hours of Operation	9 a.m. - 9 p.m., Daily

**ATTACHMENTS:** Development Project File

**STAFF CONTACT(S):** Dalton Guerra, Planner I (480) 350-8652

Department Director: Chad Weaver, Community Development Director  
 Legal review by: N/A  
 Prepared by: Dalton Guerra, Planner I  
 Reviewed by: Steve Abrahamson, Principal Planner

## COMMENTS

The applicant requested a Use Permit transfer from a previous massage establishment in the same suite (Yushi Massage) on July 12, 2019. The transfer was approved, but the applicant wants to deviate from the hours of operation that were originally approved for the prior establishment (9 am – 7 pm). Therefore, the applicant is requesting a new Use Permit with modified hours of operation.

## PUBLIC INPUT

To date, staff has not received any public input.

## POLICE INPUT

Tempe Police Department informed Planning Staff that one of the owner's massage establishments located in the City of Glendale is currently going through a license revocation process scheduled to be heard in May. Therefore, PD cannot provide a recommendation of approval or denial for this request.

## USE PERMIT

The proposed use requires a Use Permit to operate a massage establishment within the PCC-2 zoning district. A new Use Permit is required to be approved due to the proposed changes to the previously approved hours operation.

Section 6-308 E Approval criteria for Use Permit (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic*; the use of the suite is remaining the same and therefore there is not expected to be an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; all business is conducted indoors and there is no change in use being proposed for this suite from a massage establishment.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan*; massage establishments are a permitted use subject to a Use Permit and this site has been approved for a Use Permit in the past.
4. *Compatibility with existing surrounding structures and uses*; this site is in an existing commercial center with a number of commercial businesses operating in adjacent suites.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; the use is not changing from a massage establishment and there is a security plan submitted with the City of Tempe Crime Prevention Unit.

## REASONS FOR CONTINUANCE:

Based on the information provided by the applicant, Tempe Police Department input, and the above analysis staff is recommending that this item is continued to the May 26, 2020 DRC Hearing. Staff's recommendation is based on Tempe Police Department's input and the status of the applicant's license revocation process in the City of Glendale for one of his existing businesses. A continuance will provide Tempe PD more time to provide a recommendation on this request.

## SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.

### CONDITION(S) OF APPROVAL: (Non-standard conditions are identified in bold)

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. The Use Permit is valid only after a Building Permit has been obtained, the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.

**CODE/ORDINANCE REQUIREMENTS:**

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

**USE PERMIT:**

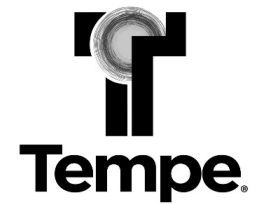
- The Use Permit is valid for Yoshi Massage Spa and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has not been submitted, whichever is applicable, within twelve (12) months after the use permit is granted or within the time stipulated by the decision-making body.
- The decision-making body, upon finding that the applicant has not taken corrective actions to resolve issues related to the permit/approval and that a continuation of the permit/approval is not in the interest of the public health, safety and general welfare, can revoke the permit/approval after providing written notice of its intentions to the holder of the permit.
- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through <http://www.tempe.gov/zoning> or purchase from Development Services.
- All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8435.
- Any intensification or expansion of use shall require a new Use Permit.
- All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
- All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained, or the Use Permit is void.

**HISTORY & FACTS:**

- |                   |   |
|-------------------|---|
| November 22, 2011 | Hearing Officer approved (PL110373/ZUP11098) a Use Permit to allow a massage establishment for Yushi Massage Spa, located at 4415 South Rural Road within the PCC-2 zoning district.                                  |
| July 12, 2019     | Community Development Department Staff approved (PL190152/ZUP190051) a Use Permit Transfer to allow a massage establishment for Yoshi Massage Spa, located at 4415 South Rural Road within the PCC-2 zoning district. |

