



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: FEBRUARY 9, 2004

U1.6
ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-03-57
1773 NEWPORT BOULEVARD

DATE: JANUARY 29, 2004

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

PROJECT DESCRIPTION

The applicant is requesting approval of conditional use permits to allow dancing with existing live entertainment within 200 ft. of a residential zone and for off-site parking, with a minor conditional use permit to allow outdoor seating for Bamboo Terrace Restaurant. Requested are also extended hours of operation to 2 a.m. on Fridays and Saturdays and 1 a.m. on other nights of the week.

APPLICANT

Katherine Young is the property owner and applicant.

RECOMMENDATION

Deny by adoption of Planning Commission resolution.



WENDY SHIH
Associate Planner



PERRY L. VALANTINE
Asst. Development Services Director

BACKGROUND

On July 26, 1999, Conditional Use Permit PA-99-31 was approved to allow live entertainment in an existing restaurant (Bamboo Terrace) located within 200 ft. of a residential zone. The live entertainment is low-key and ancillary to the existing restaurant use. The hours of operation were limited to 11:30 a.m. to 11 p.m., Sunday through Thursday, and 11:30 a.m. to midnight on Fridays and Saturdays. Extended hours of operation and/or dancing were allowed on special occasions with the approval of a special event permit.

The property owner/applicant requests conditional use permits to include limited dancing with the existing live entertainment and for off-site parking, with a minor conditional use permit to allow outdoor seating. The applicant also seeks permission to extend the hours of operation to 2 a.m. on Fridays and Saturdays and 1 a.m. on other nights of the week.

DISCUSSION

Dancing/Outdoor Seating/Hours of Operation

A conditional use permit is required for dancing within 200 ft. of a residential zone. A minor conditional use permit is required for a use not conducted under roof (outdoor seating).

The restaurant is separated from the residences to the rear by a public alley. The majority of the patrons park at the front of the site, where public parking and the restaurant entrance are located. The dancing and outdoor seating areas are proposed at the front of the restaurant. Impacts on residents to the rear are not anticipated since all activities are proposed at the front and will be separated by the restaurant's kitchen area. However, the proposal would create parking impacts and make parking in the area more nonconforming than it already is (see discussion below).

The restaurant is currently allowed to operate past 11 p.m. (until midnight) on weekends. Since the main entrance and dining areas are located at the front of the building and are separated from the residences to the rear by a kitchen, 4 parking spaces most likely used by employees, and an alley, staff does not anticipate impacts on the residents with extended hours of operation. The Police Department has also confirmed that the subject property has not been a problem site.

Parking

A conditional use permit is required to allow off-site parking for the restaurant. There are only four parking spaces provided on-site and they are located at the rear of the building. As with many other properties along the west side (1700 block) of

Newport Boulevard that lack on-site parking, Bamboo Terrace customers utilize off-site parking along the frontage road, adjacent to Newport Boulevard. Since approximately 200 sq. ft. of outdoor seating area is proposed, 2 additional parking spaces would be required (10 spaces per 1,000 sq.ft.).

There are a total of 67 parking spaces along the frontage road, shared among all businesses from 1749 to 1799 Newport Boulevard. The number of parking spaces provided on- and off-site is existing, nonconforming. The majority of the lots within that commercial strip do not have on-site parking. The ones that do (such as Golden Truffle and Bamboo Terrace) have parking located behind the buildings accessed from a public alley and, therefore, not likely used by customers.

Bamboo Terrace is no longer open for lunch so daytime parking will be unaffected by the proposal. However, evening parking will be impacted because there is not enough parking to support additional seating area and dancing. Under current Code, approximately 77 spaces would be required for just the three food/beverage businesses (Café Ruba, Golden Truffle and Bamboo Terrace) plus another 54 spaces required for other retail businesses that are open past 7 p.m. (a total of 131 spaces required for all businesses open past 7 p.m.). As mentioned earlier, only 67 off-site spaces exist along frontage road. An additional 20 on-site parking spaces are provided behind the three food/beverage establishments for a total of 87 stalls. Approval of the outdoor seating area would make the parking situation in the area more nonconforming than it already is. Although the Zoning Code does not require additional parking for dancing within the restaurant, it is staff's opinion that it would further exacerbate the parking shortage. According to the Building Code, the occupant load for a dancing area is approximately double that of an area used for dining. Therefore, staff cannot support the applicant's request.

