

**CITY OF NEWPORT BEACH  
PLANNING DEPARTMENT ACTION REPORT**

**TO:** CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

**FROM:** James W. Campbell, Acting Planning Director

**SUBJECT:** Report of actions taken by the Zoning Administrator, Planning Director, and/or Planning Department staff for the week ending September 24, 2010.

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**ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF**

Item 1: Massage Envy in Westcliff Plaza– Activity No. UP2010-023 (PA2010-112)  
1052 Irvine Avenue

This item was approved on September 21, 2010

Council District 3

On behalf of James W. Campbell, Acting Planning Director:



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Patrick J. Alford, Planning Manager

**APPEAL PERIOD:** Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

*Email* Dana Smith, Assistant City Manager  
Leonie Mulvihill, Assistant City Attorney  
David Keely, Public Works Senior Civil Engineer  
Code Enforcement Division  
Kim Dominguez, NBPD



## **PLANNING DIRECTOR ACTION LETTER**

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.**                      **Use Permit No. UP2010-023 (PA2010-112)**

**Applicant**                              **Saxon Reef**

**Site Address**                        **1052 Irvine Avenue**  
   **Massage Envy in Westcliff Plaza**

**Legal Description**                **Lot 10, Tract 4824**

On **September 21, 2010**, the Planning Director approved the following: A use permit for a massage establishment pursuant to Chapter 20.87 of the Municipal Code (Massage Establishments). Massage Envy will operate in an approximately 2,675-square-foot suite located within the Westcliff Plaza shopping center. The services offered will include massage and facials with accessory retail sales of related products. The property is located in the RSC (Retail and Service Commercial) District. The approval is based on the following findings and subject to the following conditions.

### **Findings**

- 1) Finding: That the proposed location of the use is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located.

#### **Facts in support of finding:**

- The site is located in the Retail and Service Commercial (RSC) Zoning District, which is intended to provide areas which are predominantly retail in character but which allow some service office uses. The proposed massage establishment is consistent with the intent of the RSC District because it offers a personal service for residents and visitors in the area.
- Massage establishments are a permitted use in this district upon approval of a use permit. Use permits enable the City to control certain uses which could have detrimental effects if not compatible with uses on adjoining properties and in the surrounding area. A massage establishment is complementary to some of the other uses in the commercial building which includes a supermarket, restaurants, a bank, a beauty supply store, and a service station because it adds another beneficial service for residents and visitors. The proposed addition of a massage establishment does not present any conflicts with the purpose and intent of this district.



- 2) Finding: That the proposed location of the Use Permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.

Facts in support of finding:

- The proposed massage establishment is consistent with the Neighborhood Commercial (CN) General Plan land use designation, which is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented to primarily serve the needs of and maintain compatibility with residential uses in the immediate area. A massage establishment would integrate well with the neighborhood-serving retail uses because it would offer additional services to the area without being a detriment to the community. The hours of operation are consistent with those of other businesses in the immediate area.
  - The previous use of the subject suite was a salon, another personal service, so the parking requirement for the suite will not increase. The proposed use is in compliance with the parking requirements for personal services in Chapter 20.66 of the Municipal Code (Off Street Parking and Loading Regulations).
  - The proposed use is located in a managed shopping center with coordinated tenant management, which is not in a blighted area.
  - The proposed use will not create a concentration of massage uses in the neighborhood that would be detrimental to the neighborhood or create neighborhood blight.
  - Compliance with all other applicable regulations of the Municipal Code will be required and enforced, including Chapter 5.50 (Massage Establishments), which regulates massage services with a massage permit issued by the Police Department in order to protect the health, safety and welfare of citizens of the City.
- 3) Finding: That the proposed use will comply with the provisions of the Zoning Code, including any specific condition required for the proposed use in the district in which it would be located.

Facts in support of finding:

- The proposed massage establishment is consistent with the legislative intent of Chapter 20.87 of the Municipal Code. The purpose and intent of the chapter is to

disperse the location of massage establishments throughout the City and to prevent problems of blight. The subject site is not within a blighted neighborhood.

- The proposed massage establishment will not be located within 500 feet of any public or private school, park or playground, civic center, cultural or church site, or other massage establishment.
  - Compliance with all other applicable regulations of the Municipal Code will be required and enforced.
- 4) Finding: That the proposed project will comply with the California Environmental Quality Act.

Facts in support of finding:

- The project is categorically exempt under Section 15301 of the California Environmental Quality Act Guidelines – Class 1 (Existing Facilities).
- The proposed project includes a change of the tenant and interior alterations to a suite within an existing commercial building.