**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts  
 Section 6-308 Use Permit



# DEVELOPMENT PROJECT FILE

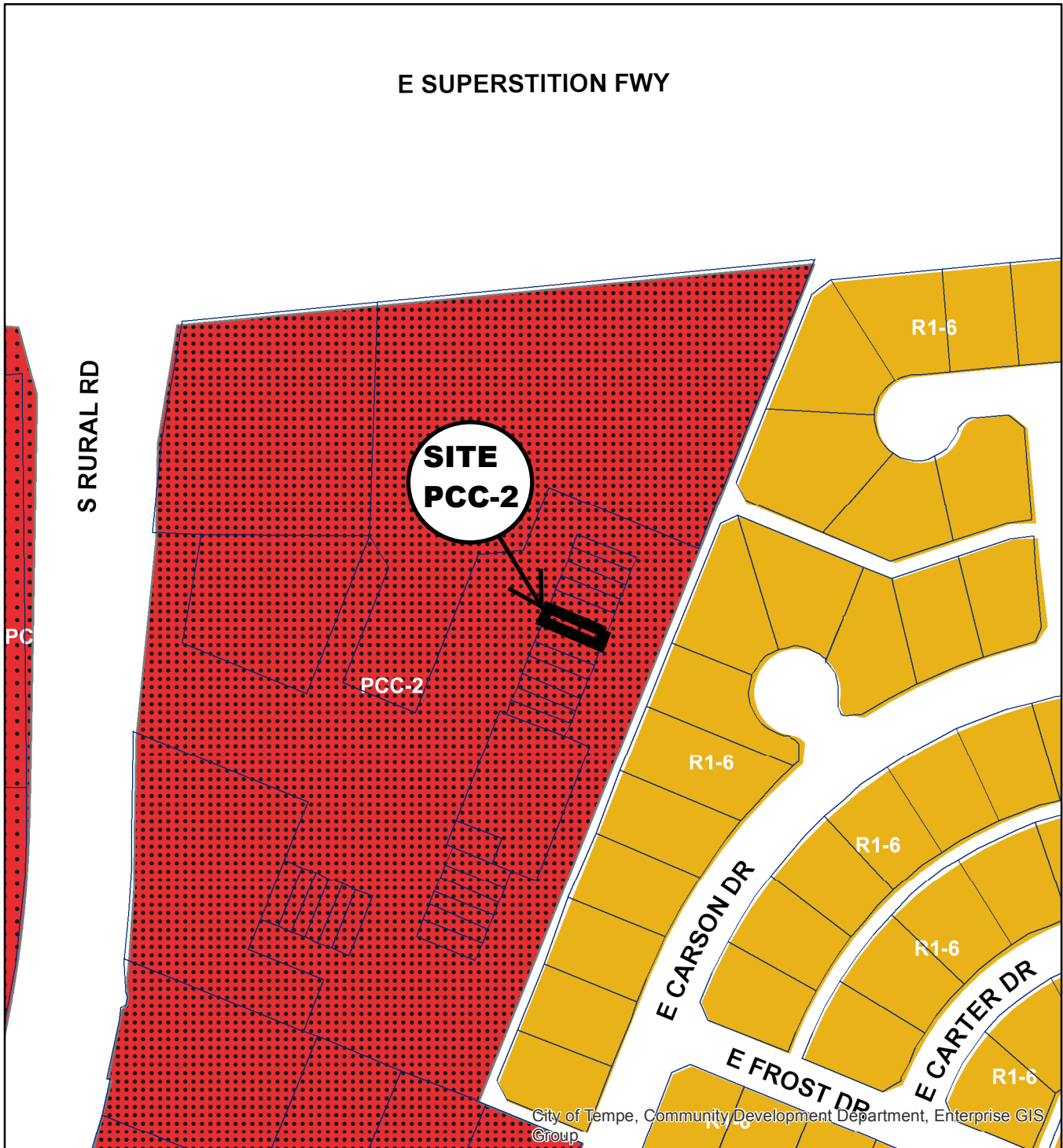
for




YOSHI MASSAGE SPA

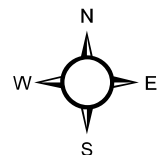
(PL200015)

## ATTACHMENTS:

1. Location Map
2. Aerial
3. Letter of Explanation
4. Site Plan
5. Floor Plan
6. Site Context Photo
7. Tempe Police Department Memorandum



-  Planned Commercial Center Neighborhood (PCC-1)
-  Planned Commercial Center General (PCC-2)
-  Single-Family Residential (R1-6)

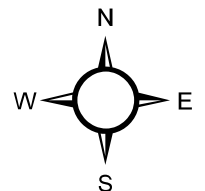


4415 SOUTH RURAL ROAD

PL200015



Aerial Map



**harrismr43@yahoo.com**

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**From:** <harrismr43@yahoo.com>  
**Date:** Monday, February 10, 2020 5:26 PM  
**To:** <dalton\_guerra@tempe.gov>  
**Attach:** yoshi use per1.pdf; yoshi use per2.pdf; yoshi use per3.pdf; yoshi use per4.pdf; FullSizeRender (2).jpg  
**Subject:** use permit

objective for use permit;

Yoshi Massage Spa  
4415 S Rural Rd #7  
Tempe AZ 85282

We are requesting a change in open days and hours

currently; mon-sat open 8:00AM close 7:00PM  
requesting; mon-sun open 9:00AM close 9:00PM

the currant staffing is always one licensed tech on site  
the requested time day/time change will be always one licensed tech on site when busy no more than two

we bought this store last year and transferred the license to MZH, LLC (Michael Harris) through the City of Tempe. Unknowing the store had limited open days/hours, it was never brought to our attention, (I know, shame on us) The day/time restrictions were brought to our attention by Tempe PD on the final walkthrough. We thought it would still work out with the limited operation times, however we found economic shortfall with the limited hours. The added day and longer hours will provide a better opportunity to serve a few more customers per month, making this store in a profitable mode.

