

**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 7/23/2024  
Agenda Item: 5**

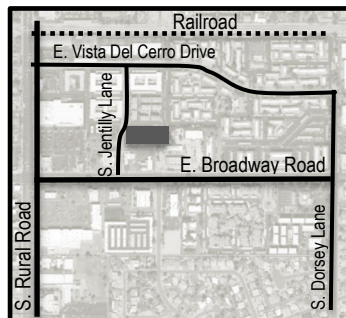
**ACTION:** Request a Use Permit to allow a massage establishment for **THE HEALING TREE COLLECTIVE**, located at 1801 South Jentilly Lane Suite B-8. The applicant is Nereyda Martinez.

**FISCAL IMPACT:** N/A

**RECOMMENDATION:** Staff – Approve, subject to conditions

**BACKGROUND INFORMATION:** **THE HEALING TREE COLLECTIVE** (PL240150) is proposed within Suite B-8 of Building B located within the northeastern building of a four-building commercial office center called Jentilly Square. The request includes the following:

ZUP240039 Use Permit to allow a massage establishment.



Property Owner	Frank Brouwer, Future Estates, Inc.
Applicant	Nereyda Martinez, The Healing Tree Collective
Zoning District	CSS, Commercial Shopping & Service
Site Area	49,833 s.f.
Total Building Area	19,278 per Certificate of Occupancy for Buildings A-D
Suite B-8 Area	1,751 s.f.
Vehicle Parking	Approximately 86 total on site shared between all suites (6 min. required based on suite size, 66 spaces required for site for general office/commercial/service/retail uses)
Bicycle Parking	4 spaces provided on site (none required per zoning ordinance 405, 4 min. required by current code)
Hours of Operation	7:00 a.m. to 9:00 p.m. Sunday through Saturday
Building Code Occupancy	Type III 1- Hour, Group B-2

**ATTACHMENTS:** Development Project File

**STAFF CONTACT(S):** Diana Kaminski, Principal Planner (480) 858-2391

Department Director: Jeff Tamulevich, Community Development Director  
 Legal review by: N/A  
 Prepared by: Diana Kaminski, Principal Planner  
 Reviewed by: Michelle Dahlke, Principal Planner

## COMMENTS

The site is located north of Broadway Road, south of the Union Pacific Railroad, east of Rural Road and west of Dorsey Lane, on the east side of South Jentilly Lane. Surrounding uses include condominiums and apartments to the north, northwest and northeast of the site. A grocery store, a permanent makeup boutique, a glass repair shop and other commercial service uses are located to the west. A plasma center and restaurant uses are located to the southwest. A car wash and bar are located to the south, and other commercial uses are located to the southwest. The site is comprised of two parcels that are part of Tract E within the Broadway Square Plat. The site is located within the Alameda Character Area Five. Upon further research into the history of the site, it was determined that the property is within the CSS Commercial Shopping and Service District with a small portion of 4 feet along the northern edge that is within the R-4 zoning district. This is the area where a variance to not require the site wall for the office development would later become a cross access easement. (See History and Facts section of the report for more information).

The four Class B office buildings (smaller scale with shared common areas and fewer amenities) were built in 1973 and share driveway access with the condominiums to the north. The site has a long history of massage uses over the past thirty years, creating a center focused on similar health and wellness uses that share common restroom facilities and parking within the center. This fall, code enforcement identified eight current massage establishments operating in suites without the required Use Permits. Several may have been under the impression that prior Use Permits granted on the property applied to all of them, however, the property owner has not applied for a property-wide Use Permit. Therefore, it is up to each tenant of the suites to apply for these Use Permits or Use Permit transfers if evidence of a prior Use Permit and continuous operation was provided. There is no shared parking file on record for the property. The original parking on record was 96 required spaces based on the Zoning Ordinance 405 requirement for 1 space per 200 square feet of commercial uses; the current code requires 1 space per 300 square feet of commercial uses (66 spaces). A current aerial count indicates 86 spaces on site. This use does not impact the parking requirements on site.

## PUBLIC INPUT

Upon completion of this report staff has not received any public comments or inquiries regarding this request.

## POLICE INPUT

The Tempe Police Department has no issues with this request.