**Conditions**

1. The development shall be in substantial conformance with the approved floor plan.
2. All applicable requirements of Chapter 5.50 of the Municipal Code shall be fulfilled.
3. All employee parking shall be at the rear of the property in the northeast corner of the shopping center.
4. The hours of operation shall be limited to between 8:00 a.m. to 10:00 p.m., daily.
5. No temporary "sandwich" signs, balloons or similar temporary signs shall be permitted, either on-site or off-site, to advertise the proposed use, unless specifically permitted in accordance with the Sign Ordinance of the Municipal Code. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
6. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code.
7. The Planning Director may add to or modify conditions of approval to this Use Permit, or revoke this permit upon a determination that the operation that is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.



8. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Massage Envy, including, but not limited to, the Use Permit No. UP2010-023. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
9. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.

#### **APPEAL PERIOD**

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator, and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$4,280.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

On behalf of James W. Campbell, Acting Planning Director

By: 

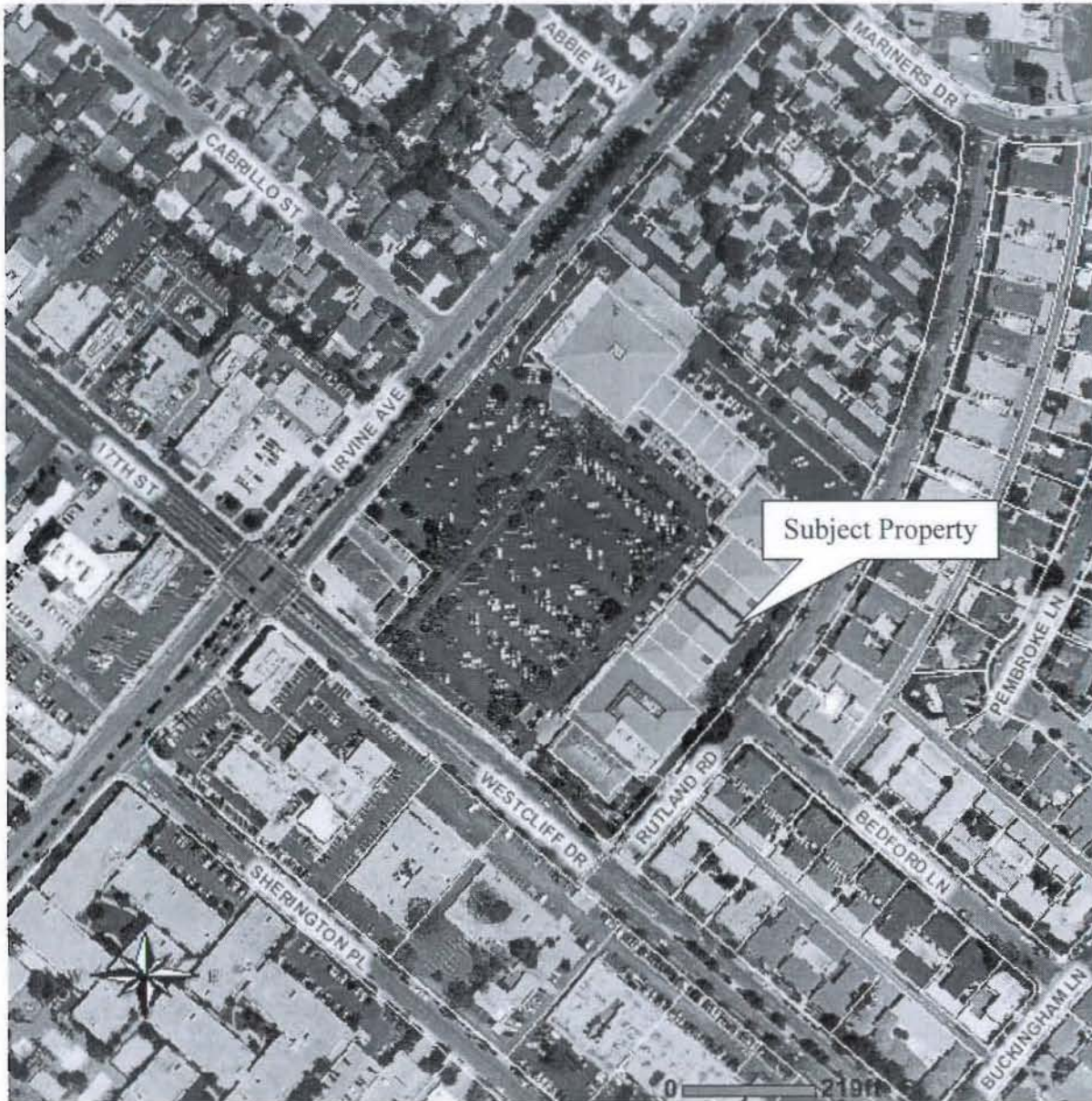
Patrick J. Alford, Planning Manager

PJA/JSG/fm

Attachments: PD 1 Vicinity Map  
PD 2 Applicant's Project Description  
PD 3 Project Plans