many of the neighboring stores in this strip mall area are open more days and hours

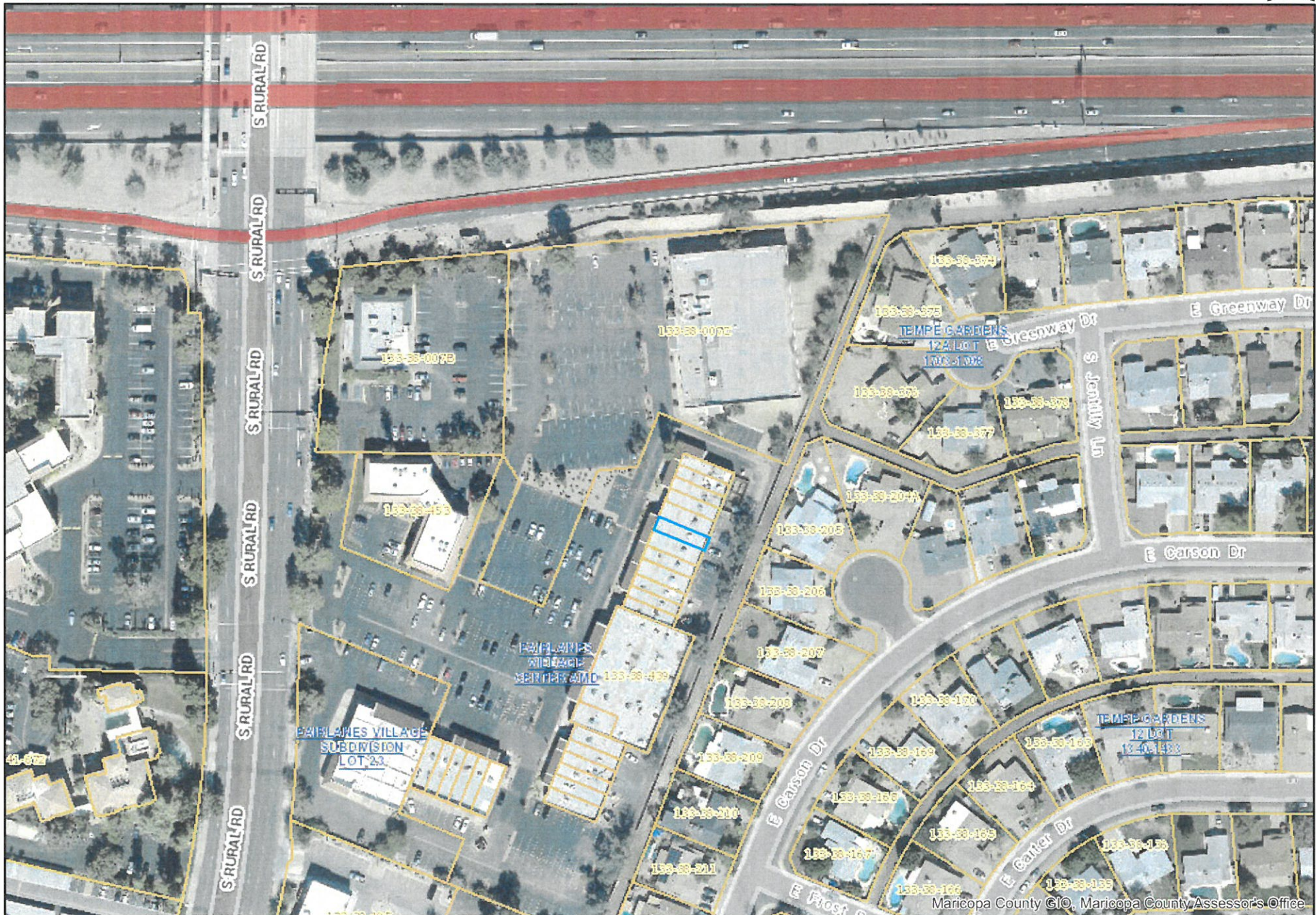
parking the extended days and hours would not be impacted