## USE PERMIT

The proposed use requires a Use Permit to allow a massage establishment within the CSS zoning. The applicant has provided a letter of explanation outlining the business operations. Below is an evaluation of the use in context of Section 6-308(E) criteria for a Use Permit (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic*; Suite B-8 is 1,751 square feet and has two rooms designated for massage. There would be no more than two therapists operating within Suite B-8 by appointment or as part of a health and wellness package associated with other activities such as yoga. The suite is required to have six parking spaces as a massage studio with office space, but as a yoga studio, it would require fourteen parking spaces. The parking is shared with other businesses on site. Based on the scale and operation of this use it is not anticipated this will generate significant traffic beyond anticipated service uses.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; The use is entirely indoors, requires a quiet environment for the benefit of the customers, and will not create nuisances in excess of surrounding uses, including a car wash and bar to the south of the site.
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*; The Alameda Character Area Plan and General Plan promote a 20-minute livable city, which would encourage small service businesses within walking and biking distance of residents and large employee centers to connect these services to their customers where they live and work. The proposed use promotes health and wellness and serves people of all ages.

4. *Compatibility with existing surrounding structures and uses;* The proposed use is contained within buildings that were built in 1973 with no proposed changes to the exterior of the buildings, and there is a long history of similar uses on this site. The clustering of similar uses creates a synergy for businesses and customers within the health and wellness industry, making this a compatible use.
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 business will be controlled by the proprietor of the establishment to assure both customer comfort and safety.

#### **REASONS FOR APPROVAL:**

Based on the information provided by the applicant and the above analysis staff supports approval of the requested Use Permit. This request meets the required criteria and will conform to the conditions.

#### **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 for a massage establishment in Suite B-8 is valid only after a Building Permit has been obtained, the required inspections have been completed and a Final Inspection has been passed.
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.
3. **The Healing Tree Collective is permitted to allow no more than two (2) licensed massage therapists on site, in Suite B-8 at any one time. Copies of the state massage licenses of all contracted staff shall be submitted to Tempe Sales Tax & License a minimum of thirty (30) days prior to any massage related activity on site.**
4. Hours of operation to start no earlier than 7a.m. and to end no later than 9 p.m. on a daily basis.
5. The property owner shall replace any nonconforming building lighting with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
6. The property owner shall replace all dead or missing trees in the street frontage and landscape areas including the parking landscape islands; along with any other missing landscape material.

#### **CODE/ORDINANCE REQUIREMENTS:**

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLETED 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 The Healing Tree Collective 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.

- 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.

SIGNS: Separate plan review process is required for signs in accordance with requirements of ZDC Part 4 Chapter 9 (Signs). Refer to [www.tempe.gov/signs](http://www.tempe.gov/signs).

**POLICE DEPARTMENT SECURITY REQUIREMENTS:**

- If the development includes a use listed in [City Code Section 26-70\(c\)](#), the Owner is required to prepare a security plan with the Police Department. The architect should be involved to verify any modification that would require design revisions. To avoid revisions to permitted construction documents, initial meetings with the Police Department regarding the security plan are recommended before building permits are issued. At a minimum, the Owner shall contact the Police Department to begin security plan process approximately eight weeks prior to receipt of certificate of occupancy.

**HISTORY & FACTS:**

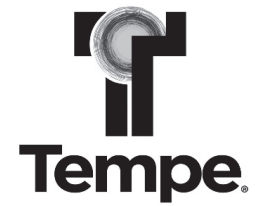
- 1930s-1950s Historic aerials show the area and subject site used for agricultural purposes with the railroad established to the north and Broadway Road established to the south.
- May 17, 1960 Area was annexed into City of Tempe.
- January 24, 1964 Area was zoned PSC-1 Planned Neighborhood Shopping Center in Zoning Ordinance 405.  
  