## VICINITY MAP



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Use Permit No. UP2010-023  
PA2010-112

**1052 Irvine Avenue**

## PROJECT DESCRIPTION

Our company is seeking approval to open a Massage Envy Spa in the Westcliff Plaza Shopping Center. Massage Envy is a nationally recognized franchise with more than 626 stores currently operating in 42 states—of which 147 are Massage Envy Spa locations. Massage Envy Spa locations offer therapeutic massage, non-invasive facials, and related retail products in an upscale, professional environment. The business hours will be consistent with all Massage Envy locations, open—at a minimum—from 8am to 10pm Monday thru Friday, 8am to 6pm on Saturday, and 10am to 6pm on Sunday.

The proposed store would be located at 1052 Irvine Avenue, a storefront suite of approximately 2,675 square feet. There are no schools, parks, or churches located within a 500 foot radius of the location. Additionally, there are no other massage facilities within this radius. Westcliff Plaza is an Irvine Company Retail Property, and the landlord has supported our use by signing page one of the Conditional Use Permit Application. The Irvine Company added a Massage Envy store to its' tenant roster Irvine last year, so they are familiar with and support Massage Envy.

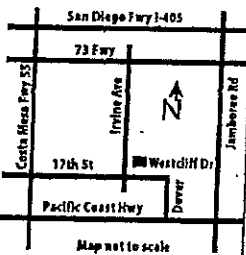
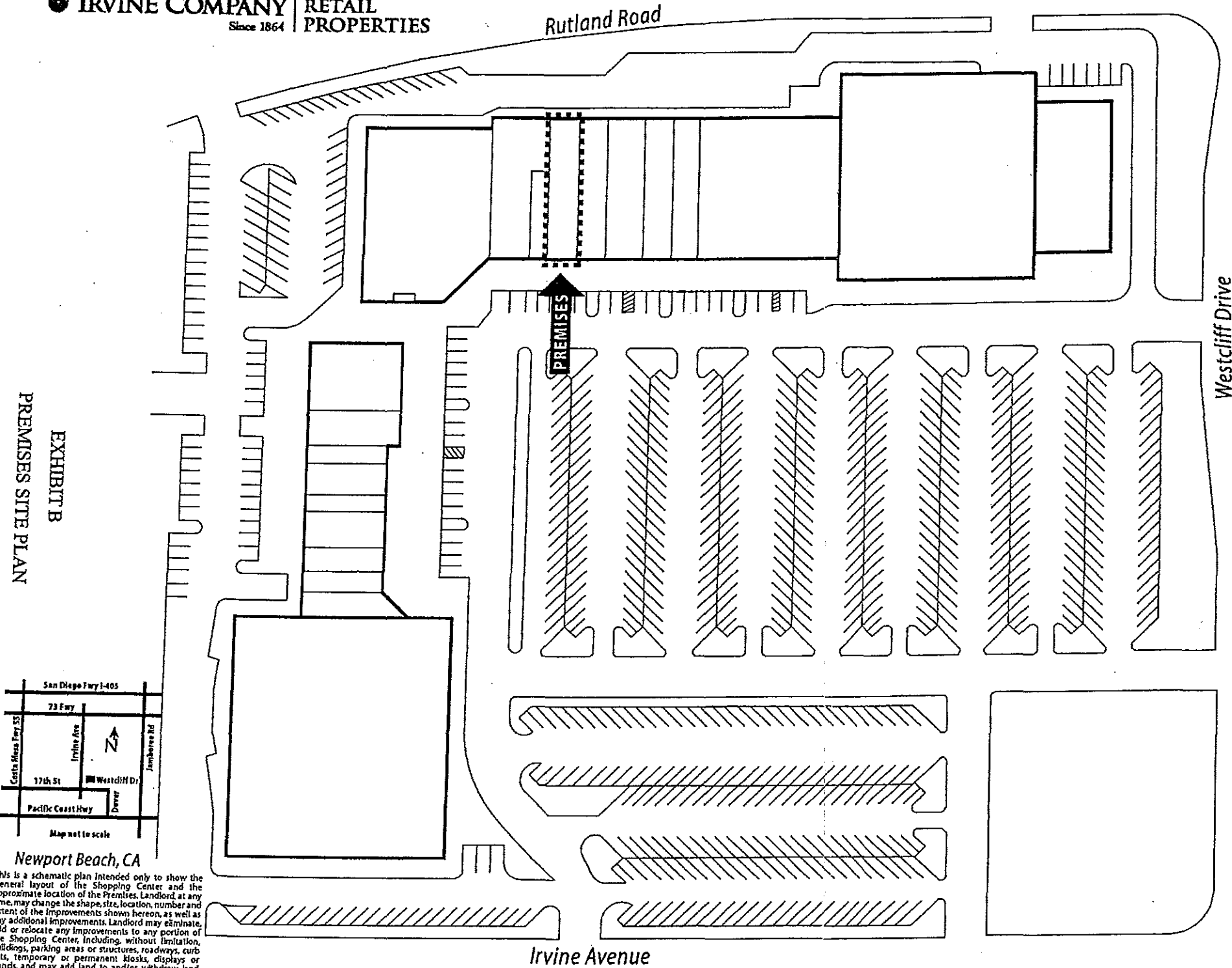
As an Irvine Company Retail Property tenant, our design, finishes, and overall plan will be required to meet their criteria. Our conceptual space plan features eleven treatment rooms, all equipped for massage therapy and/or facial treatments. The space will also include a lobby, retail display, waiting room, restrooms, office space, and an employee breakroom. All customers will enter through the front of the store. The rear door will be used only as a service door for vendors and for employees.

