



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: JANUARY 12, 2004

ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-03-39  
580 ANTON BOULEVARD #201

DATE: DECEMBER 30, 2003

FOR FURTHER INFORMATION CONTACT: MEL LEE, ASSOCIATE PLANNER  
(714) 754-5611

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## **PROJECT DESCRIPTION**

The applicant is requesting approval of a conditional use permit to allow live entertainment and dancing for an existing sports bar and restaurant (Corner Office).

## **APPLICANT**

The applicant is Eric Strauss, representing the property owner, America West Properties.

## **RECOMMENDATION**

Approve by adoption of Planning Commission resolution.

MEL LEE  
Associate Planner

PERRY L. VALANTINE  
Asst. Development Services Director

**PLANNING APPLICATION SUMMARY**

Location: 580 Anton Boulevard #201 Application: PA-03-39

Request: Conditional use permit to allow live entertainment and dancing for an existing sports bar and restaurant (Corner Office).

**SUBJECT PROPERTY:**

**SURROUNDING PROPERTY:**

Zone: <u>PDR-HD</u>	North: <u>PDR-HD, Hotel and Apartments</u>
General Plan: <u>High Density Residential</u>	South: <u>(Acr. Anton Blvd.) PDC, Commercial Uses</u>
Lot Dimensions: <u>Irregular</u>	East: <u>PDR-HD, Hotel</u>
Lot Area: <u>87,120 SQ. FT.</u>	West: <u>(Acr. Ave. of the Arts) TC, Office Building</u>
Existing Development: <u>Retail center totaling 20,800 square feet</u>	

**DEVELOPMENT STANDARD COMPARISON (EXISTING CENTER)**

<u>Development Standard</u>	<u>Required/Allowed</u>	<u>Proposed/Provided</u>
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<u>Development Standard</u>	<u>Required/Allowed</u>	<u>Proposed/Provided</u>
<b>Parking:</b>		
Standard	197	86
Compact	0	24*
Handicapped	7	3*
<b>TOTAL:</b>	<b>204 Spaces</b>	<b>113 Spaces*</b>

CEQA Status: Exempt, Class 1

Final Action: Planning Commission

\*The property is legal nonconforming. Additionally, there is an approved CUP to deviate from shared parking.

**BACKGROUND**

On January 21, 1985, Planning Commission approved ZE-84-96A, the Final Development Plan for The Lakes Retail Center. At the time of approval, approximately 9,500 square feet of retail uses and 11,300 square feet of restaurant uses were allowed. As part of the project approval, a parking reduction was allowed based on the offset hours of operation for the various uses, including the adjacent hotel and residential uses. The approval also included allowances for off-site employee parking and on-site valet parking. On February 13, 1995, Planning Commission approved PA-95-10 for an expansion of the business (then called Legends Sports Bar) into an adjacent restaurant space to allow 6 billiards tables and 4 or more electronic game machines.

**ANALYSIS**

The applicant is requesting live entertainment as a means to attract additional customers for the business in the evening hours once sporting events have ceased. The applicant is requesting one or more of the following forms of entertainment:

1. Karaoke, once a week maximum;
2. Three to five piece band playing either jazz, blues, reggae, or popular "cover" songs, once or twice a week maximum;
3. D.J. playing dance music, oldies to modern pop, once or twice a week;
4. Dancing within a small area of the dining room with music by live band or D.J., once or twice a week.

The applicant indicates that at this point they are not certain if they would use one or all of the above forms of entertainment.

It is staff's opinion that the addition of live entertainment or dancing would not adversely affect nearby businesses or residential uses with regard to noise or parking. The nearest residential units with direct line-of-sight to the subject building are approximately 500 feet away. The Police Department notes no previous problems with the business. The recommended conditions of approval (which are in addition to those previously approved for PA-95-10) will minimize any impacts the proposed use may have on the surrounding neighborhood.