Sometime between 1964 and 1967 the property was zoned from PSC-1 to C-2 zoning, although both zoning classifications remained in the zoning code. PSC-1 and C-2 commercial zoning required a use permit for massage establishments.
- April 27, 1967 City Council approved Broadway Square Subdivision Plat, which created Tract E, which included the subject site.
- September 25, 1967 Planning & Zoning Commission approved a request to change a portion of Tracts D and E from C-2 and I-2 to R-4 residential for an apartment community north of the subject site.
- October 26, 1967 City Council approved Ordinance No. 405.58, a zoning map amendment to change a portion of the Jentilly Lane area from C-2 to R-4.
- 1969 Aerials show the establishment of the residential community to the north with a drive on the south side, that would later serve the office development to the south.
- January 17, 1972 The Board of Adjustment approved removal of the required six-foot masonry wall between the R-4 parcel to the north and the C-2 district.
- January 19, 1972 The Design Review Board approved the site plan, landscape plan and building elevations for the proposed office building.
- January 24, 1972 The Planning & Zoning Commission heard and approved a Development Plan and recommended approval of the General Plan of Development for a 1.2-acre parcel located at 1801 South Jentilly Lane in the C-2 General Commercial District. The parcel of land measured 193 feet by 320 feet, located 200 feet north of Broadway Road. The lot was zoned C-2 with the exception of the north four feet which was shown on the map at the time to be within the R-4 Multi-Family Residential district. This proposal was for four office buildings with parking on all sides except the Jentilly frontage. This put the parking on the north within the R-4 zoned portion of the property but serving the parking needs of the office development.

- February 10, 1972 The Tempe City Council approved the General Plan of Development for the office buildings as described above.
- June 7, 1973 Certificate of Occupancy on four office buildings with 95 required parking spaces and 96 provided parking spaces and C-2 zoning noted on the property record card.
- The site has had many Use Permits issued over the years, including transfers of Use Permits. The following history is based on records available in archived files, showing the past use of the site for massage uses. Earlier Use Permits did not allow transfers of Use Permits to new tenants, requiring applicants to return to hearing for new Use Permits. Later code interpretations allowed businesses that continued in operation to transfer Use Permits to a new business operation in the same suite, as long as there was the same use within a year of the transfer being requested. Once a suite vacated from that use for more than a year, the Use Permit would no longer be valid. There is no record of what current businesses operating in the center were original Use Permit holders in continuous operation and which businesses may have changed names or operators over the past fifty years.
- December 22, 1982 The Board of Adjustment approved a Use Permit to operate an ambulance-based service at 1801 South Jentilly Lane Suite A-8, in the C-2 zoning district. A82-12.5.
- May 25, 1994 The Board of Adjustment approved a Use Permit to operate a 598 square foot beauty and wellness consulting business including small group (8 maximum persons) classes in at 1801 South Jentilly Lane Suite D-4, listed in the C-2 zoning district based on maps of the stie at the time. BA940128
- November 3, 1998 The Hearing Officer approved a Use Permit to allow a massage therapist and physical therapist located at 1801 South Jentilly Lane Suite A-4, in the R-4/C-2 zoning district (with note that R/O uses were allowed at this location). BA980313
- August 20, 2002 The Hearing Officer approved a Use Permit for a massage therapy service located at 1801 South Jentilly Lane Suite C-16, in the C-2 zoning district. BA020179
- April 1, 2003 The Hearing Officer approved a Use Permit to operate a massage and acupuncture service located at 1801 South Jentilly Lane Suite A-18, in the C-2 zoning district. BA030048
- May 6, 2003 The Hearing Officer approved a Use Permit to operate a massage therapy service located at 1801 South Jentilly Lane Suite D-4, in the C-2 zoning district. BA030086
- January 20, 2005 City Council adopted the new Zoning & Development Code with C-2 zoning changing to CSS Commercial Shopping and Service. This zoning district allows massage establishments by Use Permit.
- March 10, 2009 Community Development Department staff administratively approved a Use Permit transfer to allow a massage therapy establishment at 1801 South Jentilly Lane, Suite C-16, listed as being in the R-4 Multi-Family zoning district based on maps of the site at that time. PL090075
- December 4, 2014 City Council approved a condominium plat for The Place on Jentilly, establishing the south driveway as shared with the office complex to the south by a 3.8' wide cross access agreement to be granted by separate instrument, allowing access to the existing parking for the subject site.
- January 9, 2012 Community Development Department staff administratively approved a Use Permit transfer to allow a massage therapy establishment at 1801 South Jentilly Lane, Suite A-20, listed as being in the R-4 Multi-Family zoning district based on maps of the site at that time. PL110434.
- July 3, 2014 Community Development Department staff administratively approved a Use Permit transfer to allow a massage therapy establishment at 1801 South Jentilly Lane, Suite B-10, listed as being in the R-4 Multi-Family zoning district based on maps of the site at that time. PL140239.