Our staff will be comprised of the customer care team and the technician team. The customer care team will, at all times, maintain a pleasant and professional environment in our lobby area and will be responsible for the operation of the store. The technician team will be a mix of part-time and full-time employees and will provide massage and facial services. We do not use any independent contractors as staff—all of our team are employees of the company, subject to Massage Envy ethics and standards as well as uniform requirements. Our projected opening staff is approximately 15 employees.

We look forward to bringing Massage Envy Spa to Newport Beach. Our company currently operates two Massage Envy locations in Orange County and both frequently serve customers from Newport Beach. Please contact me if there are any additional questions about our business. More information can also be found at [www.massageenvy.com](http://www.massageenvy.com).



# Westcliff Plaza



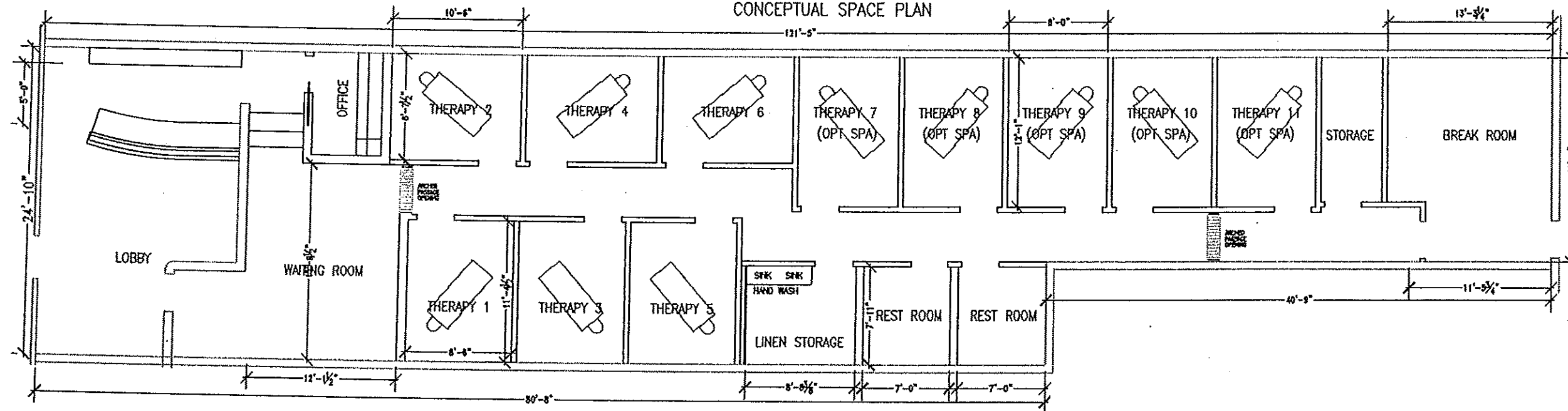
This is a schematic plan intended only to show the general layout of the Shopping Center and the approximate location of the Premises. Landlord, at any time, may change the shape, size, location, number and extent of the improvements shown hereon, as well as any additional improvements. Landlord may eliminate, add or relocate any improvements to any portion of the Shopping Center, including, without limitation, buildings, parking areas or structures, roadways, curbs, cuts, temporary or permanent kiosks, displays or stands, and may add land to and/or withdraw land from the Shopping Center. Plan not to scale.

EXHIBIT B  
PREMISES SITE PLAN

EXHIBIT B



MESSAGE ENVY - NEWPORT BEACH - LEHRBASS CONSTRUCTION, INC. - KSL - 8/03/2010 - V5.0  
CONCEPTUAL SPACE PLAN



PA2010-112 for UP2010-023  
1052 Irvine Avenue  
Saxon Reef