ALTERNATIVES

If the conditional/minor use permits were denied, no outdoor seating or dancing would be permitted. Dancing on special occasions may be allowed with the approval of a special event permit. The Planning Commission may approve extended hours of operation to 2 a.m. on Fridays and Saturdays and 1 a.m. on other nights of the week.

If the conditional/minor use permits were approved, parking situation in that area would be made more nonconforming than it already is.

CONCLUSION

It is staff's opinion that the proposed use would adversely affect adjacent commercial properties. Although impacts on residents to the rear are not anticipated because the public area is located at the front of the building, parking impacts on frontage road would be created. Parking is already insufficient to support existing uses per current Zoning Code. Approval of outdoor seating area plus dancing, which has a higher

occupant load, would make parking in the area more nonconforming than it already is.

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

File Name: 020904PA0357

Date: 1/29/04

Time: 8 a.m.

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

Katherine Young
1829 Glenwood Lane
Newport Beach, CA 92660

K

RESOLUTION NO. PC-04-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA DENYING PLANNING APPLICATION
PA-03-57**

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

WHEREAS, an application was filed by Katherine Young, owner of real property located at 1773 Newport Boulevard, requesting approval of conditional use permits to allow limited dancing with existing live entertainment within 200 ft. of a residential zone and for off-site parking, with a minor conditional use permit to allow outdoor seating for Bamboo Terrace Restaurant; and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 9, 2004.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the Planning Commission hereby **DENIES** Planning Application PA-03-57 with respect to the property described above.

PASSED AND ADOPTED this 9th day of February, 2004.

Chair, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is not compatible with developments in the same general area. Granting the conditional/minor use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the outdoor seating area and dancing would generate a higher parking demand than can be accommodated on- and off-site.

- B. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
 - a. The proposed use is not compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. The planning application is for a project-specific case and does not establish a precedent for future development.

- 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 XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng. 1. If the City receives parking complaints, the applicant shall submit a parking management plan to the Planning Division addressing parking needs, use of spaces on-site, and on-street parking availability. Reduction or alterations to the live entertainment, dancing or outdoor seating may be required.
2. The use shall be conducted, at all times, in a manner to allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever operational measures are necessary to comply with this requirement, including, but not limited to, having security personnel on-site during the evenings.
3. Keep rear door closed during the times when dancing/music is played.
4. 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.
5. A copy of the conditions of approval for the conditional use permit must be kept on 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.
- Police 6. A list of security recommendations has been provided by the Police Department for the applicant's consideration.

PLANNING DIVISION - CITY OF COCHISE MESA

DESCRIPTION/JUSTIFICATION

Application #: PA-0357

Environmental Determination:

Address: 1773 Newport Blvd.

1. Fully describe your request:

Please see attached Exhibit A

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.

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.

3. This project is: (check where appropriate)

In a flood zone.

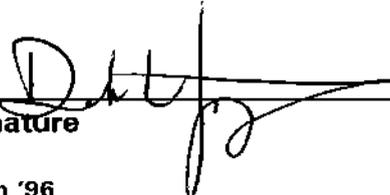
Subject to future street widening.

In the Redevelopment Area.
 In a Specific Plan Area.

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.



Signature

11/20/03

Date

EXHIBIT A

DESCRIPTION/JUSTIFICATION

Application # _____

Address: 1773 Newport Boulevard, Costa Mesa 92627 (Bamboo Terrace Restaurant)

1. Fully describe your request:

- (a) Approval of patio area for outdoor seating; (The number of outdoor seats in our plans (10 seats) corresponds to the number of seats we lost (10 seats) when we placed a stage for live music in our establishment. More importantly, the patio is a defined area for customers to smoke since they are no longer allowed to smoke in restaurants.)
- (b) Approval of a conditional use permit for the sale of alcoholic beverages for on-site consumption after 11 pm and the provision of live entertainment and dancing, located within 200 feet of a residential zone. (Note that our establishment is already permitted to have live entertainment until 12 am on Fridays and Saturdays and until 11 pm on other days of the week.) We seek permission to extend our hours of operation to 2 am on Fridays and Saturdays and to 1 am on other nights of the week, and to allow for dancing when it is appropriate in our establishment.