- November 29, 2023 Community Development Department staff issued a Zoning Administrator's Opinion for zoning classifications located at 1730 South Jentilly Lane & 1801 South Jentilly Lane for the purpose of clarifying the correct legal zoning districts of record for the subject property. Ordinance No. 405.58, a zoning map amendment action by City Council, changed a portion of the Jentilly Lane area from C-2 to R-4, on October 26, 1967. This zoning ordinance documentation validates the statements made in the January 24, 1972 staff report as the legal description identifies rezoning to R-4 for the north 469 feet of Tract D and E of the Broadway Square Subdivision. (See attachment). The Planning and Zoning Commission staff report for the original development project at 1801 South Jentilly Lane provided zoning description information. The report stated, "The lot is zoned C-2 General Commercial, except the north four feet which is in the R-4 Multi-family Residence District." The R-4 zoned areas for each property at 1730 and 1801 South Jentilly Lane are only located along a four (4) feet portion shared driveway with the neighboring property owners and have no significant impact to the properties primary allowed uses and zoning standards regulated under the CSS district.
- December 12, 2023 Development Review Commission approved Use Permits for TheraMed Massage (dba Infinitely-U Integrative Energy Bodywork) and Ascension Massage in the same center.
- January 9, 2024 Development Review Commission approved a Use Permit for TLC Massage in Suite D-14.
- July 23, 2024 Development Review Commission is scheduled to hear this requested Use Permit for The Healing Tree Collective in Suite B-8.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

- [Section 3-302, Permitted Uses in Office/Industrial Districts](#)
- [Section 6-308, Use Permit](#)
- [Section 6-313, Security Plan](#)



# DEVELOPMENT PROJECT FILE

for

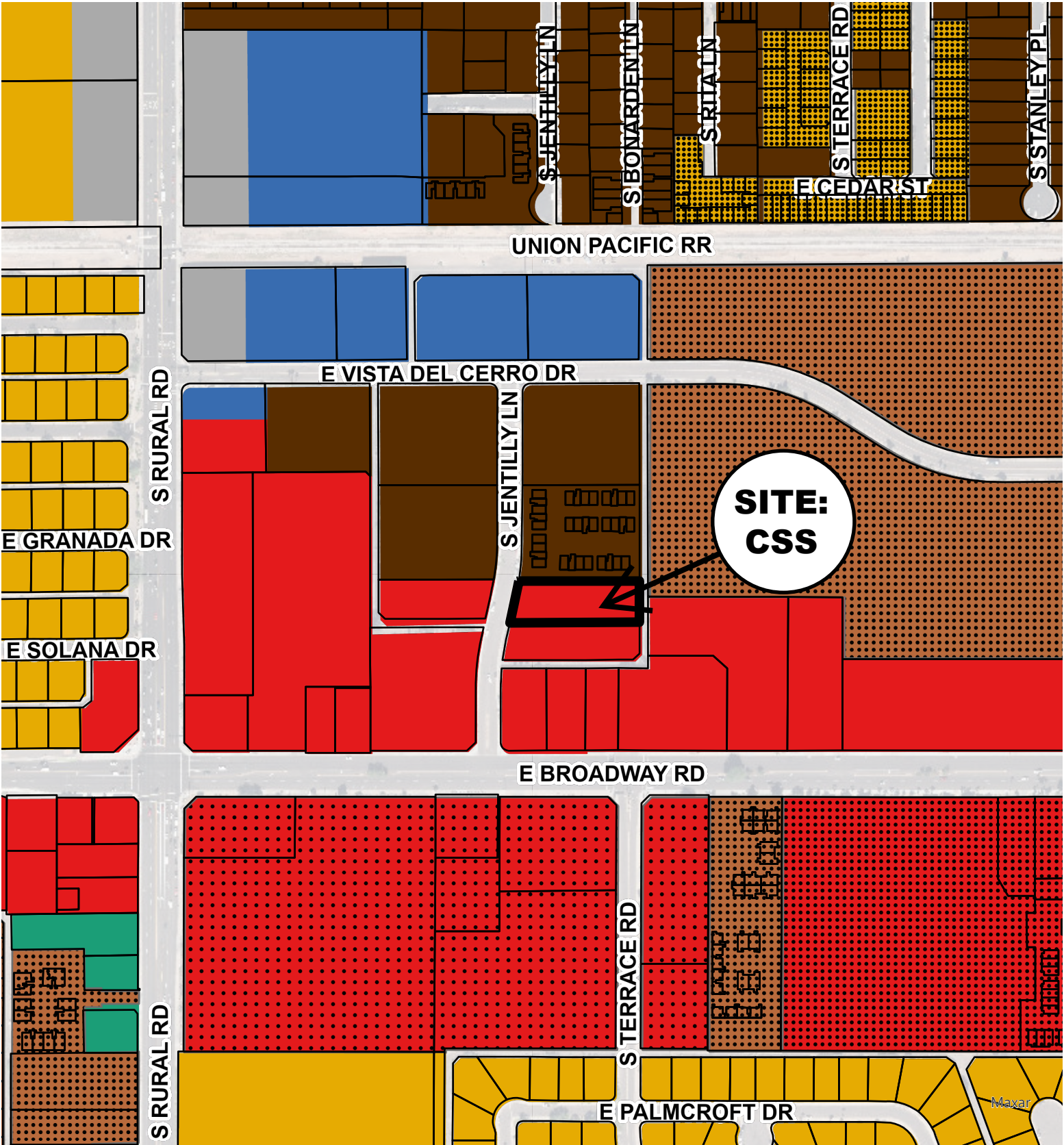
HEALING TREE COLLECTIVE  
(PL240150)