To mitigate potential noise impacts with regard to the adjacent Marriott Hotel, the applicant is proposing to install polystyrene foam ceiling panels and heavy movie theatre type curtains over the windows. Staff has included, as a condition of approval, that sound buffering materials be approved by the Fire Department prior to installation (Condition No. 10).

**ALTERNATIVES**

The Commission has the following alternatives: 3

1. Approve the request for live entertainment and dancing as requested by the applicant, subject to the recommended conditions;
2. Deny the request for live entertainment and dancing. The establishment would still be permitted to operate as previously approved under PA-95-10.

**CONCLUSION**

In staff's opinion, approval of live entertainment and dancing will allow for the continued successful operation of the sports bar and restaurant and will not adversely affect existing properties and uses.

Attachments: Draft Planning Commission Resolution  
Exhibit "A" – Findings  
Exhibit "B" – Conditions of Approval  
Applicant's Project Description and Justification  
Location Map  
Plans

File Name: 011204PA0339

Date: 12/24/03

Time: 9:15 a.m.

cc: Deputy City Manager - Dev. Svcs. Director  
Sr. Deputy City Attorney  
City Engineer  
Fire Protection Analyst  
Staff (4)  
File (2)

Eric Strauss  
c/o America West Properties  
P.O. Box 1299  
Lake Forest, CA 92609

Stephanie Potter  
Corner Office  
580 Anton Boulevard  
Costa Mesa, CA 92626

**RESOLUTION NO. PC-04-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA APPROVING CONDITIONAL USE  
PERMIT PA-03-39**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES  
AS FOLLOWS:

WHEREAS, an application was filed by Eric Strauss, representing the property owner, America West Properties, with respect to the real property located at 580 Anton Boulevard, #201, requesting approval of a conditional use permit to allow live entertainment and dancing for an existing sports bar and restaurant (Corner Office); and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 12, 2004.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** PA-03-39 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for PA-03-39 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

**PASSED AND ADOPTED this 12<sup>th</sup> day of January, 2004.**

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Chair, Costa Mesa  
Planning Commission



**EXHIBIT "A"****FINDINGS**

- A. The proposed use complies with Costa Mesa Municipal Code Section 13-29(e) because:
- The use is compatible and harmonious with uses on surrounding properties.
  - Safety and compatibility of the design of the buildings, landscaping, and other site features including functional aspects of the site development such as automobile and pedestrian circulation will remain unchanged.
  - The project is consistent with the General Plan.
  - The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the addition of live entertainment or dancing would not adversely affect other nearby businesses or residences with regard to noise or parking. The nearest residential units with direct line-of-sight to the subject building are approximately 500 feet away. The Police Department notes no previous problems with the business. The recommended conditions of approval (which are in addition to those previously approved for PA-95-10) will minimize any impacts the proposed use may have on the surrounding neighborhood. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**EXHIBIT "B"****CONDITIONS OF APPROVAL**

- Plng. 1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. The conditions of approval for PA-95-10 shall continue to be complied with, including, but not limited to, the following:
- A. Daily hours of operation shall be restricted to the period between 9 a.m. and 2 a.m.
  - B. There shall be no expansion of outdoor seating or tables in conjunction with this use.
  - C. A maximum of six (6) billiards tables shall be allowed in conjunction with this conditional use permit and the area devoted to electronic game machines shall not exceed 700 square feet.
  - D. The supervision of the patrons on the premises shall be adequate to ensure there is no conduct that is detrimental to the public health, safety, and general welfare.
  - E. Applicant is reminded that valet parking for patrons of The Lakes retail center is to occur only on the premises.
  - F. The premises shall be maintained as a bona fide eating establishment in accordance with California Alcoholic Beverage Control requirements.
  - G. There shall be no room or designated area reserved for the exclusive use of designated persons or "Private Club Members".
  - H. The business shall be conducted at all times in a manner that will allow for the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute necessary security and operational measures to comply with this requirement.
  - I. Sales of alcoholic beverages for off-site consumption shall be prohibited.
  - J. The two doors from the proposed game room that open towards the interior of The Lakes center shall be emergency exits only, and shall remain closed at all times while the business is in operation.