2. Justification for Patio/Outdoor Seating

(A) The proposed use (patio/outdoor seating) is substantially compatible with uses permitted in the same general area and would not be materially detrimental to the same area.

(i) Having a patio at our establishment is substantially compatible with the uses of our neighbors and other nearby properties. Our restaurant is located in downtown Costa Mesa on Newport Blvd., between 18th and 17th Streets. Our block “begins” with Side Street Café and “ends” with Café Ruba, both of which have outdoor seating. Further, our neighbor, Golden Truffle, has a patio with outdoor seating.

- (a) Having a patio would actually benefit the area because it would make our strip mall more appealing to potential customers passing by. It will help to make our strip mall and downtown Costa Mesa more of a destination spot, which has been a stated goal of the planning commission and City Council since Triangle Square opened.

(ii) Having a patio would not be materially detrimental to our area.

(a) **Parking** - Having a patio would not increase our restaurant's total seating capacity. After receiving our live entertainment permit, we built a stage (7 feet X 14 feet) and removed a few partial walls. The net effect of these improvements was to reduce our seating capacity by more than 10 people. As our patio would only accommodate 10 people, we would only be restoring our seating capacity to its previous level. As our seating capacity would not increase from its original level, our establishment would not put any additional strain on the shared public parking.

Lunchtime is the time of the day when the parking area is most congested. We are no longer open for lunch. Not being open for lunch has helped to mitigate the parking congestion at lunchtime to the benefit of our neighbors.

During dinnertime, most of our customers dine between 7 pm and 8:30 pm, with 7:30 pm being the peak time. By 7:30 pm, there is ample parking for our establishment, especially since the public parking behind the West Side Police Substation was completed. That parking area added approximately 25 parking spaces to our immediate retail area.

- (b) **Noise** - We are located on Newport Boulevard, near 17th Street, which is one of the busiest intersections in Orange County. Needless to say, the area experiences constant traffic noise, especially on the weekends and in the summer. These are the times when we expect the heaviest use of the patio. Moreover, the patio area opens up to Newport Blvd., and not a residential area, so any sound generated in the patio area would not impact residents.
- (c) Further, having a patio is an essential component of a restaurant/bar in light of California's prohibition against smoking inside restaurants and bars. Because customers must go outside to smoke, the patio area will provide them with a safe place to smoke and contain that activity to an enclosed area. This will also help to contain any litter caused by empty cigarette packs, cigarette butts, etc., and offer smokers a safe place to extinguish their cigarettes and dispose of their waste.

NOTE: For public health and safety reasons, we found it necessary to erect a barrier for a patio at our establishment.

A large number of homeless people and transients stay at Lion's Park, which is next to our strip mall. These people would walk around the mall area and ask our

customers who stood outside smoking for spare change or food. Additionally, on multiple occasions, we witnessed these people, as well as young adults passing through the area, urinating in our planter boxes and throwing trash into the area. Some examples of problems we experienced:

- Transient hugged young female worker
- Homeless person living on our roof
- Homeless person living in van behind Winston's Jewelers.
- Gunshots fired in front of restaurant when Winston Jewelers robbed, made people wary of standing outside our establishment to smoke.

We noticed that the Golden Truffle did not experience these problems, in large part because the barrier for their outdoor seating area acted as a buffer against such negative behavior.

3. Justification for the Sale of Alcoholic Beverages after 11 pm with Live Entertainment and Dancing

- A. The sale of alcoholic beverages after 11 pm and the provision of live entertainment and dancing is substantially compatible with the uses in the same general area. Costa Mesa is attempting to draw people with disposable income to enjoy this eclectic area. It is very difficult for the businesses in downtown Costa Mesa to compete with entertainment centers like the Irvine Spectrum or the Block at Orange. Downtown Costa Mesa needs to distinguish itself from the typical entertainment center by offering potential customers some unique options. Currently, downtown Costa Mesa offers people late night shopping at Borders Books & Music, Tower Records (open until 12 am on weekends), Virgin Megastore, and Second Spin. Downtown Costa Mesa also offers late night dining at several restaurants/bars, such as the Yard House, Skosh Monohan's and the Harp Inn.**

With its music stores and restaurant/bars, downtown Costa Mesa already attracts a material number of young professionals who enjoy shopping and eating/drinking out. The Bamboo Terrace wishes to enhance the appeal of downtown Costa Mesa and add to this positive trend by: (a) serving a special late-night menu after 11 pm with the sale of alcoholic beverages; and (b) providing live entertainment and dancing.