## **ATTACHMENTS:**

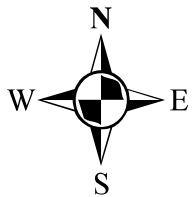
- 1-8. Site Context (Zoning Map, Aerial Map and Site Photos)
- 9. Applicant's Letter of Explanation
- 10-11. Site Plan and Floorplan

# JENTILLY SQUARE - HEALING TREE

PL240150



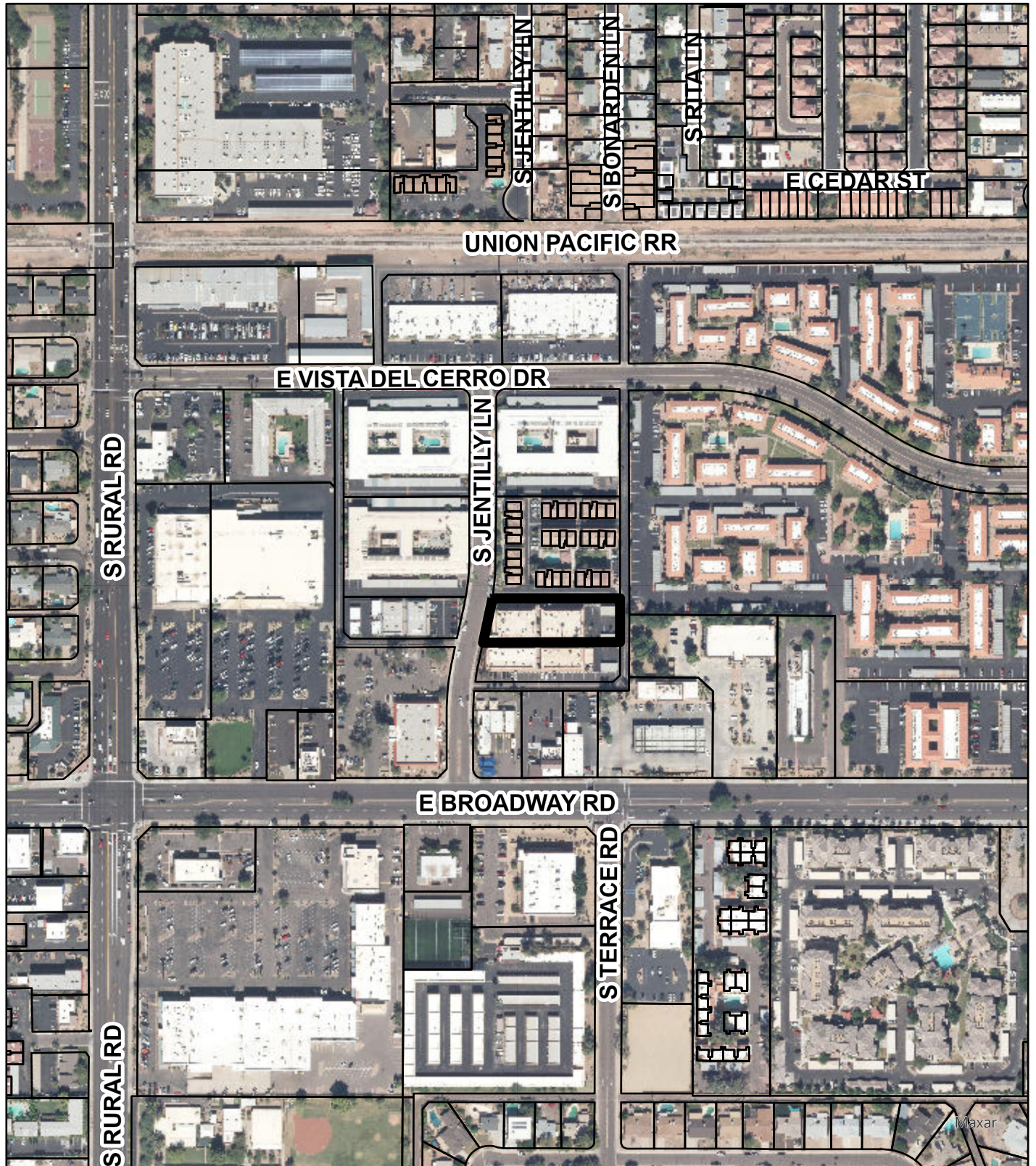
- General Industrial District (GID)
- Mixed Use Educational (MU-ED)
- Commercial Shopping and Services (CSS)
- Planned Commercial Center Neighborhood (PCC-1)
- Planned Commercial Center General (PCC-2)
- Residential/Office (RO)
- Single-Family Residential (R1-6)
- Single-Family Residential Planned Area Dev (R1-PAD)
- Multi-Family Residential Limited (R-3)
- ATTACHMENT\_1 Multi-Family Residential General (R-4)