MZH LLC  
Michael R Harris, officer  
8777 Shady Peak Way  
Las Vegas NV 89123

702-806-4984

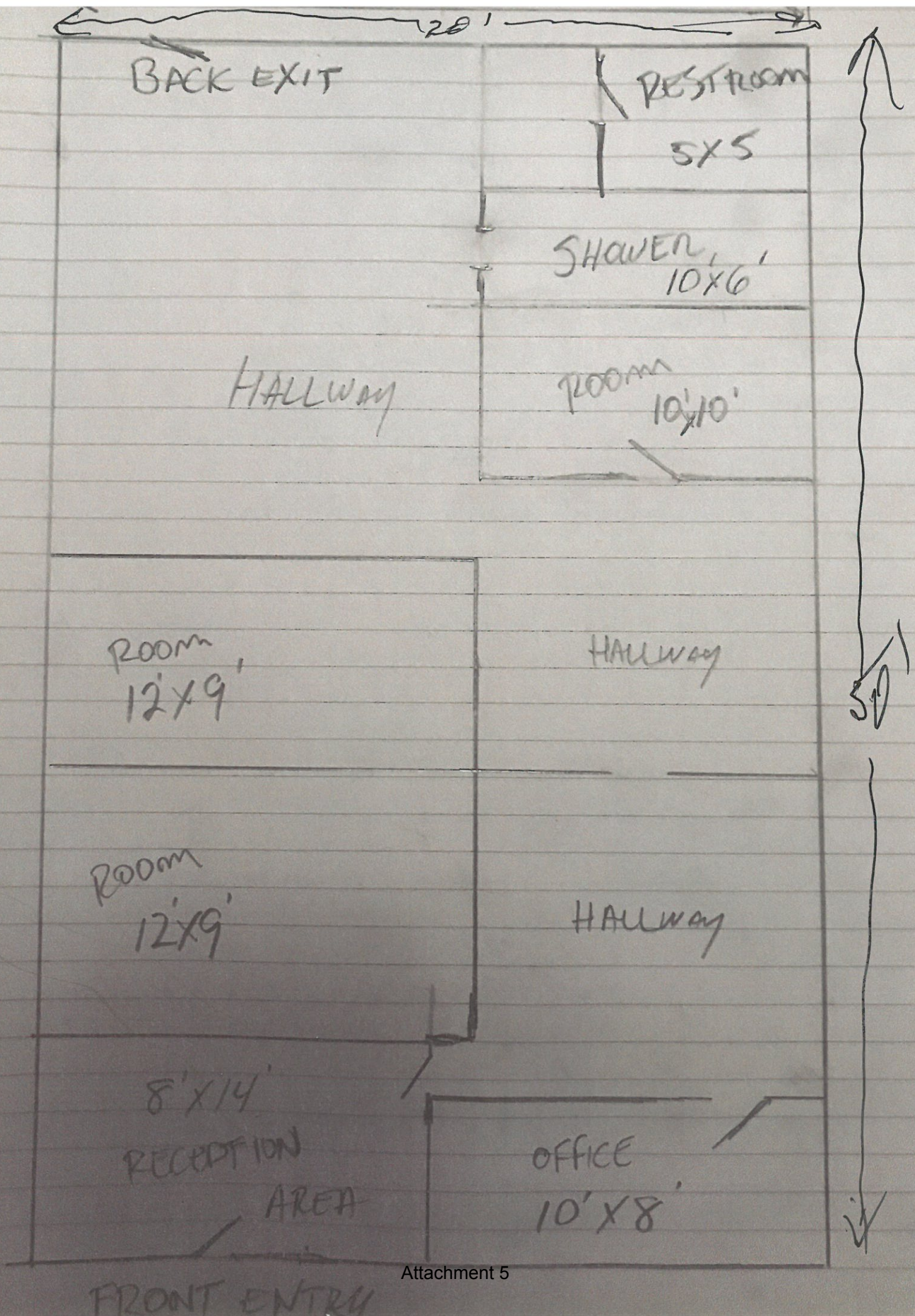


# Map



Maricopa County GIS, Maricopa County Assessor's Office





# MASSAGE

**OPEN**  
YUSHI  
MASSAGE  
THERAPY

**BODY  
MASSAGE**  
MEN & WOMEN WELCOME  
GIFT CERTIFICATES  
AVAILABLE

HOURS  
AM 9 - 4 PM  
DAYS



# Memorandum



Tempe Police Department

**TO:** Development Review Commission  
**FROM:** Anna Churan, Licensing Specialist, Tempe Police Department  
**DATE:** 04/10/2020

**SUBJECT: Yoshi Massage Spa @4415 S. Rural Rd. St. 7-Massage Establishment Use Permit to change hours**

It was brought to the attention of the Tempe Police Department the Yoshi Massage Spa is applying for a Use Permit to change/extend hours of operation.

Currently Tempe Police Department doesn't feel comfortable giving a recommendation, due to the owners' other massage establishment location in Glendale currently going through an administrative and legal process with the City of Glendale. Their massage establishment license in Glendale is going through the revocation process, and there is a pending appeal hearing scheduled for Mid-May. PD cannot discuss the process in Glendale, it would be up to the owner or representative to divulge that information.

At this time PD will not support or provide a recommendation on this business extending their hours.

Respectfully,

Anna Churan - Licensing Specialist  
Tempe Police Department