- K. A copy of the conditions of approval shall be kept on the premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
- 3. Live entertainment shall be limited to the following: karaoke, live music not to exceed 5 members, disc jockey, and dancing. Any change in the operational characteristics including, but not limited to, hours of operation or provision of entertainment, shall require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
- 4. Music or other entertainment shall not be audible beyond the area under the control of the licensee.
- 5. The applicant shall patrol the area over which the applicant has control in an effort to prevent the loitering of persons about the premises. The applicant shall make reasonable efforts to prevent loitering during other hours the business is open.
- 6. The applicant shall maintain free of litter of all areas of the premises under which applicant has control.
- 7. Complaints regarding the violation of any of the above operating conditions and restrictions shall be immediately remedied by the applicant.
- 8. The applicant shall contact the Planning Division to arrange for a "special requirements" inspection of the site to confirm that the conditions of approval and code requirements have been satisfied.
- PD 9. A list of security recommendations has been provided by the Police Department for the applicant's consideration.
- Fire 10. Sound buffering materials shall be approved by the Fire Department prior to installation.
- 11. The maximum occupancy, as determined by the Uniform Building Code or other applicable codes, shall be posted in public view within the premises. It shall be the responsibility of management to ensure that the maximum allowable occupancy is not exceeded at any time.

**DESCRIPTION/JUSTIFICATION**

Application #: PA-03-39

Environmental Determination: *EXEMPT*

Address: *580 Anton Blvd #201  
COSTA MESA 92626*

1. Fully describe your request: *Ent. license for live music consisting of D.J.; live 3-5 piece band; Karaoke; jazz; Blues. & possibly dancing when appropriate. All music amplified within permitted decibel limits.*

2. Justification

A. For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

*We are located in the Lakes Pavilion along with 2 Hotels; Wyndham; Marriott Suites & also another eating establishment, Avos Bistro. All other business have entertainment. We are offering our customers is theirs more diversity; options while visiting or living in the area & some within walking distance.*

B. For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

*The Hotels have music & wedding facilities for customers enjoyment inside their premises; outside in our common area that we all share. Avos Bistro also provides dancing & music for customers enjoyment. We have no immediate residential neighborhood that will be affected. We are*

3. This project is: (check where appropriate) *requesting the same privileges as the business in our center. We have designated; labeled parking for*

- In a flood zone.
- Subject to future street widening.
- In the Redevelopment Area.
- In a Specific Plan Area. *our cust. use.*

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

Is not included in the publication indicated above.

Is included in the publication indicated above.

*Stephane Peltre*

Signature

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*8/28/03*

Date

Our business is an upscale and respected sportsbar and grill, however, we would very much like to increase our evening business once sporting events have ceased for the evening (around 9 p.m.). Our conclusion is that we must have some sort of musical draw to encourage patrons to stay after an event, or bring them out when there isn't one. We would like to request the following types of entertainment to help us with our future plans:

---Karaoke. Utilize a professional in the business with his own mobile equipment. Once a week would be the maximum usage.

---3-5 piece band playing either; Jazz, blues, reggae, or popular "cover" songs. Maximum usage would be once or twice a week.

---D.J. playing a variety of popular dance music, oldies to modern pop, depending on what our patrons end up favoring. Maximum usage being once or twice a week.

---Dancing on a limited basis. While we have no intention of becoming a "club", we would like for our patrons to be allowed to dance in a small area of our main dining area to music that obviously inspires dancing, whether it be a live band or a D.J.

I have no idea which combination of the above entertainment will work for us. It will be a bit of an experiment. I would however, greatly appreciate the opportunity to try and grow our evening business with these ideas.