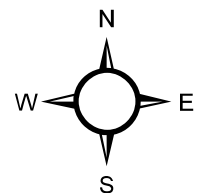


# JENTILLY SQUARE - HEALING TREE

PL240150



**Aerial Map**



Room 1 – Individual Sessions



Room 2 – Individual Sessions



Studio Room – Group Classes



Lobby



Outdoor Photos



Outdoor Photos Cont.



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# The Healing Tree Collective

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6/3/24

Dear Recipient:

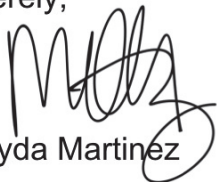
The Healing Tree Collective is a Wellness Space for the people of Tempe and surrounding cities to attend classes promoting wellness. Whether it's Yoga, Guided Meditations, or simply a time to connect, The Healing Tree offers several opportunities for the community to practice wellness.

On average, there are about 4-5 classes per week in our Studio Space. Classes range from 5-25 participants. We are open 7 days a week from 7am – 9pm depending on the time of the classes. Our peak time happens during weekday evenings and weekends. This is when classes are held. We do not have employees. Instead, instructors reserve the space to hold their classes. The occupancy of our suite is 75 people. There is plenty of parking surrounding the entire building. There has been a great amount of communication with all other suites at Jentilly Square ensuring that we are respecting their businesses and working hours. Bringing people from the community to attend classes at The Healing Tree has been great exposure for the other suites at Jentilly Square as well.

As a Wellness Space, it would also be beneficial for those that walk through the door to have the opportunity to receive massage. The space has been beautifully designed to accommodate use of massage. There is a private room, fully furnished to provide all accommodations. There is a security camera inside the lobby as well as by the front door. There has been a key code lock installed on the front door. Because there are classes that occur inside the Studio Space, time blocking would occur to prevent any noise from the classes to be distracting. We plan to verify that any massage therapists coming into the space have a license in order to practice in our space.

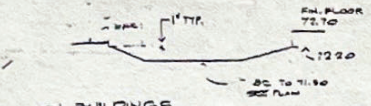
The Healing Tree Collective has shown to support the community in many ways. It is with great honor that the request is made to continue supporting this Wellness Space to provide more opportunities for the community members that walk through the door.