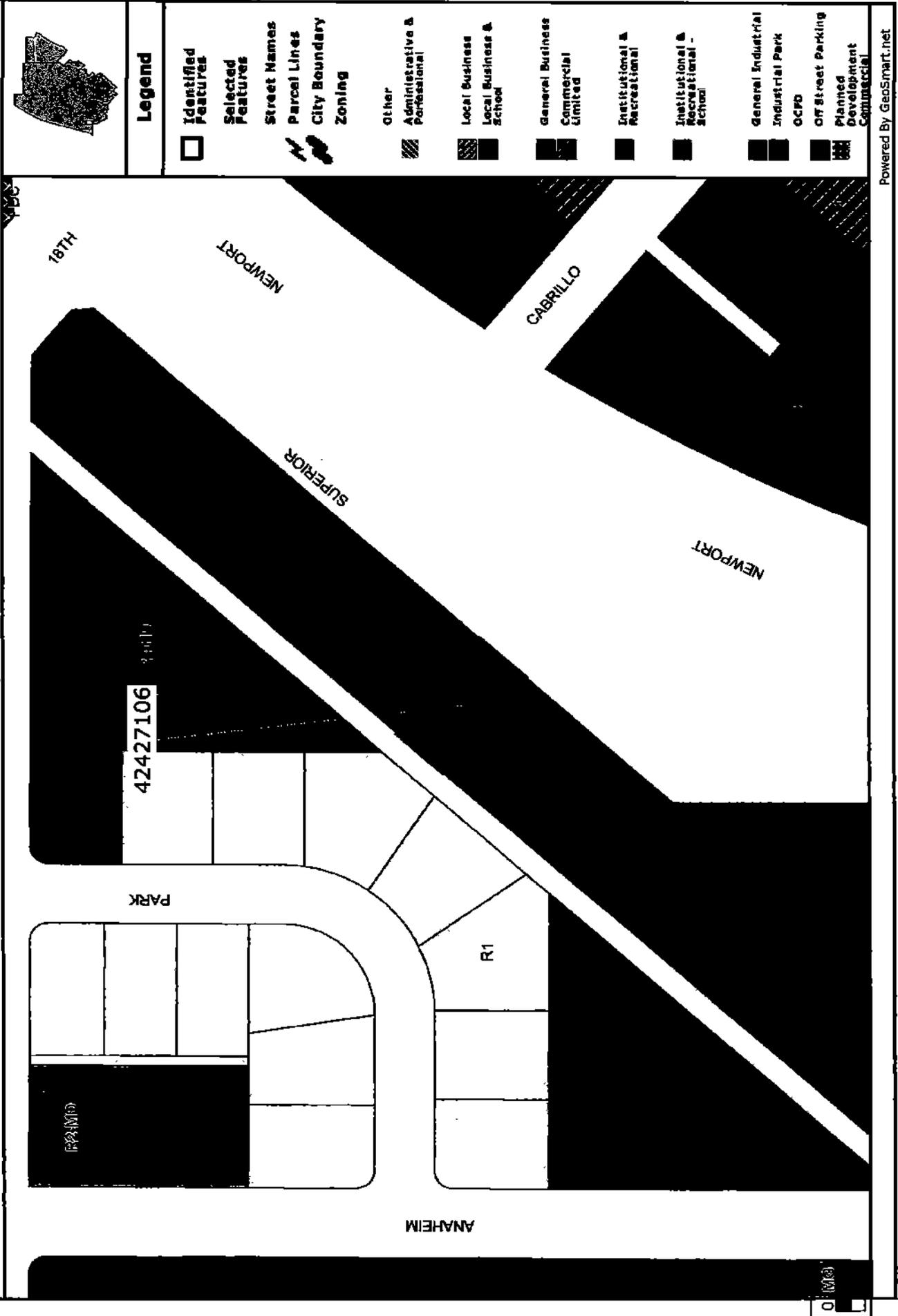
The Bamboo Terrace intends to continue to have local musicians and bands place a variety of pop, rock, blues, jazz, funk etc. A provision for dancing is sought so that (1) when patrons wish to move a few tables to dance, we can accommodate them; and (2) when people book parties (i.e. engagement parties, rehearsal dinners, etc)., they may elect to have dancing at their party if they wish.