7.c—Noise issues. There are no residences close to our location that would be impacted by music. The Lakes Apartments are the nearest, and they are over 500 feet away. Music won't affect them. The Marriott Suites would be potentially affected by music, as they are our closest neighbor. We have already taken steps to deal with this issue. We have purchased sound deadening movie theatre curtains from a closed theatre and intend to hang them in front of our windows during any amplified musical events. We have also purchased large polystyrene foam panels to install between the windows and curtains to provide another layer of deadening for the sound. Lastly, we are in the process of ordering ceiling "baffles" and sound absorption panels from a company in Minnesota in order to muffle any noise that could leak through our roof toward the upper floors of the hotel. Our initial expenses thus far after this last order, will total approximately \$6000 dollars. Our goal is to remove any potential negative sound impact to the Marriott guests. In the unlikely event our initial efforts prove inadequate, we will make immediate efforts to add whatever sound materials may be necessary to alleviate any problems. The sounds engineers we have consulted with expect no problems, but will return if necessary for further consultation.

With regard to exterior noise by patrons, the two main issues are smoking, and parking lot noise. Since smoking is prohibited indoors, smoking would be allowed in front of our building, on either side of the entry, and behind our building in our "common" area patio that borders a grassy area and a lake. In the cases where large numbers or people, say over 150 are expected, smoking would be restricted after 10:00 p.m. to a designated smoking section as far away from the Marriott as possible. We have already been practicing this policy for two years and have had no problems on this issue.

Parking lot noise will be controlled, as it has been for two years, by either our valets or our security personnel. In cases of larger events, both will work together to this end. At closing time, our personnel walk the parking lot to keep people from loitering and playing car stereos at unreasonable levels. People lingering are politely asked to leave.

7-f—Security... We have had a bonded security team working for us for two years. Often times they include off duty sheriffs, police, and corrections officers. Depending on the size of the event anywhere from 1 to 6 security personnel are scheduled. We have a professional valet service as well. One or both groups patrol the parking lot at regular intervals to watch for any illicit activity, noise problems, or generally unsavory behavior. Being as our normal clientele are not troublemakers and tend to be well behaved 25-45 year old professionals, we have had very few issues. Parking congestion is mitigated in the evening because the other businesses in our center are closed and we can utilize their spots starting at 6:30 p.m.