Sincerely,



Nereyda Martinez





③ PROFILE OF CROSS WALLS  
 HORIZONTAL SCALE: 1/4" = 1'-0"  
 VERTICAL SCALE: 1/8" = 1'-0"

4	FLOOR PLAN	10	MECHANICAL - EQUIPMENT
5	EXTERIOR ELEV., DETAILS	11	MECHANICAL - EQUIPMENT
6	EXTERIOR ELEV., MISC DETAILS	12	ELECTRICAL PLAN

TWEEN BUILDINGS  
 Note: Do Not Scale,  
 Suite Party Wall  
 Are Approximate,  
 (FIELD VERIFIED BY  
 INSPECTIONS 7-30-02)

pg 1 of 2

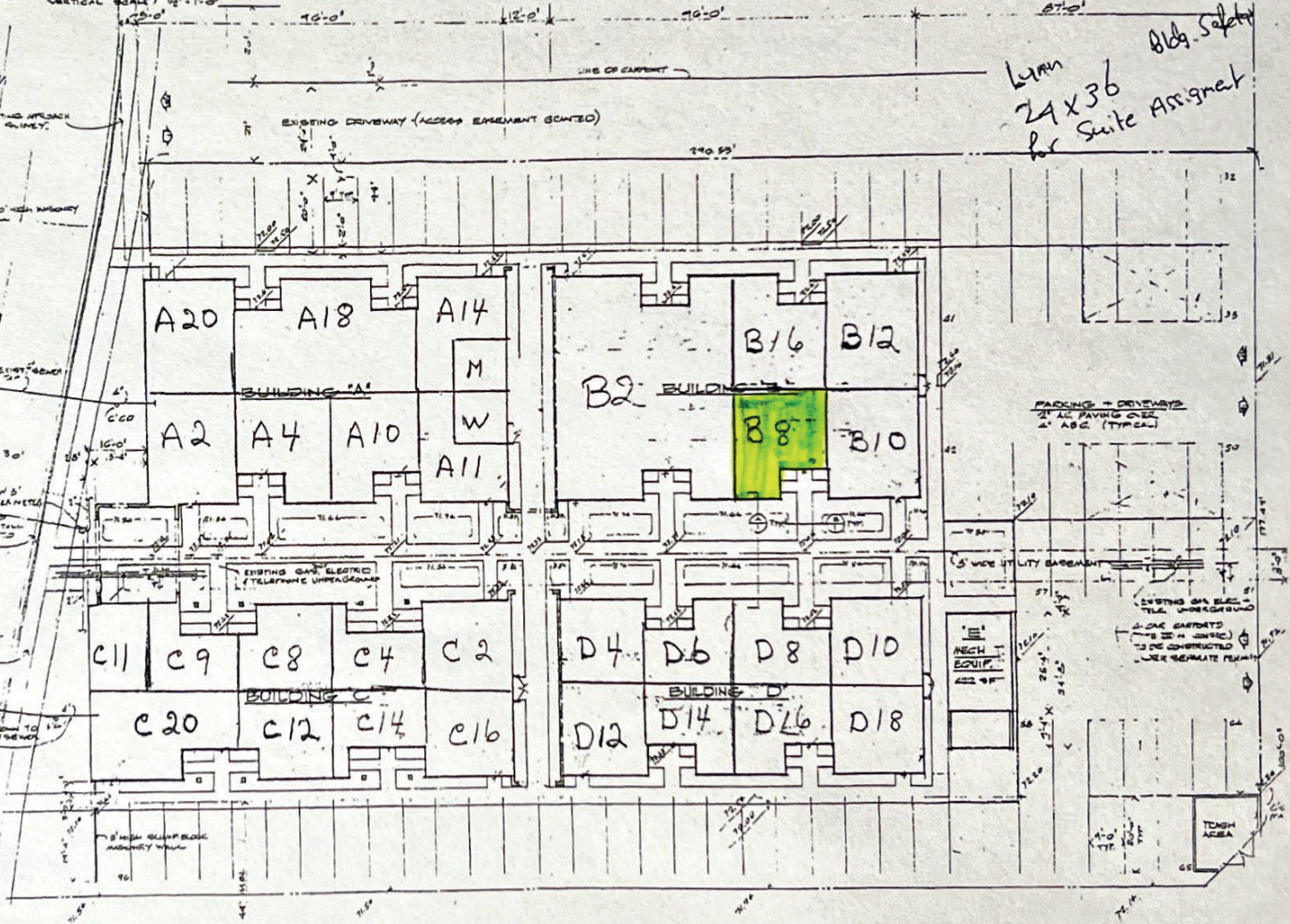
FOR BUILDING PERMIT  
 OWNER RETAINING MAXIMUM  
 PERMISSIBLE WATER ON SITE  
 BUILDING IS CRITICAL  
 PAVED AS OBTAINED.