B. This proposed use would not be materially detrimental to the other properties in the same area.

- (i) **Noise** - We are located on Newport Boulevard, near 17th Street, which is one of the busiest intersections in Orange County. The “public area” of our establishment is located near Newport Blvd; not the nearby residents behind us. Any noise generated in our “public area” would be less audible than the traffic noise along Newport Blvd. Traffic noise along Newport Blvd. can be heard well beyond 11 pm on the weekdays and 12 am on the weekends.
- (j) Further, in the three years we have had our entertainment permit, we have not received a single noise complaint from our neighbors.
- (ii) **Parking** - Our being open after 11 pm would not be detrimental to neighboring businesses. With the exception of Café Ruba, a coffee house, none of the businesses in our strip mall is open past 10 pm. Therefore, if we are open after 11 pm, the only business requiring parking would be Bamboo Terrace and Café Ruba. Many of Café Ruba’s patrons walk or carpool there. Further, Café Ruba is not nearly as busy as Rock-N-Java used to be. Thus, there is ample parking for both Café Ruba’s and Bamboo Terrace’s patrons.

ZONING/LOCATION MAP

1773 Newport Boulevard



1773 Newport Boulevard

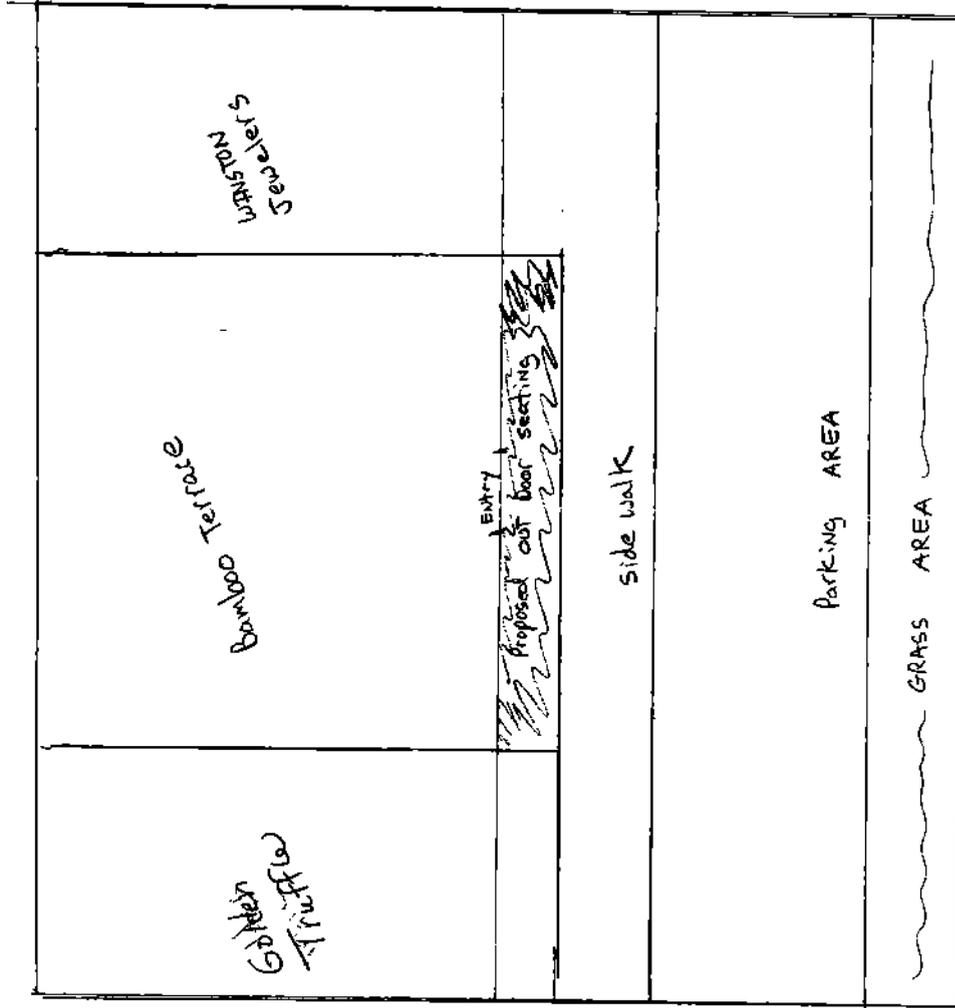
PA-03-57



Legend

- Identified Features
- Selected Features
- Street Names
- Parcel Lines
- Ortho Photography
- Parcels