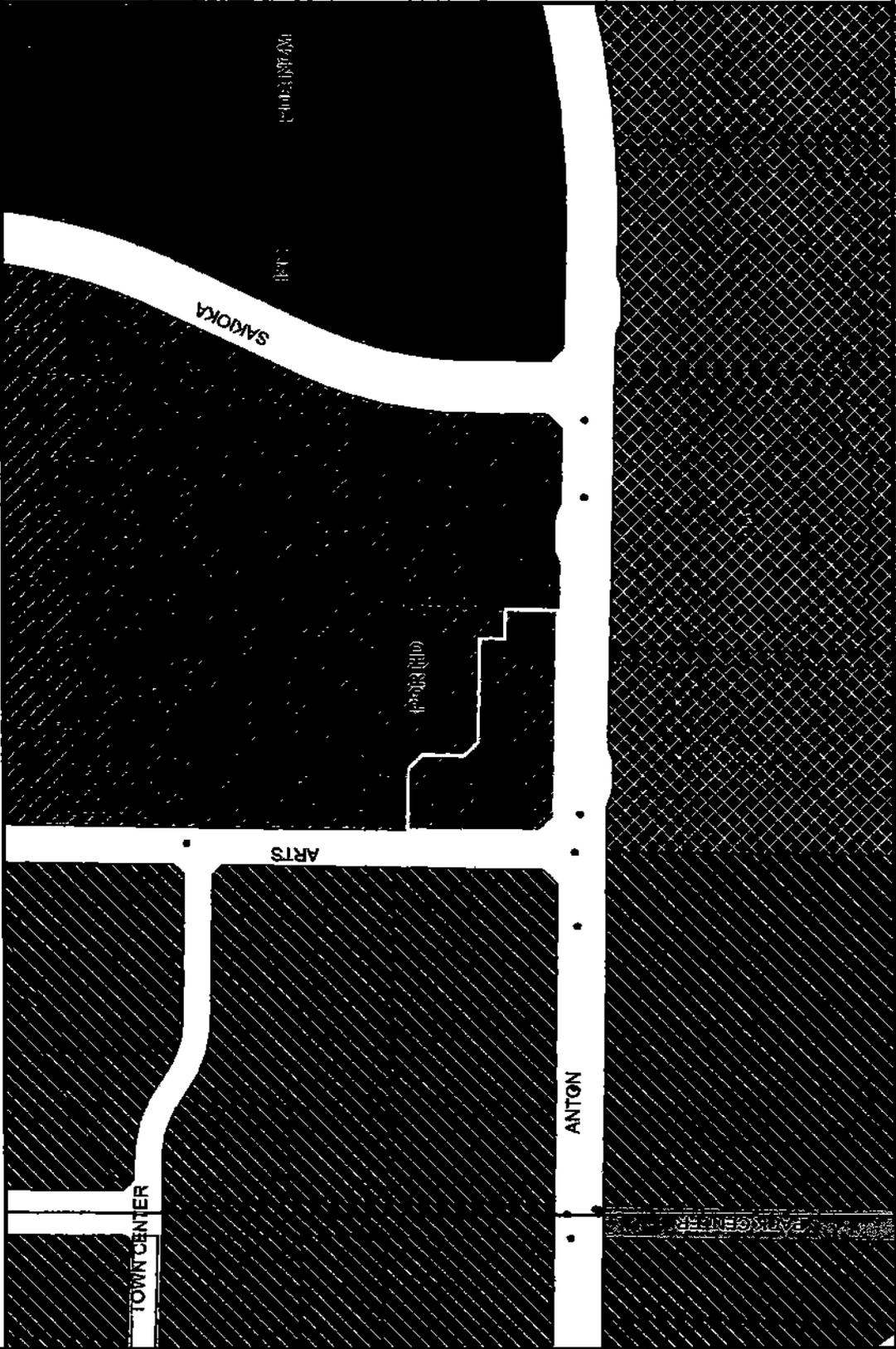
Interior security... a doorman is posted for I.D. carding, and depending on the size of the event, anywhere from 1 to 5 security personnel are indoors keeping the peace and showing a presence. Bathroom checks are made every 20 minutes to check for any illicit activities.

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I would like to add in finishing that all we are really asking for is a bit of fairness here, and as I said earlier, an opportunity to expand our business during our "off" hours, in some difficult economic times. All of our neighbors that surround us have music and dancing privileges: AVO's Greek restaurant, the Wyndam Gardens hotel, and the Marriott. Our place used to have music and dancing privileges, but the previous owner of "Legend's", did not renew them at some point in the past. I pledge that renewing our license will not cause the city or our neighbors any hardship or problems. After two years we've established a really great group of regulars; I just want to find a way to have them here more often in the late evenings.

# ZONING/LOCATION MAP

PA-03-39



## Legend

- Selected Features
- Address Points
- Hydrology Channels
- Street Names
- Parcel Lines
- City Boundary
- Water Ways
- Zoning
- Other
- Administrative & Professional
- Local Business
- Local Business & School
- General Business
- Commercial Limited
- Institutional & Recreational
- Institutional

Contents of this map are copyright 2002, City of Costa Mesa, and may not be reproduced without prior writte

*WARNING: This map does not meet national map accuracy standards and cannot be used for engineering pur*