1801

ANALYSIS

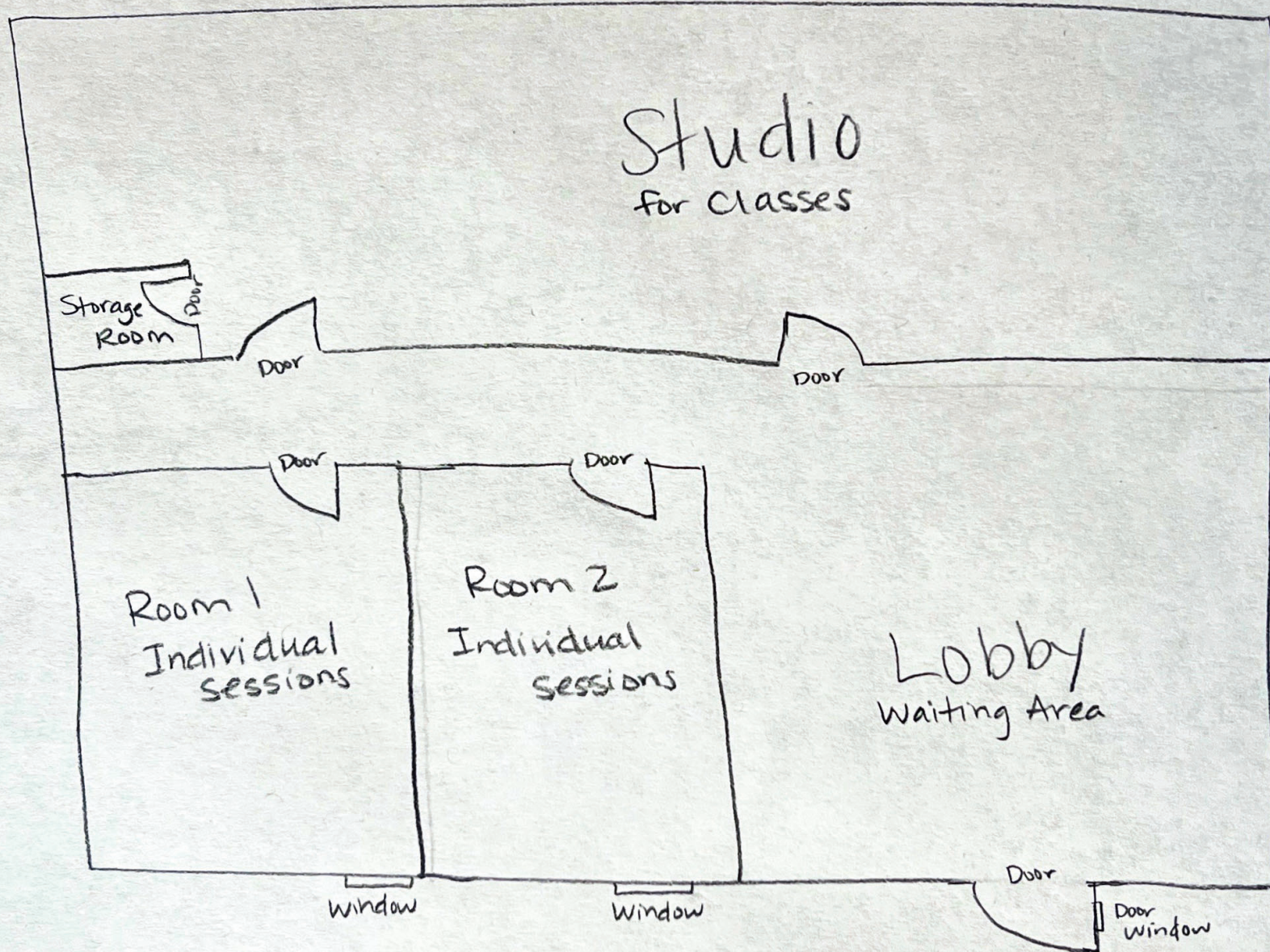
212	4.18	GF
208	13,520	GF
214	1,338	GF
210	1,280	GF

SEPARATION WALL EXTENDING 30'  
 BETWEEN BLDG A+B, C+D-L



LYNN  
 24x36  
 for Suite Assignmet  
 869 Safety

# The Healing Tree Collective



Suite B8

Total 1751 Sq. Ft.