SITE PLAN

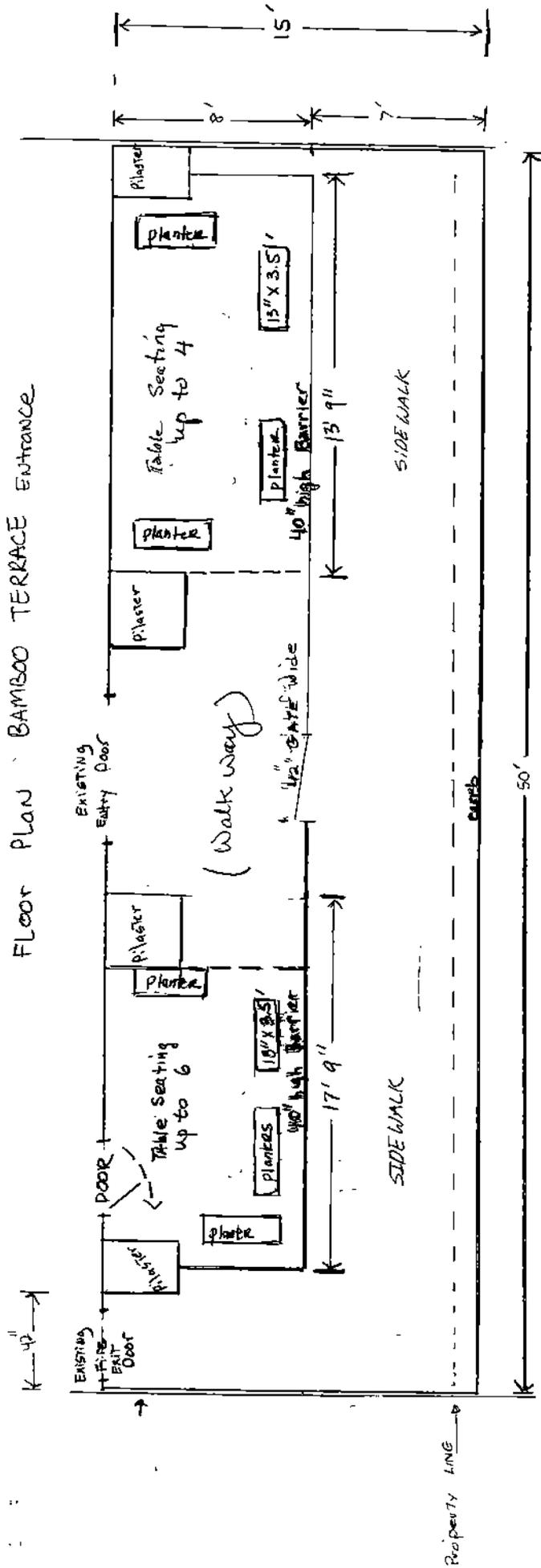


Handwritten signatures and initials:
M. J. [unclear]
[unclear]
P. [unclear]

BAMBOO TERRACE
1973 NEWPORT BLVD
COSTA MESA, CA 92627

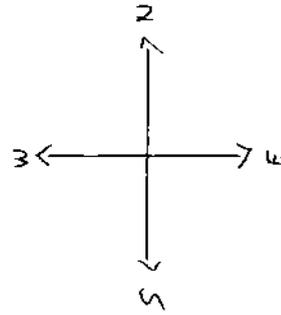
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NEWPORT BLVD

FLOOR PLAN - BAMBOO TERRACE ENTRANCE



FLOOR PLAN

BAMBOO TERRACE
 1773 Newgov? Blvd.
 COSTA MESA, CA 92627



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