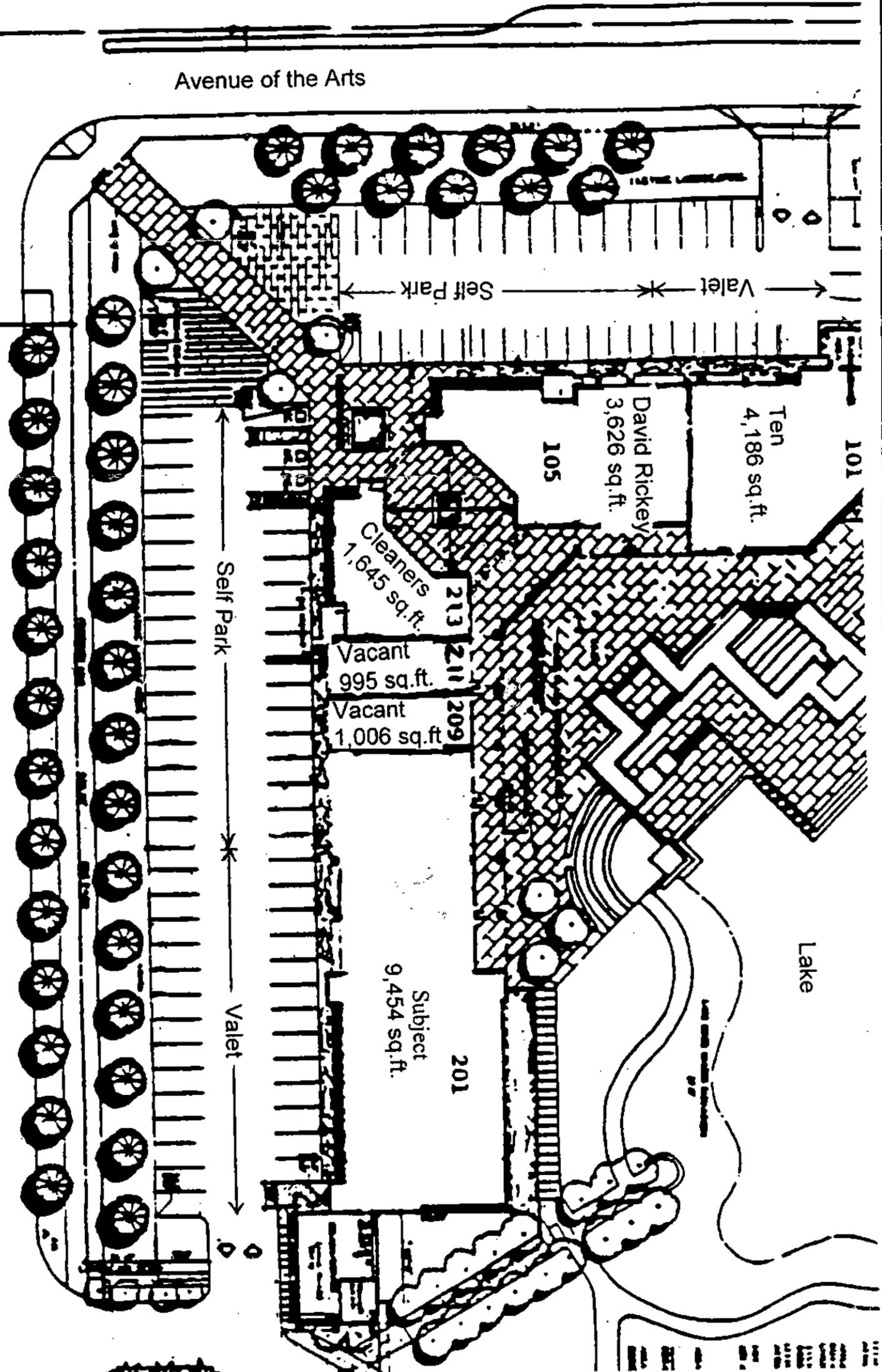


Initial  
Initial

31

Avenue of the Arts

Anton Boulevard



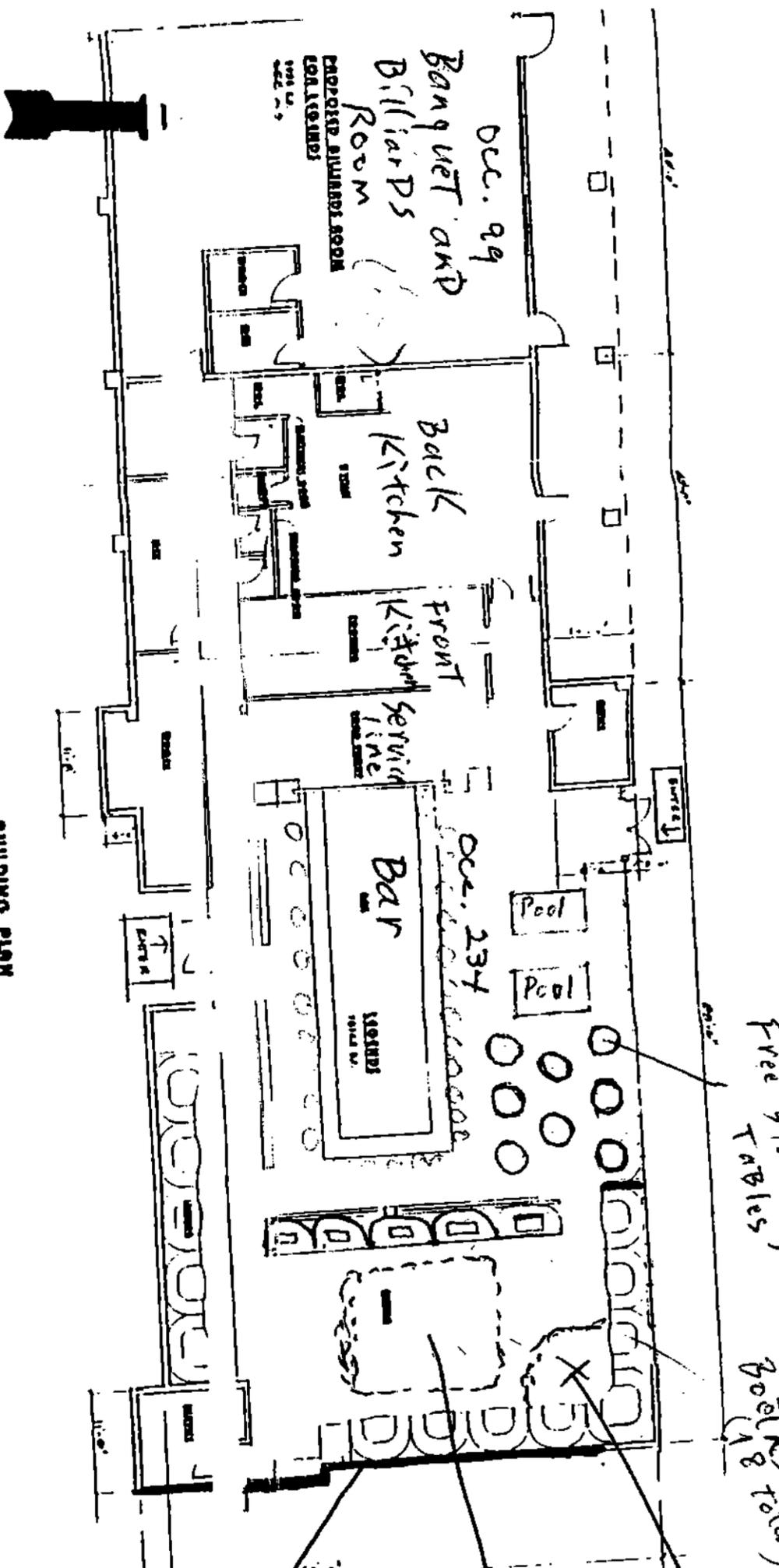
Self Park

Valet

Valet

Lake

14



parking

BUILDING PLAN

**APPROVED.**  
 BY COSTA MESA FIRE DEPT.  
 BUREAU OF FIRE PREVENTION  
 COSTA MESA, CALIF.

DATE 7-21-2000

BY W. Valley

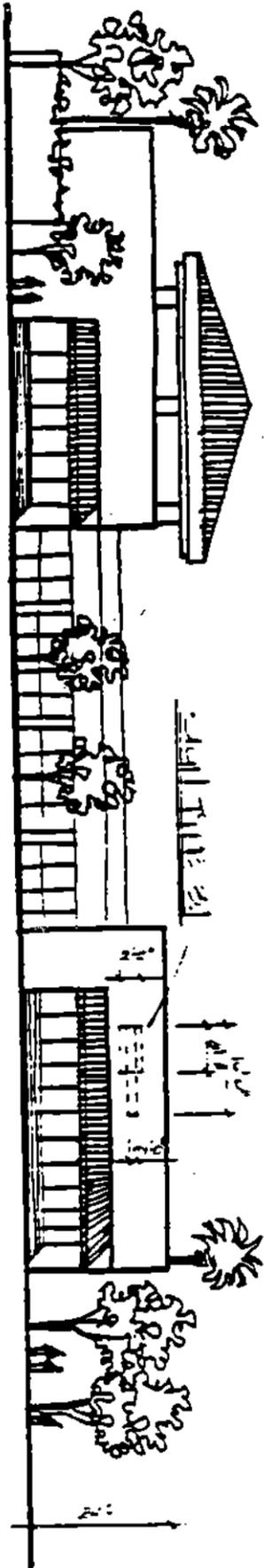
NOTE: Approval applies to plans submitted, and for construction indicated thereon. Installation subject to final inspection and acceptance.

Billiards Rm - OCCUPANT ROAD 99

OCCUPANCY TABULATION  
 FOR EXISTING LEGENDS  
 COUNTS-FOOTRS  
 ROOMS  
 SQUARE FEET  
 BUILDING OCCUPANCY LEVEL

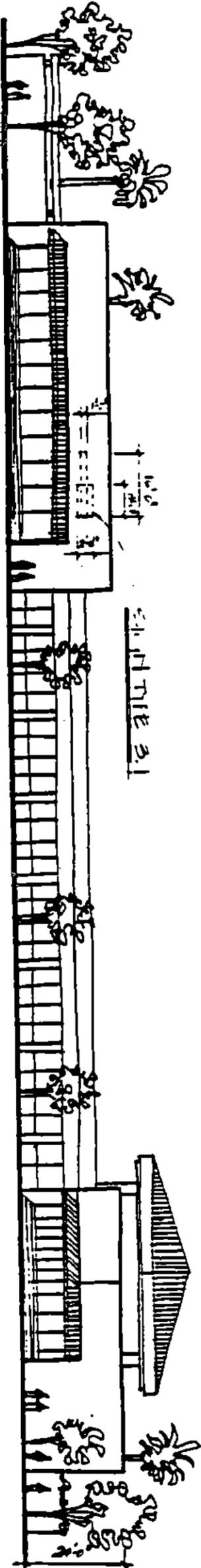
10  
 44  
 184  
 214 OCCUPANTS

BUILDING DATA



WEST ELEVATION / SHOP ENTRANCES  
 SCALE: 1/8" = 1'-0"

RESTAURANT / SIGN TYPE 3.1  
 COPY: TENENT BOARD BOARD CLEAR  
 ILLUMINATED INITIAL LETTERS  
 50 FT : 16 MAXIMUM CIRCUMFERENCE



SOUTH ELEVATION / SHOP ENTRANCES  
 SCALE: 1/8" = 1'-0"

PRELIMINARY DESIGN SIGN TYPE : 3.1

SCHEME (A)

THE LAKES RETAIL CENTER  
 COSTA MESA, CA  
 MARCH 20, 1985

TRANSPACIFIC  
 DEVELOPMENT  
 COMPANY

MICHAEL  
 SANCHEZ  
 ASSOCIATES  
 DESIGN

